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HLG:

HB 596,

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HB

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MEMORANDUM

State of Alaska
DEPARTMENT OF LAW

Frank [unclear]
of [unclear]

17-596,597,598

TO:

Byron I. Mallott
Director
Local Affairs Agency

DATE : February 24, 1972

FROM:

John E. Havelock
Attorney General

SUBJECT: North Slope Borough Proposal

By:

Richard W. Garnett III
Assistant Attorney General

Some time ago you asked each department to comment on the proposed North Slope Borough. The Department of Law postponed its comment until this time because we believed that legal questions would arise only after the record before the Local Boundary Commission was complete.

A representative from this office attended the Barrow hearing. Recordings of the hearing and the exhibits offered by all parties were utilized for study and review of the present state of the record.

The basic decision on borough incorporation is committed by law to the commission and to the people of the area proposed for incorporation. This being so, the scope for commentary on the legality of the proposal is limited. The following comments are directed toward evaluation of the record before the commission and are intended to point out the areas of possible vulnerability should the incorporation be approved by the commission and subsequently tested in court.

Legal Setting. The Constitution of Alaska defined boroughs as a new entity, previously unknown to Alaska government, and, as they hoped, a new start in regional government for America as a whole.

The constitutional limitations on the formation of boroughs were very broad, allowing for maximum flexibility, but required that the legislature set further standards for the new form of government and prescribe the manner and condition of their formation.

The legislature has the power to establish boroughs on its own initiative. When it does so, it is bound only by the broad limitations in the constitution. The legislature has also prescribed the manner in which boroughs may be formed by local option, providing both a procedure which must be followed if a borough is to be formed by local option and substantive standards for the approval of a proposed borough by the Local Boundary Commission to which the power to approve has been delegated by the legislature. In prescribing these procedures and substantive

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rules the legislature can be and in fact has been more restrictive on the formation of boroughs through administrative action than it might be in acting directly through an exercise of legislative power.

The Supreme Court of Alaska has indicated that it will compel compliance with the procedures prescribed by the legislature in actions taken by the Boundary Commission. See United States Smelting, Mining and Refining Company v. Local Boundary Commission, et al., No. 727, Sept. 29, 1971. There is no reason to suppose that they will depart from the rule defined in the U. S. Smelting case in proceedings of the Local Boundary Commission undertaken under AS 07.10.110.

One of the rules of administrative action to which the courts will hold the Local Boundary Commission is that any action taken by the commission, or any other administrative body exercising powers of some consequence, must be supported by evidence with respect to each substantive requirement established by the legislature in its delegation of power. See, e.g., Atlantic Ref. Co. v. Public Service Com., 360 U.S. 378. It need not be uncontradicted; it need not conform to formal legal rules of evidence. See, e.g., Dickerson v. U.S., 346 U.S. 389. But there must be some evidence in a form upon which reasonable men might make informed judgments in the course of their affairs.

There is also substantive law to the effect that this evidence must be of record, in a form reviewable by the court. See, e.g., Crowell v. Benson, 285 U.S. 22. That the members of the commission or the Director of the Local Affairs Agency have personal knowledge of issues and facts not of record which bring them to the conclusion that a proposed borough in fact meets substantive standards does not get the commission past the procedural hurdle. It is this legal proposition which the commission should keep in mind as it reviews the record in this proceeding.

Constitutional Guidelines. The proposed borough raises the most fundamental questions about the nature of boroughs.

The minutes of the convention include some discussion of the nature and size of boroughs. On page 2621, Vol. 4 of the minutes, borough size was discussed:

"COGHILL: For instance, would Fort Yukon, Big Delta, Nenana, Fairbanks be in one borough?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, it would not seem to me that that would be a feasible arrangement. The matter of size is one of that changes with time, and the trend in the states is as the population increases

is to give larger areas and consolidate counties into larger groups. They had a great deal of trouble in the old days because they could not travel so very far and they tried to tie a county down to the size you could drive a horse to the boundary and back in one day. That concept has fallen by the board. The idea of how large these would be would have to be determined by the state advisory group in local government working with the people to decide as to what extent their boundaries should cover. That doesn't mean one type of economy; most any area will have a composite type of economy. You have a common interest in certain types of economic activities, and insofar as possible, it would be the determination to try to make an entity or an area that had common interests but would not be so big as to be unwieldy but would not be so small as to be too expensive. It is a matter of the exercise of judgment which has been left to the local level with the advice and assistance of the state department in connection with local government.

COGHILL: Mr. Rivers, I realize it is being left to a power, but I was trying to get the Committee's thinking as to how big they would be. Would they be about the same size as our election districts as set up by the apportionment board, or smaller?

V. RIVERS: I did some research on size and counties, Mr. Coghill, and the Texas Charter set up that the counties should be 900 square miles. Now, there are other areas that run as high as 2,500 square miles, and that is in the nature of a large county, although in some counties they run as high as 4,000 square miles but that is in isolated instances; but around the neighborhood of anywhere from 1,000 to 2,500 square miles seems to be about the average of the larger size counties."

And on page 2627:

"DAVIS: Mr. Rivers, I realize that under the article as it is written that the boundaries of boroughs are going to be set by a board established by the legislature. But I would like to pursue a little bit further the question that Mr. Coghill had asked about what the Committee's thinking is concerning areas that might properly fit into a borough, and since I am familiar with it and so are you with our own area,

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I thought I might ask somewhat of the thinking of the Committee in an area such as that. Would your idea of a borough for the Anchorage area comprise, say the area from Portage to the Knik Bridge or something like that including the greater Anchorage area and possible Chugiak, or would it include the Anchorage area plus the Matanuska Valley, or would it be, say the Seward area and Anchorage and the Matanuska Valley all together? What is your thinking about the size of an area like that?

V. RIVERS: Mr. Davis said I am familiar with that area. We discussed various areas through the Territory; in our thinking, of course, we must allow for the changes that occur due to the changes required by time and the area which you first described would probably, from Portage to Knik Bridge, would embrace an area of probably 500 square miles or 400 square miles, and would be about what I would visualize as the initial borough, but I can readily see as 50 years pass by, where, under the consolidation plan some of them might consolidate and bring in the further area you mentioned. The first step would probably be not of a nature so large as to be too unwieldy. The next step, as transportation, communications, and roads develop, might well result in having it twice as large by a consolidation of one or more of these borough areas and their boundaries. Does that answer your question?"

Though the area of the proposed North Slope Borough is over 87,500 square miles, or approximately 21 times the largest figure mentioned in the course of convention discussion on borough size, we do not believe that size alone would rule out a North Slope Borough. In our view the constitutional vision could encompass such a borough provided other prerequisites of local option borough government were present.

Statutory and Constitutional Standards. Whatever insights may be gleaned from the minutes of the convention, the source of specific standards is Article X, section 3 of the constitution which provides:

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

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boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

The standards which must be met in proceedings before the commission under this provision are set forth in AS 07.10.130 which provides:

No area may be incorporated as an organized borough unless it conforms to the following standards.

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

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

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

(4) The transportation facilities in the area proposed for incorporation shall be of such a unified nature as to facilitate the communication and exchange necessary for the development of integrated local government and a community of interests. Means of transportation may include surface (both water and land) and air. Areas which are accessible to other parts of a proposed organized borough by water or air only may not be

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included within the organized borough unless access to them is reasonably inexpensive, readily available, and reasonably safe. In considering the sufficiency of means of transportation within a proposed organized borough, existing and planned roads and highways, air transport and landing facilities, boats and ferry systems, and railroads, shall be included.

As the statute is worded, compliance with each of the statute standards is a prerequisite to incorporation.

Before discussing in detail the extent to which the record supports formation of the proposed first class borough, we wish to comment briefly upon the relation between the proposal and HB 596, which provides for division of the entire state into boroughs. In our view, standards for borough incorporation must be read in light of the powers to be exercised by the borough. Because a borough with extensive power affects the people of the area more profoundly than a limited borough or unorganized borough, it follows that the applicable standards may be applied with greater strictness in the former case than in the latter. HB 596 provides initially for unorganized boroughs. Accordingly, a North Slope borough created in accordance with HB 596 could in theory meet constitutional and statutory standards even if it were determined that an unlimited first class borough does not.

In addition, HB 596 provides for legislative approval of boundaries drawn under its authority. Where the borough is in effect formed by legislative action, the boundaries must be deemed in conformity with statutory standards, as the legislature has plenary power over creation of local government units within the state. The same presumption of validity does not of course apply to boundaries created by the commission under statutory standards and subject only to local option approval.

The Record. In our view, the present record may need supplementation to withstand judicial scrutiny of the incorporation in several respects, including the requirements

- 1) That the population be qualified and willing to assume the duties arising out of incorporation, and have a clear understanding of the nature of the undertaking for which they ask.
- 2) That the boundaries exclude glaciers, icecaps, and uninhabited, unused lands unless such areas are necessary or desirable for integrated local government.
- 3) That areas which are accessible to other parts of a proposed borough by water or air only may not be included within the organized borough unless access to them is reasonably inexpensive, readily available and reasonably safe.

The requirements are discussed in order below:

1. Nature of undertaking: Between July 25, and August 4, 1971, representatives from the Local Affairs Agency visited each of the five villages in the proposed borough. The agency scheduled in each village a hearing for discussion of the borough proposal, and prepared a report of each meeting.

With respect to Kaktovik, the agency report noted:

Both the Kaktovik city council members present and the most knowledgeable persons in the audience evidenced little knowledge about governmental structure and operation...

It was obvious at our meeting that the Kaktovik city council had not conducted any work sessions on the North Slope Borough petition and had not as yet formulated any position statements on the petition...

Local self-government of the Kaktovik community is still in embryonic stage, the city of Kaktovik having been incorporated only in March of this year. Accordingly, it was not surprising to find that the concept of municipal government for the local community, much less the area wide borough concept, is not yet very well understood in Kaktovik.

With respect to Anaktuvuk Pass, like Kaktovik quite remote physically from Barrow, the agency representatives report similar impressions expressed as follows:

As in other communities visited on this trip, the officials, and residents of the village exhibited little knowledge about the Arctic Slope Native Association petition for the North Slope Borough...

Parenthetically, it might be noted that clear statements of opposition cannot really be expected because of the general lack of knowledge of the borough concept [of] government.

In Barrow, Wainwright and Point Hope the agency found varying degrees of interest in the proposal and in each case noted that a considerable educational effort would be needed to provide any assurance of a basic understanding of borough government among the people.

The proposed at-large election of the borough assembly and preemptive effect of the borough's areawide first class city powers on fourth class cities are only illustrative of the tremendous impact the borough would have on citizen participation in local government on the North Slope. The commission may lack sufficiently positive evidence of an understanding of these and other operational features of the borough on the part of the average citizen. Granted that an educational program might improve the situation, a court nevertheless might find that the statute contemplates a higher level of understanding by the populace prior to formation than has been exhibited to the commission.

2. Territory: A borough is not to include uninhabited and unused lands unless such areas are necessary or desirable for integrated local government. In our view a court would find that the area does include uninhabited and unused lands, as those terms are normally used. The issue is whether such lands are necessary or desirable for integrated local government. With respect particularly to the western part of the borough, a court could conclude, on the basis of the record, that the degree of integration which could be achieved between Barrow and the combined total of 222 inhabitants of Kaktovik and Anaktuvak Pass does not warrant inclusion of those villages.

3. Transportation: The statute requires that where air or water afford the only link between different areas of a proposed borough such travel must be reasonably inexpensive, readily available and reasonably safe.

The cost, schedule and routing of commercial air travel from Barrow to each of the remaining villages in the area, as reported by the Local Affairs Agency, are as follows:

Point Hope-Kotzebue-Fairbanks-Barrow: The one-way fare is about \$149.00 and would require an overnight in Kotzebue unless a charter was available from Point Hope to Kotzebue.

Anaktuvuk Pass-Fairbanks-Barrow: The one-way fare is \$130.00. Schedule flights from only Anaktuvuk Pass to Fairbanks are available on Tuesdays and Saturday. The Tuesday flight only can make same day connections to Barrow.

