

SCOMM

140:4

Alaska State Legislature

Senator Gary Stevens, Chair

Public members:

Lisa Von Bargaen
Scott Brandt-Erichsen
Marvin Yoder



Committee Members:

Rep. Bill Thomas, V. Ch.
Sen. Tom Wagoner
Sen. Bert Stedman
Rep. John Coghill
Rep. Woodie Salmon

Advisory Commission on Local Government

~~~Draft agenda~~~

January 6<sup>th</sup>, 2006, 8:30 a.m. – 12:00 and 1:30 p.m. – 3:00 p.m. *and*  
January 7<sup>th</sup>, 12:00 noon – 4:30 p.m.  
Room 519, Capitol Building, Juneau, Alaska

(Teleconference: 1-800-395-5073)

### Friday, January 6, 2006

1. Roll Call
2. AML/Borough Task Force Presentation
3. Review draft ACLG Report
4. Discuss draft Legislation  
Administrative Boroughs
  - a. Scott Brandt-Erichsen amendments

### Saturday, January 7, 2006

5. Discuss draft Legislation  
Revenue Sharing
6. Report direction
7. Adjourn

January 20, 2006

Senate President Ber Stevens  
Room 111  
State Capitol  
Juneau, Alaska 99801

House Speaker John Harris  
Room 208  
State Capitol  
Juneau, Alaska 99801

Dear Senate President Stevens and House Speaker Harris,

We present this report to the 24<sup>th</sup> Legislature in response to SCR 14.

### **Introduction**

Senate Concurrent Resolution 14 (SCR14) created the Advisory Commission on Local Government during the first session of the 24th Legislature. This resolution was the result of longstanding concern, revisited in 2005 during hearings in the House and Senate Community and Regional Affairs committees, over the state of local government and the perception that the standstill in the evolution of the unorganized borough was adding to the weakening health of local governments throughout the state. The Resolution directed Commission members to:

- Study the specific reasons for the hardships that communities in Alaska have experienced and develop proposals to continue the evolution of local government;
- Define the role of state government in the financing of local public services;
- Recommend specific means by which local governments, when desired, can move towards borough formation;
- Review findings of previous local government studies and incorporate useful information in its report; and
- Deliver a report of its findings to the Legislature.

This report highlights two main areas the commission focused and reached consensus on during the effort to examine the hardships, along with several closely related issues that were identified and perceived to be roadblocks or disincentives to borough formation.

The first area of focus centered on revenue sharing. Recognizing its important history in Alaska, and other states, the commission has recommended reconstituting the program and creating a new disbursement formula, based on services provided and category of the local government, with a basic grant and a per capita allocation, in conjunction with a sustainable funding source.

Keeping in mind the role of state government in relation to local governments, a second major focus and recommendation was to identify a 'next step' to allow the creation of a new category of borough to move toward regionally organizing areas of the vast unorganized borough, and to put in place incentives to do so.

## **Forward**

Under SCR 14, there were nine positions to be filled on the Advisory Commission. Three members were selected from the House of Representatives by the Speaker of the House, three were selected from the Senate by the Senate President, and three were filled by public members who were selected by both the Senate President and the Speaker of the House. The Commission included Senator Gary Stevens, Chair, Representative Bill Thomas, Co-Chair, Senator Bert Stedman, Senator Tom Wagoner, Representative John Coghill, Representative Woodie Salmon, Lisa Von Bargen, Marvin Yoder and Scott Brandt-Erichsen.

The Commission held four public meetings between September 2005 and January 2006. Membership, materials reviewed, minutes and other information considered by the Commission during its short existence can be found at the Commission's website: [www.aclg.com](http://www.aclg.com). The Commission met at the expense of individual members, and there was a zero fiscal note associated with the enabling resolution. The outcome of SCR 14, and meetings held during the fall of 2005 including the review of previous related studies are three draft pieces of legislation that are attached to this report that represent the consensus on behalf of all members.

There is a vast body of knowledge and critical analyses, not to mention a fluid legislative history on these subjects. Many of the research papers can be found as links on the Commission's website. The Commission spent several days reviewing two major studies: The Local Government Symposium held in August of 1979 focused on service delivery in the unorganized borough and local/state responsibilities and relationships. The other major study reviewed by the Commission was the Task Force on Governmental Roles that occurred in 1992. Overviews on the topics were provided by the Alaska Municipal League and the Department of Commerce, Community and Economic Development's Division of Community Advocacy Director Mike Black, an individual who has decades of experience with communities and the department.

## **Revenue Sharing**

Charged with identifying key issues leading to the economic hardships of local governments across the state, the Commission recognized the loss of income to communities with the termination of the program, and examined the history of revenue sharing in Alaska and in other states, as well as invited testimony by the Alaska Municipal League. The Legislative Research Agency prepared a report at the Commission's request containing a detailed history of the program and the changing statutory authority that guided revenue sharing up until the program was vetoed in 2003, when it was forecast that state revenues would decrease and the program would be unsustainable; a link to the entire study is included in the appendix.

### Full History of Municipal Revenue Sharing in Alaska

*Excerpted from House Research Agency Request 87.073:*

- Revenue Sharing started in 1969, long before oil revenue.
- Revenue Sharing was a bigger percent of the State budget in 1969 than it was last year.
- In 1979 the Legislature ended sharing the Gross Business Receipts Tax with municipalities in exchange for a promise to replace the revenue with equivalent "Municipal Assistance."

#### 1969 to 1980 - State Revenue Sharing Program

The state revenue sharing program (SRS) came into being on July 1, 1969 with the passage of HB 350 (Chapter 95, SLA 1969). Its five purposes were:

1. Help ease fiscal problems facing local governments.
2. Stabilize or reduce local property taxes.
3. Encourage local governments to provide adequate levels of public services.
4. Inject a measure of budget planning and stability into local governments.
5. Improve allocation of State funds by sharing them with local governments.

Approximately 75% of the funds were distributed on a per capita basis for services provided, and 25% based on other criteria (e.g. miles of road maintained). The categories and evolution of the program are shown in the table below:

#### Comparison of State Revenue Sharing in FY 70 to FY 80

| <u>Category of Service Provided</u> | <u>1970</u>     | <u>1980</u>                  |
|-------------------------------------|-----------------|------------------------------|
| Police                              | \$5.00 / capita | \$12.00/capita               |
| Fire Protection                     | \$2.50 / capita | \$7.50/capita                |
| Road Maintenance                    | \$1,000/ mile   | \$1,500/mile                 |
| Air/water Pollution                 | \$1.00 / capita | \$2.00/capita                |
| Land Use Planning                   | \$1.00 / capita | \$2.00/capita                |
| Ice Roads                           | NA              | \$900/mile                   |
| Parks and Recreation                | NA              | \$5.00/capita                |
| Transportation Facilities           | NA              | \$5.00/capita                |
| Health Services                     | NA              | \$2.00/capita                |
| Hospital (facility)                 | NA              | \$25,000to\$75,000           |
| Health Facilities                   | NA              | \$1,000/bed,\$4,000/facility |
| Hospital Construction               | NA              | \$2,500 / bed                |
| TOTAL Revenue Sharing               | \$2.0 million   | \$26.9 million               |
| TOTAL / Capita Sharing              | \$9.50 / capita | \$35.50 / capita             |

1979 - "Municipal Assistance" Program created to replace municipal share of the Gross Business Receipts tax: Until 1979, the State shared 20% of the Gross Business Tax

Receipts generated in each municipality. When the State repealed its tax on January 1, 1979, *the State promised to replace the lost revenues to municipalities*. Revenues were distributed with a "hold harmless" amount (based on what each municipality received in 1978), plus a per capita distribution.

1980 - Revised State Revenue Sharing Programs: HB 192 (Chapter 155, SLA 1980) repealed and replaced the "per capita" revenue sharing program primarily with an "equalization" revenue sharing program. Key elements of the new State Revenue Sharing Program are:

1. "per capita" type categories were abolished except Roads, Fire Protection and Health Facilities. Road revenue sharing was increased to \$2500 / mile
2. A "minimum entitlement" was created to protect the smallest municipalities.
3. A cost of living differential was established.
4. The majority of funds were distributed under an "equalization" formula that takes into account: population; local tax base; and actual local tax effort.

1997 - "Municipal Assistance" changed to "Safe Communities": The Municipal Assistance Program did not direct how the money was to be used by municipal governments. The Safe Communities Program directs that revenues be allocated to various public safety and health services in priority order. However, a municipality may allocate the funding to other public services.

2004 - All Revenue Sharing Programs eliminated:

- Local property taxes have gone up 29% in the last six years largely due to revenue sharing cuts, underfunding education inflation, and state/federal mandates.
- Over 40 small communities have ended or severely cut key municipal services including police, fire, road maintenance, etc.
- By 2005 at least 14 small communities have closed their doors

#### **State Revenue not trickling down**

Contrary to conditions when oil prices were predicted to steeply decline, oil prices continued upwards, and Alaska's unrestricted general fund revenues have grown; yet cities across the state are increasingly unable to provide basic services or are shutting down completely. More than 14 communities across the state have shut down their local governments and many more are seriously close to doing so. With increasing costs and decreasing revenues, communities are feeling the crunch. This is, of course, compounded annually by inflation.

Ironically, as high oil prices benefit the State of Alaska (currently projected as a \$1.2 billion surplus for FY 06, with likely similar surplus in the next fiscal year), people are paying fuel prices at the pump end much higher than last year. Not only are high fuel

prices causing enormous problems for individuals and cities large and small, but those cities are also paying higher costs for important basics such as insurance and required retirement contributions in lieu of Social Security.

To compensate for the extensive list of additional expenses on local governments, many areas have had no choice but to raise local property and sales taxes. However, despite increases in tax revenue, many cities are still not able to provide the basic services that they were once able to provide. As well, many cities have a small tax base due to the close proximity for purchasing goods from larger municipalities outside the community, or a geographically limited property tax base, due to large federal landholdings.

### **Statement of Support for a Community Dividend/Revenue Sharing by Alaska Businesses**

The following is excerpted from the State Chamber of Commerce's letter of support to reinstate revenue sharing. They offer evidence of the economic health implications in support of a sustainable community dividend program using an endowment management method (POMV, Amerada Hess) to provide local tax relief to business and families, to assist in providing basic public services throughout Alaska:

- "It is time for long-term local tax relief for businesses and families;
- A community dividend maintains good private sector jobs in urban Alaska; and
- A community dividend gives small local governments the revenue boost they need to afford to provide basic public services and a reasonable quality of life for rural residents.

Upward pressures on local taxes in all Alaskan communities are accelerating due to federal and state unfunded mandates, state and federal budget cuts, the elimination of all municipal revenue sharing programs, a \$3 billion local government debt from the state's retirement programs, very high fuel prices and insurance costs, and general inflation."

Additionally the State Chamber recognizes, as does the Commission, that:

"Anchorage, Fairbanks, and Juneau are the *economic downtown* for rural Alaska. Rural Alaska spending supports at least one out of eight jobs in urban areas: Why do small communities matter economically to Alaska's larger communities? In rural communities there are very few service or retail businesses, so "coming downtown" means calling or visiting Anchorage, Fairbanks, Juneau, and a few other larger communities. In addition, whether goods are purchased in the larger communities or on-line, Alaska's huge intrastate transportation and communication systems are also based in Anchorage, Fairbanks, and Juneau. As rural local governments continue to fail and urban migration continues, urban communities gain unemployed residents and lose jobs at the same time.

The bad news for small communities is that they have almost no local tax base due to very high levels of non-taxable federal land, and very little money spent directly in the

community. While most small communities have substantial local sales taxes, they simply can't generate enough local revenue to support minimum local public services. A smaller community can usually expect to generate only \$8,000 to \$12,000 from local sales tax.

The good news for urban communities is that rural residents spend most of their money in Anchorage, Fairbanks, Juneau, and a few other larger communities. This supports a lot of urban jobs in retail, services, construction, and, especially, transportation. According to economic studies, trade with other parts of Alaska is directly or indirectly responsible for 1 out of 5 to 1 out of 8 jobs in the Anchorage-Mat-Su area.

In the past year several of Alaska's small local governments have closed, and more than half are in financial crisis significantly worsened by the elimination of revenue sharing by the State."

### **Local Government Structures – the Administrative Borough Concept**

The Commission acknowledged the need to continue to form regional government structures and to identify and support the missing link to full boroughization: economic incentives. The Department of Commerce Community and Economic Development, Alaska Municipal League and individuals with economic development organizations contributed their input. In addition, former Senators Vic Fischer and Arliss Sturgulewski provided members with a vast amount of personal knowledge and historical data on the genesis of borough government in Alaska. The Commission reached consensus on a concept that they believe will bridge the gap between existing communities without an organized borough structure, and a phased approach to borough self governance, termed the "Administrative Borough". They reviewed the Constitutional and statutory basis for boroughs as well as getting first person interpretations of actual intent by drafters of the constitution itself through Senator Fischer's testimony. Primary focus related to the factors linked with the lack of incentive to organization, and the presence of real disincentives to borough formation, resulting in stagnation in the evolution of self-sustaining local governments. It was Senator Arliss Sturgulewski who called the single unorganized borough the "amorphous mass."

