

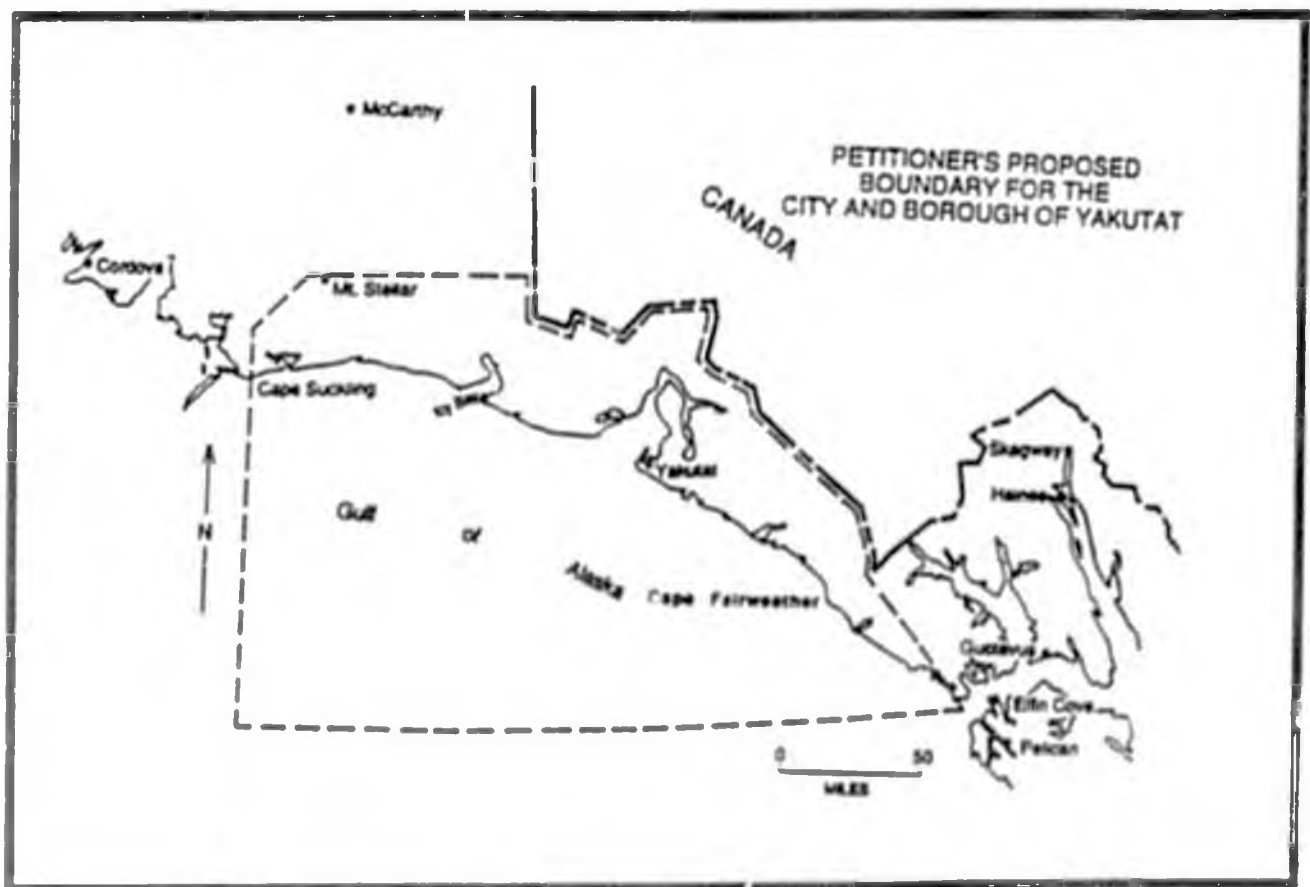
ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9096 HOUSE COMMUNITY & REGIONAL AFFAIRS

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decisional meeting that the school had been at least temporarily closed down.

Yakutat residents engage in a substantial amount of subsistence fishing, and to a lesser degree, hunting. Commercial fishing is the major industry. There are ongoing logging operations in the proposed borough area, although petitioners question in their brief whether timber harvesting represents "a long-term economy" in the region. The major source of full-time employment is government/school district. Other sources of employment and income include mining, tourism (including guiding, outfitting and lodges connected with sport fishing and hunting), and the airport. The area from Dry Bay to Cape Suckling is also being considered by the federal Minerals Management Service as part of a proposed Gulf of Alaska OCS lease sale.⁹



The assessed valuation of real property within the city limits for 1990 was \$10,959,269. The State Assessor estimated that the total assessed value of taxable real property in the proposed borough was \$17,110,589 as of January 1, 1990. The Assessor also estimated that the total full value of real property throughout petitioners' proposed boundaries was approximately \$20,500,000 as of January 1, 1990.¹⁰

Petitioners propose that the borough would extend, to the areas connected by road to the City, all of the services currently provided by the

⁹Yakutat has been the focus of oil exploration off and on since the early 1900's, with lease sales from the 1950's through the 1980's, but significant amounts of oil have not yet been found.

¹⁰The State Assessor estimated that the full value of all real and personal property within the proposed borough boundaries was \$29,499,500 as of January 1, 1990.

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City. The City owns the water & sewer and electric utilities, as well as a small boat harbor and seaplane float. The services it provides include police, fire, planning, taxation, health, parks and recreation, road maintenance, solid waste, a cold storage dock, and education.

To the rest of the area within the proposed boundaries, the petitioners indicate the borough would provide education, tax assessment and land use regulation, as well as emergency medical services. In a proposed amendment to the petition made shortly before the January 18 hearing, petitioners also stated that, with cooperation from the state troopers, the borough would provide police service throughout the borough. However, since that time, petitioners have advised that the troopers intend to withdraw the trooper stationed in Yakutat. It is unclear what effect this will have on petitioners' proposed extension of police service beyond the roaded area.

THE LAW APPLICABLE TO BOROUGH INCORPORATION

The Alaska Constitution, state statutes and the LBC's regulations all contain provisions on the standards to be applied by the LBC in evaluating petitions for borough incorporation.

Alaska Constitution:

The purpose of [the Local Government] article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. . . .

Article X, Section 1

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. . . .

Article X, Section 3

AS 29.05.031

(a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough:

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

(2) the boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of municipal services;

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

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

LBC Regulations - Borough Incorporation Standards

19 AAC 10.045. COMMUNITY OF INTERESTS.

(a) The social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. In this regard, the commission will, in its discretion, consider relevant factors, including:

(1) the compatibility of urban and rural areas within the proposed borough;

(2) the compatibility of economic lifestyles, and industrial or commercial activities;

(3) the existence throughout the proposed borough of customary and simple transportation and communication patterns; and

(4) the extent and accommodation of spoken language differences throughout the proposed borough.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough.

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission will, in its discretion, consider relevant factors, including:

(1) transportation schedules and costs;

(2) geographical and climatic impediments;

(3) telephonic and teleconferencing facilities; and

(4) public electronic media.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are either connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications.

19 AAC 10.050. POPULATION.

(a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government. In this regard, the commission will, in its discretion, consider relevant factors, including:

(1) total census enumerations;

(2) durations of residency;

(3) historical population patterns;

(4) seasonal population changes; and

(5) age distributions.

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(b) Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough.

19 AAC 10.055. RESOURCES.

The economy of a proposed borough must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including:

- (1) the reasonably anticipated functions of the proposed borough;
- (2) the reasonably anticipated expenses of the proposed borough;
- (3) the reasonably anticipated income of the proposed borough and its ability to collect revenue;
- (4) the feasibility and plausibility of the anticipated operating budget through the third full fiscal year of operation;
- (5) the economic base of the proposed borough;
- (6) property valuations;
- (7) land use;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents;
- (10) the need for and availability of employable skilled and unskilled people; and
- (11) the reasonably predictable level of commitment and interest of the population in sustaining a municipal corporation.

19 AAC 10.060. BOUNDARIES.

(a) The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including:

- (1) land use and ownership patterns;
- (2) ethnicity and cultures;
- (3) population density patterns;
- (4) existing and reasonably anticipated transportation patterns and facilities;
- (5) natural geographical features and environmental factors; and
- (6) extraterritorial powers of boroughs.

(b) Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond the model borough boundaries adopted by the commission.

(c) The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of the Department of Education, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

(d) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough or unified municipality, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping region from the existing organized borough or unified municipality. The commission will consider and treat such an incorporation petition as also being a detachment petition.

FINDINGS AND CONCLUSIONS

In analyzing the Yakutat petition, the Commission considered the arguments and evidence as they related to six general standards on borough incorporation and the dissolution of the City of Yakutat.¹¹ Petitioners must meet each of the standards for the petition to be approved. The evidence considered by the LBC included the petitioners' briefs and exhibits, the reports by the Department of Community and Regional Affairs, the written comments submitted by the public and interested parties, and the testimony at the hearings conducted by the Commission on this matter.

Guided by the advice from the Department of Law and the LBC's contract counsel, and based upon the evidence before the Commission, the Commission makes the following findings and conclusions:

CONCLUSION #1: ALTHOUGH THERE IS ONLY ONE COMMUNITY WITHIN THE PROPOSED YAKUTAT BOROUGH, DUE TO FACTORS WHICH INCLUDE YAKUTAT'S UNIQUE GEOGRAPHIC CIRCUMSTANCES, THE POPULATION OF THE AREA IS INTERRELATED AND INTEGRATED AS TO ITS SOCIAL, CULTURAL, AND ECONOMIC ACTIVITIES.

To determine whether the population of a proposed borough is interrelated and integrated as to its social, cultural and economic activities, the LBC looks at factors such as the compatibility of urban and rural areas, compatibility of economic lifestyles, compatibility of industrial and commercial activities, and transportation and communication patterns. Although there is a presumption that, without two communities, an area cannot meet the standard for interrelation, that presumption may be overcome by a specific and persuasive showing to the contrary. In the present case, the LBC finds that the Yakutat petitioners have overcome the presumption, and have shown that the population of the proposed borough is integrated and interrelated. The Commission's conclusion was based upon the following findings:

¹¹ Although AS 29.05.031(a) contains only four subsections, the LBC considered the two requirements of (a) (1) as separate standards, one on the interrelation and integration of the population and one on the size and stability of the population. Therefore, the LBC considered five standards on incorporation: the sixth standard considered was on city dissolution.

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- ◊ There is only one community - the Yakutat community - in the proposed borough. Neither the Icy Bay logging camp nor the area around the Yakutat airport, nor any other settlement or group qualifies as a community for the purposes of the borough incorporation provisions.
- ◊ Through their written submissions and oral testimony, petitioners persuasively showed the integration of the population's activities, and their interconnection with the unpopulated parts of the borough. The interconnection includes activities such as current and historical subsistence hunting and fishing, commercial fishing, and the efforts of the city to protect the habitat and resources in outlying areas through litigation.
- ◊ The Yakutat community is unique in the state of Alaska in terms of a single community's relationship to an isolated geographic area. Given its distance from any other established community, it would be difficult in the foreseeable future to join Yakutat with any other communities to form a multiple-community borough.
- ◊ Although communications and transportation may be limited and sometimes difficult in the large unpopulated area, adequate communication is possible through radio and marine radio, and transportation to usable parts of the proposed borough is possible through commercial and private flights, and by boat.

CONCLUSION #2: ALTHOUGH THE POPULATION IS RELATIVELY SMALL, IT IS LARGE AND STABLE ENOUGH TO SUPPORT BOROUGH GOVERNMENT.

To determine whether the population is large and stable enough to support borough government, the LBC looks at factors such as total population, duration of residency, and historical and seasonal population patterns. There is a presumption that there should be at least 1000 permanent residents for the population to be large enough to support borough government. However, this presumption may be overcome with a specific and persuasive showing to the contrary. In the present case, the majority of the LBC believes that the presumption has been overcome, and that Yakutat's population is large enough and stable enough to support borough government. This conclusion is based upon the following findings:

- ◊ Yakutat's total population (permanent residents) is between 720 and 780 people.
- ◊ Yakutat has grown at a slow but steady rate, and could meet the 1000 population minimum in another decade.
- ◊ Yakutat has already shown its ability to operate as a regional government, with a regional rather than city perspective. In such areas as emergency services, coastal zone management and

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planning. Yakutat has also shown it can successfully carry out the education function of a borough.

- ◊ Yakutat is, to a unique degree, self-contained geographically, anthropologically, culturally and economically, with limited ties to any other community.
- ◊ Because of the lack of strong transportation links with other communities to the east and the west, it would be difficult to operate an efficient government in a region which included Yakutat with other established communities.
- ◊ Because of the small population and thin layer of leadership, the Yakutat community might, in the future, encounter problems in operating a multiple-service regional government. However, the successful operation of the City of Yakutat gives evidence that the borough could, at the least, carry out mandatory borough powers in the small roaded area of the borough.

CONCLUSION #3: THE MOST APPROPRIATE BOUNDARIES FOR THE CITY AND BOROUGH OF YAKUTAT EXTEND FROM THE 141ST MERIDIAN IN THE WEST TO THE SOUTHERN BOUNDARY LAST PROPOSED BY PETITIONERS, A LINE DRAWN FROM THE TOP OF MOUNT FAIRWEATHER TO CAPE FAIRWEATHER.

The statutory standard requires that boundaries of a proposed borough conform generally to natural geography and include all areas necessary for full development of municipal services. The LBC regulation looks at the development of borough services on an efficient, cost-effective level, and includes factors such as land use and ownership patterns, ethnicity and cultures, population density, existing and reasonably anticipated transportation patterns and facilities, natural geographical features and environmental factors, and extraterritorial powers of boroughs. The Commission also considers the model boundaries, if any have been adopted, and existing REAA boundaries. 19 AAC 10.060.

The boundaries initially proposed by petitioners started at Cape Suckling, near the 144th meridian, and extended south and east to Cape Spencer. The seaward boundary line extended south approximately 75 miles from Cape Spencer and then turned at a 90° angle and went in a straight line east to Cape Spencer. In much of the eastern half of the proposed borough, the northern boundary followed the international border between the U.S. and Canada. (See map on page 6.)

The Commission carefully considered the arguments and evidence submitted for and against placing the western boundary at Cape Suckling or at the 141st meridian. The LBC found it was not a black and white issue with a clear-cut answer. As the Commission's legal counsel advised, the LBC may look at not only what the petitioners want, but also at the effect the proposal would have on other areas and on the state as a whole. Balancing the opposing evidence and policy arguments, the Commission exercised its discretion and determined that the 141st meridian would be the most appropriate western boundary for the Yakutat borough. The LBC

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accepted the northern and seaward boundaries (east of the 141st meridian) proposed by Yakutat, as well as the Cape Fairweather boundary requested by petitioners shortly before the January 18 hearing. The LBC's conclusion on the boundaries was based upon the following findings:

- ◊ In response to strong protests from many Southeastern communities, the petitioners twice proposed alterations to the southern boundary. The final southern boundary requested by petitioners was formed by a line drawn from the top of Mount Fairweather to Cape Fairweather.
- ◊ Petitioners' proposed western boundary¹² was strongly opposed by a number of groups, including the Mental Health Trust, Chugach Alaska Corporation, Chugach REAA, the City of Cordova, Eyak Corporation, the Tatitlek Village IRA Council, the City of Whittier and approximately 100 individual Whittier residents who signed a petition opposing both the proposed boundaries and the borough itself, Ben A. Thomas Inc., Wasser & Winters Company, and Two Moon Bay Logging Camp School.¹³ All of the opposition to the western boundary centered on allowing the proposed Yakutat borough to extend west of the 141st meridian.
- ◊ The area west of the 141st meridian is not necessary for Yakutat to be able to fully develop municipal services throughout the borough.
- ◊ The 141st has long served as a dividing line for a number of jurisdictions, including Regional Educational Attendance Areas (REAA's), judicial districts,¹⁴ election districts, recording districts and census districts. The meridian also serves as the boundary between Alaska Native Claim Settlement Act regions.
- ◊ Sealaska Corporation, the Regional Native Corporation east of the line, strongly supports Yakutat's proposed boundary. Chugach Alaska Corporation, the Regional Native Corporation west of the line, strongly opposes it. The line between those two corporations' regions was established by the federal government at the 141st meridian.
- ◊ There are no known residents in the area west of the 141st meridian, other than the small number of people connected with the Icy Bay logging camp.

¹²Petitioners requested a northwestern boundary slightly altered from the proposal in the petition. Although their second proposed western boundary would begin at Cape Suckling, after going due north for two miles, the boundary line would veer northeast to exclude the Controller Bay drainages.