Kaktovik-Fairbanks-Barrow: The one-way fare is \$122.00 and in the winter months, regularly scheduled flights to and from Kaktovik to Fairbanks are scheduled for Wednesday only. A charter flight (skis or pontoons only) might be available between these two cities

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because wheel planes owned and operated by charter groups are not allowed to land on the gravel strip at Kaktovik.

There is an I.T.T. charter (Wien Consolidated F27) running between Barrow and Kaktovik as well as Kaktovik and Barrow. This charter services the DEWline stations, and, if space is available and permission is granted from I.T.T. in Fairbanks, persons may ride the charter. The one-way fare is \$49.00.

Wainwright-Barrow: Scheduled mail flights are available two days a week. The on-way fare is \$22.00. Charter flights are usually available.

It may be argued that weekly or biweekly flights with round trip costs up to \$300.00 do not amount to readily available, reasonably inexpensive travel. The possibility, presented by petitioners at the Barrow hearing, that the state may subsidize airline traffic among the five villages probably would be considered too remote and contingent to meet a standard which speaks in terms of conditions existing as of the time of incorporation.

Prudhoe Bay. The discussion above is directed toward the constitutional concept of a borough and the extent to which the five existing villages meet the statutory standards for incorporation. The installation at Prudhoe Bay must also be considered. With respect to the statutory standards, is the population at Prudhoe Bay "interrelated and integrated as to its social, cultural and economic activities" with the rest of the North Slope area? The record is bare of evidence on this point, except testimony of an oil company representative of the self-containment of Prudhoe Bay.

Another point likely to be raised in a court challenge to the borough is the constitutionality of including Prudhoe Bay in light of its remoteness from other population centers in the area and the fact that it contains the only substantial concentration of taxable property on the North Slope.

A number of authorities indicate that a municipality may not include remote, sparsely populated areas for the sole purpose of taxation, where the area taxed will receive little or no benefit from the municipality. See, e.g., cases in 62 C.J.S., "Municipal Corporations," § 9, p. 86, 2 McQuillen, Municipal Corporations, (3rd Ed.) §2.23a, p. 696. If, however, such areas are integral parts of the territory proposed for incorporation the fact that services would not immediately be commensurate with taxation does not appear to be an absolute bar to inclusion.

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Summary and Recommendations. In order to avoid the disruptive effect of a court decision overturning incorporation of a North Slope Borough, the commission should consider whether the record before it is adequate to satisfy each element of the statutory standards.

If the commission feels that the record is adequate in all respects, it should, of course, approve the petition.

As its second alternative, if the commission is satisfied that a sufficient hearing has been had on all points prerequisite to formation of a borough, and the weight of evidence is against formation of the borough, it may deny the petition.

Finally, if the commission does not believe that an adequate hearing has been had on all points, it may wish to seek possible additional evidence. If, even with additional evidence, the commission is unable to satisfy itself that the record supports compliance with the statutory standards, it should postpone approval until such time as a more readily sustainable proposal can be formulated.

RWG:rw



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

HUMBLE OIL & REFINING CO

116-599
~~505-265~~

Alaska H.B. 599
State Property Tax of 15 mills
on Real and Personal Property

As indicated by our testimony on H.B. 598, we are not opposed to broad based property taxes generally, but we are opposed to property taxes which classify or exempt certain property so that the tax becomes discriminatory. Once exemptions are granted, there is a continuous erosion of the tax base by use of exemptions.

The exemptions provided by this bill are so large that they effectively classify property so that only business property in the unorganized area is subject to tax.

Again, as with H.B. 598 to so classify property in this manner is an inequitable method of raising revenue. The homestead exemption is too great. A comparable homestead exemption in other states permitting such an exemption would be between \$5,000 - \$10,000 based on 100% valuation.

Also, the exemption for unimproved land is unnecessary and inequitable. There is no reason for land owners or speculators to benefit by exemption from this tax.

This bill, if enacted, should also specify that oil and gas reserves and the equipment necessary to produce such reserves are not subject to this tax. Such property is already subject to State production tax.

41-20
HJMSLE
OIL & REFINING CO.

Re: Alaska H.B. 598
State Property Tax of 20 mills on
Property Used in Exploration for
and Transportation of Unrefined
Oil and Gas

Our comments today are made generally in opposition to a narrow-based property tax on certain types of property. We are not opposed to property taxes generally, as they are one of the primary revenue sources for local governments, but we are opposed to this type of "special" property tax. A selective tax of this type is unfair and discriminatory in that it singles out a particular activity for taxation without imposing a similar burden on other activities. Thus, a taxpayer owning property used in exploration for or in transportation of oil or gas, in addition to paying the same taxes other taxpayers pay, must pay this additional tax.

One thing that helps to attract new business to a state is a stable and fair tax policy. A tax such as proposed by this bill indicates neither a stable nor a fair tax policy. By singling out particular activities for a special tax, Alaska's ability to attract new businesses in the future could be impaired. New businesses could anticipate that a special tax may be in their future in Alaska. A special tax on exploration equipment will also tend to discourage exploration efforts in Alaska with the resulting shift in effort to other parts of the world. While recognizing that all taxpayers desire to lower their tax burden, adequate employment opportunities are also important. These opportunities depend upon a tax system that is fair to commercial and industrial taxpayers.

Further, such a special tax is unfair in that the particular industry would be paying more than its fair share of the cost of government. The U. S. Constitution requires equal protection of the laws to all taxpayers and

any selective tax imposed on one or few taxpayers always raises the question of constitutionality. All industries and taxpayers should pay for the cost of government not just the specially taxed industry. A special tax would also have the tendency to cause the cost of government to go up unnecessarily since so few taxpayers are footing the bill.

Heavy dependence by a state on a narrow-based tax can create serious problems. For example, Texas, at one time, relied heavily on a severance tax. When it became necessary to limit production, the state had a severe budgetary crisis. The crisis could have been averted if the state had not been so dependent on this one tax.

Another comment we would like to make is in regard to property taxes generally. The rate of a property tax levy should not be a fixed rate, but should be a variable rate up to a certain maximum with some relationship to budgetary needs to arrive at a proper rate. For a state to raise more money than it actually needs to run its programs is inconsistent with the way government should function. In states with large pipeline investment, the average effective property tax rate on this type of investment is less than 10 mills -- even though such states have a greater population density.

Another point that we would like to make is that once a state begins a system of taxation which classifies different kinds of property, there is no logical stopping point. The different types of property to be subject to tax and the rate of tax can become political footballs with little relationship to economic considerations.

In conclusion, we are not opposing this bill just because it is a tax bill, nor are we opposing it just because it is a property tax bill. We are opposing it because it is an unfair and discriminatory tax falling on few taxpayers. We believe that a broad-based tax program, with our company paying its fair share, which raises sufficient revenues to pay for the cost of government is preferable.

March 13, 1972

Introduction

Background

Return in Law Branch

HB 597 ~~is~~ the so called state property tax in the unorganized branch is actually a state wide property tax in your own words. I have not my against a state wide property tax. Many of the states in which I have had experience have state wide property tax laws. Although the trend by constitutional amendments in many states is to eliminate the state from the property tax business. I am opposed to a state wide property tax that incorporates so many exemptions as contemplated in ~~HB 597~~ HB 597

Q: ~~the~~ ~~idea~~ ~~of~~ ~~a~~ ~~fair~~ ~~and~~ ~~equitable~~ ~~state~~ ~~property~~ ~~tax~~ ~~as~~ ~~a~~ ~~tax~~ ~~to~~ ~~be~~ ~~levied~~ ~~on~~ ~~all~~ ~~taxable~~ ~~property~~ ~~in~~ ~~the~~ ~~state~~ ~~placed~~ ~~in~~ ~~a~~ ~~general~~ ~~fund~~ ~~and~~ ~~used~~ ~~for~~ ~~the~~ ~~benefit~~ ~~of~~ ~~all~~. The bill does not meet these criteria. It does not meet the exemption provided.

Sec. 43.77.010 read

020 read

(1) read

Since the "excess" functions as applicable to the taxpayer and not the property why go to the bother of listing all the property in the sections. It would be just as easy to say "all property of a taxpayer not otherwise exempt by this chapter, that exceeds \$50,000 in valuation is taxable."

Unimproved land is exempt - What is an improved land? Under the definition section, unimproved land means (read definition) I submit that this is going to be a very arbitrary decision for the assessor to make under this definition. I'll guarantee ~~if~~ if you take most the privately owned

land in this state, outside the cities and parishes, the fact that an oil well is going to be drilled on any piece of that land the value of that land will increase. Just as if you contacted someone owning so-called unimproved land in the bush for the purpose of building an air strip and tourist facilities, the value of that land is going up. ~~The clearing of land also increases its value.~~ Now it may not completely stop just as the oil well may be a dry hole but still the value increases. The clearing of land also increases its value. Under this situation, I don't think there is any unimproved land anywhere in the state.

Boards and vessels owned by a city or borough are exempt. I wonder why the \$50,000 exemption doesn't apply to this particular class of property?

Now then after your \$50,000 exemption, the balance of your property tax is credited to you and to the city or borough. As I understand it of the balance of your property as taxed locally at 10 mills, as an example, then only 5 mills of the state levy would apply, which brings me to Sec. 42.77.045 which says just the opposite. (Please explain.)

It is impossible to say in drafting but I wanted to bring it to the attention of the committee just in case someone hadn't already. Our town borough official remarked that failure of the bill would force the borough to increase their taxes so none of their properties would be taxable by the state.

What the bill all does is to set as a very costly program of assessment administration, all property in the state will have to be appraised to determine what property is taxable even tho' the \$50,000

Exemption applies. M. is well have to be appropriate for mapping and parcel numbering system. But the present taxing districts. Appraisal firms will have to be hired to do this work and they don't come cheap. It would be impossible to do this work prior to the Jan. 1, 1973 taxing date.

As a result, the tax will be paid by just a few major industries and commercial properties in the district of the four being in the unorganized borough. What incentives will those being in the unorganized borough have to organize if someone else is providing them with tax revenues.

Turning to ^{HB 593} ~~HB 593~~ - This is a discriminatory tax levied against tax by a property within a jurisdiction. I know of no other states that do take this type of discrimination action.

Under the 15 mill tax as levied as districts of the only the unorganized borough. The 20 mill tax as levied of to all taxing units within the unorganized borough on a very complicated formula. But it precludes the taxation of this property by the borough if the property was not taxed on Jan. 1, 1972. In other words, property of the gas line that is located in the borough after Jan. 1, 1972 cannot be taxed by the local taxing jurisdiction. If the State Department of Public Safety could not tax the TAPS pipeline and neither could the North Star Borough or any other taxing jurisdiction, the line may pass through. The Penai Borough would be prevented from taxing the gas line that Penai is now constructing. Penai feels that the Penai Borough should be able to tax this line because they

are providing related services from tax revenues.

A portion of the line will be in a special fire protection district, all of the line will be in a special hospital district and in the borough school district.

There are no dependents in the bill of exploration and transportation expenses. You are kind of transportation of equipment and gas as being required to pipelines but trucks carry crude oil, tankers carry crude oil, large tankers carry crude oil. Air planes and helicopters are used for exploration purposes. Many supply companies in Anchorage, Kenai, and Sitka stock equipment and supplies for exploration purposes. As new stock is done it will not be taxed. Well drilling rigs which are now stacked waiting for better jobs to be taxed? I find when the line looks and is opened to exploration and production, should the Kenai Borough be able to tax this equipment since they will be receiving the greatest benefit from the equipment. I discussed these bills yesterday with Kenai Borough officials and they are dismayed, to say the least, at the state's attempt to proceed there. They being this most important source of revenue in the borough.

In summary ¹¹⁸⁵¹⁷ ~~to~~ is a discriminatory tax aimed at revenue raising. There is already having unmountable problems and prompts the borough from using this valuable revenue source. ¹¹⁸⁵¹⁷ ~~to~~ ~~is~~ after considering all the questions ends up being a very expensive way of having a few for the benefit of just a few. Kenai opposes both bills.

Mr. Chan said that would be my statement. I will attempt to answer my questions.

SUMMARY OF LOCAL GOVERNMENT PROGRAM

House Bills 552, 596, 597, and 598 are designed to function together as a program for keeping the states constitutional promise with respect to the rural areas of the state.

HB 596 is the starting point of the program. That bill provides for establishment of borough boundaries which conform to statutory and constitutional standards.