The website contains a link to fact sheet on the structures of city and boroughs in the state. There are only three unified home rule municipalities (Anchorage, Juneau, Sitka); 6 home rule boroughs (Denali, Haines, Lake and Peninsula, North Slope, Northwest Arctic, and Yakutat); 7 second class boroughs (Aleutians East, Bristol Bay, Fairbanks-North Star, Kenai Peninsula, Ketchikan Gateway, Kodiak Island, Mat-Su), 20 first class cities, and 114 second class cities. There are also numerous unincorporated organized communities.

The Commission recommends recognizing all forms of city and government in a revised revenue sharing program including the unorganized communities.

### **Regionalization Concepts**

The Commission heard from a subcommittee of the Denali Commission, known as the Council for Economic Policy for Rural Alaska (CEPRA), that creating regional governmental structures was critical to economic development. They also noted that the Alaska Regional Development Organizations (11 throughout the state) are a dynamic force more fulfilling regional goals with multiple resources: state, federal match, and local funds.

The commissioners' reason for proposing a new level of borough government is to encourage new borough formation. However, there is an additional issue that needs to be addressed.

The commissioners have received testimony that rigid adherence by the Local Boundary Commission (LBC) to regulations regarding borough boundaries have been a detriment to new borough formation. The commissioners therefore state their intent that the LBC apply flexible rules when reviewing local proposals. Priority should be given to the standards listed in statute. Minor consideration will be given to the model borough boundaries and other administrative boundaries.

### **Issues identified but not addressed by recommendations**

In the course of its deliberations, the Commission discussed a number of hardships and challenges to communities and impairments to borough formation. There is a value in identifying those issues so that future efforts may attempt to address these topics, including:

- The resolution of the dual track educational funding system using Regional Educational Attendance Areas (REAs) and Municipal School Districts.
- Orderly dissolution of insolvent municipalities.
- Allocation of payments, such as federal timber receipts, as a factor impeding borough formation.
- Regionalization of state provided services.

1. The dual track educational funding system refers to the fact that city school districts and borough school districts fund educational services with a mandatory minimum local contribution while REAs are primarily state funded and do not have a mandatory local contribution. This system of funding causes friction between the two divisions. Those who are in city or borough school districts feel that residents in REAs should bear some of the funding burden. Most REAs counter that 1) they lack the tax base to meet the minimum contribution, and 2) the treatment of federal educational funding is such that there is the functional equivalent of a local contribution, which is as large as that in city or borough districts. The proposed Administrative Borough legislation does not address this issue directly, but aims at creating an environment that should encourage areas of the state to move toward boroughs with educational powers. The Commission recognizes that it does not resolve the conflict in this area. The Commission believes that any legislatively imposed resolution of the conflict would not be a consensus solution.

2. Currently, dissolution of a municipality calls for a petition of the dissolving government or findings by the Local Boundary Commission. One of the guidelines is that all debts are paid. There is not a clear process for dealing with an insolvent non-functioning municipality that would address resolving debts and assumption of the authority to operate existing public infrastructure such as sewer or water infrastructure. While the Commission identified this as an issue requiring attention, it could not be adequately addressed in the time available.

3. The Commission received information regarding the current system for allocation of federal timber receipts (AS 41.15.180), which indicated that the method provides a significant disincentive to borough formation. Currently, areas in the unorganized borough in Southeast Alaska receive funds on a per capita basis, which are generated from the land area in the unorganized borough. Areas in boroughs receive funds based on land area. The result is that any annexation or borough formation will result in a reduction in revenues to all communities in the unorganized borough. Therefore they oppose borough expansion and resist borough formation.

The Commission recognizes the issue, but declines to propose a specific solution.

4. The Commission heard suggestions regarding the orientation of state services on a regional basis in ways that would have common boundaries or districts. It was suggested that this approach would promote regional thinking and thereby encourage regional (borough) organization.

The organization and delivery of services by state agencies is beyond the scope of the Commission's charge.

Thank you for providing us the opportunity and the support to examine these important topics during the summer and fall, the Co-chairs plan to introduce House and Senate Community and Regional Affairs Committee sponsored legislation next week.

Signed,

Senator Gary Stevens, Chair

Representative Bill Thomas, Co-Chair

## Alaska Advisory Commission on Local Governn



**Welcome. You've found our new on-line home.**

**This commission is charged with conducting a needs assessment on the unorganized Alaska. Crafting legislative solutions that will efficaciously address both short-term and sustainability issues will be dependent upon these efforts. Link to our enabling legisla**

### **Final Report:**

- **Final Report** (PDF - 8 page(s) - 102 KB)

### **Meetings:**

**January 6-7, 2006: Room 519, Capitol Building, Juneau**

**6th: 8:30 am - 12:00 and 1:30 pm - 3:00 pm**

**7th: 12:00 noon - 4:30 pm.**

- **Draft Agenda** (PDF - 1 page(s) - 108 KB)
- **Scott Brandt-Erichsen Amendments Overview** (PDF - 1 page(s) - 60 KB)
- **Proposed Forest Receipts Allocation Legislation** (PDF - 3 page(s) - 84 KB)
- **Proposed Land Entitlement Amendment** (PDF - 1 page(s) - 59 KB)
- **Proposed Transitional Assistance for Boroughs Annexing Additional Territory Amendment** (PDF - 1 page(s) - 58 KB)
- **DCED's Comments on Draft Borough Legislation** (PDF - 11 page(s) - 178 KB)
- **Alaska Taxable 2005 Summary** (PDF - 85 page(s) - 574 KB)

**November 9-10, 2005: Anchorage Legislative Information Office, 716 W 4th Avenue.**

**9th: 1:30 pm - 3:30 pm**

**10th: 8:30 am - 12:00 and 1:00 pm - 3:30 pm.**

- **Draft Agenda** (PDF - 1 page(s) - 116 KB)
- **1980 Bill Draft - Multiple Unorganized Boroughs** (PDF - 16 page - 90 KB)
- **AML's Community Dividend Bill Concepts** (PDF - 4 page(s) - 105 KB)
- **Conceptual Guidelines for Administrative Boroughs** (PDF - 6 page(s) - 76 KB)

**October 21, 2005: Fairbanks Legislative Information Office, 119 Cushman Street, Suite 100  
am - 12:00 and 1:00 pm - 3:30 pm.**

- [Minutes](#) (PDF - 17 page - 158 KB)
- [Agenda](#) (PDF - 1 page - 104 KB)
- [Delta PILT agreement](#) (PDF - 9 page(s) - 523 KB)
- [Local Governance Commission Ideas - Scott Brandt-Erichsen - October 21, 2005](#) (PDF - 2 page(s) - 104 KB)
- [New Borough Option - AK Dept. of Commerce, Community, and Economic Development; Division of Community Advocacy - October 2005](#) (PDF - 5 page(s) - 30 KB)
- [Outline of Delta Area Borough Project - October 12, 2005](#) (PDF - 2 page(s) - 22 KB)
- [Council on Economic Policy for Rural Alaska, speech by Bill Allen - September 26th - 28th, 2005](#) (PDF - 2 page(s) - 106 KB)

**September 1, 2005: The first organizational meeting was held in the Anchorage Legislative Information Office room 220 at 11:00 am.**

- [Agenda](#) (PDF - 1 page - 21 KB)
- [Minutes](#) (PDF - 9 page - 136 KB)
- [Audio](#) (MP3 - 4+ hours - 320 MB)
- [Alaska Municipal League Background Report - Status of Distress in Small Communities](#) (PDF - 192 KB)
- [Kevin Ritchie, Alaska Municipal League - Local Government Study 1979 \(updated\)](#) (PDF - 30 KB)
- [Mike Black, Director Division of Community Advocacy - Overview: Incentives and Disincentives for Formation and Sustainability of Local and Regional Governments](#) (PDF - 1 page(s) - 61 KB)
- [DCCED Information for Advisory Commission on Local Government](#) (PDF - 15 page(s) - 510 KB)



(l-r) Sen. Gary Stevens, Sen. Stedman, Sen. Wagoner, Director Lisa Von Barga, Rep. Joule sitting at table

### Membership:

- Sen. Gary Stevens, Chair
- Rep. Bill Thomas, Vice-Chair
- Sen. Bert Stedman
- Rep. John Coghill
- Sen. Tom Wagoner
- Rep. Woodie Salmon
- Ms. Lisa Von Barga  
Director, Community and Economic Development  
City of Valdez  
PO Box 307  
Valdez, AK 99686

- **Mr. Marvin Yoder**  
City Manager City of Galena  
PO Box 98  
Galena, AK 99741
- **Mr. Scott Brandt-Erichsen**  
Borough Attorney Ketchikan Gateway Borough  
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Ketchikan, AK 99901

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### Miscellaneous Reports

- **Task Force on Governmental Roles Final Report**; by Brad Pierce, Task Force Staff - July 10, (PDF - 33 page(s) - 1.7 MB)
- **Local Government Symposium**; Senator Arliss Sturgiewski and Representative Bill Parker 1979 (PDF - 50 page(s) - 1.8 MB)
- **Rural Justice and Law Enforcement Commission**
- **Donna M. Williams - Managing the Alaska Commons - Hardrock Minerals and Alaska's Tax P** (PDF - 35 page(s) - 626 KB)
- **Wally Hickel - Mining Industry Needs to Pay its Share** (PDF - 2 page(s) - 84 KB)
- **Our Choices, Our Future - Analysis of the Status of Alaska Natives Report 2004** (PDF - 139 page(s) - 2.4 MB)
- **Alaska Municipal League Background Report - Status of Distress in Small Communities** (PDF - 8 page(s) - 192 KB)
- **Local Boundary Commission Report: Legislative Directive for Unorganized Borough Review 2003**

### SW Regional Economic Development Organization Reports

- **SWAMC: Southwest Alaska Quality of Life Index** (PDF - 58 page(s) - 953 KB)
- **SWAMC: Economic Geography of Southwest Alaska** (PDF - 76 page(s) - 5.6 MB)
- **SWAMC: Southwest Alaska Comprehensive Economic Development Strategy** (PDF - 134 page(s) - 930 KB)
- **SWAMC Resolution 05-12: State Data Sources** (PDF - 1 page(s) - 53 KB)
- **SWAMC Resolution 05-21: Southwest Alaska Rural Energy Project**

## **Statement of supporting rationale for amendment to entitlement lands statute and Forest Receipts program**

The Alaska Constitution encourages the formation of Boroughs. The Legislature has been laboring for several years in an effort to promote the formation of Boroughs and the inclusion of a larger portion of the unorganized Borough into existing Boroughs. This effort has been hampered by several programs which, although well intentioned to assist in providing necessary governmental services to the unorganized Borough, have the effect of providing significant disincentives to Borough formation.

One example is the treatment of forest receipts. In Southeast Alaska the receipts from the Federal Forest Receipts program are distributed to organized Boroughs in a way which gives funds to organized Boroughs based on the area of the National Forest within their boundaries. However, areas in the unorganized Borough receive a share of the receipts through payments to Regional Educational Attendance Areas and cities. The entitlement of these entities is determined on a formula which causes a reduction in revenues if any of the territory of the unorganized Borough in Southeast Alaska becomes included within an organized Borough. This results in opposition to Borough boundary expansion by REAAs and cities in the unorganized Borough. If any new Boroughs are created or land is annexed into existing Boroughs those in the unorganized Borough will lose funding.

The REAA system with full state funding and no local contribution creates a disincentive to borough formation. On the one hand, educational services must be provided, but the method which provides them without any local taxes supporting the effort causes areas served by REAAs to oppose Borough formation. Not only does this cause REAAs to oppose Borough formation, it creates a disincentive for home rule or first class cities in the unorganized Borough to take on the responsibilities of providing education to those portions of the unorganized Borough which are served by REAAs. Such communities have nothing to gain from annexation or inclusion in a Borough as they would not receive an significant increase in revenues from a larger tax base, but would risk losing a portion of their Forest Receipts revenues unless the area of the newly formed Borough were large enough to result in a larger percentage of Forest Receipts than they receive based upon the population formula in the current statute. For Wrangell and Petersburg for example, a borough would need to contain over 2.5 million acres of National Forest land to result in the same National Forest revenues as the current distribution provides without the burdens of providing municipal government to such a large area. If the community can receive the funds without the responsibility of providing governmental services to the land, then there is little incentive to incorporate as a borough.

There are methods which would counteract this disincentive. One would be some form of local contribution. Another would be to revise the Forest Receipts distribution prospectively with a delayed implementation to allow Borough formation. Another would be provisions which would allow phasing in of annexed areas so that the full tax burden would not start immediately, but could be phased in over a period of a 3-4 years.

Another disincentive to inclusion of additional territory is the allocation of entitlement lands. While AS 29.65.030 provides for allocation of entitlement lands to new Boroughs, it does not provide for any increase in entitlement lands if an existing Borough annexes additional territory. Thus, if the Bristol Bay Borough, for example, seeks to expand, it does not receive any additional land entitlement to assist it in providing service in the expanded boundaries. When Yakutat expanded its boundaries it took specific legislation to increase Yakutat's land entitlement. If existing Boroughs were entitled to receive additional entitlement land in proportion to the land which would be provided to a newly formed Borough, that entitlement would provide an incentive for existing Boroughs to advance the constitutional policy of including more of the state in organized Boroughs. If an existing Borough has sufficient population and economic activity to support provision of local governmental services to additional territory, it would benefit the state and the affected area.