¹³The University of Alaska strongly opposed the boundary until after the February 26 decisional meeting; at that point the University and Yakutat were able to reach some agreements involving their on-going litigation and disputes over logging and regulation. During the reopening of the record, the University withdrew its opposition to Yakutat's proposed western boundary.

¹⁴The four judicial district boundaries are used as the basis for selecting 4 of the 5 LBC Commissioners. The Chair is chosen to serve at large.

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- ◊ Land ownership by Yakutat residents in the area west of the 141st meridian is minimal compared to the size of the area.
- ◊ There is no single, clear cut line which most "conforms generally to natural geography." (This is evidenced in the southern boundary by the three different locations suggested by petitioners during the petition process.) Although petitioners presented evidence of regional similarities, including weather, along the coast from Cape Suckling to Cape Fairweather, other sources place the dividing line between regions at or near the 141st meridian. For example, Alaska Natives and the Land, a study influential in the drafting of the ANCSA legislation, includes the area west of the Malaspina Glacier, near the 141st meridian in the Gulf of Alaska Region and the area from the glacier east, including Yakutat, in the Southeast Region.
- ◊ The Emergency Air Service contract for the Icy Bay logging camp is held by a Yakutat air company; however, major landowners in the disputed territory believe that activity in the area, and the development of its resources, will look to Prince William Sound rather than Yakutat.
- ◊ The transportation links to the area west of the 141st meridian, limited to boat and unscheduled flights, are somewhat more attenuated than in the other parts of the borough.
- ◊ The petitioners established use of the western area by Yakutat residents; however, it is used to a much lesser extent than the area to the east of the 141st. For example, information in the petition indicated only 2% to 26% of households used various areas west of the 141st for subsistence purposes.
- ◊ Mayor Powell testified that up to 33% of the commercially caught fish from within the petitioners' proposed boundaries come from the area west of the 141st. However, he and other Yakutat witnesses also testified that more than 95% of those fish are transported to Yakutat for processing.
- ◊ Neither petitioners' subsistence nor commercial usage rights will be altered by the setting of a municipal boundary.
- ◊ A Yakutat borough with the boundaries approved by the LBC will be able to exert influence over the area west of the 141st meridian. Petitioners' objective of protecting fishing habitat can be met through coastal plans and the Yakataga Area Plan.
- ◊ The Yakutat borough, with the boundaries approved by the LBC, will have enviable financial resources. The exclusion of the area west of the 141st meridian will not significantly affect the borough's future revenues from National Forest Receipts. As compared to the City of Yakutat, the borough will receive substantially increased National Forest Receipts, at least in the short term, as well as have a substantially increased tax base.

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without needing to provide many additional services to many additional people.

- ◊ It would not be in the best interests of the state for the LBC to approve the extremely large territory requested by petitioners (approximately 7000 square miles within their last proposed boundaries), for a borough containing only 720 to 780 permanent residents, virtually all concentrated in one very small area.
- ◊ Because of the very small population, and concomitant thin leadership, the community's ability to handle regional government for the entire area over the long run is subject to question.
- ◊ The LBC did not consider model borough boundaries in reaching its decision on the Yakutat borough petition as model boundaries for the area have not yet been adopted. However, the LBC did consider the impact of the Yakutat proposal on the adjacent regions.
- ◊ The LBC advised the Department of Education of the Yakutat petition because the proposed boundaries did not conform to REAA boundaries and because the borough school district would have fewer than 250 students. The Commissioner of Education found the formation of the new district to be in the best interests of the state (a determination required under AS 14.17.139 for the formation of new school districts with fewer than 250 students).

CONCLUSION 4: ALTHOUGH YAKUTAT'S POPULATION IS SMALL, THE BOROUGH AREA, AS AMENDED BY THE COMMISSION, INCLUDES THE HUMAN AND FINANCIAL RESOURCES TO PROVIDE MUNICIPAL SERVICES.

To determine whether a proposed borough has sufficient human and financial resources to provide essential services on an efficient, cost-effective level, the Commission looks at factors such as the expected functions of the proposed borough, the expected expenses and income, the feasibility of the proposed budget, the area's economic base and property valuations, land use, anticipated development, personal income, the availability of employable people and commitment of the residents to sustaining a municipal corporation.

The Commission concludes that petitioners have established that Yakutat has the human and financial resources to provide borough services. This conclusion was based upon the following findings:

- ◊ Education is one of the predominant powers and services of any Alaska borough. The City of Yakutat has demonstrated that it is capable of running a good, though small, school district which already includes virtually all of the students within the proposed borough area.

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- ◊ According to petitioners' figures, 80% of the assessed valuation outside of the current city boundaries is within the roaded area which would be taxed at a 12 mill rate. The remainder of the borough would be taxed at a 9 mill rate. With the other reasonably projected revenues, the tax base and tax rate should be sufficient to continue funding an effective school system.
- ◊ Petitioners estimate that if Yakutat had been a borough during the last ten years, its share of National Forest receipts would have averaged at least \$250,000 per year. These funds are earmarked for schools or roads.
- ◊ Based upon reasonably projected expenses and revenues, the borough would have surplus revenues of several hundred thousand dollars during the first few years of borough operations.
- ◊ The projected borough budget appears realistic and reasonable, particularly in light of the community's long-term successful operation of a first class city carrying out many of the functions of a borough.
- ◊ Although the per capita expenses of the borough are relatively high, the borough appears to have sufficient revenues and resources to carry out at least essential borough services.
- ◊ Petitioners could not provide statistics on unemployment or personal incomes of the residents, and many personal incomes vary greatly from year to year because of annual variations in the commercial fishery. However, there are only about 12 Yakutat families receiving either AFDC or general assistance.
- ◊ The City of Yakutat already carries out many of the functions of a borough government. Whether it remains a city or becomes a borough, Yakutat will have the same group of people handling the challenges of municipal government.
- ◊ As a borough, Yakutat would have substantially more revenue and resources per capita than several organized boroughs. These resources should be sufficient to compensate for disadvantages caused by the small size and thin leadership of the population.

CONCLUSION #5: THE LAND, WATER AND AIR TRANSPORTATION FACILITIES ARE SUFFICIENT TO ALLOW THE COMMUNICATION AND EXCHANGE NECESSARY FOR THE DEVELOPMENT OF INTEGRATED BOROUGH GOVERNMENT.

To determine whether the borough would have the land, water and air transportation facilities to allow for the communication and exchange necessary for the development of integrated borough government, the Commission looks at factors such as transportation facilities, communications media, teleconferencing facilities, transportation costs and schedules, and geographical or climatic impediments. The Commission

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concludes that the Yakutat borough would have the necessary transportation facilities to allow the communication necessary to develop integrated government. This conclusion was based upon the following findings:

- ◊ Because virtually all of the borough population lives in the roaded area within five miles of the current city limits, transportation and communications among the population is well-developed.
- ◊ The Yakutat airport, scheduled flights and charter airlines, along with the residents' boats, would allow the population both to travel easily out of the borough and to reach other parts of the borough where economic activities take place.
- ◊ The marine radio system appears to be sufficient to enable communications in the more remote parts of the borough.

CONCLUSION #6: UPON THE INCORPORATION OF THE BOROUGH, THE POWERS OF THE CITY WOULD BECOME AREA WIDE BOROUGH POWERS, THUS MEETING THE STANDARD FOR THE DISSOLUTION OF THE CITY OF YAKUTAT.

AS 29.06.450(c) provides that a city is dissolved when all its powers become areawide borough powers. The LBC's regulations provide that the Commission, in its discretion, will approve a petition for city dissolution if the borough has consented to assume the city powers and the Commission finds the dissolution is in the best interests of the state.

To determine whether the dissolution would be in the best interests of the state, the LBC looks at factors such as the ability of an organization other than the state to take over city services and facilities; potential health or safety dangers to the community or nearby residents if the city were to dissolve; the potential effect of dissolution on harmonious relations; the extent of support and opposition to dissolution; potential impacts on other cities; fiscal impact on the state; whether dissolution would diminish or promote local self-government and whether it meets the constitutional and statutory principles that guide LBC action.

The Commission concludes that, upon a majority vote by residents in favor of borough incorporation, the city would meet the standards for dissolution and dissolution would be in the best interests of the state. The Commission's conclusion was based upon the following findings:

- ◊ The borough's incorporation and the city's dissolution would be linked on the ballot, so that either both actions, or neither, would take effect following the election.
- ◊ Petitioners have demonstrated that only one level of local government is necessary or advisable for the small population.
- ◊ The best interest factors of the regulations were not drafted with this particular situation in mind, and may not all be applicable to this petition. However, if the borough incorporation proposal is

approved by the voters, city dissolution would be in the best interests of the state, as the burden and cost of providing services to the population would not fall upon the state, there is no evidence that dissolution would create disharmony among the residents or between the residents and other groups, the dissolution would have little or no impact on other cities, and dissolution would promote local self-government as it would allow one layer of local government to provide services to all of the Yakutat area residents, many of whom are currently disenfranchised.

STATEMENT OF COMMISSION MINORITY ON THE YAKUTAT PETITION

Commissioner Dugan found that the Yakutat petition did not meet all of the standards for borough incorporation, and in particular found that its population was not large enough to support borough government. Her conclusion was based upon the following:

The LBC's Perspective

Petitioners will always come to the LBC with parochial views - as they should, because they are representing only their own local area. The Local Boundary Commission, however, cannot take the same viewpoint. The Commissioners must keep in mind that they represent the state on an areawide basis. Much as Commission members might empathize with local residents, they must look at issues which are bigger than what might be best solely for Yakutat or any other petitioning community. The LBC must look at what is in the state's best interests, and it is not in the state's best interests to start promoting the formation of boroughs with less than a reasonable number of people.

Borough Government

The Commission must determine what it perceives a borough to be. Yakutat has certainly shown it can function as a city government, and if there were no difference between a city and borough, then perhaps borough status would be appropriate. However, study of government in Alaska indicates that cities and boroughs were not intended to be completely interchangeable.

Sources such as legislative and constitutional history, the PAS studies,¹⁵ Metropolitan Experiment in Alaska, and Vic Fischer's work

¹⁵Public Administration Service - PAS - was hired by the Alaska Statehood Committee to prepare analyses on several topics, including local government, for use at the 1955-56 Alaska Constitutional Convention. PAS also prepared a report on "Local Government under the Alaska Constitution" which was distributed in January, 1959. Many of the suggestions in the report were carried out by the new Alaska legislature.

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indicate that although the constitutional convention delegates and early legislatures deliberately left terms broad and general enough to allow local government in Alaska to evolve, they also had some basic concepts in mind:

- ◊ Boundaries should be established at the state level to reflect state-wide considerations as well as regional criteria and local interests.
- ◊ Boroughs should cover relatively large areas with common economic, social and political interests.
- ◊ Boroughs should be large enough to prevent too many subdivisions in Alaska, in order to avoid the problems of many older states which had many small units and too much overlap of power.
- ◊ Boroughs should generally include more than one community and should be able to provide services efficiently and effectively.
- ◊ Borough government should not be established until a region was truly ready for borough incorporation.
- ◊ It would be better to exercise constraint in the creation of boroughs than to be faced with the difficult task of later abolishing or consolidating incorporated boroughs which were unneeded or too small for efficient operation.
- ◊ Boroughs should not be prematurely formed when the expansion of an existing city or the incorporation of a new city could meet the local government needs of the area.
- ◊ The LBC was mandated by the Alaska Constitution so that vested local interests and prejudices would not control the drawing of boundaries.
- ◊ The creation of local government units should be limited, not to a specific total number, but by the principle that only the minimum number of governments necessary to provide effective and efficient local self-government should be approved for incorporation.

The LBC minority believes there is a difference between a city and a borough. Allowing a small-population city to become a single-community borough prevents the sharing of resources by other communities and inappropriately fixes boundaries which may be very difficult to change later. Allowing cities to transform themselves into single-community boroughs also increases costs to the state, through the various minimum entitlements that "new boroughs" (as opposed to expanding cities) receive, including start-up grants of \$600,000 and 10 % of the state VUU land¹⁶ within its boundaries. Borough boundaries which extend beyond the area the city might reasonably annex also give the single community increased revenue sharing and shared fish-taxes.¹⁷ In Yakutat's case, it will also receive a greatly increased share of the National Forest receipts, money which would otherwise go to the state-funded REAA's and to other city school districts.

¹⁶Vacant, unappropriated, unreserved land.

¹⁷The increase in revenue sharing results from the increased tax base and the expected increase in locally generated revenues.

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The minority also believes that the Commission's presumption in favor of a minimum of 1000 permanent residents to qualify for borough incorporation should not be lightly overturned. The LBC has had to define the factors it considers in borough incorporation, through its regulations and its deliberations, because the constitutional and statutory standards are broad and give only general guidance in analyzing specific petitions. Applying the LBC's definitions and interpretations of the language of the standards, along with the historical sources cited above, it is apparent that Yakutat's 700+ people are not enough to support borough, rather than city government. Yakutat's population is less than 75% of the presumed minimum, and it is all highly concentrated in a tiny portion of the approved borough boundaries. As members of the majority noted, the leadership layer of such a small population is thin, and there is a serious possibility that the small population will have difficulties providing effective and efficient borough services throughout the borough. The minority concludes that Yakutat does not have the population to function as a true borough government.

Yakutat's Interests Can Be Protected without Immediate Incorporation

If, as petitioners argue, Yakutat does not appear to fit with communities to the northwest or the southeast, that does not automatically lead to the conclusion that it should therefore immediately be approved for borough incorporation. If, as the minority believes, Yakutat lacks the population to incorporate as a borough and effectively and efficiently provide services throughout the proposed territory, there is another alternative to consider. The LBC can adopt model boundaries which would allow Yakutat to incorporate without other communities in the future, if it later meets borough incorporation standards.

To say, as members of the majority have, that letting this small-population, single-community area incorporate now would do no harm ignores the precedent the LBC will be setting. It also ignores the difficult--deliberative and quasi-judicial bodies have in rejecting petitions once a precedent is set, particularly petitions on such an emotional and political issue as local government.

Although Yakutat may have some claim to a unique geographical situation, geography is only one of several borough standards, and Yakutat's situation is only one type of geographical difference. Other small communities will now have every reason to expect that a small, concentrated population will be no impediment to borough incorporation as long as some "unique" quality can be argued, whether it be location, transportation difficulties, cultural differences or any other distinguishing factor.¹⁸ The majority's decision also sends the signal that failure to meet the borough incorporation standards at the time of the petition may be overlooked as long as the LBC thinks the community might meet the standards in the future - or if the LBC just plain doesn't know how to align the city in the present.

¹⁸Even if the Commission has the political courage to reject other small-community borough petitions, this signal to go ahead and file such petitions is going to increase the LBC's and staff's workload and expenses. Since each petition must be investigated, more legitimate petitions will be delayed by the increased number of petitions filed.

LBC Consistency

The majority's decision is inconsistent with several current and past LBC actions and decisions:

- ◊ The majority decision to approve the Yakutat petition is strongly at odds with the LBC's determination that DCRA should investigate and report on the possibility of combining the Bristol Bay Borough - a borough with a 30 year history and twice the population of Yakutat - with the Lake & Peninsula Borough and possibly the Dillingham area.
- ◊ At least one member of the majority, during the LBC's decisional meetings, argued that should the small population encounter a lack of financial or human resources to provide extensive borough government, Yakutat could just eliminate most services, and provide the remaining services to the roaded area. That claim underlines one of the arguments made by the Department in its recommendation against the petition. If the "borough" limits its services to the roaded area, how is this "borough" incorporation different from a city which expanded through annexation? If the "borough" is likely to provide only the "services" of regulation and taxation to a large territory, while using that territory's tax base to provide services to a small number of people in a tiny area, is that not the same as allowing a huge land grab that really should be called a city annexation?
- ◊ In 1988, the Fairbanks North Star Borough petitioned for the annexation of approximately 216 square miles of land, including Pump Station 7 of the Alaska pipeline. The majority of the LBC approved the petition, finding annexation represented sound public policy and would increase the FNSB's relatively weak tax base. At the time of the petition, the value of the FNSB's taxable property, measured as value per student, was almost 15% less than the average borough value in the state, even excluding the North Slope Borough's disproportionately high value; the annexation would have raised FNSB's value per student to 12% below the borough average. The annexation was expected to increase FNSB revenues by \$1,350,000 (a \$2,000,000 increase in revenues offset by a \$650,000 decrease in state contributions under the education foundation formula), which represented a per capita net revenue increase of only \$17.85.