The unorganized boroughs so formed will serve as administrative units for provision of state services and for the revenue sharing features of the proposed property taxes.

The people within each unorganized borough may at their option proceed toward organization either as boroughs of a particular class or as home rule boroughs. This option provides the flexibility necessary to accommodate different conditions within the state, as well as state level review of local government organization.

The second feature of the program is the Department of Community and Regional Development created in HB 552. As the number of local government units increases the need for increased state capacity to meet local government needs is apparent. The new department is designed to have the capability to assist local government units to solve a wide variety of problems, including problems related to economic development. The department is empowered particularly to serve as the arm of the legislature in providing services to unorganized boroughs. In addition, the department administers the revenue sharing under the proposed property tax bills.

HB 597 provides for a general property tax of 15 mills. The tax includes a \$50,000. personal exemption and a credit for the amount of tax paid to any organized city or borough. A local effort exclusion is designed to eliminate whole cities and boroughs from the reach of the tax where the local tax effort is such that the

total of all local taxes is greater than the revenue that would be raised under the state tax. Because of the exemption, credit and exclusion features, it is anticipated that very little, if any, additional tax would be paid by an individual resident of any organized city or borough.

The tax is structured as a statewide tax because of the view of the Department of Law that a special kind of tax levied only within the unorganized borough could be challenged on equal protection grounds. Some commentators have suggested that the tax could be levied on the unorganized borough by the legislature acting in its capacity as assembly of the unorganized borough. The difficulty with such an approach is that under present law the assembly of a first class borough would not have the power to enact a tax with the special features of the proposed tax. Accordingly, it may be doubted that the legislature acting as an assembly would have such power.

It has been suggested that the 15 mill rate of the state tax will compel the cities and boroughs to raise their tax rates to 15 mills in order to exclude the state tax. However, this view neglects the effect of the \$50,000 exemption. To illustrate, in every case where a taxpayer owned as much as 100,000 dollars worth of taxable property ^{and the town would be paying} was located levied at a rate of 7.5 mills or more, no state tax would be paid on that property since 15 mills on the \$50,000 taxable by the state would be equaled and cancelled out by 7.5 mills levied on the full 100,000 value.

If only the individual level were considered, it would be possible for a person owning a great deal of property located in an area where the tax rate was very low to pay a small amount of state

tax. However, the local effort exclusion provides that if the total tax revenue from all tax sources exceeds the state tax, no tax is paid by anyone within that city or borough. Because of the \$50,000 exemption and the exemption of certain whole classes of property, it is virtually certain that established municipalities would be excluded under this provision, since the great majority of people would pay no state tax but would pay some municipal tax, if only a sales tax.

7
The revenue sharing feature of the tax implements a major purpose of the program. That purpose is to make available the resources to enable new boroughs to provide an adequate level of services for their inhabitants. Under HB 597 the legislature is authorized to appropriate the full amount of net revenue from the tax for the benefit of unorganized boroughs. The "authorized to appropriate" formula is dictated by the state constitutional prohibition against earmarking of tax revenues.

The revenue appropriated is administered by the new Department of Community and Regional Development. The money will be held in separate accounts for each particular unorganized borough. The share of each unorganized borough will be determined in accordance with a formula which takes account of population, present wealth, and the cost of providing services. In other words, if it cost twice as much to provide services in one area as in another the first area would receive twice the revenue per capita in order to insure the same level of service. If the first area were also only half as wealthy in terms of taxable revenue per capita as the second area,

the share of the first area would again double per capita with respect to the second area.

HB 598 is designed to complement HB 597. HB 598 provides for a tax of 20 mills on property used in the exploration for and transportation of unrefined oil and gas. The class of property subject to the tax is oil and gas field equipment of all kinds except those types of property production exemption under the provisions of the severance tax. The 20 mill rate was selected as the approximate level of tax to which such property is subject by organized boroughs at the present time.

The oil and gas property tax is exclusive of all other state and local taxes on the same property, including the 15 mill tax under HB 597. Local governments which now tax property of the same category as that taxable under HB 597 would continue to tax that property which is part of its tax base as of January 1, 1972. New property of that class, that is, property which becomes taxable after January 1, 1972 wherever located would be subject to the 20 mill state tax exclusively.

The rationale for the state tax as the exclusive tax on oil property is that such property provides immense taxable value to certain areas without regard to the level of services required in those areas. It is believed that the vast revenue anticipated from taxation of oil and gas related property is properly considered a state resource rather than the exclusive property of the area where the property is located. Any other approach would lead to such great disparities in the ability of local government to provide necessary services that equal protection problems arise. Recent court cases

in California, Texas and elsewhere have held that the level of school financing cannot depend on the relative taxable wealth of school districts. The Department of Law has indicated its belief that the same principle is applicable to other essential local government services.

However, it is also felt that this revenue like other property tax revenue is properly utilized for the benefit of local governments. Accordingly, the revenue from the state oil and gas property tax is distributed to all local government units, including cities, organized boroughs and unorganized boroughs, in accordance with the same formula that governs distribution of the general property tax revenue under HB 597.

Though far from complete or perfect, it is believed that the program outlined above, if enacted, would provide a dramatic proof of the state's willingness to move in an innovative manner toward creation of a fair and workable statewide system of local government.

EXAMPLE OF OPERATION OF HB 597

WITHIN ORGANIZED BOROUGH

CASE - Juneau Service Area #4
Auke Bay

TOTAL assessed value real and personal		13,255,000
TOTAL held by persons owning over \$50,000		4,295,900
per capita exemption under HB 597	50,000	
no. of persons owning more than 50,000	<u>x 47</u>	
TOTAL exemption	2,350,000	<u>2,350,000</u>
TOTAL taxable under HB 597		1,945,900
mill rate under HB 597		<u>.015</u>
TOTAL tax due under HB 597		<u>29,188.50</u>

Amount levied by borough

tax base	13,255,000	
mill rate	<u>.0119</u>	
	157,734	157,734
tax base	13,255,000	
2.5 mill rate	<u>.0025</u>	
	33,137.50	33,137.50

* In borough wide analysis sales tax and cigarette tax would be added to borough property levy.

Miller

Sigvrien T. Savok
Buckland, AK. 99727
Feb. 11, 1972

Senator William L. Mensley
Box 33
Kotzebue, AK. 99752

Dear Senator:

After reading your speech made on January 22, 1972 about levying taxes on unorganized boroughs on the Senate Floor I am a little perturbed on how the tax payers in our region are going to understand. We are in the process of understanding what profit, and non-profit corporations are. This I feel is still a scramble with many of our people.

Now we are facing organized, and unorganized boroughs. This to me is much more complicated for we in the sticks are not familiar with this. Also when the state government started this borough system they should first complete the process. There is no reason to rush this levy upon our tax payers who are not prepared. We in the past have been trying to go along with the many changes our state government has had which are, Village IRA, 14th Class City, District, and now organized and unorganized boroughs. When are our lawmakers at the capitol going to stop jumping from one thing to the other whether complete, or incomplete. What will happen in the future when taxes are to be made, and we have to explain things like profit and non-profit, and organized and unorganized. This is no time to have our people mixed-up.

Senator Mensley I agree with your speech and am willing to put my future into an understanding form of State Government.

Cordially,

Sigvrien T. Savok
Sigvrien T. Savok

Camp Denali

McKinley Park, Alaska 99755



Winter Address

Box D, College, Alaska
99701

Box D, College, Alaska 99701
February 8, 1972

Governor William A. Egan
State Capitol
Juneau, Alaska 99801

Dear Governor Egan:

RE: Property tax for the unorganized
borough

We have read with dismay your proposal for placing a tax on property valued above \$50,000 in areas outside organized boroughs. The object as stated is to raise needed revenues for the State of Alaska, and to distribute the tax burden more equitably between those living in the boroughs and those who pay no property taxes because they live outside of local government boundaries.

While there is certainly some justification for requiring some property owners and businesses outside of organized boroughs to contribute their share of the cost of state government and services, there should be a more comprehensive definition of just who should pay than the criteria of property assessed at over \$50,000.00.

For example, property owners in areas such as Big Delta, get the benefits of year-round road maintenance, state police, schools, visiting health nurse, etc. - as much or more than we receive living in a rural area of the North Star Borough. On the other hand, our place of business, which is a wilderness tourist camp in the Kantishna area just north of the boundary of Mt. McKinley National Park, has only a 2½ month season of operation, because the road through the park is closed by snow most of the year (and maintained by the Federal Government when it is open). We have one mile of access road from the boundary of the park to our camp entrance, and this we have had to maintain largely through our own efforts during the twenty years we have been in business. There are no schools closer than 120 miles away; and we get no federal, state, or local

services. We must provide for our own needs - road maintenance, snow removal, electricity, etc. We have no telephone or bus service, must go 90 miles for our mail, get no health services, fire protection, nor police services.

We have built Camp Denali entirely with our own efforts and money; our operation has cost the State of Alaska not one cent in services or subsidies. We do contribute considerably to the tourist income of the State of Alaska. In our twenty years of continuous operation, we have provided services and facilities which have attracted several thousand visitors and recreationists to enjoy a vacation at Camp Denali, and these guests have distributed a goodly amount of money throughout the state as they visited other areas in connection with their stay with us. In the building and operation of Camp Denali we have spent and will continue to spend a sizable amount of money, most of which goes to support other Alaskan businesses. In addition, because Camp Denali is too inaccessible to provide a year-round living situation, we reside in the North Star Borough for nine months of the year, and pay property and sales taxes to the local government unit.

We find it ironic that the state should give tax incentives and subsidies to attract new businesses and industry to Alaska, yet propose to tax those businesses which are already here and contributing to the economy and good public relations of Alaska without costing the state a dime. A recent news story in the Fairbanks Daily News Miner related how spokesmen for the Alaska Visitor's Association have proposed a \$5 million loan fund to finance facilities outside of the Anchorage and Fairbanks areas, pointing out that state banks hesitate to loan money to the travel industry because they feel it is seasonal and a high risk. Placing high property taxes on such property could tip the scales for many a business between getting by and total failure.

Since Camp Denali provides accommodations for over 40 persons, our buildings and capital improvements, even though built largely by our own hands using local materials (ie: logs, etc.) over a period of 20 years, would no doubt be appraised far above the \$50,000 minimum at present building values.

We have presented our own case as an example. We are sure there are many other Alaskans who would be hurt by the proposed property tax on land outside of organized boroughs. For instance, what about the roadhouses and resorts along the Denali and Steese highways, which are also remote, get little state services, yet because of no winter road maintenances, have only a summer income, and must live in town during the winter? Many, like ourselves, would be forced out of business with a property tax assessment on top of all the other obstacles to making a living in the "bush".

We hope that you will take into consideration these small businesses in the bush in setting up tax regulations, so that you don't sink us while aiming at the big boys (Prudhce Bay oil wells, etc.)

Sincerely,

Celia M. Hunter
Ginny Hill Wood
Celia M. Hunter & Ginny Hill Wood

Co-Owners and Operators

File in

DUPERE & ASSOCIATES, INC.
510 6TH STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-3553

February 22, 1972

STATEMENT OF
ROBERT J. DUPERE, CONSULTANT TO
THE ARCTIC SLOPE NATIVE ASSOCIATION
IN RESPONSE TO THE LETTER DATED FEBRUARY 15, 1972
FROM DIRECTOR, LOCAL AFFAIRS AGENCY,
CONCERNING

"Specifically, the Commission is interested in obtaining written response concerning the following House Bills:

- H.B. 596: An Act providing for boroughs in the unorganized borough and providing for an effective date.
- H.B. 597: An Act providing for assessment, levy, collection and distribution of a property tax; and providing for an effective date.
- H.B. 598: An Act providing for a State tax on property used in connection with exploration for and transportation of unrefined oil and gas; and providing for an effective date."

GENERAL COMMENT

The petition for the North Slope Borough and the subsequent incorporation of such borough if the people saw fit to vote for same does not (I repeat -- does not) conflict with the intent of the Administration's package reflected in H.B. 596, 597 and 598. This is especially so if the ultimate goals of said package are home rule boroughs throughout the State in place of what is now known as the unorganized borough.