The three pieces of proposed legislation would address these issues. The first would revise the allocation of Forest Receipts in a way which encourages formation of Boroughs or annexation of additional territory to Boroughs. The second would provide the incentive of additional entitlement lands to encourage existing Boroughs to provide local government services to more of the state, thus reducing the cost to the state of providing those services. The third would address one of the concerns of residents in the unorganized Borough about paying the full burden of taxes immediately upon annexation.

\_\_\_\_\_ **BILL NO.**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY \_\_\_\_\_  
Introduced: \_\_/\_\_/06  
Referred:

**A BILL**

**FOR AN ACT ENTITLED**

**"An Act amending the allocation of National Forest income to local governments under 16 U.S.C. 500."**

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

\* **Section 1.** AS 41.15.180 is amended to read:

Sec. 41.15.180. National forest income.

(a) When the commissioner of community and economic development receives national forest income under 16 U.S.C. 500, the commissioner shall immediately pay to each organized borough in which national forest land is located a share of the income from that forest; an organized borough's share of income from a national forest shall be proportional to the area of the national forest located within its boundaries.

(b) There is created as a separate account in the general fund the unorganized borough national forest receipts fund. The fund consists of national forest income received by the Department of Community and Economic Development under 16 U.S.C. 500 for the percentage of a national forest located within the unorganized borough. Seventy-five percent of the fund shall be allocated for public schools and 25 percent for public roads.

(c) From the percentage of the unorganized borough national forest receipts fund allocated to the public schools under (b) of this section, the commissioner shall pay to each [ *HOME RULE OR FIRST CLASS CITY LOCATED WITHIN THE UNORGANIZED BOROUGH AND WITHIN A NATIONAL FOREST OR WITHIN 20 MILES OF A NATIONAL FOREST, OR* ] regional educational attendance area that has a school located within the unorganized borough and within a national forest or within 20 miles of a national forest, a share of the income from the public schools allocation of the fund. A [ *HOME RULE CITY, FIRST CLASS CITY, OR* ] regional educational attendance area's share shall be calculated as the proportion of the number of children in average daily membership of the [ *CITY SCHOOL DISTRICT OR* ] regional educational attendance area compared to the total number of children in average daily membership in [ *CITY SCHOOL DISTRICTS LOCATED WITHIN THE UNORGANIZED BOROUGH AND WITHIN THE NATIONAL FOREST OR*

WITHIN 20 MILES OF THE NATIONAL FOREST AND IN] regional educational attendance areas that have a school located within the unorganized borough and within the national forest or within 20 miles of the national forest.

(d) From the percentage of the unorganized borough national forest receipts fund allocated to public roads under (b) of this section, the commissioner shall pay to each

(1) home rule city, first class city, or second class city that exercises road powers, that is located within the unorganized borough and within a national forest or within 20 miles of a national forest, a share of the income from the roads allocation of the fund; a home rule city, first class city, or second class city's share shall be calculated as the proportion of the number of road miles within municipal boundaries over which the community exercises road powers plus the number of state road miles maintained by the municipality under agreement with the state compared to the total number of road miles maintained by state or local governments in the unorganized borough and within the national forest or within 20 miles of the national forest;

(2) municipality organized under federal law as an Indian reserve that existed before the enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection and that has formed a community development corporation under AS 29.60.365, that exercises road powers and that is located within the unorganized borough and within the national forest or within 20 miles of the national forest a share of the income from the roads allocation of the fund; the share due a municipality organized under federal law that exercises road powers shall be calculated as the proportion of the number of road miles within municipal boundaries over which the community exercises road powers plus the number of state road miles maintained by the municipality under agreement with the state compared to the total number of road miles maintained by state or local governments in the unorganized borough and within the national forest or within 20 miles of the national forest; however, the commissioner may pay income from national forest receipts under this paragraph only after the corporation has delivered a written waiver of sovereign immunity from legal action by the state to recover all or a portion of the money distributed under this section.

(e) A distribution made under (a) of this section shall be expended for public schools and public roads. A distribution made under (c) of this section shall be expended for public schools. A distribution made under (d) of this section shall be expended for public roads.

(f) For the purpose of making distributions from the fund, the commissioner of community and economic development shall consult with the commissioner of education and early development, for purposes of determining the number of children in average daily membership in the public schools affected by this section, and the commissioner of transportation and public facilities, to determine the total number of road miles in the unorganized borough affected by this section.

(g) An organized borough, home rule city, first class city, second class city, regional educational attendance area, or a municipality organized under federal law that receives a national forest income payment or distribution under 16

U.S.C. 500 or this section shall annually report and account to the commissioner of community and economic development its use of the payment or distribution for the purposes provided in (a) - (e) of this section. The commissioner of community and economic development may not distribute national forest income under this section to an entity in the unorganized borough that has previously failed to report and account as required under this subsection.

(h) For purposes of this section, if a portion of a home rule city, first class city, or second class city, or municipality organized under federal law in the unorganized borough is located within the national forest or within 20 miles of a national forest or if a regional educational attendance area has a school located within the national forest or within 20 miles of the national forest, the entire home rule city, first class city, or second class city, regional educational attendance area, or municipality organized under federal law is considered to be within the national forest.

(i) A payment or distribution made under this section shall be made under an appropriation for the purpose.

(j) That portion of the unorganized borough national forest receipts fund remaining in the account unobligated and unexpended on June 30 of a fiscal year shall be deposited into the unrestricted portion of the general fund and shall be used to offset expenses of the general fund for school and road maintenance in the affected areas of the unorganized borough for which direct distribution of funds has not been made.

- **Section 2. Effective Date**

The amendments set forth in section 1 of this bill shall become effective beginning July 1, 2005.

\_\_\_\_\_ **BILL NO.**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY \_\_\_\_\_  
Introduced: \_\_/\_\_/06

**A BILL  
FOR AN ACT ENTITLED**

**"An Act amending the allocation of entitlement lands to boroughs and unified municipalities providing for supplemental entitlement lands upon annexation to boroughs or unified municipalities."**

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

\* **Section 1.** AS 29.65.030 is amended to read:

Sec. 29.65.030. Determination of entitlement for newly incorporated municipalities, expanded boroughs or unified municipalities.

(a) The general grant land entitlement of a municipality incorporated after July 1, 1978, that does not qualify for an entitlement under AS 29.65.010 or 29.65.020 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date.

(b) Within two years and six months after the date of incorporation of the municipality, the director shall determine the entitlement of each municipality eligible to receive general grant land under (a) of this section and certify the entitlement to the municipality. However, the governing body of a city may, by resolution, request the director to certify the entitlement to the city on an expeditious basis. The director shall determine and certify the entitlement within six months after receipt of the resolution.

(c) If the boundaries of an existing borough or unified municipality are expanded by annexation, the Borough shall be entitled to an increase in the land entitlement under AS 29.65.010 equivalent to 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the area annexed to the borough or unified municipality between the effective date of the annexation and two years after that date.

(d) Within two years and six months after the effective date of annexation to the borough or unified municipality, the director shall determine the entitlement of each borough or unified municipality eligible to receive general grant land under (a) of this section and certify the entitlement to the borough or unified municipality. However, the governing body of a borough or unified municipality may, by resolution, request the director to certify the entitlement to the borough or unified municipality on an expeditious basis. The director shall determine and certify the entitlement within six months after receipt of the resolution.

\_\_\_\_\_ **BILL NO.**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY \_\_\_\_\_

Introduced:   /  /06

Referred:

**A BILL**

**FOR AN ACT ENTITLED**

**"An Act establishing transitional assistance for boroughs annexing additional territory."**

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

\* **Section 1.** AS 29.06.070 is enacted to read:

Sec. 29.06.070. Transitional assistance to expanded boroughs

- (a) A petition for annexation of additional territory to a borough which includes all or part of a Regional Educational Attendance Area may propose a transition plan for a period of up to 4 years during which:
- (1) State funding for the education previously provided to the Regional Educational Attendance Area may continue to be provided on a declining basis as taxes to fund the local contribution component of school funding are phased in;
  - (2) Taxes to fund areawide services may be phased in on a schedule designed to transition to full taxation to fund areawide services by January 1 of the fourth year after the annexation becomes effective; and
  - (3) Taxes to fund non-areawide and service area services may be phased in on a schedule designed to transition to full taxation to fund those non-areawide and service area services which are provided to the area by January 1 of the fourth year after the annexation becomes effective.
- (b) If the petition approved by the Local Boundary for annexation of territory to an existing borough contains a transition plan as provided for in (a) of this section the terms of that transition plan shall apply and the Borough may impose taxes in the area annexed at a rate lower than the general areawide levy, non-areawide levy, or service area levy in accordance with the transition plan.



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Division of Community Advocacy

*Frank H. Murkowski, Governor*  
*William Noll, Commissioner*  
*Michael Black, Director*

December 22, 2005

Ms. Melanie Lesh  
Office of Senator Gary Stevens  
State Capitol, Room 103  
Juneau, AK 99801-1182

Dear Ms. Lesh:

The Department of Commerce, Community, and Economic Development (Commerce) has had the opportunity to review the November 9, 2005 memorandum from Tamara Brandt Cook and draft legislation providing for administrative boroughs. Commerce offers its sincere compliments to Ms. Cook on her artful effort to draft the legislation and raise important questions in her memorandum. Commerce offers the following comments on those materials for consideration.

**1. Contradiction in existing law regarding the area within REAAs. Section 5 (page 2) of the draft bill.**

There is a contradiction in existing statutes regarding the area within REAAs. AS 14.08.031(a) requires Commerce to "divide the unorganized borough into educational service areas . . ." However, AS 14.12.010(3) states, "the area outside organized boroughs and outside home rule and first class cities is divided into regional educational attendance areas."

That contradiction is not remedied in the proposed legislation. Commerce reconciles the contradiction by interpreting AS 14.08.031(a), AS 14.12.010(3), and AS 29.35.260(b) such that each home rule and first class city in the unorganized borough is within the boundaries of an REAA, but that an REAA does not have jurisdiction within the territory inside the boundaries of a home rule or first class city that operates a city school district.

It is important to recognize that it is conceivable, probably even likely that at some point there will be home rule or first class cities in the unorganized borough that do not have authority to operate city school districts. For example, last year the first-class City of Pelican operated a city school district in which only 11 students were enrolled. If enrollment drops below eight students, the school board may declare the district inoperative for the school year(s) in which fewer than eight students are enrolled (See AS 14.14.120). In such a case, jurisdiction over education would revert to the regional educational attendance area.

More significantly, AS 14.12.025 prohibits the formation of new school districts with fewer than 250 students (absent a determination by the Commissioner of the Department of Education and Early Development that a smaller district would serve the public interest). While a community with 400 or more residents may incorporate as a first class or home rule city and a second class city with 400 or more residents may reclassify as a first class city, communities at that population threshold would typically have far fewer than 250 students. Generally, the student population comprises about 20 percent of the general population. Thus, a community of 400 residents would typically have only about 80 students. Thus, there is potential that a community with far fewer than 250 students will form a first class or home rule city in the unorganized borough, yet the city will be prohibited from operating a city school district.

The following alternative language for Section 5 is offered as a way in which the contradiction might be eliminated.

**Sec. 5.** AS 14.12.010 is amended to read:

**Sec. 14.12.010. Districts of state public school system.** The districts of the state public school system are as follows:

(1) **except where otherwise provided**, each home rule and first class city in **an administrative borough or in** the unorganized borough is a city school district;

(2) **except for an administrative borough**, each organized borough is a borough school district;

(3) **each regional educational attendance area created under AS 14.08.031 is a school district that has jurisdiction outside city school districts within its boundaries**[THE AREA OUTSIDE ORGANIZED BOROUGH AND OUTSIDE HOME RULE AND FIRST CLASS CITIES IS DIVIDED INTO REGIONAL EDUCATIONAL ATTENDANCE AREAS].

**2. Reclassification of Administrative Boroughs. Section 10 (pages 3-4) of the draft bill.**

Commerce recommends that provisions be made for reclassification of an administrative borough to be subject to approval by the Local Boundary Commission. As currently conceived, when an administrative borough is formed, no analysis will have been made of the region's fiscal capacity to operate schools.

Currently, the LBC is required to review petitions for reclassification of city governments, but not boroughs. In part, that distinction exists because all boroughs are required to operate municipal school districts but not all cities are required to do so. By requiring, for example, the LBC to review a petition for reclassification of a second class city in the

unorganized borough, the LBC makes a determination whether the city has the fiscal capacity to operate a city school district.

**3. Prospect for proliferation of petitions to incorporate small administrative boroughs. Section 12 (pages 4 – 5) of the proposed bill.**

Commerce is hopeful that the opportunity to incorporate a new type of borough – particularly one without the duty to provide education – will result in the creation of several new boroughs.

However, absent clear guidance in any new law, Commerce is concerned that a proliferation of proposals to form inappropriately small administrative boroughs will result. Therefore, it is recommended that the bill include provisions to guide petitions for incorporation with boundaries encompassing large, natural regions as was intended by the Constitution.