In addition to the FNSB's justified need to increase its tax base, the LBC found the FNSB had social, cultural and economic ties to the areas sought for annexation. Although the area was uninhabited, the majority of the 36 employees at the industrial facility were residents of the FNSB, as were the miners with claims in the area, and the borough expected to provide services to the annexed territory. This 1988 petition was considered by the LBC before it began studying model boundaries, but the Commission found the annexation would help perfect the FNSB boundaries under at least two incorporation standards.

In the minority statement on the 1988 Fairbanks decision, the LBC was strongly criticized for having voted in favor of the FNSB annexation, calling it a "money grab" without precedent, allowing increased revenues without the borough offering increased services. Because the legislature

rejected the LBC's recommendation on the petition in 1989, the FNSB presented a second petition later that year. This time a 3 to 2 majority rejected the annexation petition, although the territory all lies within the model boundaries which had been adopted by the time of the second decision.

Even with the territory sought to be annexed to the FNSB, the total area of the borough would have been smaller than the area originally requested by the Yakutat petitioners. FNSB's population, however, is more than 100 times that of the proposed Yakutat borough. On a per capita basis, the expected increase in revenues if the Yakutat borough is incorporated completely dwarfs the projected increase in revenues from the alleged "money grab" in the rejected Fairbanks annexation. Incorporation would vastly increase - by hundreds of thousands of dollars - Yakutat's share of the National Forest receipts and state shared fish tax, as well as almost doubling its assessed property value and greatly increasing the amount of sales and fish sales tax - all for a population of 720 people. Yet, except for the roaded area within five miles of the current city limits, virtually all of the territory which will be added to Yakutat through this incorporation is uninhabited and will be provided no services - except planning, regulation and taxation. In addition, the increase of Forest receipts to Yakutat is matched by an equal decrease in Forest receipts to the REAA's and city school districts in the rest of the Tongass National Forest area; the state will presumably have to find other revenue sources to make up the loss of money for the REAA's, or cause the budgets to be substantially reduced.

In analyzing the Yakutat borough proposal, a member of the majority stated there is no similarity between Yakutat and the FNSB petitions, in part because one is an incorporation and the other an annexation. Whether a borough reaches its size through initial incorporation or through annexation is not a valid distinguishing factor. The end result of any approved borough petition should be the same - a borough which meets the incorporation standards and either follows or is expanding towards its model boundaries. By ignoring the similarity between the two situations, and reaching contradictory results, the Commission is sending a very confused signal to future petitioners, giving them no clear guideline for understanding what the LBC considers acceptable. It may, however, send the message that an expensive, political, high-pressure presentation (unlike the less organized FNSB presentation) is more important and more likely to be persuasive than the substance of a petition.

Conclusion

The Yakutat petitioners put on a strong, comprehensive argument and demonstrated strong community support for a borough. The minority believes, however, that they did not demonstrate that Yakutat meets the standards for borough incorporation. By approving the petition, the LBC has set a precedent which will have a negative impact on the State of Alaska and is not good public policy.

ORDER

Based upon the foregoing findings and conclusions, the Local Boundary Commission hereby orders that:

1. The boundaries of the proposed City and Borough of Yakutat are amended to exclude all territory west of the 141st meridian and all territory south of a line drawn from Cape Fairweather to the top of Mount Fairweather. The description of the territory approved for borough incorporation is set out below and shown on the map following the description:

Beginning at the peak of Mount Fairweather at the International Boundary of the United States and Canada, in T35S, R47E, Copper River Meridian, the TRUE POINT OF BEGINNING;

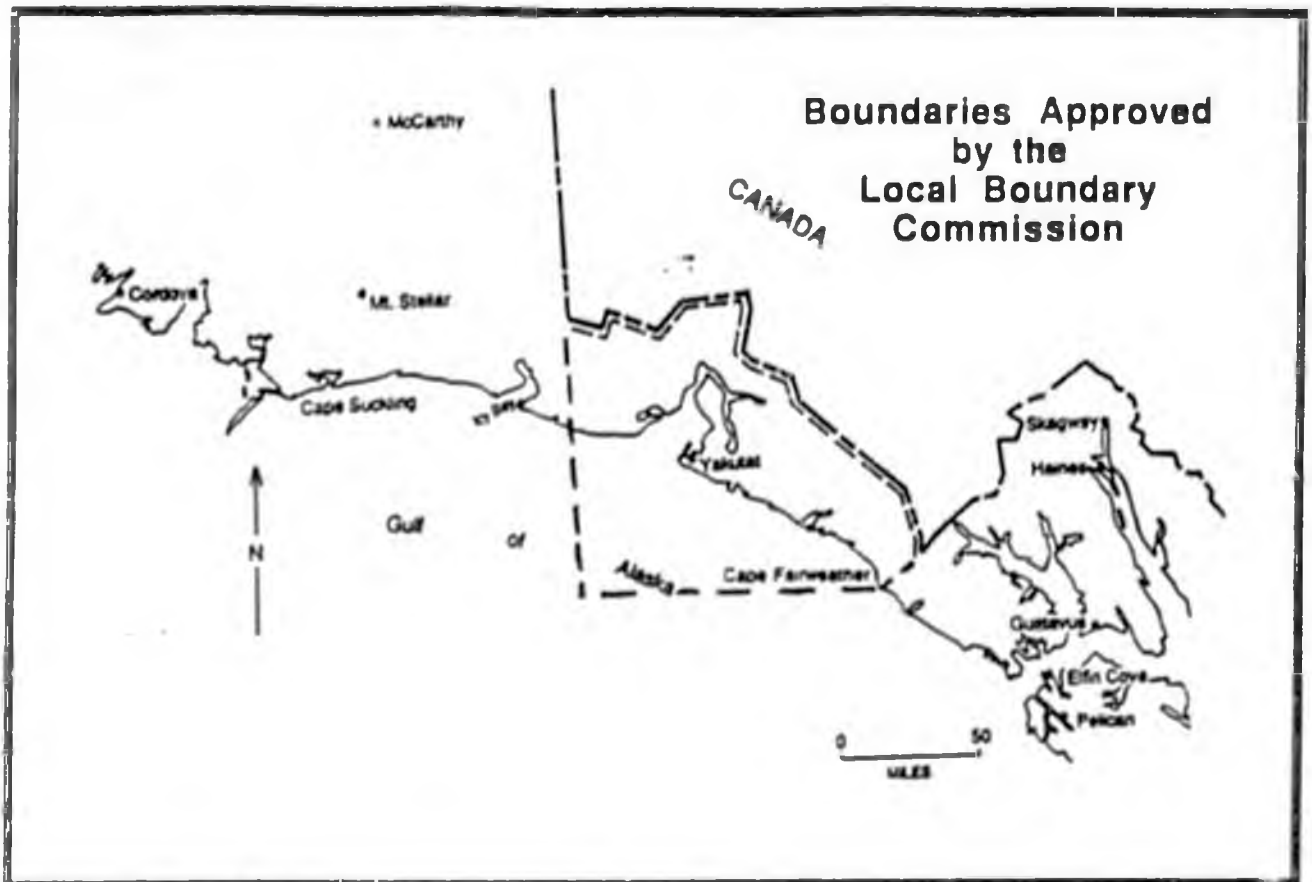
thence southwesterly in a straight line to Cape Fairweather, at North 58° 48' 30" Latitude, West 137° 56' 45" Longitude, in T36S, R45E, Copper River Meridian;

thence due west along a straight line to the point of intersection in the Gulf of Alaska with the 141st meridian;

thence north along the 141st meridian to the point of intersection with the International Boundary of the United States and Canada, on the northern boundary of T19S, Copper River Meridian;

thence following, in a generally southeasterly direction, the International Boundary of the United States and Canada, to the TRUE POINT OF BEGINNING.

With respect to the portion of the City and Borough of Yakutat which extends into the Gulf of Alaska, notwithstanding the foregoing description, the seaward boundaries extend only to the limits of the State of Alaska's jurisdiction under AS 44.03.010.



2. The petition as amended is approved.

3. The issues of the incorporation of the borough, the adoption of the proposed charter and the dissolution of the City of Yakutat are all contingent upon one another. The Division of Elections shall be asked to ensure that the wording of the ballot proposition links the three issues so that a "yes" vote approves the incorporation of a borough, the dissolution of the City and adoption of the charter, and a "no" vote disapproves all three actions.

3. To avoid any confusion caused by the name "City and Borough of Yakutat," all written documents issued by the Commission or its DCRA staff shall make it clear that the proposed municipality would be a borough and not a unified municipality.

APPROVED IN WRITING THIS 15TH DAY OF April 1992

LOCAL BOUNDARY COMMISSION:

By: Charles Bettisworth, Chair

Attest:

Dan Bockhorst, Staff

RECONSIDERATION AND JUDICIAL APPEAL

Any individual may request that the Commission reconsider the decision outlined above within twenty days of the date of this order, under 19 AAC 10.870. A copy of the regulations governing reconsideration is available from the Commission's staff at the Department of Community and Regional Affairs, 333 West 4th Avenue, Suite 220, Anchorage, Alaska 99501; 269-4500.

A judicial appeal of this decision may also be made under the provisions of the Alaska Rules of Appellate Procedure, Rule 601 et seq. An appeal to the Superior Court must be made within thirty days from the date this order is mailed or delivered.

ISSUES IN THE YAKUTAT ANNEXATION CASE

PREPARED BY THE CITY AND BOROUGH
OF YAKUTAT

On December 16, 1997 the Alaska Local Boundary Commission (LBC) voted unanimously (5-0) to recognize annexation of additional lands to the City and Borough of Yakutat.

The map below shows the effect of their decision. The area petitioned for by Yakutat was the area they petitioned for originally when they formed the Borough. That area was originally denied by the LBC by a vote of 3-2 in 1991. The LBC then set model borough boundaries and included the annexation area in the Prince William Sound Borough model boundary area so as not to orphan the area.

The area finally adopted for annexation by the LBC was more than the area recommended by DCRA staff, but less than the petitioned for area, in that 184 square miles which extended north into the Copper River model borough boundaries were deleted.



The Commission found that the area was more closely tied to Yakutat historically and economically and that Yakutat would be able to more effectively provide municipal services to the area. The Commission held extensive hearings throughout the area and a reading of their decision shows that they carefully weighed all the issues that were raised.

Yakutat is voluntarily fulfilling the Alaska Legislature's policy initiative to bring more of the state into municipal boundaries. By bringing the small school at the logging camp at Icy Bay into the Yakutat School District, State funding will be reduced by \$180,000.

Chugach Alaska Corporation and some of the communities in the Prince William Sound region are now asking the Alaska Legislature to overrule the Commission's decision. The main argument Chugach makes is that they claim that Yakutat is anti-development and wants the land so that they can shut down Chugach's resource development plans in the area. The Prince William Sound communities argue that this land is necessary for a hypothetical Prince William Sound Borough. Neither of these arguments are true.

Is Yakutat anti-development?

This argument has no basis. As the attached letter from Yakutat Mayor Daryl James indicates, they have been trying to meet with Chugach for several years to reach an understanding, but Chugach will not even meet with them. The attached resolution passed by the Yakutat Assembly in 1994 indicates support for economic diversification in the annexation area, noting that it is the only land near Yakutat that is not controlled by federal parks or wilderness, and that the Borough welcomes diversification of the local economy beyond the current fishery based activities.

The University of Alaska had similar questions regarding the Borough's intentions toward their logging operations in the annexation area. Following meetings with the Borough, they were satisfied that the Borough would not interfere with their operations and wrote a letter supporting the annexation.

The DCRA staff report to the LBC on the annexation petition indicates that the dispute between Native groups concerning the annexation come from "feelings rooted in centuries-old rivalries among competing parochial factions." Involvement of the Legislature in this tribal dispute is unlikely to resolve the issue.

Is this area necessary for formation of a Prince William Sound Borough?

The following chart shows that a Prince William Sound Borough would have the highest assessed valuation in Alaska, only behind the North Slope Borough. Prince William Sound could have petitioned to form a borough at any time but they have not. Valdez has filed a formal letter against formation of a borough with the LBC.

Comparison of Per Capita Taxable Property Values in Existing Boroughs and PWS Region	
North Slope Borough	\$1,387,738
Prince William Sound region	\$167,171
Bristol Bay Borough	\$112,178
Kani Peninsula Borough	\$79,727
Ketchikan Gateway Borough	\$68,042
City and Borough of Juneau	\$60,733
City and Borough of Sitka	\$58,380
Kodiak Island Borough	\$55,143
Haines Borough	\$52,517
Anchorage	\$50,078
Northwest Arctic Borough	\$44,068
City and Borough of Yakutat	\$40,233
Metanuska-Gualtne Borough	\$42,964
Fairbanks North Star Borough	\$41,890
Lake & Peninsula Borough	\$36,831
Denali Borough	\$38,339
Alutians East Borough	\$21,722

Now it is reported that the PWS communities are seeking state funding for another Borough feasibility study. A 1988 study by Darbyshire Associates has already shown that a Borough is feasible. A new study is unlikely to bring a different conclusion.

By comparison, Yakutat formed its own Borough without any state funding for a feasibility study and is willing to annex additional lands into the Borough, meeting the Legislature's intentions for maximum local self government.

CONCLUSION:

If you read the LBC Findings and Conclusions, you will see that they have made a well reasoned decision after allowing full participation and considering all the issues raised by entities and individuals in the Annexation area. They are an independent Commission with no axe to grind or bias toward any of the parties in this matter. (see attached description of the members of the Commission.)

There is no reason for the Legislature to get involved in this issue by overruling the decision of the Local Boundary Commission.



CITY & BOROUGH of YAKUTAT

P.O. Box 160
Yakutat, Alaska 99689
Phone (907) 784-3323
Fax (907) 784-3281

SENT VIA FAX
(907) 563-8402

January 22, 1997

Mr. Mike Brown, President
Chugach Corporation
560 East 34th Avenue, Suite 200
Anchorage, Alaska 99503-4196

Dear Mr. Brown:

I am writing to you as Mayor of the City and Borough of Yakutat concerning the recent decision of the Alaska Local Boundary Commission to annex additional lands to the Yakutat Borough. Some of these lands are owned by Chugach Alaska Corporation or are Federal lands which may be conveyed to Chugach in the future.

Since the Alaska State Legislature exercises oversight on Local Boundary Commission decisions, this issue has been raised by Chugach and others, requesting that the Legislature overturn the unanimous decision of the Local Boundary Commission. While it is certainly your right to request legislative involvement in this case, I am dismayed that legislators have reported to us that your primary stated objection to the annexation is that "Yakutat wants our land so they can shut down our resource development there."

As a third term Mayor of the Borough, I do not know where you are getting this impression. The Borough understands the need for environmentally responsible development. If we are not productive, how will we create the wealth that our service industries depend on and where will our people find jobs?

In 1991 when we filed our original petition for recognition as a borough, our Mayor requested that your president, Jim Labelle set up a meeting with Chugach Alaska Corporation and the Borough to openly discuss your development plans for the area to the mutual benefit of your shareholders and the Citizens of Yakutat. I understand that your Board of Directors rejected our request for a meeting. In any case, we did not receive a response to our request for a meeting.

Mr. Mike Brown
January 22, 1997
Page 2

Immediately following the Local Boundary Commission decision on December 19, 1996, I spoke with Mr. John Christensen, and urged that Chugach and myself and/or the City and Borough of Yakutat get together to discuss the whole matter and work out the concerns that had been expressed. Unfortunately, we have so far not had any response to that invitation. Again, following the Local Boundary Commission decision in 1996, we extended an invitation to Mark Stahl, Resources Manager for Chugach, to set up a meeting between the Borough and Chugach Alaska Corporation. We still have not received a response to our request, and we would continue to welcome a meeting with you to discuss our mutual concerns.

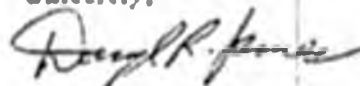
I don't understand how you can characterize our Borough as being anti-development before you have even sat down to discuss the issues with us. In fact, we faced a similar situation with the University of Alaska who owns timber rights in the annexation area and had similar concerns. After meeting with University officials, and passage of Borough Resolution 96-11, the University was satisfied that it was not our intent to shut down their timber operations, and they subsequently wrote a letter to the Local Boundary Commission supporting our annexation petition.

We remain open to a meeting with you on your development plans for your lands within the proposed annexation area. I honestly believe that if we could just talk to each other we would realize that development activities can take place to the mutual benefit of your shareholders and the citizens of the City and Borough of Yakutat.

A copy of resolution 94-04 passed and approved in 1994, is enclosed. It clearly shows that we in the City and Borough of Yakutat do support well planned resource development in the annexation area.

Please call me anytime at the number listed above.

Sincerely,



Daryl R. James
Mayor

encl.