THE UNORGANIZED BOROUGH BILL, H.B. 596:

To the extent that the purpose of H.B. 596 is greater control by the people of a region over their own affairs, H.B. 596 is a step in the right direction. Although the bill does not direct the Boundary Commission to

divide the State into unorganized boroughs on a regional basis, the effect of the proposed AS 07.04.010 would be to create regional governments that would have much in common in terms of area and population with the proposed North Slope Borough.

The proponents of the North Slope Borough also look favorably on the proposed AS 07.04.040, by which an unorganized borough can organize itself. Clearly this provision, as does the whole bill, reflects the premise that regional boroughs are feasible, although in terms of population served and extent of area, they may differ from some of the presently existing boroughs.

A more direct and decisive approach could be considered -- legislation directing an election on 1st class boroughs for each of the federally recognized regional Native areas, excluding presently organized boroughs; thereafter, as is the plan for the North Slope Borough, a charter commission can draft a home rule charter in accordance with current law which can tailor local government to fit the circumstances.

If the area did not vote favorably for a borough, then the provision of Sec. 07.04.030, Advisory Council, per H.B. 596, should come into play.

H.B. 596 is consistent with the North Slope Borough proposal because the North Slope people are already providing leadership and direction toward local self-government which is apparently the ultimate goal of the Administration's package.

So, why hold up progress in this regard?

STATEWIDE MINIMUM PROPERTY TAX, H. B. 597:

H.B. 597 provides for a minimum 15-mill tax rate statewide. Utilizing the Local Affairs consultant's projections, the following distribution

of North Slope taxes is projected for the State if said bill is passed:

	<u>Assessed Value</u>	<u>To North Slope Millage</u>	<u>Borough Revenue</u>	<u>Balance to State Millage</u>	<u>Revenue</u>
June 30, 1972	\$260,000,000	2.2	\$575,000	12.8	\$3,328,000
June 30, 1973	\$260,000,000	3.1	\$810,000	11.9	\$3,094,000
June 30, 1974	\$325,000,000	2.6	\$860,000	12.4	\$4,030,000

These taxes are left over for other State purposes; this would also be the case of the present boroughs. Example: The Fairbanks North Star Borough has a 5-mill levy; thus 10 mills would go to the State.

TRANSPORTATION PROPERTY TAX, H. B. 598:

This bill allows the Kenai Borough and to an extent the Anchorage Borough to continue to tax the present oil and gas transportation facilities and future exploration facilities since these Boroughs had such taxes in effect on January 1, 1972 while all other boroughs will be denied the power to tax such facilities. The borough on the immediate short end of this bill will be the Fairbanks North Star Borough which will receive the impact burden during the pipeline construction and during the intense exploration and drilling of the fields; however, the North Star Borough would be prohibited by AS 43.56.010 from levying taxes on oil facilities within its territorial limits that have yet to be constructed.

While the future tax base of the proposed North Slope Borough is lessened by this bill with revenues going to the General Fund of the State, this bill still would not cripple the North Slope Borough. It would, of course, cripple the tax base of Valdez, where a \$100,000,000 transport facility is planned.

But it would appear that a more equitable bill would be to structure the tax provisions along the lines of H.B. 597 which gives credit for the local tax per AS 43.77.030 and allows all future boroughs to include said improvements within their tax base if they need to sell bonds and raise funds to meet the local service needs.

This bill with the modifications outlined can be a very valuable State/Borough/City government fund-raising tool.

UNIFORM STATEWIDE SALES AND USE TAX

It would appear for consistency the Administration should have introduced a statewide consumer sales and use tax. Such a tax could eliminate most of the regressive features of the present local sales taxes by exempting the basic necessities of life; such as fuel, food, clothing, rentals; and charge for luxury and high value items; thus eliminating the present situation where a 3% sales tax provides the only local revenue in areas in which the poorest people in the nation reside. Thus, following H.B. 597, credit should be given to those who pay such taxes locally.

UNIFORM LOCAL INCOME TAX

The Administration's package should have also contained a "local" option for a hitch-hike local income tax for local governments -- preferably on the borough level.

Thus, those areas that receive impact employment far ahead of the investment in plant and improvements may gain the capacity to meet the operating budget pressures and the capital improvement needs for the basic utilities, streets, and educational facilities.

The local option could be anywhere from 20% to 30% of the State's income tax or 3.2% to 4.8% of the amount paid in Federal taxes.

HAROLD E. POMEROY
4048 WRIGHT STREET
ANCHORAGE, ALASKA 99504

March 14, 1972

Full

Senator John Pader
Chairman
Senate Local Government Committee
Pouch V - State Capitol
Juneau, Alaska 99801

Dear Senator Pader:

Thank you for the courtesies extended to me yesterday by you and the members of the Committee. The following summary of my views concerning the bills being considered is submitted in the hope this may be useful when the Committee is making its determinations.

SENATE BILL FOR "DEPARTMENT OF COMMUNITY AFFAIRS"

The economic development function should be removed from the bill; the bill has a separate primary purpose -- to assist and to improve local governments, in their development, and particularly in their ever-more intricate inter-governmental relations. The House Local Government Committee has already removed economic development from the bill (HB 552).

SENATE BILL 363 ORGANIZATION IN THE UNORGANIZED BOROUGH

The basic purpose to initiate action in the unorganized borough is timely. The provisions for "unorganized boroughs" are constructive. Sections 07, 04, 06 and 050 indicate intent that present law for organized boroughs shall be considered suitable to unique conditions of the remote area. Isolating distances, population distribution and local government financing considerations are so different from elsewhere that workable "regional" borough government, particularly with respect to borough-local city government relations, needs to require an additional class of borough, or other legislative provision to fit the situation. Formerly, see illustration: Most cities/villages have too little capacity to raise revenue from normal local sources for urgent community purposes; the legislature is responsible for ensuring that an appropriate portion of any available revenue shall be allocated to cities on an equitable basis for their local community purposes.

SUGGESTIONS: a) Drop from 363 all reference to organized and charter boroughs; b) provide for investigation to determine what additional provisions of the borough act appear appropriate, with specific recommendations to be made to the legislature by _____ (date) next session. Provide a suitable appropriation to implement the provisions of sections 07.04.010, 020, 030, 035 and foregoing suggestions (a) and (b) from date of enactment of SB 363 to 6/30/73. Perhaps include a statement of purpose in 363 to the effect the intent is to initiate action for improvement of governmental service in the unorganized borough and provide the basis for enactment of such provisions of law as are appropriate for "regional" boroughs at the first session of the eighth legislature.

SENATE BILL 365 -- 15 MILL TAX -- FOR REVENUE IN THE UNORGANIZED BOROUGH

This is a legitimate source of revenue urgently needed in the communities in the unorganized borough. It is consistent with application of the property tax now to \$2.7 billion in property in organized boroughs and cities. Due to the spotty distribution of productive enterprises of substantial value in the unorganized borough, there is no other feasible and rational source for significant amounts of needed revenue -- unless the legislature were to tap a new source, such as a statewide sales tax, or drastically increase the income tax.

The effect of the revenue to be made available will be the means to secure matching grants for numerous programs for community developments and services so badly needed. The infusion of money will produce economic benefits that will exceed by far any local individual property tax payments. There are two reasons for this: major productive enterprises will pay an overwhelmingly large percentage of the total property tax; the grant and shared cost programs can double or triple the actual total cash coming into the community for public services.

A moderate "homestead" exemption -- of owner occupied homes -- will accomplish the principal legitimate purpose for which an exemption can be defended. There should not be blanket exemption of unimproved land. There is no logic in freeing the owner of a "wilderness estate" purchased from the State as "a good investment" from paying a property tax on the investment, for example. There is no logic in freeing the owner of a \$50,000 seiner and gear from paying any property tax, while the owner of a \$100,000 crab boat and gear with which he makes his living pays a tax on \$50,000. Boats and vessels should not be exempt as provided in Sec. 43.77.010 (5), as there are industry work boats, and floating drilling vessels, that are worth from hundreds of thousands of dollars to several million dollars each.

March 14, 1972

The cost and time required for property mapping and assessing has been grossly exaggerated. I have "expertise" in this field from directing and directly participating in this task for 15,000 parcels in the Kenai Peninsula Borough when it was organized. I am confident the job in the unorganized borough can be completed in about 14 months at less than half the million dollar figure that has been tossed out.

The cost of the mapping and assessing -- which will be a valuable asset for many uses other than its primary purpose -- can be advanced by the State and recovered from the proceeds of the first tax levy. The work will have to be done in any event for unorganized regional boroughs which choose to organize, following the initial actions under SB 365.

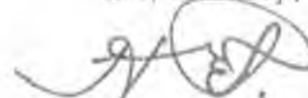
Notes on the mapping and assessing are in attachments.

The provisions for distribution of the revenue from the 15-mill levy should provide that a sum per capita, weighted by the differences in costs of public services among regions, should be returned to each incorporated community. The total so distributed should probably be at a rate that would return not less than 75 percent of all the revenue available, to the communities for their local internal use, if all communities in a region were incorporated.

SENATE BILL 364 -- 20 MILL TAX

With respect to SB 364 -- 20 mill tax, I can do no more than repeat that it is reasonable to apply the ad valorem tax to such property equally with the application of the same tax to all other property normally subject to the property tax. To apply the tax to one segment of one industry seems to me to be inequitable and to create an uncertainty as to what to expect in the future. -- Is a policy being established and what is it?

Respectfully,



Harold E. Pomeroy

HET/kd

Attachments

NOTES ON MAPPING AND ASSESSING IN THE UNORGANIZED BOROUGH

It is not necessary to draw assessor maps for all the geography of the unorganized borough. Large areas that are unoccupied can be accounted for by township listings or by use of USGS sheets.

Large areas with one or two -- or a very few ownerships -- can have these spotted on USGS sheets by paste-ons of parcel numbers, and even other information.

The Division of Lands has data, by auction, for all parcels it has sold. An auction list shows each parcel by description, appraised value, bid price, its sale later "over the counter" if not sold at the auction. Where there is a subdivision instead of scattered parcels, there is a map.

The Division of Lands has a card index of all parcels sold since Statehood. This is invaluable and a great time saver, together with status plats and other data the Division is always generous with supplying.

If there has been a Division of Lands sale of "wilderness estates" land around a lake, and this is all the private ownership land in the township in which it is located, the basic record can be the auction map. From this, a suitable map can be redrawn for parcel numbering, if necessary. The general location can be spotted on a USGS sheet.

For properties in the foregoing illustration, each owner can be sent a suitable form for reporting cabins and other improvements. From this, plus the Division of Lands data, a suitable first assessment can be made without assessor on the ground inspection.

In many Native villages there has been primarily land occupation for dwelling purposes rather than formal ownership. Values of the dwelling sites, even if owned, are usually low, as is the value of dwellings. Assuming at least a "homestead" exemption, there are many villages in which the assessing job will be negligible -- at least for the initial record and for several years. To strain out the lower value exempt properties there can be a suitable form for reporting individual family dwellings and other property of consequence. A review of these can eliminate thousands of properties without on the ground individual inspections and appraisal of value. This will be entirely satisfactory for the initial assessing -- and indefinitely -- with subsequent development and new building of value to be accounted for in a normal way as it occurs.

After accounting for an overwhelming percentage of excluded properties as indicated above, there will be many villages in which there may be as few as a half dozen properties requiring precise records and evaluations.

For some of the larger communities, such as Kotzebue and Bethel, for which ASHA has recently made comprehensive development planning studies and reports, there is land use and other data of great value accumulated by ASHA.

The following home rule, first and second class cities in the unorganized borough area levy the property tax and, therefore, are already mapped and assessed: Cordova, Petersburg, Valdez, Wrangell, Eagle, Menana, Nome, Skagway, Unalaska, Craig, Dillingham, King Cove, Pelican, Yakutat. Hoonah, Kake, Klawock, Hydaburg and Saint Mary's have the property tax power but are not presently exercising it.

Mining claims are recorded in the Division of Mines and Geology, Department of Natural Resources. They don't have to be visited for assessing or mapping, except for the handful that are developed to the point of improvements of significant value.