The following example is offered as one way this objective might be accomplished by amending AS 29.05.031.

**Sec 29.05.031. Incorporation of a borough or unified municipality.**

(a) An area that meets the following standards may incorporate as a home rule, first class, [OR] second class, or administrative borough, or as a unified municipality:

(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 borough government;

(2) the boundaries of the proposed borough or unified municipality encompass a natural region that promotes service delivery to multiple communities on an efficient and cost effective basis, conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

(b) [AN AREA MAY NOT INCORPORATE AS A THIRD CLASS BOROUGH] In setting boundaries of a borough or unified municipality, consideration shall be given to boundaries of regional

**educational attendance areas, census areas, a Native regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims Settlement Act), state house election districts, model boroughs defined by the local boundary commission, and large drainage basins and other identifiable large regional geographic features.**

**4. Areawide powers of administrative boroughs. Section 13 of the proposed bill (pages 5 – 6).**

Page 1 of the November 9 memo states that "Administrative boroughs do not exercise areawide powers normally." It is Commerce's perception that the principal distinction between administrative boroughs and other types of organized boroughs would relate to the following:

1. mandatory duties (i.e., administrative boroughs would not be required or even allowed to operate school districts; would not be required but would be allowed to provide planning, platting, and land use regulation, and would not be required to assess and collect property taxes.);
2. taxing powers (i.e., an administrative borough would be allowed only to levy and collect sales and use taxes).

Other than the restrictions on education and taxation noted above, Commerce recommends that an administrative borough be allowed to exercise any areawide power if the authority to do so is generally obtained in the manner required for second class boroughs under AS 29.05.060 and AS 29.05.110(c), or AS 29.35.300. Consequently, Commerce recommends that Section 13 of the draft bill be modified such that AS 29.05.060 is amended to read:

**Sec. 29.05.060. Petition.** Municipal incorporation is proposed by filing a petition with the department. The petition must include the following information about the proposed municipality:

- (1) class;
- (2) name;
- (3) boundaries;
- (4) maps, documents, and other information required by the department;
- (5) composition and apportionment of the governing body;
- (6) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation;
- (7) for a borough or unified municipality, based on the number who voted in the respective areas in the last general election, the signature and resident address of 15 percent of the voters in

- (A) home rule and first class cities in the area of the proposed borough or unified municipality; and
- (B) the area of the proposed borough or unified municipality outside home rule and first class cities;
- (8) for a first class borough or unified municipality, a designation of areawide powers to be exercised;
- (9) for a second class or administrative borough, a designation of areawide and nonareawide powers to be exercised;
- (10) for a first class, second class, or home rule city, a designation of the powers to be exercised;
- (11) for a first class or home rule city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 50 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;
- (12) for a second class city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 25 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;
- (13) for a home rule city, home rule borough, or unified municipality a proposed home rule charter.

**5. Prohibition on establishment of an administrative borough through merger or consolidation. Section 18 (pages 6 – 7) of the proposed bill.**

Commerce takes the view that a home rule, first class, and second class borough and unified municipality should be prohibited from becoming an administrative borough through merger or consolidation. Consequently, Commerce recommends that Section 18 of the draft bill be modified so that AS 29.06.090(a) is amended to read:

**Sec. 29.06.090. Merger and consolidation.**

(a) Two or more municipalities may merge or consolidate to form a single general law or home rule municipality, except an administrative [A THIRD CLASS] borough may not be formed through merger or consolidation.

**6. Prohibition on establishment of an administrative borough through concurrent dissolution and incorporation. Section 19 (page 7) of the proposed bill.**

Commerce recommends that a home rule, first class, and second class borough and unified municipality be prohibited from dissolving and concurrently incorporating as an administrative borough. Consequently, Commerce suggests that Section 19 of the draft bill be modified so that AS 29.06.470 is amended to read:

**Sec. 29.06.470. Standards.**

(a) Except as provided in (b) and (c) of this section, voters of a municipality may petition for dissolution when the municipality is free of debt, or, if in debt, each of its creditors is satisfied with a method of repayment and

(1) the municipality no longer meets the minimum standards prescribed for incorporation by AS 29.05[, OR FORMER AS 29.18.030 IF IT IS A THIRD CLASS BOROUGH];

(2) the municipality ceases to use each of its mandatory powers; or

(3) the dissolution petition filed under AS 29.06.460 is signed by a number of voters of the municipality proposed to be dissolved greater than 50 percent of the number of votes cast in the last regular election in that municipality.

(b) Voters of a city in a borough may petition for dissolution of the city if the borough consents to assume the city's rights, powers, duties, assets, and liabilities. The consent must be ratified by a majority of borough voters voting on the question.

**(c) Voters of a unified municipality, or home rule, first class or second class borough may not petition for dissolution of the unified municipality, or home rule, first class or second class borough if the area proposed for dissolution is included in a concurrent petition to incorporate an administrative borough.**

**7. Prohibition on establishment of an administrative borough through reclassification.**

While the bill does not expressly allow a unified municipality, or home rule, first class, or second class borough to reclassify as an administrative borough; local governments powers are construed broadly (see, for example, AS 29.35.400 – 420). Unless Ms. Cook concludes that such is unnecessary, Commerce recommends that the provisions of AS 29.04 be amended to expressly prohibit a unified municipality, or home rule, first class, or second class borough from reclassifying as an administrative borough.

**6. Planning, platting, and land use regulation. Section 24 (page 9) of the draft bill.**

In discussions regarding the concept of an administrative borough, this agency and others have often stressed the advantage of creating a regional entity to provide for greater coordination in the delivery of public services and construction of capital improvements. Additional, in concept, the administrative borough would serve as a solitary voice for a region in terms of official dealings with the State and federal governments. The power of planning is a critical aspect of carrying out those functions. Therefore, Commerce takes the view that areawide planning (but not platting, and land

use regulation) should be required of each administrative borough. Moreover, Commerce recommends that an administrative borough be permitted, but not required, to exercise areawide platting, and land use regulation.

Like first class and second class boroughs, however, administrative boroughs should be permitted to delegate those powers and functions to cities within the borough. Commerce recommends consideration of the following alternative language to the current provisions in AS 29.35.180 and 29.40.010:

**Sec. 29.35.180. Land use regulation.**

(a) A first or second class borough shall provide for planning, platting, and land use regulation in accordance with AS 29.40. **An administrative borough shall provide for planning in accordance with AS 29.40 and may, by ordinance, provide for platting and land use regulation in accordance with AS 29.40.**

(b) A home rule borough shall provide for planning, platting, and land use regulation.

**Sec. 29.40.010. Planning, platting, and land use regulation.**

(a) A first or second class borough shall provide for planning, platting, and land use regulation on an areawide basis. **An administrative borough shall provide for planning on an areawide basis and may, by ordinance, provide for platting, and land use regulation on an areawide basis.**

(b) If a city in a borough consents by ordinance, the assembly may by ordinance delegate any of its powers and duties under this chapter to the city. The assembly may by ordinance, without first obtaining the consent of the city, revoke any power or duty delegated under this section.

**9. Areawide powers of an administrative borough. Section 26 (page 9) of the draft bill.**

Section 26 expressly prohibits an administrative borough from exercising a power areawide unless it was obtained under AS 29.35.300. If Commerce's earlier recommendations are accepted, should this provision be amended to reflect the fact that an administrative borough may exercise areawide powers also if granted by the legislature (e.g., areawide planning as discussed above) or approved by the voters under AS 29.05.110(c).

**10. Nonareawide powers of an administrative borough. Section 27 (page 9) of the draft bill.**

Section 27 expressly prohibits an administrative borough from exercising a nonareawide power unless the nonareawide voters have authorized such. Since the draft bill provides that an administrative borough may exercise some powers on a nonareawide basis (e.g., pollution control) the language in Section 27 should be modified.

**11. Apparent typographical error in existing law. Section 28 (page 9).**

It appears that a word is missing in the existing AS 29.34.220(e) that should be corrected since Section 28 makes other changes to that section of the statutes. Commerce recommends that the word "the" be inserted between "exercise" and "power" on line 23 of the draft.

**12. Planning, platting, and land use regulation by cities within an administrative borough. Section 29 (pages 9-10) of the draft bill.**

If Commerce's earlier recommendation regarding planning, platting, and land use regulation are accepted, Section 29 of the draft bill will have to be modified accordingly.

**13. Transfer of powers by a city. Section 31 (page 10) of the draft bill.**

If Commerce's earlier recommendation regarding planning, platting, and land use regulation are accepted, Section 31 of the draft bill should be modified to remove the prohibition on transfer of land use regulation powers.

**14. Differential tax zones. Section 38 (page 11) of the draft bill.**

Since the levy of property taxes under AS 29.45.010 – 570 is a limitation on the powers of home rule municipalities, the provisions of Section 38 of the bill might imply that the assembly of a unified municipality or home rule borough could not "establish, alter, and abolish differential tax zones."

**15. Land disposal. Section 43 (page 13) of the draft bill.**

If Commerce's previous recommendation to require administrative boroughs to provide areawide planning is accepted, Section 43 should not be necessary.

**16. Air quality control. Section 44 (pages 13-14) of the draft bill.**

If Commerce's previous recommendation to generally allow administrative boroughs to provide areawide services is accepted, Section 44 should be modified to remove the limitation imposed by that section.

**17. Sport Facilities Grants and Human Services Community Matching Grants.**

The November 9 memorandum asks whether the provisions of AS 05.35.050, dealing with sports facilities grants, and the provisions of AS 29.60.650(2), concerning human services community matching grants, need to be addressed. Commerce takes the position that no change to those laws is necessary.

**18. Regional Resource Development Authorities.**

The November 9 memorandum asks whether the provisions in existing law concerning regional resource development authorities needs to be revised in the context of administrative boroughs. Commerce is unaware of any such need.

**19. National Forest Income**

The November 9 memorandum asks what should be done with National Forest income in the context of administrative boroughs. Commerce recommends that since administrative boroughs will not have education powers and the majority (roughly 70 percent) of National Forest revenues is currently used for education in city school districts and REAAs in the Tongass National Forest, the current provisions for distribution of National Forest receipts in the unorganized borough be extended to administrative boroughs. Doing otherwise, in Commerce's view, will greatly diminish the attraction of the option to form administrative boroughs in Southeast Alaska.

**20. Coastal Zone Management**

The November 9 memorandum asks whether changes to the statutes concerning the Alaska Coastal Management Program are warranted in the context of administrative boroughs. If Commerce's recommendation to require an administrative borough to exercise areawide planning is adopted, it would seem that no change to the Coastal Management Program would be necessary.

**21. Federal Payments in Lieu of Taxes.**

The federal government provides a Payment in Lieu of Taxes (PILT) program (31 U.S.C 6901-6902), which offers payments to local governments that contain certain federally-owned lands known as "entitlement lands". PILT payments are intended to

help offset losses in property taxes due to nontaxable federal lands within municipal boundaries. The U.S. Department of Interior administers PILT payments to boroughs in Alaska, and Commerce administers federal PILT payments to cities within the unorganized borough.

It is Commerce's interpretation of the law that the PILT funding would have to be paid to administrative boroughs, unless the Alaska Legislature uniformly provided for distribution of funds to city governments within all organized boroughs. Consequently, Commerce recommends that administrative boroughs receive PILT funding.

## **22. Shared Business Fisheries Taxes.**

AS 43.75.130 provides for refunds of State fisheries business taxes to local governments. Generally, each city located in the unorganized borough receives 50 percent of the amount of tax revenue collected in the city and each city located within a borough receives 25 percent of the amount of tax revenue collected in the city. Further, each borough generally receives 50 percent of the amount of tax revenue collected in the area of the borough outside cities and 25 percent of the amount of tax revenue collected in cities located within the borough.

Commerce believes that the Legislature would have the discretion to make exceptions to the manner in which business fisheries taxes are distributed within administrative boroughs. Therefore, to maximize incentives to form administrative boroughs, Commerce recommends that provisions be made to allocate to administrative boroughs 50 percent of the amount of tax revenue collected in the area of the borough outside cities, but none of the tax revenue collected in cities located within the borough.

## **23. Municipal Entitlement Lands.**

AS 29.65.030 provides that a newly incorporated municipality is entitled to 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality. To promote formation of administrative boroughs, Commerce recommends that no provision be made to alter that entitlement for administrative boroughs.

## **24. Unified Municipalities.**

Alaska's Constitution provides for only two types of local government – cities and boroughs. Yet, there are nearly 50 references in existing statutes to "unified municipality" or "unified municipalities." Generally, those references create the misperception that a unified municipality is something other than a borough or city. For example, AS 01.10.060(a)(4) states:

Ms. Melanie Lesh  
December 22, 2005  
Page 11

"municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

The misperception created by the statutes results in considerable widespread confusion among Alaskans regarding the structure of local government. For that reason, Commerce has long felt that the matter should be addressed. Commerce's view is shared by Vic Fischer, expert in local government, former Constitutional Convention delegate, and former State Senator. Mr. Fischer recently urged this agency to propose the change.