INTRODUCED BY: Daryl James

CITY AND BOROUGH OF YAKUTAT, ALASKA
RESOLUTION 94-04

A RESOLUTION SUPPORTING WELL PLANNED RESOURCE DEVELOPMENT IN THE ICY BAY TO CAPE SUCKLING AREA.

WHEREAS, there is a need for economic development in the Yakutat region; and,

WHEREAS, the Icy Bay to Cape Suckling area, in the Yakutat region, is the only area not controlled by federal parks or wilderness areas; and,

WHEREAS, Yakutat's only major economic base, at present, is the fishery.

NOW, THEREFORE, BE IT RESOLVED by the Borough Assembly of the City and Borough of Yakutat, that the Assembly hereby supports wise and well planned Resource Development in the Icy Bay to Cape Suckling Area; and,

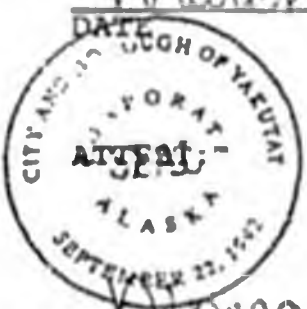
BE IT FURTHER RESOLVED that the City and Borough of Yakutat be included in all future planning for the Dry Bay to Cape Suckling Area.

PASSED AND APPROVED THIS 15th DAY OF March, 1994.

March 15th 1994

Daryl R. James

DARYL R. JAMES
Mayor



Mona Swanson

MONA SWANSON
Borough Clerk

YAKUTAT ANNEXATION

- In 1990, a petition was filed with the Local Boundary Commission ("LBC") to dissolve the City of Yakutat, a [home rule] City, and to incorporate the City and Borough of Yakutat as a unified home rule borough.
 - The borders of the proposed borough would have stretched from Cape Suckling in the northwest to Cape Fairweather in the southeast, encompassing an area of 7,776 square miles of land.
 - The population of the proposed borough consisted of 782 residents, virtually all of whom resided in or directly outside the City of Yakutat, the only community in the borough.
 - At the time, the LBC regulations required that a borough include at least one thousand residents and at least two communities.
 - The LBC changes its regulations in 1991, to allow incorporation of boroughs with fewer than one thousand residents and ~~less than~~ one community.
 - On March 17, 1992, the Local Boundary Commission granted the petition to incorporate the City and Borough of Yakutat, but amended the boundaries, including drawing the northwestern boundary at the 141st meridian.
 - The LBC found that the area west of the 141st meridian was more closely tied to the Prince William Sound region.
 - In June, 1992, the LBC adopted the Model Borough Boundaries for the entire state, drawing the eastern boundary for the Prince William Sound Borough at the 141st meridian.
 - On April 28, 1995, the Alaska Supreme Court affirmed LBC's decision to amend the boundary at the 141st meridian. Yakutat v. Local Boundary Commission, 966 P.2d 721 (1995). Yakutat's request for a rehearing was denied on September 14, 1995.
- In 1996, five months after the Alaska Supreme Court decision affirming the LBC's boundary decision became final, the City and Borough of Yakutat petitioned to annex the same area between Cape Suckling and 141st meridian.
 - The current population of the City and Borough of Yakutat is approximately 800 persons, virtually all of whom live in and around former City of Yakutat.

- On October 18th, the DCRA issued a preliminary report recommending annexation of the area between the Duktouh River and 141st meridian.
- The recommendation represented a 180 degree change in the DCRA's prior positions on Yakutat's ties to the area west of the 141st meridian.
- In 1989, DCRA recommended against formation of the Yakutat coastal resource service extending west of the 141st meridian.
- In 1990 and 1991, DCRA recommended against the incorporation of the Yakutat Borough, and recommended in the alternative that the 141st meridian be the boundary between a Yakutat Borough and a Prince William Sound Borough.
- Despite the change in its position, since issuing the preliminary report on October 18th, DCRA and the LBC have "fast tracked" the annexation process so a decision can get to the legislature within the first ten days of the session.
 - DCRA scheduled the minimum amount of public time for public comment on the Provisional Report.
 - On November 5, 1996, despite receiving the request for additional time to comment on the Provisional Report from the City of Cordova, the City of Valdez, Chugach Alaska Corporation, the Native Village of Eyak, the Eyak Corporation, The Tatitlek Corporation, the Chenega Bay IRA Council, Chenega Corporation, Chugachmuit, Chugach Regional Resources Council, and other interested parties, the LBC extended the comment period only four more days, three of which included the Veteran's Day holiday weekend.
- DCRA has refused to request formal advice from the Department of Law regarding the LBC's legal authority to depart from its past boundary decision and the Alaska Supreme Court's decision on the City and Borough of Yakutat's western boundary.
- Despite a legal requirement to give a "due consideration" to comments received on the Provisional Report, DCRA prescheduled the minimum amount of time to issue its final report.

- The LBC scheduled public hearings in the minimum time period allowed by law, over a weekend during the holiday season and after closure of logging camps at Icy Bay, where the vast majority of the residents of the area it seeks to annex reside. The LBC was aware that these camps would be closed and that most of the residents would have left for the holidays prior to the hearing scheduled.
- The LBC scheduled a decisional meeting at the end of the public hearing, rendering consideration of hearing testimony and written comments impossible.
- Public testimony and comments have overwhelmingly opposed the annexation. Comments opposing the annexation have been filed by:
 - Alaska Gulf Coast Adventures, Inc.
 - Bruce Schneuer
 - Ben A. Thomas, Inc.
 - Ralph Swarthout
 - John Willis of Ben A. Thomas, Inc.
 - Chugach School District
 - D.J. Burnham
 - Ed E. Bilderback
 - Carl Glanville
 - Eyak Corporation
 - The Tatitlek Corporation
 - The Eyak Tribal Council
 - City of Valdez
 - City of Whittier
 - Stephen Henson
 - Jim H. Keeline
 - See Alaska
 - Chugach Alaska Corporation
 - Chenega Bay IRA Council
 - Chugach Regional Resources Commission
 - Senator Georgianna Lincoln
 - Tatitlek Village IRA Council
 - James LaBelle
 - Gilbert Ollestad
 - Rick Nelson
 - Chugachmiut
 - Benna Mae Hughey
 - John Johnson

- With the sole exception of a commentor from Yakutat, all of the member residents commenting at the public hearings in the area to be annexed opposed the annexation, stating that they had greater ties to Prince William Sound.
- Apart from residences and businesses in Yakutat, only the University of Alaska supports the annexation, but that support is artificial and tainted.
 - Initially the University of Alaska opposed the incorporation of this area into the City and Borough of Yakutat. At that time, the City of Yakutat had sued and obtained an injunction to prevent the logging of university timber in the area.
 - Yakutat agreed to release University timber from litigation and if, in return, the University would support the incorporation, and subsequently, the annexation of this area into the City and Borough of Yakutat.
 - Yakutat also agreed to not tax or regulate the University timber operations as a quid pro quo for support before the LBC.
- The communities in Prince William Sound have met several times in efforts to form a Prince William Sound Borough extending to the 141st meridian.
 - Prince William includes two home rule city, one second class city, and two villages, with the total population of approximately 7,500.
 - There are over 87,000 acres of state owned, vacant, unreserved, and unclassified (VUU) in the area Yakutat seeks to annex, which the Prince William Sound Borough could select its entitlement from. The City and Borough of Yakutat would not be entitled to any additional municipal entitlement through annexing these lands.
 - The Prince William Sound communities have had three meetings this year in efforts to form a borough, and have requested DCRA's assistance in funding a borough feasibility study.
 - The economic viability of the Prince William Sound Borough will be jeopardized by deletion of these lands from the Borough.

- The LBC did not hold any hearings in the area to be annexed, but allowed persons residing in the area to be connected by teleconference. All of the residents of the area to be annexed testified that they did not want to be included in the Yakutat borough, with the sole exception of a logging worker from Yakutat.
- The long-time residents of the area testified that they had greater ties with Prince William Sound, and would prefer to be in a Prince William Sound borough.
- The LBC never heard any testimony from the largest logging camp in West Icy Bay, although that camp had requested an opportunity to testify. There was a problem at Icy Bay setting up the teleconference from Corlova. Then, in Yakutat, the Commission could not hear telephonic testimony, because a problem with the Yakutat telephone facilities prevented telephone contact with any communities outside Yakutat during the two days the Commission held hearings there.
- If the legislature fails to act on this annexation, 2,694 square miles of resource-rich land, including 90,000 acres of valuable Chugach Alaska Corporation land, will be locked up in the City and Borough of Yakutat, which has historically opposed logging and resource development in the area.



**ECONOMIC
DEVELOPMENT
COUNCIL**

November 22, 1996

Lamar Cotton, Deputy Commissioner
P.O. Box 112100
Juneau, Alaska 99811

Dear Deputy Commissioner Cotton:

On November 18, 1996 the Prince William Sound Economic Development Council (PWSEDC) sponsored a meeting of all Prince William Sound Communities to continue discussions associated with the formation of a borough. I am happy to report that as a result of this meeting, a unanimous position was selected to move forward with an economic feasibility study for a Prince William Sound Borough. We would appreciate your department's assistance with this study.

The major focus of the villages and cities of Prince William Sound is the formation of a borough with as limited powers as allowed by law. All of the participants wish to look at a minimal level of new government. It is our preliminary position that a borough with powers limited to taxation, education, and regional planning is the most appropriate for Prince William Sound. All of the Prince William Sound communities have as a common priority the protection, improvement, and funding of education. The Prince William Sound Economic Feasibility Study, and other borough related matters. All communities, including tribal councils and the Chugach School District, are represented on the PWSEDC.

The communities of Prince William Sound have agreed to meet independently to develop parameters for the Economic Feasibility Study. On or about January 17, 1997 a meeting will be held in Valdez to review all study parameters submitted, and a final study guideline will be developed. We hope to then select a contractor to conduct the study under the administration of PWSEDC. At this point I believe all work could be completed in four to six months, and a formal petition for Borough formation could be submitted by next summer. Please send any forms and information regarding requirements for borough formation to us, and we will distribute them to our member organizations.

As Prince William Sound continues to move toward borough formation, it is important to remember the current petition by the Yakutat Borough. Should the Yakutat Borough annexation be approved, significant, eligible entitlement lands for a Prince William Sound Borough will be forever lost. As I am sure you are aware, there are very few

eligible entitlement lands available in the Prince William Sound region, especially lands with value that might help to protect the long term financial health of a Borough. Please give this serious consideration.

I have also been asked by the PWSEDC Board of Directors to request a \$100,000 grant to fund the Economic Feasibility Study. We will need financial assistance from the State if we are to be successful in this endeavor.

If you have any questions please contact me at (907) 424-6200 (Cordova City Hall), or (907) 835-3775 (Valdez EDC). Thank you for your assistance and participation.

Sincerely,

Leslie Lewis for
Scott Janke
President PWSEDC

cc: James Winchester, PWSEDC Executive Director

CITY OF VALDEZ, ALASKA

RESOLUTION 96-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA OPPOSING THE CITY AND BOROUGH OF YAKUTAT'S PROPOSED ANNEXATION OF THE COASTAL AREA BETWEEN THE 141ST MERIDIAN AND CAPE SUCKLING

WHEREAS, the City and Borough of Yakutat has petitioned the Local Boundary Commission to annex additional coastal area between the 141st Meridian and Cape Suckling; and

WHEREAS, the 141st Meridian serves as a boundary between regional Native corporations and rural education attendance areas; and

WHEREAS, many of the residents of the areas living in the area between the 141st Meridian and Cape suckling are served by Cordova; and,

WHEREAS, the Model Borough Boundaries as established by the Local Boundary Commission does have the common boundary between a Yakutat Borough and a Prince William Sound borough, if formed, as being the 141st Meridian; and,

WHEREAS, the Valdez City Council supported the proposed model borough boundaries in 1990.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Valdez, Alaska opposes the petition of the City and Borough of Yakutat to extend its boundanes to Cape Suckling.

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF VALDEZ, ALASKA this 6th day of May, 1996.

CITY OF VALDEZ, ALASKA

John Harris

John Harris, Mayor

ATTEST:

Sheri L. Caples

Sheri Caples, City Clerk



CITY OF CORDOVA, ALASKA

RESOLUTION 4-96-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,
OPPOSING THE CITY AND BOROUGH OF YAKUTAT'S PROPOSED ANNEXATION
OF THE COASTAL AREA BETWEEN THE 141ST MERIDIAN AND CAPE SUCKLING

WHEREAS, the Cordova Planning and Zoning Commission opposes the City and Borough of Yakutat's proposed annexation of the coastal area between the 141st meridian and Cape Suckling; and

WHEREAS, the citizens of Cordova have always used this area as an economic base, through tourism and fishing; and

WHEREAS, the Copper River Delta and surrounding area has historically been attached to the City of Cordova; and

WHEREAS, landowners in the area are more closely tied to Prince William Sound, and we believe history would document that Yakutat has significantly lesser ties to the area; and

WHEREAS, historically, from time immemorial, the inhabitants of the Cordova area have used this area; and

WHEREAS, the coastal area between the 141st meridian and Cape Suckling is an area more contiguous to socio-economic patterns of Prince William Sound and the Copper River Delta; and

WHEREAS, proposed transportation routes will tie Cordova even more closely to the coastal area between the 141st meridian and Cape Suckling; and


WHEREAS, the only development in that area to date, the Icy Bay logging camp, is served by local telephone from Cordova and many fishermen living in Cordova, fish in the waters east of Cape Suckling.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cordova, Alaska, is against the City and Borough of Yakutat extending their boundaries to include the coastal area between the 141st meridian and Cape Suckling;

BE IT FURTHER RESOLVED that the City Council of the City of Cordova and other Prince William Sound communities are currently in the process of investigating borough/CRSA formations and the timing of the Yakutat petition would be very detrimental to this process.

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 1996.


Attest: Lynda Plant, City Clerk


Margy K. Johnson, Mayor

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 8872

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, OBJECTING TO THE INCLUSION OF CERTAIN LANDS WITHIN THE PETITIONED YAKUTAT CRSA BOUNDARY.

WHEREAS, the City of Yakutat has petitioned the Commissioner of the State Department of Community and Regional Affairs to form a Coastal Resource Service Area extending from Cape Spencer to Cape Suckling and projecting inland to the crest of the Chugach and St. Elias Mountain Ranges; and

WHEREAS, the lands lying west of the 141st meridian within the petitioned CRSA boundary, as proposed, are of economic importance to the residents and businesses within the Prince William Sound, Copper River Delta and Icy Bay regions; and

WHEREAS, the lands lying west of the 141st meridian within the petitioned CRSA boundary, as proposed, have strong cultural, historical, and geographic ties to the residents of Prince William Sound, Copper River Delta and Icy Bay, including shareholders of Chugach Alaska Corporation; and

WHEREAS, the lands lying west of the 141st meridian within the CRSA boundary, as proposed, are within our Regional Educational Attendance Area, Chugach REAA 21; and

WHEREAS, the lands lying west of the 141st meridian within the petitioned CRSA boundary, as proposed, are within the Prince William Sound Borough Feasibility Study area conducted by the Cities of Valdez, Cordova and Whittier, funded by a grant from the Department of Community and Regional Affairs; and

WHEREAS, the inclusion of lands lying west of the 141st meridian within the petitioned CRSA boundary, as proposed, would not provide Prince William Sound and Icy Bay residents, businesses and major land owners within these lands representation on the CRSA board.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VALDEZ, ALASKA, that

Section 1. The City of Valdez adamantly objects to the inclusion of lands lying west of the 141st meridian within Yakutat's CRSA boundary; and

Section 2. The Commissioner of the Department of Community and Regional Affairs is respectfully urged to remove any and all lands within the Chugach REAA 21 from further consideration for inclusion within

RESOLUTION

Page 1

Yakutat's CRSA boundary

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA,
this 21st day of November, 1988.