"Fringe" properties such as inactive mines that have, in effect, been "abandoned on site" as to improvements due to cost of removal greater than recovery value, don't have to be visited for record purposes initially, if at all. Example: While assessing in the Kenai Peninsula Borough, the assessor planned to fly to Muka Bay -- a \$175 charter -- to inspect a mine property. Instead, the farmer who took supplies to a squatter at Muka Bay periodically, was interviewed and supplied adequate information for the record. I don't know if the property has been visited to this day unless the assessor wanted a scenic outing.

In Prince William Sound on 21-mile-long Knight Island, there is one 14-acre private property containing old cannery buildings. The property has been purchased for progressive development as a lodge. One of the old buildings is being used now. The price paid for the property can be secured. The owners have many snapshots of the property. It is not necessary to visit the island, neither for the initial assessing nor for mapping. Adequate information can be secured by mail. The property can be spotted on the USGS sheet. In subsequent years a special assessor's map can be drawn showing the one parcel on the island to a desired scale, if this is advantageous.

As to land patented to Natives, there will be accurate U.S. patents describing the parcels and the parcels can be located on BLM plats or other records. Squatter use of dwelling sites by villagers and along streams does not impose on the assessor the obligation, or necessity for assessing purposes, of surveying villages. Rough descriptions of the properties from the reports of owners/squatters, already referred to, will be adequate for record purposes initially.

H.E.P.

HEP/EA

HAROLD E. POMEROY

Swift Water

BOX 747 - SOLDOTNA, ALASKA 99669
1010 Wright Street, Anchorage,
ALASKA

February 23, 1972

Local Boundary Commission
c/o State Economic Opportunity Office
311 West Fourth Avenue
Anchorage, Alaska 99501

Gentlemen:

This responds to letter from Mr. Elliott's office inviting comments on bills SB 1, SB 2 and SB 3. The activities of these bills is as follows:

These bills are evidence of the need for legislation on the subjects to which they are addressed: (a) forward planning in the municipalities, (b) a source of revenue for the activities in the municipalities, (c) the revenue potentials of unincorporated areas of state to be incorporated into the cities.

Each of the bills can be killed in one particular and they could be permissibly amended for total rejection. This would be unacceptable subjects requiring attention. The interests of the State and all the people and of the people most directly affected will be damaged by doing nothing at all.

In the 20th century legislator should take the one fresh step in bringing government into providing for or only a forward-looking that of activating the unorganized forward planning of itself is not.

In providing that the Boundary Commission shall define the permanent boundaries of "unincorporated towns", and successor towns which may follow them, a step has been missed. The legislature first needs to plan and have

answered the question: what additional provisions of borough legislation are required to fit the conditions which prevail in the unorganized borough. Until there is a decision on this the Boundary Commission would have to guess as to boundaries suitable for future boroughs, as there are now no clear directions to go by.

Sections 27.01.040 and 050 concerning incorporation of organized and charter boroughs lead to the mistaken inference - whatever may be intended - that present provisions of law for organized and charter boroughs are in general suitable to the conditions of the unorganized borough. This wouldn't alter the facts. The same most distinctness prevailing as between the municipal and territorial areas of the State and the provisions outlining and reserving to the Governor of Alaska the authority provided that "... the entire State shall be divided into boroughs, organized or unorganized..." remains little changed today. The legislative classification and logical inference from the provisions of the Constitution by enactment of specific legislation for organized boroughs, and redressal to be established, delineated the unorganized borough and indicated action to be taken in it. In most of the unorganized borough areas most of the conditions prevailing when the Constitution was adopted sixteen years ago are likely to remain little changed for another sixteen years or longer.

The Legislative and Judicial branches and the Executive branch for action in it, but even if action is taken to correct, political questions today are: Is the present situation and conditions of the unorganized borough suitable for incorporation and development? Is it on conditions of size of population and area which are suitable for organized boroughs? Should the unorganized borough be divided into several smaller boroughs? The addition of more provisions to the Alaska Constitution are needed.

The first thing that comes to mind is the fact that the

subject of the report is a very important one.

It is a subject that has been discussed for many years.

The fact that it is now being discussed again is a sign

of progress and of a new era in the history of the

country.

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installations at Prudhoe Bay may exceed the total assessed value of all boroughs and cities in the State. By the time the gas transmission facilities and lines are also installed the assessed value on the North Slope may be a third of the present total assessed value in the State. The assessed value per capita would be about 13 times as much on the North Slope as the average in all other taxing jurisdictions.

Pertinent to the subject of disparity among localities in capacity to pay the cost of public services is a Daily News "Alaska Forum" column, 11-17-71, copy attached. I believe this contains information useful to the Commission in its work.

The State Administration recognizes that the unique property tax resource situation that is developing in the State will create an unacceptated injustice among the people in capacity to afford needed public services and facilities, and that the State cannot afford the luxury and extravagance of ignoring the problem.

HB 597 is a partial solution but the condition is of such magnitude that more extensive measures are required. In fact it is a statewide property tax that is needed, with all proceeds allocated back to local and regional governments. Such a tax may be applied and administered in several ways, some perhaps more acceptable than others, but political difficulties might be insurmountable in any event.

The piecemeal approach of HB 597 may be more readily accepted from some standpoints. However, the very fact that it is piecemeal creates some very serious questions that need to be resolved.

The question is not simply whether to do anything at all about the subject to which HB 592 is addressed; it is rather to seek the soundest and most equitable action that is feasible. The problems should not be permitted to overshadow the fact that the bill approaches a subject with which the Legislature must deal or it will have made a very bad decision indeed.

On the question "as to how these bills should affect any action the Commission may take on the North Slope Borough petition": it seems that in the face of the far-reaching implications of the three bills and the nature of the subjects with which they deal, action approving the petition would be inappropriate.

The committee which have had the honor to consist of the following members: On the 1st day of July 1964, the following bills were introduced before the House: Local Government and the following bills.

That is all.

W. J. ...
...
...

WJ/r

Equalizing cost of

Anchorage Daily News, Wednesday, November 17, 1971-7

public services

By HAROLD E. POMEROY

Revenue sharing is commonly thought of primarily as shifting costs of government activities from one level of government to another. The principal reasons are that local governments are confronted with disproportionate costs for essential services in relation to their tax resources and that higher levels of government — state and federal — have greater tax resources from which to draw. For the same reasons states are more and more looking to the federal government for revenue sharing. Revenue sharing not only has the effect of lifting a percentage of the cost an activity from one level of government to another; it tends to equalize the total tax burden among local governments with widely varying tax resources. This problem deserves and must receive more attention than it has gotten up to now.

The California Supreme Court has highlighted the inequality among local school districts in capacity to pay for education. An example showed that one district raised twice as much money per school child with half the tax rate of another district. This means that in the poorer district the people would have to pay a four-mill tax rate to raise as much money per child as a one-mill rate would raise in the more affluent district. The court said this is unconstitutional.

THE SITUATION at which the court has struck is an intolerable inequity. In 1931 I spent one year correcting such an inequity in Los Angeles county. The Los Angeles metropolitan school system had four times the assessed value per school child of the Huntington Park school system. This was largely an area of bedroom communities. The workers peopled the factories in the metropolitan area and their purchases in downtown Los Angeles contributed significantly to the prosperity of the downtown merchants. The industrial city of Vernon, in the metropolitan area adjacent to the bedroom area, had \$50 million assessed value and a population of 23. It was obvious that the people and resources of the entire area affected by the proposed school consolidation were interdependent in the production of an economically healthy society.

Alaska Forum

Harold E.
Pomeroy

Today's Alaska Forum guest columnist is Harold E. Pomeroy, former chairman of the Kenai Peninsula Borough. He also served as Alaska director of Civil Defense.

Mr. Pomeroy spent his entire career in public administrations. Before moving to Alaska, he was U.S. secretary of the Allied Mission for Austria; mayor of South Gate, Calif.; field advisor for the League of California Cities.



The consolidation effort was successful. It is regrettable that it has taken 40 years for school financing inequity to come to the nationwide attention it is now receiving.

In state support of education, Alaska has a long head start on other states, except for Hawaii, which finances schools entirely from state level. Our program minimizes the local inequalities in capacity to raise money for schools by state support of 90 per cent of the cost of standard operations, equalized to take into account variations in assessed value per school child. In state support of capital improvements the program is less adequate.

EVEN THOUGH there is less inequity among local school districts here than elsewhere in financing education, it is a matter of relative severity. The discrimination to which the California court addressed itself does exist to some degree. The subject will likely be considered in the next legislative session.

The state is not in a comfortable position to take over any larger part of the local school costs unless additional state revenues are secured. There is a choice of two obvious ways to do this: increase present state taxes or levy a new state tax such as a statewide sales tax; tap the property tax by a statewide levy for school purposes.

It seems unlikely the legislature will, in the next two or three years, increase state taxes significantly if at all. Many local government officials would undoubtedly oppose use of a statewide property tax levy on the ground that this would be the first step in encroachment on the area of ad valorem property taxation which has in practice been reserved to the local governments.

STATE EXPENDITURES for education in the unorganized borough, the area of the state outside the 10 organized boroughs, could be eased by the legislature levying a property tax area wide in the unorganized borough for education throughout the area. The revenue thus secured locally for the local share of school costs would reduce the costs now paid directly out of state revenues by a like amount. The money saved would help a little in minimizing further the inequities in local school costs among the organized borough and city school districts. The tax in the unorganized borough could also give an immense boost in improving the educational program in the rural and remote areas of the state.

There is much merit in the legislature taking action to levy a tax in the unorganized borough. At the same time the property tax should be thoroughly studied in the light of a unique development in potentially taxable property resources. This is the concentration of huge investments in petroleum industry installa-

tions in a few locations dictated by where oil and gas are found.

A significant related consideration is that except for the temporary exploration and development activity boom periods, the operations are highly capital intensive with the ratio of investments to worker as high as \$1 million to one — far more for the pipeline.

THE SITUATION described can cause a wide disparity among localities and local governments in capacity to pay for necessary and desirable services, and in grossly inequitable taxation. The inequity is not confined to financing education; it is significant as to other functions and services of government. A current local government proposal is a good illustration.

The proposal is that the Kenai — North Kenai area secede from the Kenai Peninsula Borough and establish a separate one. There will probably be another gas liquefaction plant in the area. The investment may be between \$50 million and \$80 million and there may be no more than 35 or 40 workers. The assessed value of the proposed borough might be from \$30,000 to \$40,000 per capita compared with about \$8,000 for the remainder of the Kenai Peninsula Borough. Put in terms of services, one mill of tax rate in the proposed borough would buy four or five times as many library books as the same tax in the remaining Kenai Peninsula Borough. Thus the homeowners and other taxpayers in the Kenai Peninsula Borough would have to pay four or five times as much in taxes as the proposed borough to secure the same level of public service.

It is the unique situation which is developing in industrial investments subject to the property tax that would be responsible for the glaring inequity in tax burden for a given level of public services among the people of the Kenai Peninsula if a separate borough were tolerated. The prospective additional liquefaction plant for the North Kenai area is illustrative. The plant might require a taxable investment of \$60 million or more and yet account for only 200 of the

population of the area by reason of requiring so few workers. The assessed value would be \$300,000 per capita for this added population on the basis of the figures used for this illustration. The plant itself would be self contained—another predominant characteristic

of such installations—and require neither water, sewer, power nor any other local government service of significance. This is 25 times the assessed value per capita in the Anchorage Area Borough.

PUBLIC SERVICES are becoming progressively more extensive, intensive and expensive. The trend is unlikely to be reversed as the demand continues for more and better services and needs mount continuously, particularly for people services, as the complications and pressures of society increase.

We cannot afford to treat the organization of local government as a sporting proposition, as a game of chance, to see who is going to get the greatest advantage over his neighbor.

The needs of the state and local governments will continually put pressure on all sources of revenue. The state must be alert to guard against inefficient and ineffective application of any of the available forms of taxation and any narrowing of the tax base.

THE UNIQUE characteristic of oil and gas development, production, processing and transportation investments confronts the state with the necessity of treating the application of the ad valorem tax to such investments as a matter of state concern. The taxable value of the pipeline project may equal about half of all the property in the state now subject to the property tax. Even if the state should secure ownership of the project the taxable property in the Prudhoe Bay area will reach several hundred million dollars in value by the time the natural gas starts to market.