The legislation regarding administrative boroughs seems to provide an appropriate context in which the change might be made. Therefore, Commerce urges the following changes throughout State law:

- "unified municipality" be changed to "unified home rule borough"
- "unified municipalities" be changed to "unified home rule boroughs"
- "home rule borough" be changed to "non-unified home rule borough"
- "home rule boroughs" be changed to "non-unified home rule boroughs"

If you have any questions or desire clarification of any of the points raised in this letter, please contact me.

Cordially,

A handwritten signature in black ink, appearing to read "Michael Black", written in a cursive style.

Michael Black  
Director

cc: William C. Noll, Commissioner  
Local Boundary Commission

**CS FOR SENATE BILL NO. 246(CRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/13/06

Referred: Finance

|                      |              |              |
|----------------------|--------------|--------------|
| Funding Information: | General Fund | \$29,300,000 |
|                      | Other Funds  | \$28,000,000 |
|                      | Total        | \$57,300,000 |

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE BY REQUEST

**A BILL****FOR AN ACT ENTITLED**

1 "An Act making a special appropriation from the Alaska capital income fund to the  
 2 revenue sharing fund and a special appropriation from the general fund to the  
 3 municipal public employees' retirement system underfunded liability relief account; and  
 4 providing for an effective date."

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

6 \* **Section 1.** ALASKA CAPITAL INCOME FUND. The sum of \$28,000,000 is  
 7 appropriated from the Alaska capital income fund (AS 37.05.565) to the revenue sharing fund  
 8 (AS 29.60.800).

9 \* **Sec. 2.** GENERAL FUND. The sum of \$29,300,000 is appropriated from the general fund  
 10 to the municipal public employees' retirement system underfunded liability relief account.

11 \* **Sec. 3.** CONTINGENT EFFECT. This Act takes effect only if a bill relating to the  
 12 revenue sharing program and establishing the revenue sharing fund and establishing the  
 13 municipal public employees' retirement system underfunded liability relief account is enacted  
 14 by the Twenty-Fourth Alaska Legislature and becomes law.

- 1     \* **Sec. 4.** If this Act takes effect under sec. 3 of this Act, it takes effect on the later of the
- 2     effective date of the Act described in sec. 3 of this Act or July 1, 2006.

**CS FOR SENATE BILL NO. 247(CRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/13/06  
Referred: Finance

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE BY REQUEST

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the revenue sharing program and to state aid for certain municipal  
2 underfunding of the Public Employees' Retirement System of Alaska; and providing for  
3 an effective date."

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

5 \* **Section 1.** AS 29.60 is amended by adding new sections to read:

6 **Article 10. Revenue Sharing Program.**

7 **Sec. 29.60.800. Revenue sharing fund.** (a) There is established in the  
8 department the revenue sharing fund consisting of money appropriated to the fund.  
9 Each fiscal year, the legislature may appropriate to the revenue sharing fund from the  
10 Alaska capital income fund (AS 37.05.565) an amount for revenue sharing payments.  
11 Other appropriations may be made to the revenue sharing fund.

12 (b) Each fiscal year, the department shall distribute money appropriated to the  
13 fund for revenue sharing payments.

14 **Sec. 29.60.810. Revenue sharing payments.** (a) The revenue sharing payment

1 for a fiscal year equals

2 (1) \$300,000 for each unified municipality;

3 (2) \$150,000 for each borough that is not a unified municipality;

4 (3) \$75,000 for each city and, subject to (b) of this section, for a  
5 reserve; and

6 (4) subject to (b) of this section, \$25,000 for each community.

7 (b) The department, with advice from the Department of Law, shall determine  
8 whether there is, in each reserve or community, an incorporated nonprofit entity or a  
9 Native village council that will agree to receive and spend the revenue sharing  
10 payment for the benefit of the reserve or community. If there is more than one  
11 qualified entity in a reserve or community, the department shall make the payment to  
12 the entity that the department finds most qualified to receive and spend the money.  
13 The department may not make a payment for a reserve or community unless the  
14 incorporated nonprofit entity or Native village council waives immunity from suit for  
15 claims arising out of activities of the corporation or council related to the revenue  
16 sharing payment. A waiver of immunity from suit under this subsection must be on a  
17 form provided by the Department of Law. If there is not a qualified incorporated  
18 nonprofit entity or Native village council in a reserve or community that is willing to  
19 receive and spend the revenue sharing payment for the benefit of the reserve or  
20 community, the payment may not be made.

21 (c) If the amount appropriated to the revenue sharing fund is not sufficient to  
22 fully fund all payments for a fiscal year under (a) of this section, the department shall  
23 reduce each payment on a pro rata basis.

24 **Sec. 29.60.820. Increased payments.** (a) If the amount appropriated to the  
25 revenue sharing fund exceeds that which is sufficient to fully fund revenue sharing  
26 payments under AS 29.60.810(a) for a fiscal year, the department shall increase each  
27 payment to a municipality or reserve by an equal amount for each person who resides  
28 in the municipality or reserve.

29 (b) For purposes of determining the amount of an increased payment, the  
30 population of the municipality or reserve shall be determined by using the number of  
31 permanent fund dividend recipients or other population data that the department

1 determines is reliable. In determining the population of a borough, the population of  
2 each city in the borough shall be deducted from the total population of the borough.

3 **Sec. 29.60.829. Definitions.** In AS 29.60.800 - 29.60.829,

4 (1) "community" means a place that is not incorporated as a city, in  
5 which 25 or more individuals reside as a social unit, and that is not in a unified  
6 municipality or a home rule, first class, or second class borough;

7 (2) "reserve" means a place that is organized under federal law as an  
8 Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in  
9 existence under that subsection.

10 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 MUNICIPAL PUBLIC EMPLOYEES' RETIREMENT SYSTEM UNDERFUNDED  
13 LIABILITY RELIEF ACCOUNT. (a) There is established in the Department of  
14 Administration the municipal public employees' retirement system underfunded liability relief  
15 account consisting of appropriations to the account. Notwithstanding AS 39.35, the  
16 department shall use money in the account in fiscal year 2007 for contribution shortfalls to the  
17 Public Employees' Retirement System of Alaska that result from the difference between a  
18 municipal employer's fiscal year 2007 certified contribution rate and the employer's fiscal  
19 year 2007 actuarial calculated rate, as determined in the supplement to the actuarial valuation  
20 as of June 30, 2004. Before January 1, 2007, the department shall transfer the money in the  
21 municipal public employees' retirement system underfunded liability relief account to the  
22 public employees' retirement system accounts of the following municipal employers in the  
23 following amounts:

|    |                                |            |
|----|--------------------------------|------------|
| 24 | (1) Allakaket, City of         | \$ 633     |
| 25 | (2) Anchorage, Municipality of | 14,134,590 |
| 26 | (3) Bristol Bay Borough        | 69,972     |
| 27 | (4) Cordova, City of           | 252,133    |
| 28 | (5) Craig, City of             | 28,214     |
| 29 | (6) Denali Borough             | 22,550     |
| 30 | (7) Dillingham, City of        | 35,336     |
| 31 | (8) Egegik, City of            | 11         |

|    |                                  |           |
|----|----------------------------------|-----------|
| 1  | (9) Fairbanks North Star Borough | 243,894   |
| 2  | (10) Fairbanks, City of          | 5,940,276 |
| 3  | (11) Haines Borough              | 63,966    |
| 4  | (12) Homer, City of              | 426,547   |
| 5  | (13) Hoonah, City of             | 6,623     |
| 6  | (14) Huslia, City of             | 5,934     |
| 7  | (15) Juneau, City and Borough of | 2,293,420 |
| 8  | (16) Kachemak, City of           | 5,731     |
| 9  | (17) Kaltag, City of             | 3,620     |
| 10 | (18) Kenai Peninsula Borough     | 831,820   |
| 11 | (19) Kenai, City of              | 571,367   |
| 12 | (20) Ketchikan Gateway Borough   | 211,055   |
| 13 | (21) Ketchikan, City of          | 377,233   |
| 14 | (22) King Cove, City of          | 795       |
| 15 | (23) Kodiak Island Borough       | 376,411   |
| 16 | (24) Kodiak, City of             | 702,293   |
| 17 | (25) Lake and Peninsula Borough  | 7,856     |
| 18 | (26) Matanuska-Susitna Borough   | 366,689   |
| 19 | (27) Mekoryuk, City of           | 851       |
| 20 | (28) Nome, City of               | 206,077   |
| 21 | (29) North Pole, City of         | 107,715   |
| 22 | (30) Palmer, City of             | 166,149   |
| 23 | (31) Pelican, City of            | 564       |
| 24 | (32) Petersburg, City of         | 43,955    |
| 25 | (33) Saint Paul, City of         | 5,133     |
| 26 | (34) Sand Point, City of         | 36,775    |
| 27 | (35) Saxman, City of             | 7,708     |
| 28 | (36) Seward, City of             | 204,976   |
| 29 | (37) Sitka, City and Borough of  | 508,683   |
| 30 | (38) Unalakleet, City of         | 3,431     |
| 31 | (39) Valdez, City of             | 583,784   |

|   |                                                                                      |         |
|---|--------------------------------------------------------------------------------------|---------|
| 1 | (40) Whittier, City of                                                               | 4,940   |
| 2 | (41) Wrangell, City of                                                               | 262,410 |
| 3 | (b) Money in the municipal public employees' retirement system underfunded liability |         |
| 4 | relief account lapses into the general fund on January 1, 2007.                      |         |
| 5 | * <b>Sec. 3.</b> Section 2 of this Act is repealed on January 1, 2007.               |         |
| 6 | * <b>Sec. 4.</b> This Act takes effect July 1, 2006.                                 |         |

**SENATE BILL NO. 248**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE BY REQUEST OF THE  
ADVISORY COMMISSION ON LOCAL GOVERNMENT

Introduced: 1/23/06

Referred: Community and Regional Affairs, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to administrative boroughs; relating to municipal school districts;  
2 relating to standards for incorporation of boroughs and unified municipalities;  
3 eliminating obsolete provisions relating to a third class borough and making technical  
4 changes to statutes relating to regional educational attendance areas; and relating to  
5 new borough grants for certain newly incorporated boroughs and unified  
6 municipalities."

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

8 \* **Section 1.** AS 14.08.011(a) is amended to read:

9 (a) It is the purpose of this chapter to provide for public education in the  
10 administrative boroughs, unorganized boroughs, and the military reservations in the  
11 state.

12 \* **Sec. 2.** AS 14.08.031(a) is amended to read:

13 (a) The Department of Commerce, Community, and Economic Development

1 in consultation with the Department of Education and Early Development and local  
2 communities shall divide the administrative boroughs and the unorganized borough  
3 into educational service areas using the boundaries or sub-boundaries of the regional  
4 corporations established under the Alaska Native Claims Settlement Act, unless by  
5 referendum a community votes to merge with another community contiguous to it but  
6 within the boundaries or sub-boundaries of another regional corporation.

7 \* **Sec. 3.** AS 14.08.031(b) is amended to read:

8 (b) An educational service area established in the administrative boroughs  
9 and the unorganized borough under (a) of this section constitutes a regional  
10 educational attendance area. As far as practicable, each regional educational  
11 attendance area shall contain an integrated socio-economic, linguistically and  
12 culturally homogeneous area. In the formation of the regional educational attendance  
13 areas, consideration shall be given to the transportation and communication network to  
14 facilitate the administration of education and communication between communities  
15 that comprise the area. Whenever possible, municipalities, other governmental or  
16 regional corporate entities, drainage basins, and other identifiable geographic features  
17 shall be used in describing the boundaries of the regional school attendance areas.

18 \* **Sec. 4.** AS 14.08.071(a) is amended to read:

19 (a) In each regional educational attendance area [IN THE UNORGANIZED  
20 BOROUGH], the lieutenant governor, within not less than 60, nor more than 90 days  
21 after the establishment of the regional educational attendance area, shall provide for  
22 the election of a regional school board.

23 \* **Sec. 5.** AS 14.08.071(b) is amended to read:

24 (b) Except for the first election of regional school board members under (a) of  
25 this section, elections shall be held annually on the first Tuesday in October. Elections  
26 shall be supervised by the director of elections in the office of the lieutenant governor,  
27 but shall be administered within administrative boroughs and second class cities as  
28 part of the regular municipal election. The lieutenant governor shall adopt regulations  
29 for the conduct of the election of regional school board members comparable, as far as  
30 practicable, to those prescribed for election of school board members under AS 14.12  
31 and AS 29.20.300 except that the majority election requirements of AS 29.26.060 do

1 not apply to, nor may the regulations require runoff elections for, the first election of  
 2 regional school board members under (a) of this section or, if a school board by  
 3 resolution so requests, to subsequent elections in the regional educational attendance  
 4 area served by that school board.

5 \* **Sec. 6.** AS 14.12.010 is amended to read:

6 **Sec. 14.12.010. Districts of state public school system. Except as provided**  
 7 **in AS 14.12.025 and subject to AS 14.14.120, the** [THE] districts of the state public  
 8 school system are as follows:

9 (1) each home rule and first class city in **an administrative borough**  
 10 **or in** the unorganized borough is a city school district;

11 (2) **except for an administrative borough,** each organized borough is  
 12 a borough school district;

13 (3) **each** [THE AREA OUTSIDE ORGANIZED BOROUGH AND  
 14 OUTSIDE HOME RULE AND FIRST CLASS CITIES IS DIVIDED INTO] regional  
 15 educational attendance **area established under AS 14.08.031 is a school district that**  
 16 **has jurisdiction outside city school districts within its boundaries** [AREAS].