CITY OF VALDEZ, ALASKA

John Devens
John Devens, Mayor

ATTEST:

Jeanne D. Donald
Jeanne D. Donald, City Clerk

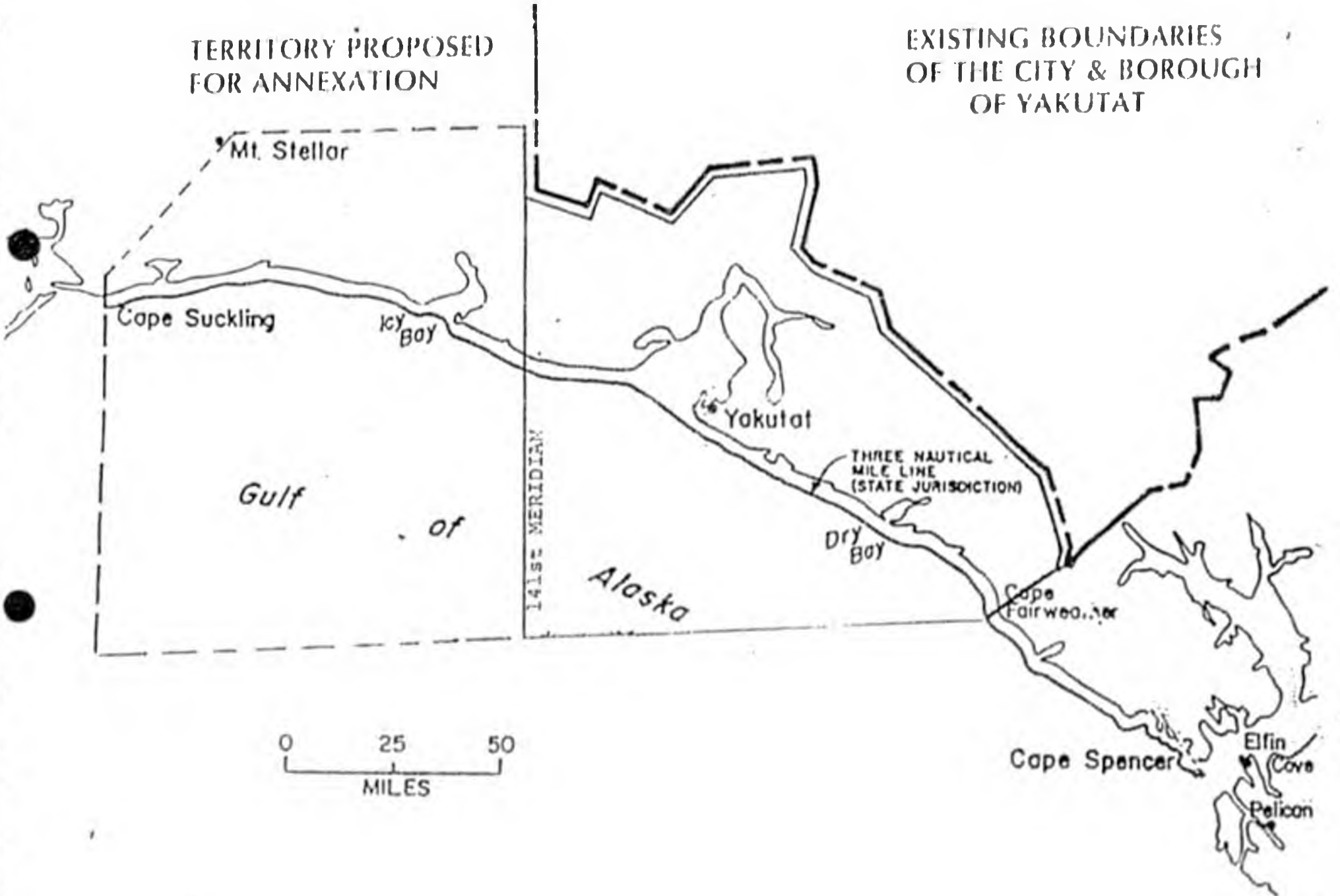
RESOLUTION

Page 2

District II
MAP OF EXISTING AND PROPOSED BOUNDARIES

TERRITORY PROPOSED
FOR ANNEXATION

EXISTING BOUNDARIES
OF THE CITY & BOROUGH
OF YAKUTAT



2005/005

H F B & C
YAKUTAT

907 278 0877

01.04/98 15:53

YAKUTAT ANNEXATION

The City and Borough of Yakutat, a community of approximately 800 people, has petitioned to annex 2878 square miles of land and 321 miles of tidelands and submerged lands between the 141st Meridian and Cape Suckling. See attached map. Yakutat tried to include this area in its original borough incorporation, but the Local Boundary Commission (LBC) found this area would be more appropriate in a Prince William Sound borough. The Alaska Supreme Court upheld this determination last year, just months before Yakutat filed the current petition for annexation.

Although the LBC has included this area in the model borough boundaries for Prince William Sound, an area with over 7,500 permanent residents, the Department of Community and Regional Affairs has recommended that the area between the 141st meridian and the Duktoth River be included in the Yakutat Borough. This latest recommendation is not only a drastic departure from past DCRA recommendations, but would, if accepted by the LBC, deliver a heavy blow to the future Prince William Sound borough. The Prince William Sound communities would lose the opportunity to participate in planning for this region. In addition, the annexation would deprive Prince William Sound of the vast majority of valuable lands available to it under the municipal entitlement program. That depletion, will, in turn, leave the regional government with less resources available for governmental functions, including land use and coastal management planning.

The 141st meridian is the current western boundary of the City and Borough of Yakutat, and that boundary is used to define the Prince William Sound region of operation for oil spill contingency planning under the Alaska Department of Environmental Conservation regulations, 18 AAC 75.495(2). The current boundary is also the: ANCSA boundary between Chugach Alaska Corporation and Sealaska Corporation, model borough boundary between Yakutat and Prince William Sound, international boundary between Canada and the United States, Chugach REAA School District boundary, Alaska legislative district boundary, boundary between the Alaska Superior Court Second and Third Judicial Districts, and the boundary between land recording districts.

The LBC has scheduled hearings on the petition for annexation during the weekend of December 14-15 in Cordova and Yakutat. The LBC has already scheduled its decisional meeting for December 16, to allow time to submit the petition to the legislature within the first ten days of the session. The legislature must disapprove it by joint resolution within forty-five days of submittal, or it will be considered approved.

The cities of Cordova, Whittier, and Valdez oppose Yakutat's petition, as does Chugach Alaska Corporation, the Tatitlek Corporation, the Tatitlek IRA Council, the Chenega Bay IRA council, and the Native Village of Eyak. If this petition is successful, it will hamper the efforts of Prince William Sound to form a borough which can effectively implement planning for the entire region.

November 22, 1996

Lamar Cotton, Deputy Commissioner
P.O. Box 112100
Juneau, Alaska 99811

Dear Deputy Commissioner Cotton:

On November 18, 1996 the Prince William Sound Economic Development Council (PWSEDC) sponsored a meeting of all Prince William Sound Communities to continue discussions associated with the formation of a borough. I am happy to report that as a result of this meeting, a unanimous position was selected to move forward with an economic feasibility study for a Prince William Sound Borough. We would appreciate your department's assistance with this study.

The major focus of the villages and cities of Prince William Sound is the formation of a borough with as limited powers as allowed by law. All of the participants wish to look at a minimal level of new government. It is our preliminary position that a borough with powers limited to taxation, education, and regional planning is the most appropriate for Prince William Sound. All of the Prince William Sound communities have as a common priority the protection, improvement, and funding of education. The Prince William Sound Economic Feasibility Study, and other borough related matters. All communities, including tribal councils and the Chugach School District, are represented on the PWSEDC.

The communities of Prince William Sound have agreed to meet independently to develop parameters for the Economic Feasibility Study. On or about January 17, 1997 a meeting will be held in Valdez to review all study parameters submitted, and a final study guideline will be developed. We hope to then select a contractor to conduct the study under the administration of PWSEDC. At this point I believe all work could be completed in four to six months, and a formal petition for Borough formation could be submitted by next summer. Please send any forms and information regarding requirements for borough formation to us, and we will distribute them to our member organizations.

As Prince William Sound continues to move toward borough formation, it is important to remember the current petition by the Yakutat Borough. Should the Yakutat Borough annexation be approved, significant, eligible entitlement lands for a Prince William Sound Borough will be forever lost. As I am sure you are aware, there are very few eligible entitlement lands available in the Prince William Sound region, especially lands with value that might help to protect the long term financial health of a Borough. Please give this serious consideration.

I have also been asked by the PWSEDC Board of Directors to request a \$100,000 grant to fund the Economic Feasibility Study. We will need financial assistance from the State if we are to be successful in this endeavor.

If you have any questions please contact me at (907) 424-6200 (Cordova City Hall), or (907) 835-3775 (Valdez EDC). Thank you for your assistance and participation.

Sincerely,

Leslie Lewis for
Scott Janke
President PWSEDC

cc: James Winchester, PWSEDC Executive Director

NATIVE VILLAGE OF EYAK

P.O. BOX 1388-CORDOVA, ALASKA 99574

TEL 907-424-7738-FAX 907-424-7739

November 1, 1996

Local Boundary Commission
 c/o Dept. of Community & Regional Affairs
 333 West 4th Ave., Suite 220
 Anchorage, AK 99501-2341

Commissioners,

The Native Village of Eyak Traditional Council objects to DCRA's proposal to annex lands and waters west of the 141st Meridian into the City and Borough of Yakutat.

We also formally request an extension of the deadline for comments on the Draft Report. The following comments are based solely on the Executive Summary, because by the time we will get a copy of the full proposal, the November 8th deadline will have come and gone. We are requesting an extension so that we may review the full proposal which we have not yet even received. Without an extension, we will not have had a chance to fully participate in the public review process. Although we had send a letter opposing the annexation, we were not sent a copy of the decision. What's going on here.

The Native Village of Eyak is located at Eyak/Cordova, Alaska, on the Eastern edge of Prince William Sound (PWS). Our Tribe has five hundred (500) members. We are recognized as a Tribe by the United States. As an Alaska Native Village, we are striving to be more involved in the management of the natural resources we depend upon. This is why we support the formation of a borough for the entire PWS as it is currently recognized in the Commission's Model Borough Boundary Report. If the Yakutat Borough is successful in it's attempts to annex the lands and water we use for subsistence, and economic activity, our efforts to participate in the management of those areas will be severely hampered.

The November 8, 1996 deadline does not allow meaningful participation by the Native Villages in Prince William Sound. Since the report was issued, we have been, and will continue to be, involved in fall subsistence activities, AFN, Thanksgiving, Christmas and Russian Orthodox Christmas. We respectfully request that the deadline be extended until after Russian Orthodox Christmas in January, 1997.

In addition, the time frame required by the November 8 deadline is unfair because it effectively precludes our participation in the public process. The Local Boundary Commission received

the petition from Yakutat for annexation in February of 1996. DCRA then issued their Draft Report in October of 1996 with a comment deadline only one month later. We don't understand the sudden rush that forces us to respond to this critical issue in such a short time frame, especially since DCRA has had months to issue this report. Why the sudden rush.

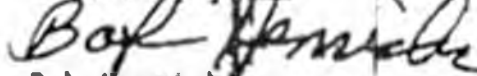
We also request more time because of DCRA's sudden departure from their past policies. For the last six years, DCRA has supported the current model borough boundary, and we are somewhat shocked by this shift. I am informed that the last time DCRA looked at this issue, in Yakutat's incorporation petition, it sent out its full draft report to over seventy groups and individuals, and allowed them six weeks to comment after they had received the full report. This time, most of those groups and individuals have not received the full report, although the DCRA has done a complete "about face" from its prior position. This drastic shift in policy requires an extension of the comment period to allow the affected organizations and persons in Price William Sound an opportunity to fully review the entire report, in order to understand the DCRA's reasoning and to respond appropriately.

The lands proposed for annexation have always been an important part of the Chugach Region. Annexation would seriously disrupt regional management of our natural resources, and The NVE's participation in that management. The negative impact on our regions resources affects our livelihoods and our culture, and threatens the future of our region.

We strenuously object to the proposal to annex these lands, and we request that the comment period be extended until February 1, 1997 to give us a chance to participate in this public process, and that we be provided with a copy of DCRA's report.

We look forward to your response.

Sincerely yours



Bob Henrichs
President, Traditional Council
Native Village of Eyak

cc: Senator Georgianna Lincoln
Representative Gene Kubina

INTRODUCED BY: Daryl James

CITY AND BOROUGH OF YAKUTAT, ALASKA
RESOLUTION 94-04

A RESOLUTION SUPPORTING WELL PLANNED RESOURCE DEVELOPMENT IN THE ICY BAY TO CAPE SUCKLING AREA.

WHEREAS, there is a need for economic development in the Yakutat region; and,

WHEREAS, the Icy Bay to Cape Suckling area, in the Yakutat region, is the only area not controlled by federal parks or wilderness areas; and,

WHEREAS, Yakutat's only major economic base, at present, is the fishery.

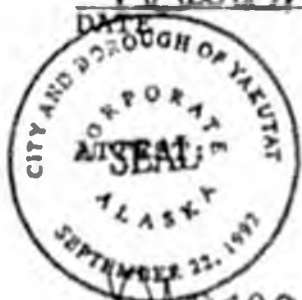
NOW, THEREFORE, BE IT RESOLVED by the Borough Assembly of the City and Borough of Yakutat, that the Assembly hereby supports wise and well planned Resource Development in the Icy Bay to Cape Suckling Area; and,

BE IT FURTHER RESOLVED that the City and Borough of Yakutat be included in all future planning for the Dry Bay to Cape Suckling Area.

PASSED AND APPROVED THIS 15th DAY OF March, 1994.

March 15th 1994

Daryl James
DARYL R. JAMES
Mayor



Mona Swanson
MONA SWANSON
Borough Clerk

EXHIBIT B
MAP OF EXISTING AND PROPOSED BOUNDARIES

0005/005

YAKUTAT

H F F B & C

807 378 0877

15:53

01-04/98

TERRITORY PROPOSED
FOR ANNEXATION

EXISTING BOUNDARIES
OF THE CITY & BOROUGH
OF YAKUTAT

Mt. Stellar

Cape Suckling

Icy Bay

Yakutat

Gulf of

141st MERIDIAN

Alaska

THREE NAUTICAL
MILE LINE
(STATE JURISDICTION)

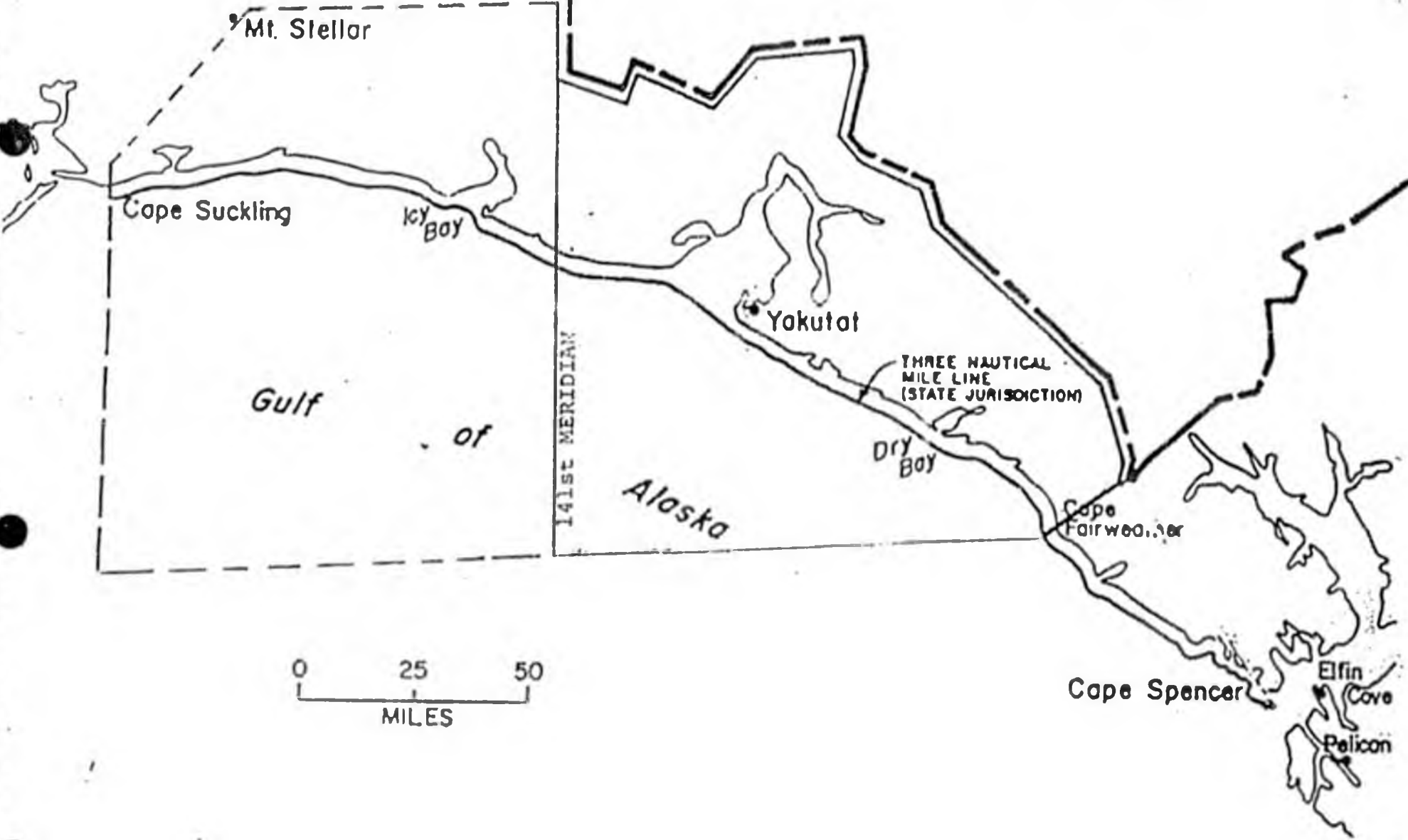
Dry Bay

Cape Fairweather

Cape Spencer

Elfin Cove

Pelican



HJR

62

**SPONSOR STATEMENT
HOUSE JOINT RESOLUTION 62**

A Resolution has been drafted to bring Balto "home" to Alaska.