The state's concern for the well-being of the people is paramount. The state's stake in financing local government is large and will grow more in the future. In addition to school support and revenue sharing for police, fire, road and recreation services, millions of dollars are being com-

mitted to paying a portion of local water and sewer systems.

In large part the petroleum industry properties cannot be considered the exclusive province of local governments which might be able to capture them. If this problem were to be ignored there would be the growth of situations of insupportable inequities and inefficiencies in taxation and loss of revenue urgently needed to moderate the problem of many small communities with such meager tax resources that the people suffer various degrees of privation in needed public services.

IT IS NOT likely that all inequities in capacity to raise revenue for public services will be equalized soon. To do so would require that the state raise all revenue and parcel it out equally. This would inevitably sharply restrict local freedom to act. We can insure that inequities are not permitted to become more severe and thus avoid bigger problems to untangle in the future. The Kenai case has been used as an example as it precisely illustrates the luxury of inequality and unfairness that we cannot afford, that in the public interest must be avoided or minimized.

It should be noted that the problem of disparity in tax resources which this statement singles out as a matter for immediate major concern originates out of the developments of major natural resources the revenues from which should inure largely to the benefit of all the people equally. The disparity is not arising out of the local industry and initiative of the people of one community as compared with another of generally equal opportunities and potentials.

We can do no better than to take our basic guidance from section one of article one of the Constitution of Alaska which states in part: "... all persons are equal and entitled to equal rights, opportunities and protection under the law ..."

Supplement to testimony presented before House Local Government Committee, February 28, 1972. (These notes dictated following the meeting, as time did not permit completion of oral discussion.)

With reference to HB 596:

This is extension of remarks on prepared statement concerning the assumption in this bill that present legislation for organized boroughs does fit the conditions in the remote areas that, in fact, are vastly different from those in the areas of most of the presently organized boroughs. In this connection, it is noted that once an organized borough is put in operation it may proceed to home rule charter status. In fact, because of deficiencies in present legislation to fit unique conditions in the unorganized borough, it would be virtually essential that a borough incorporated under present law to prepare a charter to make up for the absence of suitable state legislation to meet the conditions.

Unfortunately, the result of this would be tantamount to saying that the state doesn't really care what the financial, organizational and jurisdictional arrangements are going to be in the huge regions of the unorganized borough that may become organized boroughs. The state must have a paramount concern in framework of government subordinate to it, both from the standpoint of interest of the citizens concerned, and as to the states' responsibilities for various governmental services and activities and effective relationships between the State and the subordinate governments in discharging these responsibilities.

To summarize:

It is unsound to leave the matter of organized borough like government in the unorganized borough to a "business is usual" approach. It is the state that must provide the basic policies and

standards for regional borough type governments suitable to the unique conditions of the remote areas.

With reference to HB 597:

Sec. 43.77.170 places a 5 mill limit on "direct return". A mill rate has little meaning for this purpose as the assessed value of property subject to taxation may vary greatly from place to place and time to time. If the feature of this section is to be in the bill, I would have the direct return based upon dollars in tax revenue per capita. This would be fair and equitable.

With reference to the \$50,000 exemption:

I have the uncomfortable feeling that this goes too far. The revenue raised by a tax in the unorganized borough will be a stimulus to activity that will raise economic levels and improve tax paying capacity. I can't get away from the reaction that any tax program that seems to be based heavily on the proposition "tax everybody else but us" is rather unhealthy.

With reference to Sec. 43.77.030 and 040 -- "Credit" and "Local Effort Exclusion", I wonder if the effect would not be, in any local jurisdiction in which the total local tax take would be less than the state levy, that the local jurisdiction would simply increase the local ad valorem rate so that to "keep the money at home rather than let it go to the state". I have not given much thought to this, but if my concern seems valid, perhaps the committee should give the matter some consideration.

With reference to HB 598:

I refer to my extemporaneous addition to the last paragraph on Page 4 of my written statement in which I said following "However, the very fact that it is piecemeal creates some very serious questions that must be resolved": For example, by applying to oil industry property only, it has significant aspects of a special additional tax on oil and gas, as distinguished from a tax state-wide on all non-renewable source industrial property, for example, or on all property normally subject to the property tax (barring some exemptions that might be determined desirable).

Undoubtedly, the members of the committee have taken note of a certain inequity in exempting from the tax any property to which the ad valorem tax is paid to a city or borough on January 1, 1972. There is such property to a very substantial value in the Kenai Peninsula Borough and which now pays a 5 mill tax. Some of this property is also under industrial incentive tax exemption. This adds to the inequality in taxation as between this property and that which would be taxed under HB 598.

As long as the property tax is a significant source of revenue for public purposes -- and is likely to continue to be for an indefinite time -- I believe the legislature must address itself to the problem of disparity among localities in capacity to pay for public service: rather than just accept come what may in great wealth in one locality and poverty in another. It is a poor approach, however, to pick out one class of property of one industry rather than looking at the whole situation.

TESTIMONY BY WALTER LEVY AND MILTON LIPTON

BEFORE ALASKA HOUSE FINANCE COMMITTEE

3/15/72 & 3/16/72

JUNEAU, ALASKA

(George Hohman, Chairman)

APRIL 1, 1972

7:35 p.m.

Present: All members except Mr. Wright. Mr. Walter Levy and Mr. Milton Lipton, all participants, were also present.

Off: Chairman Hohman called the meeting back to order.

Mr. Wright:

Mr. Wright testified to the committee that basically the Committee was concerned with the potential problem that might develop from expansion of the pipeline. He stated that the pipeline would be running through unpopulated and unpopulated territory, and the population could vary from 10 to 20 million. He stated that it would be a considerable amount of money. Mr. Wright stated that he was told that the oil and the gas should be used for the benefit of the State as a whole. He stated that he was not familiar with the proposal on energy development.

Mr. Lipton testified that they were very uninformed about the physical expansion of the pipeline in Alaska. He stated, for example, he was not sure that the State had authority of local government to be provided by statute, so that it would be a violation of the State's authority, in the view of the committee.

Mr. Levy testified that if they did nothing, the local communities would be required to put in a 10 to 20 million dollars. He said that it would be up to now by the government. He stated that the property tax applied to everyone. Consequently, he stated that when the resources were introduced it was a good case of property tax to be thought that the exclusion of property tax would have been an oversight.

Mr. Wright testified that it was an oversight. He stated that the local communities would be required to put in a 10 to 20 million dollars. He stated that the property tax applied to everyone. Consequently, he stated that when the resources were introduced it was a good case of property tax to be thought that the exclusion of property tax would have been an oversight.

Mr. Lipton testified that they were very uninformed about the physical expansion of the pipeline in Alaska. He stated, for example, he was not sure that the State had authority of local government to be provided by statute, so that it would be a violation of the State's authority, in the view of the committee.

Mr. Levy testified that they were very uninformed about the physical expansion of the pipeline in Alaska. He stated, for example, he was not sure that the State had authority of local government to be provided by statute, so that it would be a violation of the State's authority, in the view of the committee.

He thought they should look particularly at Texas and Louisiana. He felt the State should not get completely out of line with the precedence for severance tax. Mr. Levy felt that if by any chance the severance tax picture is not clear in some states, then it would be necessary to pick those most suitable to the State's interest.

He wondered whether the local communities should be allowed to take property tax on the line. He said it would really serve no purpose as it goes through a huge area without any opposition, so he didn't know what would happen.

Another thing Mr. Levy felt pertinent was that the line was not excluded from taxation. He said they should have a property tax on oil that would be completely in line with the property tax on another form of real property. He wouldn't recommend bringing out the oil industry for either a higher or lower rate. He suggested they should not move ahead without knowing how severance tax is handled in other states.

Mr. Lipton said that information was available to them in connection with the whole policy of taxation on oil and gas from the Legislative Council. This was published in January of 1970. He added that Louisiana has a certain per barrel production severance tax. The state statutes provide no further or additional license to be added or any additional value added to land.

Mr. Levy said they would have to have a more careful look at what kind of property taxes may or may not be possible. He said their attempt was to establish the level of severance tax. He said they should not look at refineries or pipelines as it was quite possible legislatures could levy on such facilities.

Mr. Lipton said it was their indication that Louisiana could do that. Mr. Lipton said that in Texas where there is a relatively low severance tax, local taxing is parallel.

Mr. Marshall reported that he had said earlier--if the boroughs were allowed to tax, it would be a lot of money, about \$70 million. He added if the severance tax was fair and reasonable. If it covered the pipeline from oil values there. Mr. Levy said he couldn't say what was fair and reasonable. On the other hand, he said that if every industrial facility in the State has to pay ad valorem taxes, there would be a problem in light that oil facilities be excluded.

Mr. Pitt said that in electrical corporations in the State they had some type of property tax. He said that some type of industry tax should be levied on local business rather than on the state. He said that in several

government boundaries. It was Mr. Pink's feeling that it was more fair and equitable to take a percentage of the profit.

Mr. Levy indicated that it was his instinct that the taxing power should be taken out of local governments. He thought that could be reasonably safe. Secondly, he thought that at this time it would be better to reserve the decision of what was to be done until the problems connected with the pipeline would be resolved.

Mr. Levy said that he had testified that afternoon on the potential of the ad valorem tax as further bargaining for contracts. He told the committee they should get copies of the transcript of his earlier testimony. He said that if a tax was in effect which would cost \$70 million a year, it was really very high.

Mr. Pink said that the Governor proposed an option because he felt it was the only way to get the value out of it for the State. He said that the Impact Committee was suggesting it be regulated for the same reason. Mr. Pink said the State has the right of way and can impose several conditions, but that it is difficult to produce revenue. The first way that the pipeline was regulated had the State could have control of the right of way. The other problem is that they are not happy with the small amount of people. Mr. Pink said that some of the legislation that all the Governor's and pipeline Impact Committees had done was that the State had the right of way. Mr. Pink thought it would be fair to give the State and the industry if they don't have the right of way and right-of-way. At the same time they would increase the Governor's purpose of not allowing the State to take all of the funds that are available to them.

Mr. Levy felt that the major problem was to pass pipeline legislation that was fair and equitable to all parties and which encouraged future oil production and exploration in all areas. He went on to say that the intent of the Impact Committee was not to get increased revenue, but to give a benefit to the State. He said that revenue from the oil which would be equitable from their point of view and to stop a situation which would deprive the State of its fair share. He said that the bill was designed so that only if everything else failed, the revenue would come through a formula. He said that it was the intent of the Governor's proposal to give revenue. Mr. Levy went on to say that the revenue is not definitely revenue producing for which there is precedent and which is not discriminatory. He said that the bill was something they decided to handle as a favor, when they decided on the proper valuation, it would be done. He said that what was the intent was that they were not protected by local laws. He said that passage would have to be taken away from them if they would be hard to handle.

The pipe first proposed to me supposed to cost \$1 billion; it is going to cost \$3.5 billion. Also the market is thought to be available in California and Chicago - moment it is limited to California because the new pipeline from Seattle to Chicago will probably not be built.

It was Mr. Levy's feeling that the ad valorem tax applied to everything. He said that if it was not the general rule of the law to exclude the ad valorem tax on facilities which are not production facilities, he saw no reason why they shouldn't have one - if oil is producing oil for sale; however, he did not feel it should be imposed until he could see the whole pipeline picture.

Mr. Tipton said he didn't know how they could evaluate the cost of producing a barrel of oil. Mr. Tink said they would just read out the value and what he said was the value would be the value as if someone didn't agree, then they could appeal it.

Mr. Tink said that the oil companies for many indicated they didn't want to get involved in a bid-ask or public financing situation. He said that if the oil industry would then have to pay for the pipeline they would be the ones to pay for it. He said that could be a plus or minus on the bid-ask. He said he liked the idea of oil companies with 25% of the pipeline would reduce the cost without having the cost in the pipeline operation. Those without industry in the pipeline will not be that possibility, he said he would increase a cent per barrel but only when they could demonstrate it.