17 \* **Sec. 7.** AS 14.12.110 is amended to read:

18 **Sec. 14.12.110. Single body as assembly and school board.** Notwithstanding  
 19 the provisions of this chapter or other law, a single body may serve as both the  
 20 assembly and school board [IN THE MANNER PROVIDED FOR THIRD CLASS  
 21 BOROUGH UNDER AS 29.20.300(b),] if

22 (1) an ordinance for that purpose is approved by the assembly and  
 23 ratified by a referendum of a majority of the qualified borough voters voting on the  
 24 question at a regular or special election; and

25 (2) the public school population within the borough is 500 pupils or  
 26 less.

27 \* **Sec. 8.** AS 14.60.010(7) is amended to read:

28 (7) "regional educational attendance area" means an educational  
 29 service area in **an administrative borough or** the unorganized borough **that**  
 30 [WHICH] may or may not include a military reservation, and that contains one or  
 31 more public schools of grade levels K-12 or any portion of those grade levels that are

1 to be operated under the management and control of a single regional school board;

2 \* **Sec. 9.** AS 23.40.250(8) is amended to read:

3 (8) "regional educational attendance area" means an educational  
4 service area in an administrative borough or the unorganized borough that may or  
5 may not include a military reservation, and that contains one or more public schools of  
6 grade levels K - 12 or any portion of those grade levels that are to be operated under  
7 the management and control of a single regional school board;

8 \* **Sec. 10.** AS 29.04.030 is amended to read:

9 **Sec. 29.04.030. Classes of general law.** General law municipalities are of five  
10 classes:

- 11 (1) first class boroughs;
- 12 (2) second class boroughs;
- 13 (3) administrative [THIRD CLASS] boroughs;
- 14 (4) first class cities;
- 15 (5) second class cities.

16 \* **Sec. 11.** AS 29.04.060(a) is amended to read:

17 (a) An administrative [A THIRD CLASS] borough may reclassify as a first  
18 or second class borough in the manner provided by AS 29.04.040 [AS 29.35.320 -  
19 29.35.330] for the reclassification of cities [ADDITION OF AN AREAWIDE  
20 POWER BY A FIRST OR SECOND CLASS BOROUGH], except the petition or  
21 proposal requests reclassification of an administrative borough instead of requesting  
22 reclassification of a city. [ADDITION OF A POWER. AT THE TIME OF VOTING  
23 ON RECLASSIFICATION OF A THIRD CLASS BOROUGH TO FIRST OR  
24 SECOND CLASS STATUS, VOTERS SHALL VOTE ALSO ON WHETHER THE  
25 BOROUGH SHALL, ON RECLASSIFICATION, RETAIN A COMBINED  
26 ASSEMBLY AND SCHOOL BOARD OR ELECT A SEPARATE ASSEMBLY  
27 AND BOARD AS OTHERWISE PROVIDED FOR FIRST AND SECOND CLASS  
28 BOROUGH.]

29 \* **Sec. 12.** AS 29.04.060(c) is amended to read:

30 (c) If [A SEPARATE ASSEMBLY AND SCHOOL BOARD ARE  
31 APPROVED AT] the reclassification is approved [ELECTION], a school board shall

1 be elected in conformity with AS 14.12.030 - 14.12.100 at the next regular election, if  
 2 it occurs within 90 days after [OF] the date of the reclassification election, or  
 3 [OTHERWISE] at a special election within 90 days after [OF] the date of the  
 4 reclassification election. Expiration dates of terms of school board members elected at  
 5 a special election must coincide with the date of the regular election. [UNTIL A  
 6 BOARD IS ELECTED AND QUALIFIED, THE ASSEMBLY CONTINUES TO  
 7 SERVE AS THE BOARD.]

8 \* **Sec. 13.** AS 29.05.031(a) is amended to read:

9 (a) An area that meets the following standards may incorporate as a home rule,  
 10 first class, [OR] second class, or administrative borough, or as a unified  
 11 municipality:

12 (1) the population of the area is interrelated and integrated as to its  
 13 social, cultural, and economic activities, and is large and stable enough to support  
 14 borough government;

15 (2) the boundaries of the proposed borough or unified municipality  
 16 encompass a natural region that promotes service delivery on an efficient and  
 17 cost-effective basis, conform generally to natural geography, and include all areas  
 18 necessary for full development of municipal services;

19 (3) the economy of the area includes the human and financial resources  
 20 capable of providing municipal services; evaluation of an area's economy includes  
 21 land use, property values, total economic base, total personal income, resource and  
 22 commercial development, anticipated functions, expenses, and income of the proposed  
 23 borough or unified municipality;

24 (4) land, water, and air transportation facilities allow the  
 25 communication and exchange necessary for the development of integrated borough  
 26 government.

27 \* **Sec. 14.** AS 29.05.031 is amended by adding a new subsection to read:

28 (c) In setting boundaries of a proposed borough or unified municipality,  
 29 consideration shall be given to existing administrative or corporate boundaries and to  
 30 drainage basins or other regional geographic features.

31 \* **Sec. 15.** AS 29.05.060 is amended to read:

1           **Sec. 29.05.060. Petition.** Municipal incorporation is proposed by filing a  
2 petition with the department. The petition must include the following information  
3 about the proposed municipality:

4           (1) class;  
5           (2) name;  
6           (3) boundaries;  
7           (4) maps, documents, and other information required by the  
8 department;

9           (5) composition and apportionment of the governing body;  
10          (6) a proposed operating budget for the municipality projecting sources  
11 of income and items of expenditure through the first full fiscal year of operation;

12          (7) for a borough or unified municipality, based on the number who  
13 voted in the respective areas in the last general election, the signature and resident  
14 address of 15 percent of the voters in

15                (A) home rule and first class cities in the area of the proposed  
16 borough or unified municipality; and

17                (B) the area of the proposed borough or unified municipality  
18 outside home rule and first class cities;

19          (8) for a first class borough or unified municipality, a designation of  
20 areawide powers to be exercised;

21          (9) for a second class or administrative borough, a designation of  
22 areawide and nonareawide powers to be exercised;

23          (10) for a first class, second class, or home rule city, a designation of  
24 the powers to be exercised;

25          (11) for a first class or home rule city, based on the number who voted  
26 in the area in the last general election, the signatures and resident addresses of 50  
27 voters in the proposed city or of 15 percent of the voters in the proposed city,  
28 whichever is greater;

29          (12) for a second class city, based on the number who voted in the area  
30 in the last general election, the signatures and resident addresses of 25 voters in the  
31 proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

1 (13) for a home rule city, home rule borough, or unified municipality a  
2 proposed home rule charter.

3 \* **Sec. 16.** AS 29.05.110(c) is amended to read:

4 (c) Areawide borough powers included in an incorporation petition are  
5 considered to be part of the incorporation question. In an election for the incorporation  
6 of a second class borough **or an administrative borough**, each nonareawide power to  
7 be exercised is placed separately on the ballot. Adoption of a nonareawide power  
8 requires a majority of the votes cast on the question, and the vote is limited to the  
9 qualified voters who are registered to vote in the proposed borough but outside all  
10 cities in the proposed borough.

11 \* **Sec. 17.** AS 29.05.130 is amended by adding a new subsection to read:

12 (c) This section does not apply to a regional educational attendance area in a  
13 newly incorporated administrative borough.

14 \* **Sec. 18.** AS 29.05.140(f) is amended to read:

15 (f) This **section does not apply to a regional educational attendance area**  
16 **in an administrative borough. Otherwise, this** section applies to home rule and  
17 general law municipalities.

18 \* **Sec. 19.** AS 29.05.190(a) is amended to read:

19 (a) For the purpose of defraying the cost of transition to borough government  
20 and to provide for interim governmental operations, each borough or unified  
21 municipality incorporated after December 31, 1985, is entitled to organization grants  
22 as follows:

23 (1) [\$300,000] for the municipality's first full or partial fiscal year -  
24 **\$250,000 for an administrative borough or \$300,000 for a borough of another**  
25 **class or for a unified municipality;**

26 (2) [\$200,000] for the municipality's second fiscal year - **\$250,000 for**  
27 **an administrative borough or \$200,000 for a borough of another class or for a**  
28 **unified municipality;** and

29 (3) [\$100,000] for the municipality's third fiscal year - **\$250,000 for an**  
30 **administrative borough or \$100,000 for a borough of another class or for a**  
31 **unified municipality.**

1 \* **Sec. 20.** AS 29.05.190(c) is amended to read:

2 (c) **This** [EXCEPT AS PROVIDED IN (d) OF THIS SECTION, THIS]  
3 section does not apply to a borough incorporated by consolidation or to a unified  
4 municipality that occupies the area formerly occupied by a borough.

5 \* **Sec. 21.** AS 29.05 is amended by adding a new section to read:

6 **Sec. 29.05.205. New borough grants.** (a) For the purpose of providing for  
7 financial stability, each borough or unified municipality incorporated during the period  
8 that begins on the effective date of this Act and ends four years after the effective date  
9 of this Act is entitled to a new borough grant in addition to organization grants under  
10 AS 29.05.190. The amount of the new borough grant for a borough or unified  
11 municipality that is entitled to at least 15,000 acres of general grant land under  
12 AS 29.65.030 is \$12,500,000. Otherwise, the amount of the new borough grant is  
13 \$15,000,000.

14 (b) New borough grant money may only be used for investments by the  
15 municipality that receives it. The municipality may use realized income from the  
16 investments for any of its municipal purposes.

17 (c) This section does not apply to a borough incorporated by consolidation or  
18 to a unified municipality that occupies the area formerly occupied by a borough.

19 (d) The department may adopt regulations to implement this section. The  
20 department shall disburse new borough grant money within 30 days after it is  
21 appropriated and available for the purpose. Before August 31 of each fiscal year, the  
22 department shall submit a report to the office of management and budget identifying

23 (1) each borough or unified municipality expected to qualify to receive  
24 a new borough grant during the next fiscal year;

25 (2) the amount of money needed to fund expected new borough grants;  
26 and

27 (3) the amount of money needed to fund any remaining unpaid new  
28 borough grant amounts from prior fiscal year entitlements.

29 \* **Sec. 22.** AS 29.06.090(a) is amended to read:

30 (a) Two or more municipalities may merge or consolidate to form a single  
31 general law or home rule municipality, except **an administrative** [A THIRD CLASS]

1           borough may not be formed through merger or consolidation.

2   \* **Sec. 23.** AS 29.06.190(a) is amended to read:

3           (a) A borough and all cities in the borough may unite to form a single unit of  
4           home rule government by complying with AS 29.06.190 - 29.06.410. However, an  
5           administrative borough may unite with cities only on approval of the local  
6           boundary commission under the procedure provided by AS 29.04.040(a) and (b)  
7           for the reclassification of cities, except the petition or proposal requests  
8           unification rather than requesting reclassification.

9   \* **Sec. 24.** AS 29.06.470(a) is amended to read:

10           (a) Except as provided in (b) of this section, voters of a municipality may  
11           petition for dissolution when the municipality is free of debt, or, if in debt, each of its  
12           creditors is satisfied with a method of repayment and

13                   (1) the municipality no longer meets the minimum standards  
14           prescribed for incorporation by AS 29.05 [ , OR FORMER AS 29.18.030 IF IT IS A  
15           THIRD CLASS BOROUGH];

16                   (2) the municipality ceases to use each of its mandatory powers; or

17                   (3) the dissolution petition filed under AS 29.06.460 is signed by a  
18           number of voters of the municipality proposed to be dissolved greater than 50 percent  
19           of the number of votes cast in the last regular election in that municipality.

20   \* **Sec. 25.** AS 29.10.010(a) is amended to read:

21           (a) A general law borough or first class city may adopt a charter for its own  
22           government. However, an administrative borough may adopt a charter only on  
23           approval of the local boundary commission under the procedure provided by  
24           AS 29.04.040(a) and (b) for the reclassification of cities, except the petition or  
25           proposal requests unification rather than requesting reclassification.

26   \* **Sec. 26.** AS 29.10.080(b) is amended to read:

27           (b) [AT THE TIME OF VOTING ON THE PROPOSED CHARTER IN A  
28           THIRD CLASS BOROUGH, VOTERS SHALL VOTE ALSO ON WHETHER THE  
29           BOROUGH SHALL, ON ADOPTION OF THE CHARTER, RETAIN A  
30           COMBINED ASSEMBLY AND SCHOOL BOARD OR ELECT A SEPARATE  
31           ASSEMBLY AND BOARD AS OTHERWISE PROVIDED FOR HOME RULE

1           BOROUGH. IF A COMBINED ASSEMBLY AND SCHOOL BOARD ARE  
 2           APPROVED AT THE CHARTER ELECTION, THE ASSEMBLY SERVING AT  
 3           THE TIME OF THE ELECTION CONTINUES TO SERVE AS THE ASSEMBLY  
 4           AND BOARD ON VOTER APPROVAL OF THE CHARTER AND UNTIL TERMS  
 5           OF ASSEMBLY MEMBERS EXPIRE AS PROVIDED BEFORE ADOPTION OF  
 6           THE CHARTER.] If a charter is [SEPARATE BOARD AND ASSEMBLY ARE]  
 7           approved at the charter election in an administrative borough, a school board shall  
 8           be elected in conformity with AS 14.12.030 - 14.12.100 at the next regular election, if  
 9           it occurs within 90 days after [OF] the date of the charter election, or [OTHERWISE]  
 10          at a special election within 90 days after [OF] the date of the charter election.  