A combined second and third grade class wrote letters to me requesting my help on having Balto returned from the Cleveland Museum of Natural History. This was inspired by a third grade student who read a book on the brave dog team that brought the much needed diphtheria serum to Nome in the mid-1920's.

If the preservation of the past is to have the most effect in helping us keep a full perspective on the significance of historical events the preservation should be kept as close to the genesis of the event as possible. The question is, where is Balto most valuable and in what ways can his preservation best serve people.

I believe the answer is by being here in Alaska where others may draw inspiration in the continuation of the celebrated trek to Nome called the Iditarod race, which he along with other members of his team have inspired. It is here the world turns its attention each year to commemorate Balto's feat. It is here the famous lead dog will have the most profound effect on the world and what the significance of the serum run still means.

REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

House District 27 • Palmer • Greater Palmer • Sutton • Chickaloon • Sheep Mountain

TO: Representative Ivan, Chairman
Community & Regional Affairs
Committee

FROM: Representative Ogan 

RE: Hearing Request HJR 62/Balto

DATE: February 26, 1998

Please consider this request to schedule HJR62 for a hearing in the Community & Regional Affairs Committee.

A combined second and third grade class has requested help in having Balto returned from the Cleveland Museum of Natural History.

I will be offering language written by the students at Butte Elementary School to be incorporated into this Resolution.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HLR 62

Revision Date: 03-09-98 Dept. Affected: HCRA
Title: Bring Balto Back to Alaska BRU: NONE

Component: NONE

Sponsor: Representative Ngan
Requester: HCRA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No none fiscal impact with the passage of this resolution.

Prepared by: Tom Wright, HCRA Committee
Division: House Community and Regional Affairs
Approved by Commissioner: Representative Ivan H. Ivan, Chair
Agency: House Community and Regional Affairs Committee

Phone: 465-3882
Date: 03-09-98
Date: 03-09-98

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SB

9

SENATE DISTRICT C
KODIAK ISLAND
SOUTHEAST ISLANDS

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-4925
(800) 821-4925 (TOLL FREE)
(907) 465-3517 (FAX)
Senator_Jerry_Mackie@legis.state.ak.us

SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT / SB 9

SB 9 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

This legislation made it through the committee process of the House and Senate last session, made the Senate Calendar, but was not brought up for consideration during the final hours of the session.

I introduced this legislation at the request of the Metlakatla Indian Community when their Municipal Assistance Matching Grant Program appropriation was eliminated from the Fiscal Year 96 year budget. Metlakatla qualified for this program under the Department of Administration regulations definition for "municipality". However, legal analysis found that the statute definition was not written specific enough to include the Metlakatla Indian Community in this program. Since the statute definition supersedes the regulatory definition the appropriation was eliminated.

SB 9 AMENDS AS 37.06 (Capital Project Matching Grants Programs) by adding a new section that includes a municipality organized under federal law as an Indian reserve. This bill has been drafted to specifically include the Metlakatla Indian Community within the Municipal Assistance Matching Grant Program. Metlakatla is the only entity in the state that now, or in the future, could qualify under the language included in SB 9, Page 1, Lines 6 - 8.

The community of Metlakatla is definitely more reflective of a municipal government and fits more appropriately into the Municipal Capital Matching Grant Program. The community has a mayor, city council, school board, constitution, law and order codes, police department, court system, etc..

SB 9 specifically removes Metlakatla from the Unincorporated Capital Matching Grant Program and specifically includes Metlakatla in the statute provisions for the the Municipal Capital Matching Grant Program.

SENATE DISTRICT C
KODIAK ISLAND
SOUTHEAST ISLANDS

STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-4925
(800) 821-4925 (TOLL FREE)
(907) 465-3517 (FAX)
Senator_Jerry_Mackie@legis.state.ak.us

SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

MEMORANDUM

April 23, 1997

TO: Representative Ivan Ivan
House Community and Regional Affairs Committee

FROM: Senator Jerry Mackie, Chair
Senate Community and Regional Affairs Committee

Re: SB 9 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."
By Senator Mackie

I would appreciate your consideration in scheduling SB 9 for a hearing in the House Community and Regional Affairs Committee. This legislation recently passed the Senate with a vote of 19Y-0N-1A.

During the development of the Capitol Matching Grant Program, the original intent was to include the Metlakatla Indian Community; they were included in the Department of Administration regulations and they were treated as such within the capital budget process. However, legal analysis found that the statute definition was not written specific enough to include Metlakatla in this program. Because statutes supersede regulations, the appropriation was eliminated.

I have attached my sponsor statement and other pertinent information.

Ivan, thank you for your consideration of this request. Please call me if you have further questions.

Attachment

SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

SB 9 - "An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date."

***SECTIONAL ANALYSIS**

***Section 1.**

amends AS 37.06(Capital Project Matching Grants Program) by adding a new section that includes a municipality organized under federal law as an Indian reserve.

lines 9 - 10, eliminates Metlakatla from the Unincorporated Capital Project Matching Grants Program under AS 37.06.020.

requires the community to form a community development corporation with authority to determine how the grant money will be used, and that the governing board of the corporation shall be elected at an annual election open to all registered and qualified voting residents of the municipality.

the Department of Administration may distribute money for the municipality only after the corporation has delivered a waiver of sovereign immunity from legal action by the state to recover all or a portion of the money distributed under AS 37.06.010.

***Section 2.**

provides transition language to provide that the balance of funds in the Unincorporated Capital Matching Grant Program be transferred to the Department of Administration.

***Section 3.**

provides that SB 9 becomes effective July 1, 1997.

LERROY WILDER, P.C.
 LAW OFFICE
 0225 S.W. MONTGOMERY STREET, #10
 PORTLAND, OREGON 97204
 TELEPHONE (503) 242-0705
 FACSIMILE (503) 242-0718

MEMORANDUM

TO: Sol Alkinson
 FROM: LeRoy Wilder *LW*
 RE: HB No. 381
 DATE: January 20, 1996

I talked yesterday with Tam Cook regarding the above named bill. As you know, HB 381 will make Metlakatla eligible for capital project matching grants as an incorporated municipality. Ms. Cook and I agreed that the language now in the bill does what we need it to do and that it would not be wise to modify it. If it is necessary to change the language to please the legislature, we will do so later, but for now, we agreed we should try to hold what we've got.

The problem is this. Some legislators are fearful that this provision, which is exclusively for Metlakatla's benefit, will somehow open up eligibility for capital project matching grants to other Native groups. They are concerned that the reference to 43 U.S.C. 1618(a) may not be restrictive enough. You will recall that section 1618(a) is the language in the Alaska Native Claims Settlement Act that terminates all reservations in Alaska with the single, specific exception of the Annette Islands Reserve. I reviewed the language and concluded that the reference is very restrictive and will not result in the eligibility of other Native groups. Moreover, section 1618(a) has been relied upon in the past to distinguish Metlakatla from all other Native groups and it has been unchallenged. Thus, I see no reason why we should not continue to rely on this reference as the limitation of the bill.

You probably know that the bill cannot simply say Metlakatla because there are laws against "special" legislation. By referring to the statutory provision, we avoid saying Metlakatla specifically but make a reference that includes only Metlakatla. Sounds rather silly, I know, but that's how its done. I will keep you posted if I hear anything more on this issue.

Post-It® Fax Note	7671	Date	# of pages ▶
To	Tam Cook	From	Jeanie
Co./Dept		Co.	Smith
Phone #		Phone #	4925
Fax #		Fax #	

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 278-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURTHOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

March 4, 1996

The Honorable Cynthia Toohey
Alaska State Legislature
House of Representatives
State Capitol - Room 104
Juneau, Alaska 99811

Re: House Bill 361 / SB9

Dear Representative Toohey:

Your request to Attorney General Botelho for a written opinion regarding "Indian lands" and House Bill 361 has been forwarded to me for a response. In particular, you have asked whether HB 361, dealing with municipal capital project matching grants for "a municipality organized under federal law as an Indian reserve," will have any impact on the concerns the Legislature expressed regarding the "Indian lands" issues. In short, the answer is no.

Under HB 361, only a municipality¹ organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a), which is part of the Alaska Native Claims Settlement Act (ANCSA), and continues in existence under that subsection, is a municipality for purposes of the capital project matching grant program. Metlakatla is the only entity in the state that now, or in the future, could qualify under this language of HB 361. The "Indian land" issues raised by the Legislature in recent weeks concern areas of the state which were never Indian reserves, or no longer are Indian reserves, organized under federal law before 43 U.S.C. 1618(a) (copy enclosed), because ANCSA abolished all reserves other than Metlakatla.

According to officials at the Department of Community and Regional Affairs, the current capital project matching grant program statutes, AS 37.06.010 (municipalities) and AS 37.06.020 (unincorporated communities), do not adequately account for Metlakatla's federal Indian reserve status and it is unclear under which program Metlakatla falls. HB 361 would adopt

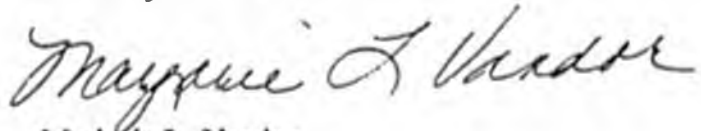
¹ We are unaware that federal law provides for organization of municipalities as reserves or reserves as municipalities. Therefore, it is possible that no entity qualifies under this bill. To avoid confusion, "municipality" here should probably be changed to "community" or a similar term.

a new section, AS 37.06.040, effectively designating Metlakatla as a municipality for the limited purpose of qualifying under the municipal capital project matching grant program.

We hope this adequately addresses your concerns. Please do not hesitate to call us if you have further questions.

Sincerely,

Bruce M. Botelho
Attorney General



By: Marjorie L. Vandor
Assistant Attorney General

MLV:jn

cc: Representative Jerry Mackie ✓

Kim Metcalf - Helmar
Legislative Liaison - DCRA

Barbara Ritchie
Deputy Attorney General

Chrystal Smith
Legal Administrator

Becky Snow - Assistant Attorney General
Fairbanks

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 9

Revision Date: _____
 Title: An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve; and providing for an effective date.
 Sponsor: Mackie
 Requestor: (S) CRA

Department Affected: Administration
 BRU: Administrative Services
 Component: Administrative Services
 COMPONENT SERIAL NO. 46

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The administrative impact on DOA would be very small. Adding one grantee to the municipal side of this program would not result in a need for additional funds for the administration of this program.

Prepared by: Sharon Barton
 Division: Administrative Services

Phone: 465-2277
 Date: 2/24/97

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 2/26/97

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Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An act relating to municipal capital project BRU: none
matching grants for a municipality organized under federal Component: none
 Sponsor: Senator Mackie
 Requestor: Senate C&RA COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
----------------	------------	------------	------------	------------	------------	------------

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY97) impact \$ _____

ANALYSIS: (Attach a separate page if necessary)
 This legislation clearly establishes the community of Metlakatla as a municipality for the purposes of the Municipal Capital Project Match Program, AS 37.06.010-090. This legislation would have no direct fiscal impact on the department. Funds currently maintained by DCRA for Metlakatla under the unincorporated capital match program would be transferred to the Municipal Capital Match Program Metlakatla account administered by the Department of Administration.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 2/21/97
 Approved by Commissioner: *Mike Irwin* Date: 2/21/97
 Agency: Mike Irwin, Dept. of Community & Regional Affairs

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JAN-17-96 WED 12:32 METLAKATLA INDIAN COMM. FAX NO. 9078863338 P. 01

COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

JACK L. BOOTH, SR., MAYOR
JUDITH A. LAUFH, SECRETARY
BARBARA J. FAWCETT, TREASURER
January 15, 1996

ESTABLISHED 1887

POST OFFICE BOX #
METLAKATLA, ALASKA 99926
PHONE (907) 886-4441
FAX (907) 886-3338
FAX (907) 886-7997

Representative Jerry Mackie
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Re: HB361- 'An Act relating to municipal capital project matching grants for a municipality organized under federal law as an Indian reserve, and providing for an effective date.'

Dear Representative Mackie:

We appreciate the work you have put into this issue during the interim and your sponsoring HB 361 this legislative session.

We received Capital Project Matching Grants funding in FY94 in the amount of \$60,619.00 which went to the fire hall project. In FY95 we received \$58,909.00 which is being allocated to the police department project.

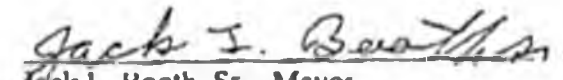
For FY96, we were allocated \$59,421, however, it was then determined that although the matching grant regulations explicitly allow Metlakatla to receive funding, the statute that defines municipalities does not include Metlakatla. We did not receive this appropriation due to this legal technicality.

We never questioned receiving for the Municipal Capital Matching Grant Program and the Unincorporated Capital Matching Grant Program since we weren't familiar with allocations to other communities and this had never been brought to our attention by the administration or the legislature previously.

We appreciate your active support for passage of this legislation which removes us from the Unincorporated Capital Matching Grant Program completely and specifically includes Metlakatla in the statute provisions for the Municipal Capital Matching Grant Program.

Sincerely,

METLAKATLA INDIAN COMMUNITY


Jack L. Booth, Sr., Mayor

cc: Metlakatla Indian Community Council Members
Rep. Ivan Ivan CO-chair, House C & RA
Rep. Alan Austerman, CO-Chair House C & RA Committee
C & RA Committee Members: Rep. Pete Kott, Al Vezey, Rep
Bettye Davis, Rep. Kim Elton, Rep. Irene Nicholai, Rep. Mackie

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*130 Seward Street, Suite 400
Juneau, Alaska 99801-2105*

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

HCRA

1/18/96

1:05 p.m.

SB

29

Alaska State Legislature



Committee Membership

Senate Finance
Senate Resources
Senate Rules
Legislative Budget & Audit

Senator John Torgerson

District Address:
145 Main St. Loop; Ste. 226
Kenai, AK 99611
(907) 283-2690
fax 283-9267

Session Address:
State Capitol: Room S14
Juneau, AK 99801-1182
(907) 465-2828
fax 465-4779

CSSB 29(FIN) - Sectional Overview

Section 1: Changes name from state aid to priority revenue sharing.

Section 2: Changes name from state aid for miscellaneous municipal services to priority revenue sharing for municipal services.

Section 3: Changes name from state aid for miscellaneous municipal services to priority revenue sharing for municipal services. Requires communities that levy and collect property taxes to list the allocation received from revenue sharing for communities and its millage equivalent on the notice to taxpayer. Currently these funds do not have to be reported to the public.

Section 4: Changes name from state aid for miscellaneous municipal services to priority revenue sharing for municipal services.

Section 5: Changes name from revenue sharing to priority revenue sharing for municipal services.

Section 6: Changes name from miscellaneous services to municipal services.

Section 7: Changes name from miscellaneous services to municipal services.

Section 8: Renames Municipal Assistance Fund to Safe Communities Fund. Allocates moneys to the "base amount account" and the "per capita account" in the same proportion as that for the state fiscal year 1997. Changes the date the funds are distributed from February 1 to July 31.

Section 9: Adds a new section requiring payments received from both accounts in the Safe Communities Fund to be spent on the following services in the following order of priority:

- Police protection and related public safety services;
- Fire protection and emergency medical services;
- Water and sewer services not offset by user fees;
- Solid waste management;
- Other services determined by the governing body to have the highest priority

This section does not require a municipality to fund all requests it receives for services in a category before funding services in another category.

Section 10: This section is renamed to "Base amount account distributions." Excludes boroughs with a per capita full and true property value exceeding \$500,000 when calculating the base amount to be received by new boroughs. Allows the distributions from the base amount account to be prorated if the amount allocated to the account is insufficient to pay the full base amount to each eligible municipality.