Mr. Tink said he would like to see the rest of the world protected to operate. If they didn't own part of a pipeline, Mr. Levy said they shouldn't have that protection. In other places, there is a need for a pipeline between the oil value and the transportation cost. For example, in Texas they provide a main line of fuel production for refineries. He said that the well has a value of oil in the ground, the bank for cost of oil production beyond the value of the oil. He said that transportation cost from Texas to Chicago, and the cost of transporting the oil from Texas is recoverable in the value of the oil that enters the Chicago refinery. He said that in all the oil will have a fixed value and not be in the transportation cost by tankers to California. He said that by pipeline from the North Hope to Valdez, the value is from the value of the oil. He said that, in effect, "value and maintenance of value" "price makers" on the market. Another would have that possibility. Mr. Levy said that it was tremendously important, and that the industry should be aware that any oil field has the possibility of being a price maker which are possible.

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he also didn't know of a state with the problem of flag
factors.

Mr. Pink said the State was trying to get into a business,
if just wanted to get out of the business. He seemed to him
that the best way to do it with the least difficulties was to
let the industry develop the business.

Mr. Levy said that an ad valorem tax was not the way and \$70
million was not the way. Everything else went against it.

Mr. Pink thought they should initiate a cents per barrel tax, and
let the companies do what they wanted, but under right of way if
the State felt that a new producer was getting "shuffled" the State
could come in. It appeared to him this would be much simpler.

Mr. Levy was not certain the oil companies would sign such a
lease. He didn't think the State could give up its responsibility
for continuing surveillance of oil.

Mr. Pink asked the purpose of regulations, and Mr. Levy said it
wasn't common sense. He said that it was important that a com-
modity couldn't be shipped, so the surveillance was necessary.

Mr. Lipton said that pipeline regulations were not unique to
Texas. He stated that Texas had tough regulatory statutes
over the pipeline. There in Texas were quite a range of regula-
tions on pipeline statutes of various states. He didn't think
the oil industry could reasonably take the position--when trans-
portation was so important--of objecting to arrangements over
regulation statutes. He pointed out that Texas had never relied
upon U.C.C. regulations to take care of its pipeline.

Mr. Levy asked whether they had been threatened by oil people
that if they didn't "buckle", they would move to Canada. He asked
whether they had heard that the oil people were discouraged by
the regulations there. He explained that the Canada Energy Board
had complete control in Canada. The C.E.B. has control over
trans-Canada pipeline with a rate of return on capital use
of 9% which includes cost tax. It also has the right of inter-
fering with pipeline investments, which Mr. Levy had made it pos-
sible to operate.

Mr. Lipton said that when the severance tax was under review
there the industry was very opposed to a change in it. The
problem was addressed on the concept of a rate schedule. Regu-
lations are in effect which vary according to production and
are not for the extent of the lease.

Mr. Pink said a combination of right of way should be that if any

Mr. Levy said that he considered the debt bill had to come to a vote in the House of Representatives. He said that the bill had to be passed by the House of Representatives and then by the Senate. He said that the bill had to be passed by the House of Representatives and then by the Senate. He said that the bill had to be passed by the House of Representatives and then by the Senate.

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Mr. [unclear] that what Mr. [unclear] was proposing could mean a
25% increase in the present formula would yield. Again
pointed out that production was still four years away and
was time to take a good look. He thought they should follow the
policy designed to do the best possible job.

Meeting adjourned at 9:25 p.m.

Mr. Lipton said if it turns out these rates are fair and reasonable then the oil companies will have lost the state funds. He said he felt they could get a lot better than the 10% reputation. He added that the risks Alaska will face, should they take on ownership of the pipeline, will be the same as the risks the companies will take. Mr. Lipton added that the rate making role of the state set in 1940 was a reasonable one.

Mr. Lind asked if the companies do pay different rates could that be to the state's advantage? Mr. Lipton said there might be some relative and differences among them. He said that one advantage is that by having that sort of a lower rate will create an environment where would be the other companies, probably a higher rate. The major thrust of opinion is that perhaps a company that pays a lower rate is preferred with a reasonable rate and wouldn't have to do much more.

In answer to Mr. Lind, Mr. Lipton said the state may be in a position to argue that the prevailing world-wide value is 12% by the highest rates on the basis of lower transportation costs, so that that could be the basis for the state's rate, is 12% only, even though it is a 10% rate, by an higher transportation rate.

Mr. Lipton said the Federal government is now reviewing the value of the present rate on these factors.

Mr. Lipton made a comment on the subject of having a multiplicity of facilities. Mr. Lind said since there are a number of companies, they would have a large number of books to audit. Mr. Lind said that all of the books were copies which are a copy of the maximum of capital. He said he would assume the financing would be a joint venture. Mr. Lipton said they did not know such. Mr. Lind said all the companies would be the same pump, same price and the same labor. Mr. Lipton said that the operating costs may not be the same. He said if Alaska is depending on 75% of the pipeline, it doesn't mean each owner is under 75% of the capital. Mr. Lind asked what advantages the state would have to allow the companies to have on different ways. Mr. Lipton said he was not sure about the way in which they are in practice. The present capitalization costs plus they will have to be a reasonable rate on the pipeline.

pipeline is finished ICC will know the capitalization and everything involved -- then the companies will file tariffs. This will be the rates charged by each owner of the pipeline unless the ICC says no, it exceeds the rate making rule. Unless this is exceeded it automatically becomes the tariff. Mr. Lipton explained the 8% rate. This is 8% after tax profit to the pipeline operator including interest payment -- this is on total capital after all costs. He said the question has come up; can the state do anything about it. He said the whole purpose of the Governor in suggesting ownership, the purpose behind the administration's regulatory bill, the purpose behind the Pipeline Committee's leasing bill and the purpose behind an option to buy or equity, all of this is to provide the state with a bargaining position so they can in effect get the companies to agree to a very fair and reasonable rate. He said there are alternatives. One alternative is to force ICC into a review of rate procedure.

Mr. Lipton said if the state has its own concept of a fair and reasonable rate then the companies will know what position the state is taking. Before the pipeline is operating there will be an agreement. Mr. Lipton said the companies can be more relaxed if they know what the state means by reasonable approach. In answer to Mr. Pink, Mr. Lipton said he was talking about interstate rates. He said there is a body of legal opinion which feels the state may have jurisdiction over all oil from Prudhoe Bay to Valdez. He said if the state does not claim jurisdiction it will not have it. He said this would provide the state with an apparatus for determining what is a fair and reasonable rate for the movement of oil from Prudhoe Bay to Valdez. He said hopefully this would enable companies to understand the meaning of their because there would be a "handbook". He said if the state did not do this they may have the possibility of determining the prevailing value of the oil of the North Slope. He said if the state would have to protest before ICC they still be in a position to do so. He said a regulatory bill could not have to be something so strong that the oil companies would rise up in protest. There are existing pipeline regulations in effect. Mr. Lipton said he did not feel the companies would have very much of a reason to complain. He said the state regulatory body should

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not have the right to increase rates upon the pipeline. It should have the right to suspend rates but to have a rate and insist the pipeline operator be made to pay before the final adjudication has been made goes too far. Mr. Lipton said he hoped that he was not making a plea for extreme legislation that will smack the "apple cart". He said they know what powerful incentive there is for oil companies to resist. He said the oil companies are entitled to a fair break but so is Alaska. Mr. Lipton said it is imperative to get started early.

Mr. King said the ICC determines a fair rate but asked if they look at the depreciation schedule and amortization schedule. Mr. Lipton answered there is an ICC rate of depreciation which applies to all pipelines. He said they would oppose any increase.

Mr. King compared the completion of the pipeline with a building. He said if he had a building and charged rent in the first two or three years and there could be no other profit he could not use the building. Mr. Lipton said during the first year of operation at 70% of the way to apply the ICC 2% rate to the pipeline. He said the rate would be so high the well head value would be very high. He said obviously they will not do that. He said they will look at the capital cost picture and rate of throughput and try to work out a profit. He said as the throughput builds up the profit will go down further.

In answer to Mr. King, Mr. Lipton said the amortization is not based on the total amount of oil that will flow through the pipeline. He said for valuation purposes they depreciate over 35 years on a straight line basis and for taxes they depreciate over 22 years on a constant of year digit basis. He said that is correct.

Mr. King asked how they could automatically assume the cost of the pipeline will be from \$3.5 to \$4 billion. Mr. Lipton said this is subject to error but they hope the error will be on the other side. Mr. Lipton said as far as he knew none of the companies had arranged with this cost. Mr. Lipton said the biggest thing is to get the tariff lines to cover under ICC regulations in the payment of capital -- this is the main thing.

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of their value. Mr. Lipton said not necessarily if they work out an equalized tariff.

Mr. Lipton said they also feel that the impact of costs paid as a way of recovering could be directed in a company like Standard Oil of California (SO) in not in the pipeline. He said they would be paying with both hands. He said that they are now concerned with it to protect the public's economic interest in the value of oil produced.

Mr. Lipton said in addition to the taxing power, the state could also, another taxing power in the state income tax. He added that they could move to a graduated income tax. The revenue in a total of \$1.5 billion would have to be shared. He said in this way the company would have full value of the oil. For the time being they do with the tax on the oil produced.

Mr. Lipton said in view of the "spoil" history of recovery at the federal level and at the state level. He said even so, but they know what they have to do. The state could do something different than other people have done. Mr. Lipton said the state would have to use the oil which is produced and funded. If this was not done it would not be any different.

10:00 AM - 10:00 AM

HB

600

STATE
of ALASKA

MEMORANDUM

TO: [The Honorable Mike Miller, Chairman
House Local Government Committee
Alaska State House of Representatives

DATE : February 19, 1972

FROM: ^{MM} Byron I. Mallott, Director
Local Affairs Agency
Office of the Governor

SUBJECT: HB-600- State Aid to Federal Law Cities

The following fiscal analysis of HB 600 is based on the premise that each IRA Council would be empowered to provide and would be providing the services listed, two years after each initially became eligible for grants in aid under AS 43.18.010.030. Therefore, this analysis should be considered an estimate of each active IRA Council's potential level of participation.

AKIACHAK - Population 312 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance.

\$8940

ATKA - Population 88 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance.

\$4760

KLUCKWAN - Population 102 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation.

\$2244

KWETHLUK - Population 408 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance, Health Facilities

\$12,910

KWIGILLINGOK - Population 148 - Police Protection, Fire Protection, Parks and Recreation

\$2960

KWINHAGAK - Population 340 - Police Protection, Fire Protection, Parks and Recreation

\$6800

METLAKATLA - Population 1050 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Transportation, Parks and Recreation, Road Maintenance, Health Facilities.

\$43,450

MINTO - Population 168 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Parks and Recreation, Road Maintenance.

\$4932

NIKOLSKI Population 57 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance

\$4140

NOATAK - Population 293 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance
\$7360

PERRYVILLE - Population 94 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance
\$3568

TANACROSS - Population 84 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance
\$2748

TATITLEK - Population 111 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance
\$2742

TETLIN - Population 114 - Police Protection, Fire Protection, Transportation, Parks and Recreation, Road Maintenance
\$3750

TUNUNAK - Population 274 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance
\$6478

TYONEK - Population 232 - Police Protection, Fire Protection, Water Pollution, Transportation, Parks and Recreation, Road Maintenance
\$8514

UNALAKLEET - Population 434 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Parks and Recreation, Road Maintenance
\$16,416

VENETIE - Population 112 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance
\$3214

Total \$145,926

Representative Tillion has asked that we address ourselves to the question of the impact of Tyonek's eligibility on the Kenai Borough's entitlement.

The Kenai Borough is presently qualifying for funds on an area wide basis under the categories of Air Pollution Control and Land Use Planning. The application under Air Pollution Control is based on participation in the Tri-Borough Air Pollution Control Program; the Land Use Planning entitlement is based on the fact the Borough exercises mandatory area wide planning and zoning authority. Therefore, the qualification of Tyonek for funds under the Police and Fire Protection, Water Pollution Control, Parks and Recreation, Transportation and Road Maintenance categories would not effect the Kenai Borough's entitlement.

BIM/DA:da

STATE
of ALASKA

MEMORANDUM

OFFICE OF THE GOVERNOR

F. J.
TO: The Honorable John E. Havelock
Attorney General
Department of Law

DATE : February 28, 1972

FROM: *Byron I. Mallott*
Byron I. Mallott
Director
Local Affairs Agency

SUBJECT: House Bill No. 600

On Monday, February 27, the House Local Government Committee reported out HB No. 600 with a "do pass" recommendation. This bill has now gone to the House Finance Committee.