 11          Expiration dates of terms of school board members elected at a special election shall  
 12          coincide with the date of the regular election. [UNTIL A BOARD IS ELECTED AND  
 13          QUALIFIED, THE ASSEMBLY CONTINUES TO SERVE AS THE BOARD.]

14   \* **Sec. 27.** AS 29.20.300(a) is amended to read:

15           (a) Each municipal school district has a school board. Members [EXCEPT  
 16           AS PROVIDED IN (b) OF THIS SECTION, MEMBERS] of a school board are  
 17           elected at the regular election for three-year terms and until their successors take  
 18           office. Members are elected at large unless a different method of election has been  
 19           approved by the voters in a regular election.

20   \* **Sec. 28.** AS 29.25.010(a) is amended to read:

21           (a) In addition to other actions that this title requires to be by ordinance, the  
 22           governing body of a municipality shall use ordinances to

- 23                   (1) establish, alter, or abolish municipal departments;
- 24                   (2) provide for a fine or other penalty, or establish rules or regulations  
 25           for violation of which a fine or other penalty is imposed;
- 26                   (3) provide for the levying of taxes;
- 27                   (4) make appropriations, including supplemental appropriations or  
 28           transfer of appropriations.
- 29                   (5) grant, renew, or extend a franchise;
- 30                   (6) adopt, modify, or repeal the comprehensive plan, land use and  
 31           subdivision regulations, building and housing codes, and the official map;

1 (7) approve the transfer of a power from a city to an administrative  
 2 borough or a first or second class borough [FROM A CITY];

3 (8) designate the borough seat;

4 (9) provide for the retention or sale of tax-foreclosed property;

5 (10) exempt contractors from compliance with general requirements  
 6 relating to payment and performance bonds in the construction or repair of municipal  
 7 public works projects within the limitations set out in AS 36.25.025; this paragraph  
 8 applies to home rule and general law municipalities.

9 \* Sec. 29. AS 29.35.150 is amended to read:

10 **Sec. 29.35.150. Scope of areawide powers. Except as otherwise provided, a**  
 11 [A] borough shall exercise the powers as specified and in the manner specified in  
 12 AS 29.35.150 - 29.35.180 on an areawide basis.

13 \* Sec. 30. AS 29.35.160(a) is amended to read:

14 (a) **An administrative borough is not a school district and may not**  
 15 **exercise education powers.** Each **home rule, first class, and second class** borough  
 16 **and unified municipality** constitutes a borough school district and establishes,  
 17 maintains, and operates a system of public schools on an areawide basis as provided in  
 18 AS 14.14.060. A military reservation in a borough is not part of the borough school  
 19 district until the military mission is terminated or until inclusion in the borough school  
 20 district is approved by the Department of Education and Early Development.  
 21 However, operation of the military reservation schools by the borough school district  
 22 may be required by the Department of Education and Early Development under  
 23 AS 14.14.110. If the military mission of a military reservation terminates or continued  
 24 management and control by a regional educational attendance area is disapproved by  
 25 the Department of Education and Early Development, operation, management, and  
 26 control of schools on the military reservation transfers to the borough school district in  
 27 which the military reservation is located.

28 \* Sec. 31. AS 29.35.170 is amended to read:

29 **Sec. 29.35.170. Assessment and collection of taxes.** (a) A **first class or**  
 30 **second class** borough shall assess and collect property, sales, and use taxes that are  
 31 levied in its boundaries, subject to AS 29.45. **An administrative borough may assess**

1 and collect sales and use taxes that are levied in its boundaries, subject to  
 2 AS 29.45, but may not levy other types of taxes.

3 (b) Taxes levied by a city in a home rule, first class, or second class  
 4 borough shall be collected by the [A] borough and returned in full to the levying city.  
 5 Sales and use taxes levied by a city in an administrative borough THAT LEVIES  
 6 A SALES AND USE TAX shall be collected by the borough and returned in full  
 7 to the levying city. This subsection applies to home rule and general law  
 8 municipalities.

9 \* Sec. 32. AS 29.35.180(a) is amended to read:

10 (a) A first or second class borough shall provide for planning, platting, and  
 11 land use regulation in accordance with AS 29.40. An administrative borough shall  
 12 provide for planning, platting, and land use regulation in accordance with  
 13 AS 29.40 outside of cities within its boundaries that, on the day before the date of  
 14 incorporation of the administrative borough, were providing for planning,  
 15 platting, and land use regulation under AS 29.35.260(c).

16 \* Sec. 33. AS 29.35.220(a) is amended to read:

17 (a) An administrative [A THIRD CLASS] borough may borrow money and  
 18 issue negotiable or nonnegotiable bonds or other evidences of indebtedness as  
 19 provided by AS 29.47.

20 \* Sec. 34. AS 29.35.220(b) is amended to read:

21 (b) Areawide exercise of a power not otherwise prohibited by law by an  
 22 administrative borough [A THIRD CLASS BOROUGH OTHER THAN  
 23 EDUCATION AND TAX ASSESSMENT AND COLLECTION] is [NOT]  
 24 authorized if the power was acquired upon incorporation under AS 29.05.110(c)  
 25 or is acquired in accordance with AS 29.35.300.

26 \* Sec. 35. AS 29.35.220(d) is amended to read:

27 (d) An administrative [A THIRD CLASS] borough may acquire any  
 28 nonareawide power not otherwise prohibited by law if [, EXCEPT] the power was  
 29 acquired upon incorporation under AS 29.05.110(c) or is acquired under  
 30 AS 29.35.300 [MAY ONLY BE EXERCISED WITHIN A SERVICE AREA].

31 \* Sec. 36. AS 29.35.220(e) is amended to read:

1 (e) An administrative [A THIRD CLASS] borough may by ordinance  
 2 exercise the power necessary to contain, clean up, or prevent a release or threatened  
 3 release of oil or a hazardous substance, and exercise a power granted to a municipality  
 4 under AS 46.04, AS 46.08, or AS 46.09, but the power authorized by this subsection  
 5 may be exercised only on a nonareawide basis. The borough shall exercise its  
 6 authority under this subsection in a manner that is consistent with a regional master  
 7 plan prepared by the Department of Environmental Conservation under AS 46.04.210.

8 \* Sec. 37. AS 29.35.220 is amended by adding a new subsection to read:

9 (f) An administrative borough may by ordinance provide for economic  
 10 development outside of cities within its boundaries that, on the day before the  
 11 effective date of the incorporation of the administrative borough, were providing for  
 12 economic development. A city may transfer its power to provide for economic  
 13 development or the borough may acquire the power to provide for economic  
 14 development on an areawide basis under AS 29.35.300.

15 \* Sec. 38. AS 29.35.250(c) is amended to read:

16 (c) Unless the city was not exercising the power on the day before the date  
 17 the borough was incorporated or the borough acquires the power under  
 18 AS 29.35.300,

19 (1) a [A] home rule city in an administrative [A THIRD CLASS]  
 20 borough shall provide for planning, platting, and land use regulation as provided by  
 21 AS 29.35.180(b) for home rule boroughs;

22 (2) a [A] first class city in an administrative [A THIRD CLASS]  
 23 borough shall provide for planning, platting, and land use regulation as provided by  
 24 AS 29.35.180(a) for first and second class boroughs; and

25 (3) a [A] second class city in an administrative [A THIRD CLASS]  
 26 borough may provide for planning, platting, and land use regulation as provided by  
 27 AS 29.35.180(a) for first and second class boroughs.

28 \* Sec. 39. AS 29.35.250 is amended by adding a new subsection to read:

29 (e) Except as provided in AS 14.12.025 and subject to AS 14.14.120, a home  
 30 rule or first class city in an administrative borough is a city school district and shall  
 31 establish, operate, and maintain a system of public schools as provided by

1 AS 29.35.160 for unified municipalities and home rule, first class, and second class  
 2 boroughs. A second class city in an administrative borough is not a school district and  
 3 may not establish a system of public schools.

4 \* **Sec. 40.** AS 29.35.260(b) is amended to read:

5 (b) Except as provided in AS 14.12.025 and subject to AS 14.14.120, a [A]  
 6 home rule or first class city outside a borough is a city school district and shall  
 7 establish, operate, and maintain a system of public schools as provided by  
 8 AS 29.35.160 for boroughs. A second class city outside a borough is not a school  
 9 district and may not establish a system of public schools.

10 \* **Sec. 41.** AS 29.35.300(b) is amended to read:

11 (b) A second class or administrative borough acquires an additional power  
 12 by transfer of the power by a city or by holding an election on the question. For  
 13 acquisition of an areawide power, the election shall be held areawide. For acquisition  
 14 of a nonareawide power, the election shall be held nonareawide. An administrative  
 15 borough may not acquire the power to provide for education.

16 \* **Sec. 42.** AS 29.35.310 is amended to read:

17 **Sec. 29.35.310. Transfer by city.** (a) A city in a first or second class borough  
 18 may transfer to the borough in which it is located any of its powers or functions,  
 19 subject to the approval of the assembly. A city in an administrative borough may  
 20 transfer to the borough in which it is located any of its powers or functions, other  
 21 than education, subject to the approval of the assembly.

22 (b) A [FIRST OR SECOND CLASS] borough shall exercise all powers  
 23 transferred to it by a city.

24 \* **Sec. 43.** AS 29.35.320(a) is amended to read:

25 (a) An election on the question of adding an areawide power in a first class  
 26 borough or of adding an areawide or nonareawide power in a second class borough or  
 27 an administrative borough may be initiated in two ways:

28 (1) a number of voters equal to 15 percent of the number of votes cast  
 29 at the preceding regular election in the area, either areawide or nonareawide, in which  
 30 the election is to be held may file a petition with the borough clerk; or

31 (2) the assembly may propose the acquisition of the power.

1 \* **Sec. 44.** AS 29.35.320(c) is amended to read:

2 (c) The borough clerk shall certify whether a petition filed under (a) [OR (b)]  
3 of this section contains the required number of signatures.

4 \* **Sec. 45.** AS 29.35.330(c) is amended to read:

5 (c) A vote on the question of adding an areawide power in a first or second  
6 class borough or in an administrative borough shall be tabulated in two separate  
7 classifications. One shall consist of all votes cast in all cities located in the borough.  
8 The other shall consist of all votes cast in the borough area outside all cities. If the  
9 majority of the votes cast in each classification is favorable, the borough shall assume  
10 the added power within 30 days after certification of the election results.

11 \* **Sec. 46.** AS 29.35.330(d) is amended to read:

12 (d) If a majority of the votes cast on the question of adding a nonareawide  
13 power in a second class borough or an administrative borough [A POWER TO BE  
14 EXERCISED IN A SERVICE AREA IN A THIRD CLASS BOROUGH] is  
15 favorable, the borough shall assume the added power within 30 days after certification  
16 of the election results.

17 \* **Sec. 47.** AS 29.35.340(a) is amended to read:

18 (a) On acquisition of an areawide power, the first or second class borough or  
19 administrative borough succeeds to all of the rights, powers, and duties of any city  
20 or service area with respect to that power. The borough succeeds to claims, franchises,  
21 and other contractual obligations, liability for bonded and all other indebtedness, and  
22 to all of the right, title, and interest in the real and personal property held by a city or  
23 service area for the exercise of the power.

24 \* **Sec. 48.** AS 29.35.340(c) is amended to read:

25 (c) On acquisition of an additional areawide power, the first or second class  
26 borough or administrative borough, in consultation with the city or service area  
27 personnel, shall arrange for an orderly and equitable transfer of rights, assets,  
28 liabilities, powers, duties, and other matters related to acquisition of the areawide  
29 powers.

30 \* **Sec. 49.** AS 29.35.470(b) is amended to read:

31 (b) Except in an administrative borough, the [THE] assembly may by

1 ordinance establish, alter, and abolish differential tax zones within a service area to  
 2 provide and levy property taxes for a different level of services than that provided  
 3 generally in the service area. Taxes levied within a differential tax zone that exceed  
 4 the amount that would have otherwise been levied may only be used for the services  
 5 provided in that zone.

6 \* **Sec. 50.** AS 29.35.490(a) is amended to read:

7 (a) A second class borough **or an administrative borough** may exercise in a  
 8 service area any power granted a first class city by law or a nonareawide power that  
 9 may be exercised by a first class borough if

10 (1) the exercise of the power is approved by a majority of the voters  
 11 residing in the service area; or

12 (2) all owners of real property in the service area consent in writing to  
 13 the exercise of the power if no voters reside in the service area.