Section 11: Extends definition sections to incorporate new sections in this bill.

Section 12: Renames increased assistance to per capita account distribution. Specifies that allocations to the per capita account will be distributed to municipalities on a per capita basis.

Section 13: Adds a new section stating that the minimum entitlement to those communities eligible for payments under equalization of tax resources for municipal services, priority revenue sharing for municipal services and revenue sharing for Safe communities, is \$40,000. Adds an additional section allowing the minimum entitlement to be adjusted (reduced) proportionately in the event future appropriations to the communities fund are reduced.

Section 14: Extends definition sections to incorporate new sections in this bill.

Section 15: Repeals section which specified intent of original legislation that a municipality that levies property taxes reduce those levies in proportion to the amount of state aid received.

Section 16: Establishes effect date of legislation.

Alaska State Legislature



Committee Membership

Senate Finance
Senate Resources
Senate Rules
Legislative Budget & Audit

Senator John Torgerson

District Address:
145 Main St. Loop; Ste. 226
Kenai, AK 99611
(907) 283-2690
fax 283-9267

Session Address:
State Capitol; Room 514
Juneau, AK 99801-1182
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fax 465-4779

SPONSOR STATEMENT - CSSB 29(FIN)

This legislation changes the name of the Revenue Sharing program to "Priority Revenue Sharing for Municipal Services", changes the Municipal Assistance Fund to the Safe Communities Fund and requires that payments from the Safe Communities Fund be used for specific prioritized purposes. The intent of these changes is to more accurately reflect the purposes for which payments received are used. These programs appear to have fostered the perception that it is a type of "slush fund" for communities. The change in name and the requirements for use of the monies help to dispel that notion.

Communities are required to spend funds received from the Safe Communities Fund on specific purposes in the following order of priority: (1) Police protection and related public safety services; (2) Fire protection and emergency medical services; (3) Water and sewer services not offset by user fees; (4) Solid waste management; and (5) Other services the governing body determines to have the highest priority. Communities are not, however, required to fund all requests for services in a category before funding services in another category.

Communities that levy and collect property taxes are required to list the allocation received from the Safe Communities Fund and its millage equivalent on the "Notice to Taxpayers."

This bill also revises how appropriations to the Safe Communities Fund are allocated. In the event appropriations continue to be reduced, allocations to, and the resulting payments from, the base amount account will be proportionately reduced. In the past, this account was "held harmless" and appropriation reductions were taken entirely from the per capita account. This resulted in an inequitable reduction of payments to communities.

The minimum entitlement to communities is increased to \$40,000. If, however, appropriations continue to decline, this minimum entitlement may be proportionately reduced along with payments from the base amount and the per capita accounts.

Finally, the date of payment has been changed so that communities receive entitlements from both Priority Revenue Sharing and the Safe Communities Fund on July 31. Previously, payments from revenue sharing were made on July 31 and municipal assistance payments were made on February 1.

(2/10/97: CSSB 29(FIN): mj)

Alaska State Legislature



Committee Membership

Senate Finance
Senate Resources
Senate Rules
Legislative Budget & Audit

Senator John Torgerson

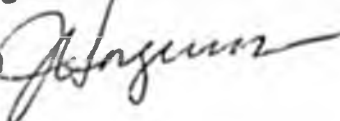
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(907) 465-2828
fax 465-4779

MEMORANDUM

DATE: February 17, 1997

TO: Representative Ivan, Chair
House Community & Regional Affairs Committee

FROM: Senator John Torgerson 

RE: CSSB 29(FIN) Hearing

I respectfully request a hearing before the House Community and Regional Affairs Committee on SB 29, the Safe Communities Bill.

Attached find a sponsor statement and sectional analysis for the bill.

Thank you for your time and consideration.

CSSB29(FIN);H(CRA);2/17/97; m)

WHY SUPPORT SB 29, THE "SAFE COMMUNITIES" BILL?

- Last session, the "Safe Communities" bill (SB20) passed the Senate unanimously and passed the House with 38 affirmative votes, but failed because it was not brought up for a concurrence vote in the Senate in the final minutes of the legislative session.
- AML's Candidate Legislative Survey got the following responses:
 - "Will you support the "Safe Communities" bill when it is re-introduced in the next legislative session?
78% yes, 5% support concept, 15% unsure, 2% no
 - "Should the state be concerned about the impact its budget actions have on local taxes and services? Do you support stabilizing funding for municipal revenue sharing?
89% yes, 2% "if feasible", 9% no
- The "Safe Communities" bill targets use of the funds for basic public safety and health services. This bill is an important part of the goal of making neighborhoods safer.
- Over the past ten years, municipal revenue sharing has been cut nearly 70%. In the past two years, it has been cut 15%. Local taxpayers have already given their fair share to balancing the state budget. A further cut in municipal revenue sharing is simply an increase to local taxpayers. The "Safe Communities" bill is an excellent vehicle to create a permanent and stable revenue sharing program.
- The "Safe Communities" bill has unanimous support from all municipalities, from Anchorage to Ouzinkie. The consensus building that created this bill is a good model for achieving consensus on other statewide issues, such as the education formula.

THE FOUR "LEGS" OF SB 29

1. Changes the name to "Safe Communities." Requires the funds received under this program (formerly Municipal Assistance Program) be used primarily for basic public safety/health services.
2. Creates a \$40,000 minimum payment for small incorporated municipalities. Larger communities contribute approximately \$238,000 of their allocation to raise minimums for small communities. (Anchorage, Fairbanks, Fairbanks North Star Borough, Juneau, Kenai Peninsula Borough, Mat-Su Borough, and all other large municipalities support this provision to reduce dissolutions of small municipalities.)
3. Removes the "hold harmless" clause of the current Municipal Assistance Program. The "hold harmless" provision creates wide variations among funding for communities and is no longer relevant.
4. Advances the payment date for Municipal Assistance from February 1 to July 31, which is the same date Revenue Sharing payments are made. This provision creates the internal equity in the bill that allows support from all municipalities.



Alaska Municipal League &
Alaska Conference of Mayors
1997 Legislative Platform

1. Approval of the "Safe Communities" bill and maintain current funding for municipal revenue sharing to avoid further state generated local property tax increases. The "four legs" of the Safe Communities bill are:
 - Directs the funds to be used primarily for public safety and health services
 - Establishes a minimum sharing of \$40,000 for small municipalities
 - Removes the "hold harmless" to allow equal treatment to all municipalities
 - Distributes municipal funds on July 31 each year
2. Provide for the long term construction, operation, and maintenance of state and municipal airports, roads, and harbors, including revenue sharing programs for maintenance. Bring state harbors up to an adequate maintenance level through a statewide bond issue, or other funds, to prepare them for possible negotiated transfer to municipalities.
3. Approval of a Long Range Financial Plan that prohibits unfunded mandates and unfunded service responsibilities, adequately funds schools and maintenance of public infrastructure, reasonably reduces state expenses, protects the Permanent Fund, and phases in new tax revenue sources.
4. Actively encourage the construction of a natural gas pipeline with an emphasis on jobs for Alaskans.
5. Restore funding for Municipal Capital Matching Grant Program to \$20 million because local communities can most efficiently determine and meet local capital needs.
6. Create a permanent State/Local Government Partnership Council to negotiate methods to most efficiently provide public services at the lowest possible cost to taxpayers.
7. Provide long term funding of public safety and health services through the equitable sharing of increased statewide alcohol and tobacco taxes, and removing the current prohibition against municipalities voting for local special taxes on the sale or use of alcohol.
8. Reduce the state unfunded mandate for the Senior Citizen Property Tax exemption.
9. Adequately fund a program to construct efficient sanitation systems throughout Alaska.
10. Give communities more tools to reduce youth crime by limiting confidentiality of youth crime information to protect the community, allow municipalities the option of assuming greater jurisdiction over juvenile justice, and limit liability for providing recreational opportunities for youth, such as skateboard parks.

Overview
State Revenue Sharing/Municipal Assistance vs.
Safe Communities Program

CURRENT PROGRAMS

<u>Municipal Assistance</u>		<u>State Revenue Sharing</u>	
<u>Base Distribution</u>	<u>Per Capita Distribution</u>	<u>Primary Allocation</u>	<u>Separate Entitlements</u>
1978 Business Tax as a base (about \$10 million "hold harmless" is distributed off the top)	Per capita distribution of the balance among all communities	$\frac{\text{All local revenue}}{\text{Community tax base}} \times \text{Population}$ (\$25,000 minimum entitlement)	<ol style="list-style-type: none"> 1. Roads 2. Hospitals/health facilities 3. Unincorporated cities (not in boroughs) 4. Vol. fire departments (not in boroughs)

Distributed annually on February 1st

Distributed annually on July 31st

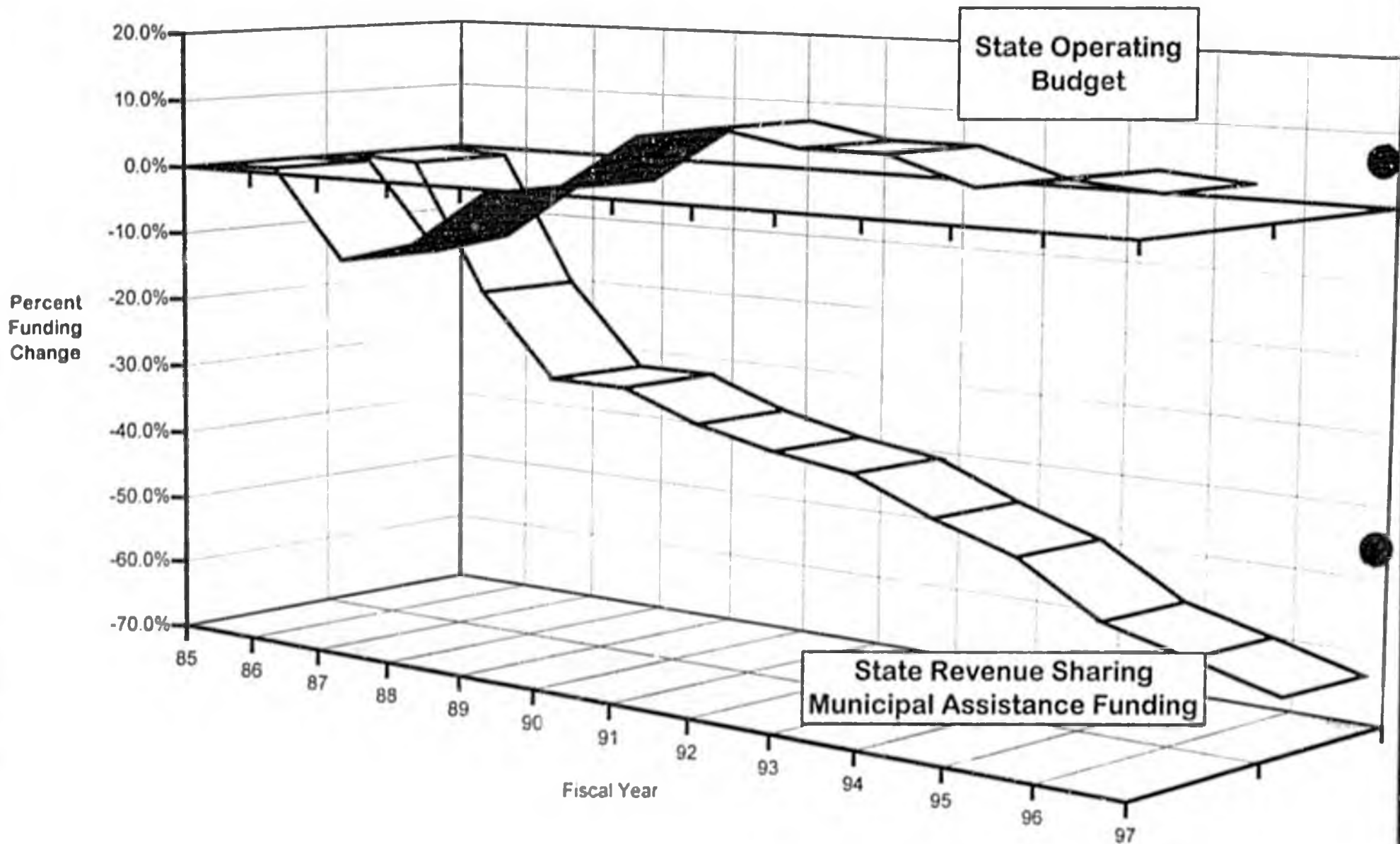
NEW PROPOSAL - SB 29 - SAFE COMMUNITIES

<u>Safe Communities Program</u>	<u>Priority Revenue Sharing Program</u>
All Safe Communities money must be used in the following order of priority: <ol style="list-style-type: none"> 1. Police protection 2. Fire protection & EMS 3. Water & Sewer 4. Solid Waste Mgmt 5. Other services 	Same provisions as State Revenue Sharing above

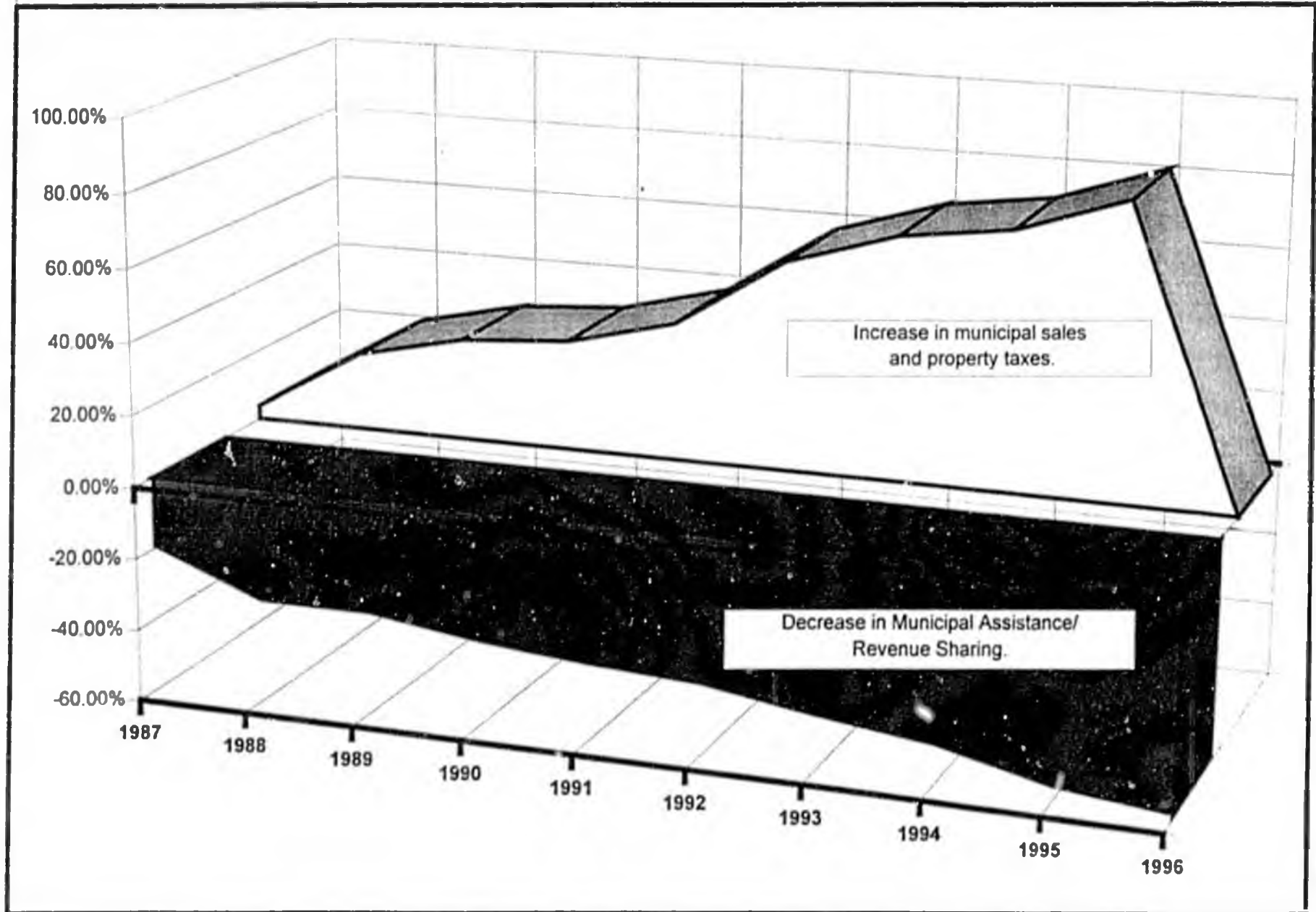
Consolidated Provisions

1. \$40,000 minimum entitlement for the total of both programs (may be prorated if funding is reduced after FY 98).
2. Date of distribution for both programs adjusted to July 31 (Municipal Assistance is currently distributed on February 1).
3. "Hold harmless" provision removed.