During committee discussion on this bill, the agency presented testimony including the fiscal impact to the state should the legislation be enacted. The agency pointed out certain questions which should be evaluated prior to the bill's being reported out onto the House floor. These questions are stated as follows:

1. May federal Indian Reorganization Act (IRA) business corporations legally receive and expend state funds for "municipal" purposes within either organized cities or boroughs or unincorporated areas?

Discussion:

IRA corporations organized under the provisions of the Wheeler-Howard Act have as their primary purpose the transaction of business within predominantly Indian or Native communities. We are generally aware that the Wheeler-Howard Act also provides for the establishment of minimum local self-government for Indian communities through the adoption of a constitution and by-laws provided by the Secretary of the Interior. It becomes a question, therefore, whether or not a community which has adopted an IRA charter containing provisions for minimum local government can exercise such powers in the face of Sections 2 and 7 of Article X, the Alaska Constitution.

2. If IRA corporations are in fact "closed" to all but persons of Native origin, is the State Legislature in any way impeded from authorizing disbursement of state general fund monies through AS 43.18.010 to communities as defined in HB No. 600?

Discussion:

It would appear that allocation of state shared revenues to these corporations would carry with it the requirement that the funds so allocated be expended wholly for public purposes, i.e. municipal services, authorized by federal

IRA charters. That this necessarily follows is buttressed by AS 43.18.010 (f) which states, in part, that "funds received by a city, borough or service area under this section may be expended for any public purpose for which it has power to expend public funds..." (emphasis added).

3. Could an IRA corporation located within the boundaries of a municipality incorporated under state law be eligible for revenue sharing allocations?

Discussion:

It is conceivable that situations may exist where communities are incorporated both under the federal Wheeler-Howard Act and also under Titles 29 and 7 of the Alaska Statutes. While the intent of the proposed bill must be to make communities which have organized as IRA corporations but not as municipal corporations eligible for revenue sharing funds, it would seem that the bill, as written would not preclude funding of both an IRA corporation and a municipality within the same community.

The above are some of the questions which have immediately surfaced with respect to HB 600. The agency respectfully requests that your office provide this agency and the Legislature with an opinion discussing these questions as well as any other important implications generated by this bill of which we are not presently aware.

The attachments to this memorandum provide a picture of the fiscal aspects which would ensue if the legislation were to be enacted by the Legislature. I am available for discussion on this matter at your convenience.

BIM/SJS/pc

Attachments

cc: The Honorable Mike Miller, Chairman
House Local Government Committee

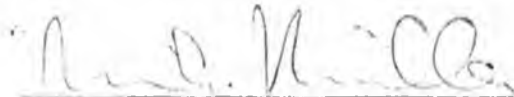
The Honorable Richard Whittaker
House of Representatives

Local Government Committee Report

on

HOUSE BILL NO. 600

The House Local Government Committee, in recommending do pass on this bill, discussed at some length the effect of funding newly included municipalities in the shared revenue program. Our conclusion was this: The inclusion of certain new communities, as allowed by HB 600, is only fair where those communities are performing municipal services. The committee did not feel, however, that the appropriations under this bill should cut down on the dollars which will be appropriated to other municipalities. In other words, if the number of communities enjoying shared revenue is to be raised, then the total appropriation for shared revenue should be raised as well. The dollar amount in question is not excessively large and should be added so that every community receives its full entitlement under the shared revenue program.



H. Miller, Chairman
Local Government Committee

#146M - price tag for HB 600

February 18, 1972

Mr. Robert P. Isaac
P. O. Box 223
Douglas, Alaska 99824

Dear Bob:

Appreciate very much your letter of February 16 and your comments on HB 600. We will be meeting on this bill Monday morning and I will certainly see that your letter is read into the records. The very questions that you raised were discussed at a previous meeting of the committee.

Again, many thanks for writing. We appreciate receiving your opinion in this matter.

Sincerely,

Mike Miller, Chairman
House Local Government Committee

P. O. Box 223
Douglas, Alaska 99824

February 16, 1972

The Honorable Mike Miller, Chairman
Local Government Committee
State House of Representatives
Juneau, Alaska 99801

Dear Mr. Miller:

A bill, HB 600, has been submitted which provides for treating villages organized under the Federal Indian Reorganization Act as state municipalities for the purpose of revenue sharing under AS 43.18.

As a citizen of this state and the Juneau City-Borough, I must voice my objections to this type of legislation.

The constitution places governmental authority in cities, boroughs and the state, and it would appear to me legislation of this nature is slowly eroding the Local Government Constitutional provisions by recognizing forms of government other than cities and boroughs organized under state law.

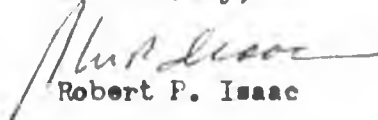
It seems to me that if a community wants the benefits of state shared revenues, it should at least be willing to assume the responsibilities of a fourth-class city.

A similar situation occurred at Metlakatla about two years ago. In that instance, the Metlakatla Council wanted the police power. Subsequently, the Federal Government, by a special act, authorized this power to be exercised. Metlakatla could have gained whatever municipal powers it desired through incorporation under state law.

It further seems to me that the Legislature should take a firm position on local government organization and limit the prerogatives of local government to those communities which elect to form governments authorized by the constitution.

In my opinion, everything possible should be done to encourage municipal incorporation under state law where local government is needed and not resort to passing along state benefits to quasi governments which are not recognized by the constitution.

Yours truly,


Robert P. Isaac

cc: Senator John Rader, Chmn.
Senate Local Government Committee

Governor Wm. A. Egan

February 19, 1972

NOATAK - Population 293 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance	\$7300
PERRYVILLE - Population 94 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance	\$3563
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TETLIN - Population 114 - Police Protection, Fire Protection, Transportation, Parks and Recreation, Road Maintenance	\$3750
TUNUNAK - Population 274 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance	\$6478
TYONEK - Population 232 - Police Protection, Fire Protection, Water Pollution, Transportation, Parks and Recreation, Road Maintenance	\$8514
UNLAKLEET - Population 434 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Parks and Recreation, Road Maintenance	\$16,416
VENETIE - Population 112 - Police Protection, Fire Protection, Water Pollution, Parks and Recreation, Road Maintenance	\$8214
Total	<u>\$75,926</u>

Representative Tillion has asked that we address ourselves to the question of the impact of Tyonek's eligibility on the Kenai Borough's entitlement.

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BIM/DA:da

STATE
of ALASKA

MEMORANDUM

TO: [The Honorable Mike Miller, Chairman
House Local Government Committee
Alaska State House of Representatives

DATE February 19, 1972

FROM: Byron I. Mallott, Director
Local Affairs Agency
Office of the Governor

SUBJECT: HB-600- State Aid to Federal Law Cities

The following fiscal analysis of HB 600 is based on the premise that each IRA Council would be empowered to provide and would be providing the services listed, two years after each initially became eligible for grants in aid under AS 43.18.010.030. Therefore, this analysis should be considered an estimate of each active IRA Council's potential level of participation.

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\$43,450

MINTO - Population 168 - Police Protection, Fire Protection, Water Pollution, Land Use Planning, Parks and Recreation, Road Maintenance.

\$4932

NIKOLSKI Population 57 - Police Protection, Fire Protection, Parks and Recreation, Road Maintenance

\$4140

STATE
of ALASKA**MEMORANDUM**TO: Byron I. Mallott
Director
Local Affairs Agency

DATE : February 15, 1972

FROM: Don Argetsinger *DA*
Local Government SpecialistSUBJECT: HB-600 Extension of AS 43.18 to
IRA Villages

The following is a list of active IRA council's per the BIA Tribal Operations listing dated 1-29-70. This list excludes all active IRA councils in cities incorporated under AS Title 29.

<u>Village</u>	<u>Population- 1970 Census</u>
Akiachak	312
Atka	88
Klukwan	102
Kwethluk	408
Kwigillingok	148
Kwinhagak (Quinhagak)	340
Metlakatla	1050
Minto	168
Nikilski	57
Noatak	293
Perryville	94
Tanacross	84
Tatitlek	111
Tetlin	114
Tununak	274
Tyonek	232
Unalakleet	434
Ventie	112
Total 18 Villages	<u>4422</u>

Metlakatla is the only active IRA Council capable of immediately qualifying for funds for anything near a full range of services; therefore for the purposes of getting a general idea of the impact, assume that in FY 1973 all IRA's listed would qualify for Police Protection and Parks and Recreation, as follows:

$$4422 \times \$15 = \$66,330$$

Add Metlakatla with transportation, water pollution
 $1050 \times \$7 = \$7,350$

Add Fire Protection in Toyonek, Kwethluk and Minto
 $808 \times \$5 = \$4,040$

Add Water Pollution in Minto and Tyonek
 $400 \times \$5 = \$2,000$

Total \$79,720

OR \$80,000

I have discussed the provisions of IRA charters with John Hope of BIA Tribal Operations and Al Widmark. My understanding is that the charters are quite broad and can or can not provide for the provision of municipal services. An examination of each individual charter would of course be required to determine this. The process of ammending a charter seems quite involved, ie petitioning the Sec of Interior who orders an election in the village etc. Since Statehood, the BIA has evidently discouraged the exercise of usual municipal powers under IRA charters, in favor of incorporation under AS Title 29.

The Impact on the FY 73 requested appropriation:

Assuming that \$7.085 M proves to be sufficient for FY 1972 - and further assuming the only other variables are those listed below, the IRA ammendment could produce an additional 1.12% proration or deficit

$$\frac{\$80,000}{\$7.1 \text{ M}} = 1.12\%$$

Increases in population and minor expansion of services- assuming the present provisions of AS 43.18 remain in-tact

$$\frac{\$100,000}{\$7.1 \text{ M}} = 1.40\%$$

SA #30 - GAAB for Parks and Recreation

$$\frac{\$167,200}{\$7.1 \text{ M}} = 2.35\%$$

Total deficit w/IRA	<u>4.87%</u>
Total deficit wo/IRA	3.65%

DA/da

H B

6 15



CITY OF ANCHORAGE



ALASKA

International

Polar air crossroads of the world

POST OFFICE BOX 400
ANCHORAGE, ALASKA
99501

February 25, 1972

Mr. Don M. Berry
Executive Director
Alaska Municipal League
204 Franklin Street
Juneau, Alaska 99801

Dear Don:

Re: HB No. 615 - Alaska Business License Tax

One of the requirements for financial viability of a city is growth in revenue sources. HB No. 615 would "freeze" city revenue from the Alaska Business License source to the equivalent amount collected in 1976 and subject this payment to an appropriation by the Legislature. Unfortunately the city's cost of government cannot be frozen at the 1976 level in subsequent years. Therefore, city financial viability would suffer if HB No. 615 is enacted into law.

The City Administration has studied this bill and analyzed the possibility of correlating the annual payment to population. The attached analysis clearly reveals there is no correlation of the increases in the Alaska Business License revenues with population increases and assessed value of business personal property changes.

It appears that the only way to assure viable growth in this revenue source in relation to business activity would be to continue the present licensing and reporting requirements at a flat rate (say \$25.00 per year) fee and from the reports compute what the tax would have been under existing law and tax rate and compute city payments on this basis. In this way: (1) City financial viability would be retained, and (2) valuable statistics needed for State, local and private economic and other planning would be available. This is a highly important statistic for both government and private planning purposes.

It is readily apparent from the enclosed analysis that the Alaska Business License revenue is an important source to the City of Anchorage. It has grown from over \$290,000 in 1960 to well over \$900,000 in 1971. Obviously there would be a tremendously adverse financial impact on the City of Anchorage if this revenue source was "frozen" in the future. Therefore the City of Anchorage opposes passage of HB No. 615 unless it



AIRMAIL IS FASTER

Mr. Don M. Berry
February 25, 1972
Page 2

is amended as outlined above or by insertion of some other acceptable formula which would retain the growth in this revenue source in relationship to business activity in the City.

You may use this letter as may be appropriate to express out views on this bill.

Sincerely yours,


Robert E. Sharp
City Manager

RES:ccb

Enclosure

cc: Governor of Alaska
Members of Senate and House
Local Government Committees
Anchorage Area Legislators