14 \* **Sec. 51.** AS 29.35.490(c) is amended to read:

15 (c) A second [OR THIRD] class borough **or an administrative borough** may  
 16 establish a service area that includes only vacant, unappropriated, and unreserved land  
 17 owned by the borough. A second [OR THIRD] class borough **or an administrative**  
 18 **borough** may establish a service area, with the concurrence of the commissioner of  
 19 natural resources, that includes only vacant, unappropriated, and unreserved land  
 20 owned by the state and classified for disposal to individuals. By ordinance a second  
 21 [OR THIRD] class borough **or an administrative borough** may provide the services  
 22 in a service area established under this subsection necessary to develop state or  
 23 municipal land as required by the planning, platting, and land use regulations of the  
 24 borough.

25 \* **Sec. 52.** AS 29.40.010(a) is amended to read:

26 (a) A first or second class borough shall provide for planning, platting, and  
 27 land use regulation on an areawide basis. **An administrative borough shall provide**  
 28 **for planning, platting, and land use regulation outside of cities within its**  
 29 **boundaries that, on the day before the date of incorporation of the administrative**  
 30 **borough, were providing for planning, platting, and land use regulation under**  
 31 **AS 29.35.260(c).**

1 \* **Sec. 53.** AS 29.40.020(a) is amended to read:

2 (a) Each [FIRST AND SECOND CLASS] borough shall establish a planning  
3 commission consisting of five residents unless a greater number is required by  
4 ordinance. In each first and second class borough, [COMMISSION] membership  
5 shall be apportioned so that the number of members from home rule and first class  
6 cities reflects the proportion of borough population residing in home rule and first  
7 class cities located in the borough. In each administrative borough, commission  
8 membership shall be apportioned so that the number of members from cities that  
9 do not exercise the power of land use regulation reflects the proportion of  
10 borough population residing in those cities. A member shall be appointed by the  
11 borough mayor for a term of three years subject to confirmation by the assembly,  
12 except that a member from a [HOME RULE OR FIRST CLASS] city shall be selected  
13 from a list of recommendations submitted by the council. Members first appointed  
14 shall draw lots for one, two, and three year terms. Appointments to fill vacancies are  
15 for the unexpired term. The compensation and expenses of the planning commission  
16 and its staff are paid as directed by the assembly.

17 \* **Sec. 54.** AS 29.40.030(a) is amended to read:

18 (a) The comprehensive plan is a compilation of policy statements, goals,  
19 standards, and maps for guiding the physical, social, and economic development, both  
20 private and public, of the [FIRST OR SECOND CLASS] borough, and may include,  
21 but is not limited to, the following:

- 22 (1) statements of policies, goals, and standards;
- 23 (2) a land use plan;
- 24 (3) a community facilities plan;
- 25 (4) a transportation plan; and
- 26 (5) recommendations for implementation of the comprehensive plan.

27 \* **Sec. 55.** AS 29.45.010(a) is amended to read:

28 (a) A unified municipality may levy a property tax. A home rule, first class,  
29 or second class borough may levy

- 30 (1) an areawide property tax for areawide functions;
- 31 (2) a nonareawide property tax for functions limited to the area outside

1 cities;

2 (3) a property tax in a service area for functions limited to the service  
3 area.

4 \* **Sec. 56.** AS 30.13.150 is amended to read:

5 **Sec. 30.13.150. Succession.** Whenever a borough [OF THE FIRST OR  
6 SECOND CLASS] or a home rule municipality is created with an area coterminous  
7 with or inclusive of the area of an authority, the authority shall be integrated into the  
8 borough or home rule municipality within one year after [OF] incorporation. On  
9 integration, the borough or home rule municipality succeeds to all the rights, powers,  
10 duties, assets, and liabilities of the authority, except that any indebtedness of an  
11 authority does not constitute a general obligation of the borough or home rule  
12 municipality payable from taxes levied by the borough or home rule municipality. The  
13 borough or home rule municipality may not levy any taxes to pay the indebtedness.

14 \* **Sec. 57.** AS 38.05.037(a) is amended to read:

15 (a) In areas of the state outside [FIRST, SECOND, OR THIRD CLASS]  
16 boroughs where there is not a city [NO MUNICIPALITY] with [A] zoning power, the  
17 division of lands shall exercise the zoning power by adopting zoning regulations.

18 \* **Sec. 58.** AS 41.15.180(a) is amended to read:

19 (a) When the commissioner of commerce, community, and economic  
20 development receives national forest income under 16 U.S.C. 500, the commissioner  
21 shall immediately pay to each organized borough in which national forest land is  
22 located a share of the income from that forest; an organized borough's share of income  
23 from a national forest shall be proportional to the area of the national forest located  
24 within its boundaries. This subsection does not apply to administrative boroughs.

25 \* **Sec. 59.** AS 41.15.180(b) is amended to read:

26 (b) There is created as a separate account in the general fund the unorganized  
27 borough national forest receipts fund. The fund consists of national forest income  
28 received by the Department of Commerce, Community, and Economic Development  
29 under 16 U.S.C. 500 for the percentage of a national forest located within the  
30 unorganized borough or within an administrative borough. Seventy-five percent of  
31 the fund shall be allocated for public schools and 25 percent for public roads.

1 \* **Sec. 60.** AS 41.15.180(c) is amended to read:

2 (c) From the percentage of the unorganized borough national forest receipts  
3 fund allocated to the public schools under (b) of this section, the commissioner shall  
4 pay **a share of the income from the public schools allocation of the fund to (1) each**  
5 **home rule or first class city that is a school district and is** located within the  
6 unorganized borough **or within an administrative borough** and within a national  
7 forest or within 20 miles of a national forest; **and (2) each** [, OR] regional educational  
8 attendance area that has a school located within the unorganized borough **or within an**  
9 **administrative borough** and within a national forest or within 20 miles of a national  
10 forest [, A SHARE OF THE INCOME FROM THE PUBLIC SCHOOLS  
11 ALLOCATION OF THE FUND]. A home rule city, first class city, or regional  
12 educational attendance area's share shall be calculated as the proportion of the number  
13 of children in average daily membership of the city school district or regional  
14 educational attendance area compared to the total number of children in average daily  
15 membership in city school districts located within the unorganized borough **or within**  
16 **an administrative borough** and within the national forest or within 20 miles of the  
17 national forest and in regional educational attendance areas that have a school located  
18 within the unorganized borough **or within an administrative borough** and within the  
19 national forest or within 20 miles of the national forest.

20 \* **Sec. 61.** AS 41.15.180(d) is amended to read:

21 (d) From the percentage of the unorganized borough national forest receipts  
22 fund allocated to public roads under (b) of this section, the commissioner shall pay  
23 [TO EACH]

24 (1) **to each administrative borough that exercises road powers and**  
25 **is within a national forest or within 20 miles of a national forest, and to each**  
26 home rule city, first class city, or second class city that exercises road powers, that is  
27 located within the unorganized borough **or within an administrative borough** and **is**  
28 within a national forest or within 20 miles of a national forest, a share of the income  
29 from the roads allocation of the fund; a **municipality's** [HOME RULE CITY, FIRST  
30 CLASS CITY, OR SECOND CLASS CITY'S] share shall be calculated as the  
31 proportion of the number of road miles within municipal boundaries over which the

1        municipality [COMMUNITY] exercises road powers plus the number of state road  
2        miles maintained by the municipality under agreement with the state compared to the  
3        total number of road miles maintained by state or local governments in the  
4        unorganized borough or in an administrative borough and within the national forest  
5        or within 20 miles of the national forest;

6                (2) to each municipality organized under federal law as an Indian  
7        reserve that existed before the enactment of 43 U.S.C. 1618(a) and is continued in  
8        existence under that subsection and that has formed a community development  
9        corporation under AS 29.60.365, that exercises road powers and that is located within  
10       the unorganized borough or in an administrative borough and within the national  
11       forest or within 20 miles of the national forest a share of the income from the roads  
12       allocation of the fund; the share due a municipality organized under federal law that  
13       exercises road powers shall be calculated as the proportion of the number of road  
14       miles within municipal boundaries over which the community exercises road powers  
15       plus the number of state road miles maintained by the municipality under agreement  
16       with the state compared to the total number of road miles maintained by state or local  
17       governments in the unorganized borough or in an administrative borough and  
18       within the national forest or within 20 miles of the national forest; however, the  
19       commissioner may pay income from national forest receipts under this paragraph only  
20       after the corporation has delivered a written waiver of sovereign immunity from legal  
21       action by the state to recover all or a portion of the money distributed under this  
22       section.

23       \* **Sec. 62.** AS 41.15.180(f) is amended to read:

24                (f) For the purpose of making distributions from the fund, the commissioner of  
25        commerce, community, and economic development shall consult with the  
26        commissioner of education and early development, for purposes of determining the  
27        number of children in average daily membership in the public schools affected by this  
28        section, and the commissioner of transportation and public facilities, to determine the  
29        total number of road miles in the unorganized borough or in an administrative  
30        borough affected by this section.

31       \* **Sec. 63.** AS 41.15.180(h) is amended to read:

1 (h) For purposes of this section, if a portion of an administrative borough or  
 2 of a home rule city, first class city, or second class city, or municipality organized  
 3 under federal law in the unorganized borough is located within the national forest or  
 4 within 20 miles of a national forest or if a regional educational attendance area has a  
 5 school located within the national forest or within 20 miles of the national forest, the  
 6 entire administrative borough, home rule city, first class city, or second class city,  
 7 regional educational attendance area, or municipality organized under federal law is  
 8 considered to be within the national forest.

9 \* **Sec. 64.** AS 41.15.180(j) is amended to read:

10 (j) That portion of the unorganized borough national forest receipts fund  
 11 remaining in the account unobligated and unexpended on June 30 of a fiscal year shall  
 12 be deposited into the unrestricted portion of the general fund and shall be used to  
 13 offset expenses of the general fund for school and road maintenance in the affected  
 14 areas of the unorganized borough or of an administrative borough for which direct  
 15 distribution of funds has not been made.

16 \* **Sec. 65.** AS 43.75.130(a) is amended to read:

17 (a) Except as provided in (d) of this section, the commissioner shall pay

18 (1) to each unified municipality, to each administrative borough, and  
 19 to each city located in the unorganized borough, 50 percent of the amount of tax  
 20 revenue collected in the municipality from taxes levied under this chapter;

21 (2) to each city located within a borough, 25 percent of the amount of  
 22 tax revenue collected in the city from taxes levied under this chapter; and

23 (3) to each home rule, first class, or second class borough

24 (A) 50 percent of the amount of tax revenue collected in the  
 25 area of the borough outside cities from taxes levied under this chapter; and

26 (B) 25 percent of the amount of tax revenue collected in cities  
 27 located within the borough from taxes levied under this chapter.

28 \* **Sec. 66.** AS 43.75.130(d) is amended to read:

29 (d) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the  
 30 commissioner shall pay

31 (1) to each city that is located in a borough incorporated after June 16,

1 1987, the following percentages of the tax revenue collected in the city from taxes  
2 levied under this chapter:

3 (A) 45 percent of the taxes collected during the calendar year in  
4 which the borough is incorporated;

5 (B) 40 percent of the taxes collected during the first calendar  
6 year after the calendar year in which the borough is incorporated;

7 (C) 35 percent of the taxes collected during the second calendar  
8 year after the calendar year in which the borough is incorporated; and

9 (D) 30 percent of the taxes collected during the third calendar  
10 year after the calendar year in which the borough is incorporated; and

11 (2) to each home rule, first class, or second class borough that is  
12 incorporated after June 16, 1987, the following percentages of the tax revenue  
13 collected in the cities located within the borough from taxes levied under this chapter:

14 (A) 5 percent of the taxes collected during the calendar year in  
15 which the borough is incorporated;

16 (B) 10 percent of the taxes collected during the first calendar  
17 year after the calendar year in which the borough is incorporated;

18 (C) 15 percent of the taxes collected during the second calendar  
19 year after the calendar year in which the borough is incorporated; and

20 (D) 20 percent of the taxes collected during the third calendar  
21 year after the calendar year in which the borough is incorporated.

22 \* **Sec. 67.** AS 46.14.400(a) is amended to read:

23 (a) With the approval of the department, a municipality may establish and  
24 administer within its jurisdiction a local air quality control program that operates in  
25 lieu of and is consistent with all or part of the department's air quality program as  
26 established under this chapter. A first or second class borough or an administrative  
27 borough may administer an air quality control program approved by the department  
28 under this subsection on an areawide basis and is not subject to the restrictions for  
29 acquiring additional areawide powers specified in AS 29.35.300 - 29.35.350. [A  
30 THIRD CLASS BOROUGH MAY ADMINISTER A LOCAL AIR QUALITY  
31 CONTROL PROGRAM APPROVED BY THE DEPARTMENT UNDER THIS

1           SUBSECTION ONLY IN A SERVICE AREA FORMED UNDER AS 29.35.490(b)  
2           OR (c).]  
3       \* **Sec. 68.** AS 29.04.060(b); AS 29.05.031(b), 29.05.190(d); AS 29.20.300(b);  
4 AS 29.35.220(c), 29.35.300(c), 29.35.320(b), 29.35.330(b), and 29.35.490(b) are repealed.