**Comparison of State Operating Budget vs.
State Revenue Sharing/Municipal Assistance Funding
FY 85 - FY 97**



Comparison of Decreases in Municipal Assistance/Revenue Sharing vs Increases in Municipal Sales & Property Taxes



Examples of Impacts of Cutbacks in State Revenue Sharing and Capital Project Matching Grants

Aleknagik

"...with the state Revenue Sharing cutbacks, the City had to cut back on staff work hours to part-time, with no medical, dental, nor life insurance benefits. ...completely eliminated city's refuse pickup services."

Nondalton

"...due to these funding reductions...this community was left without funding for water/sewer, forced to reduce clinic hours, and could not afford to maintain roads leaving the community with seriously hazardous road conditions upon which children could not be safely transported from school."

Lake and Peninsula Borough

"...Pilot Point Airport. Due to runway deterioration, service was recently interrupted for eight days, disrupting freight...and critical medical evacuation capabilities."

Egegik

"lack of funds for freshwater treatment plant maintenance"

Alcutions East Borough

"decreasing state revenues has shifted more of the burden against local taxes. The AEB already contributes 8 mills (for schools) which does not include another four mills each year in payments on financed school improvements... This in turn has forced us to halt our (school) technology program."

Cordova

"Impacted by cuts in revenue sharing....In 1991, the mil rate was 7.094 and 1996 is projected to be 13.5 without an increase in services. In addition, a flat sales tax has increased from 4% to 6%."

Juneau

"School roof deterioration....on the Marie Drake School, the Mendenhall River School, and the Auke Bay Elementary School....If not repaired in the near future, the deterioration will continue thus increasing the final cost to repair and , if unchecked, could result in the loss of use of a portion of the school facilities."

Sand Point

"The original intent for revenue sharing was for each municipality to receive \$2,500 per mile for road maintenance...now it is only approximately \$917 per mile.... the City was forced to sell its rock crushing equipment to supplement General Fund shortfalls....the roads are washed away due to a lack of culverts and storm drainage placed in even the most critical points due to a lack of funds..."

FISCAL NOTE

No. 2

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. Bill Version: CSSB29(FIN)
(S) Publish Date: 2/6/97

Revision Date: 2/5/97
Title: An Act Relating to state aid to municipalities
Sponsor: Sen. Torgerson

Dept. Affected Revenue
BRU: Revenue Operations
Components: Treasury
Serial # 121

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY2000	FY2001	FY2002	FY2003
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	-1005.4	0.0	0.0	0.0	0.0	0.0
---------	---------	-----	-----	-----	-----	-----

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0


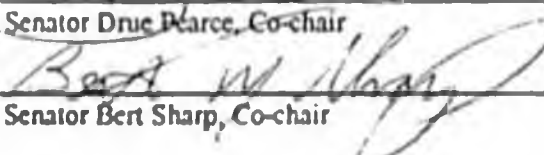
POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared By: Senate Finance Committee


Senator Drue Pearce, Co-chair

Senator Bert Sharp, Co-chair

Date: 2/5/97
Phone: 465-4993
Date: 2/5/97
Phone: 465-3004

**Analysis of Advance Payment of Municipal Assistance
Income Lost to CBRF**

If Payment Made On:	<u>2/1/98</u>	<u>12/31/97</u>	<u>11/30/97</u>	<u>10/31/97</u>	<u>9/30/97</u>	<u>8/31/97</u>	<u>7/31/97</u>
Income Lost to CBRF:	0	\$167,569	\$335,137	\$502,706	\$670,274	\$837,843	\$1,005,412

Assumptions:

\$28,726,047 = Municipal Assistance Payment

Payment borrowed from CBRF

CBRF Return = 7% (from FY97 draft investment policy for the CBRF)
and capital market assumptions FY97

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE IVAN

TO: CSSB 29(FIN)

1 Page 7, line 16:

2 Delete "\$29,402,300"

3 Insert "the amount appropriated to the fund for fiscal year 1998"

4 Page 7, line 18:

5 Delete "\$29,402,300"

6 Insert "the amount appropriated to the fund for fiscal year 1998"



**Alaska Conference of Mayors
and
Alaska Municipal League**

present the

**1997
State of the
Municipalities**

January 1997

THE ALASKA CONFERENCE OF MAYORS AND THE ALASKA MUNICIPAL LEAGUE

Half of the public services in Alaska are provided by municipal governments. The Alaska Conference of Mayors and the Alaska Municipal League represent over 97% of the citizens living in municipalities.

INTRODUCTION

The purpose of this first "State of the Municipalities" report is to give an annual status report on the state of municipalities of Alaska.

The need for an annual status report on municipalities is simple: Local governments are the basic building blocks of our state and nation. They most directly represent and impact families, communities, economies, and environments.

Local government gives Alaskans the most responsive and direct opportunity to control their own destiny and provides tailor-made solutions to meet local needs. This concept is summed up by the famous historian Alexis de Tocqueville who wrote, "*A nation may establish a free government, but without municipal institutions it cannot have the spirit of liberty.*"

In recognition of the importance of local government to our state, the Alaska Constitution calls for "...maximum local self-government...", and further states, "*A liberal construction shall be given to the powers of local government units.*"

THE CHALLENGE FACED BY MUNICIPAL TAXPAYERS

The theme of this report is to call for new partnerships between the state and municipalities. We must do this to continue to provide necessary education, public safety, and transportation services to the people of the state without overburdening local businesses and residents with unreasonably high property and sales taxes.

The first key issue is local property taxes. Over the years, in efforts to cut the state budget, the state has disproportionately cut money to municipalities intended to keep local taxes low. Additional state pressure to increase local sales and property taxes must end if we are to continue building the economies of our communities. This is a greater challenge for the many communities that are facing the loss or partial loss of primary industries. Fortunately, many state administration and legislative leaders are working with municipalities on this issue.

The second key issue is repair and improvement of state and local public infrastructure such as roads, schools, harbors, airports, and jails. The Alaska Conference of Mayors and the Alaska Municipal League are deeply concerned that state budget cuts to maintenance and repair of critical public infrastructure is beginning to threaten the economic potential of our communities. More important, failure to maintain and repair our public facilities is simply mortgaging Alaska's future.

For example, as a homeowner, if you discovered a serious leak in your roof, when would you fix it? Of course, you would fix it right away in order to prevent further damage which would cost much more in the future...Alaska's problems and choices are exactly the same. In fact, many projects on the municipal wish lists are roof repairs for schools and other public facilities that may have to wait a long time for state funding.

So the question is not whether to fix Alaska's public infrastructure - but when and who will pay for it. If the state is no longer going to make timely repairs to public facilities, then the only local alternative is to further increase property taxes. The Alaska Conference of Mayors and the Alaska Municipal League have pledged to work hand in hand with the state to creatively solve this problem without requiring large property and sales tax hikes.



THE STATE OF MUNICIPALITIES IN 1997

In general, Alaskan municipalities have become stronger over the past ten years simply by surviving at the end of the "food chain." Municipalities have learned they cannot rely on state oil revenues to meet all of their needs, or to look to the state and federal governments to solve local problems. Alaska's municipalities are doing a lot to solve local problems creatively, effectively, and efficiently through means such as community action, volunteerism, creative financing, long range planning, privatization, and establishing partnerships with private industry and/or other units of government. To give just a few examples:

- The Municipality of Anchorage reduced juvenile crime by creating the nationally recognized volunteer "Parent Network" Program, and by establishing "youth courts" run by youth.
- The City of Seward turned around a failing hospital by financing improvements and privatizing management.
- The City of Kodiak, the Kodiak Island Borough and the Kodiak Chamber of Commerce pooled their resources to develop a long range economic development plan.
- The City of Soldotna used funds generated by a fishing tournament to build a state-of-the-art elevated boardwalk to protect prime fish habitat.
- The City and Borough of Juneau turned over management of its municipal airport to an empowered board that oversees a financially self sufficient airport with privatized security, shared fire protection, and has made long range improvements to stimulate economic development and revenue.
- The City of Fairbanks remodeled a deteriorating unused school building to provide inexpensive municipal offices and a community center.

THE STATE AND MUNICIPALITIES ARE PARTNERS

Municipalities must become active partners with the state to solve Alaska's long term problems. Local and state government are tied together by three critical links: **Joint basic public services, taxes, and people.**

First, consider **basic public services**. We usually think of three major basic services that are expected of government: **transportation, education, and public safety.**

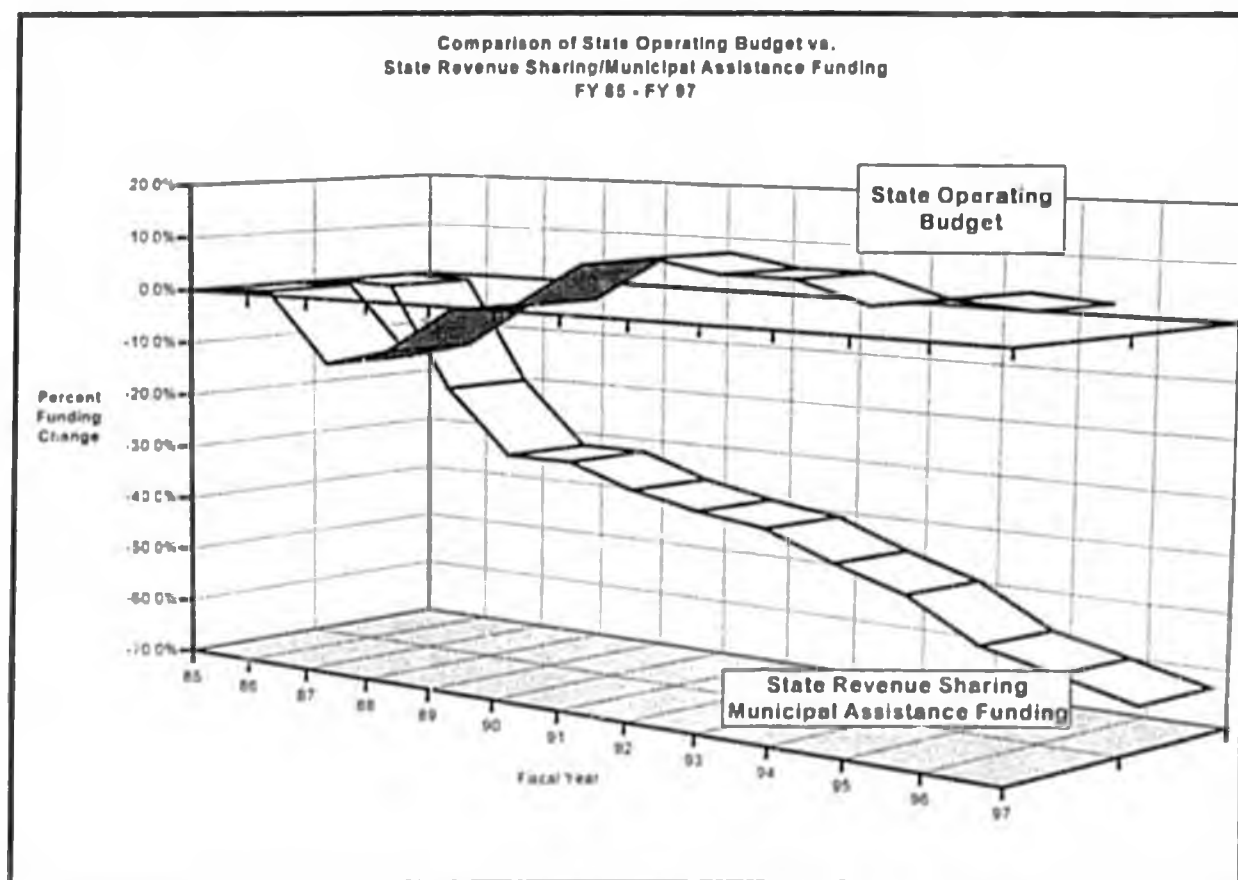
- **Transportation** is a joint state and local service. For example, most Alaskans can't get to work or school without traveling on both a state and a municipal road. If either the state or municipalities fail to repair and maintain roads, everyone suffers.
- **Education** is an inseparable joint state and local service. The Alaska Constitution states that "*The legislature shall establish and maintain a system of public schools open to all children of the state...*" However, over 25 percent of education is funded by local taxpayers. The local taxpayer portion is growing because state money for education is now only worth about seventy-five cents on the dollar due to ten years of inflation.
- **Public Safety** is also a critical joint state and local service. While most larger municipalities have police, the state provides criminal courts and most of the prisons. Without a state and local partnership, a criminal could not be apprehended, tried, sentenced, and put in jail.

Second, consider **people and taxes**. Most citizens of the state are also citizens of municipalities. Therefore, both the state and municipal governments work for the same people. As our employers, the people of Alaska should demand that we work together to give them the best possible services at the lowest possible cost. If either state government or local government is not doing well, then the people of Alaska will not do well. This is the main reason why new partnerships between state and local government are so critical.

THE IMPACT OF STATE AND FEDERAL BUDGET CUTS ON MUNICIPAL TAXES AND SERVICES

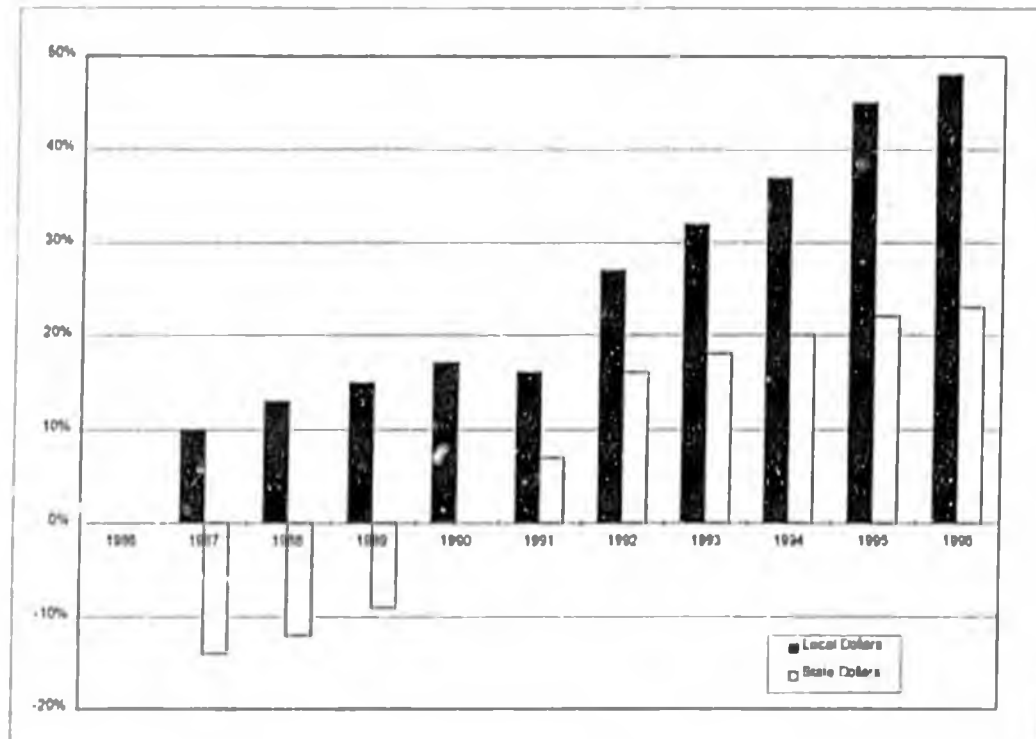
Alaskan municipalities have been severely impacted by federal and state budget cuts. One of the major impacts on municipalities is extreme pressure to raise local property and sales taxes to replace lost federal and state money for basic public services, and to take on additional mandated responsibilities.

On the state level, municipal taxpayers have received a disproportionate share of state budget cuts. Over the past ten years, state revenue sharing, the primary program to share state oil revenues with local taxpayers, has been cut approximately 70%. During the same ten year period, the entire state budget has stayed at approximately the same dollar level.



Second, over the past ten years, state funding for education has increased for school enrollment growth, but inflation has essentially been ignored. Local taxpayers have filled in the gap for education created by state funding that, due to inflation, is only worth seventy-five cents on the dollar compared to ten years ago. To municipalities, this has meant big tax increases to pay for schools and significant cuts in school programs.

State and Municipal Education Funding



Despite considerable belt tightening and efficiencies, local governments have been forced to raise local tax rates simply to survive. Some municipalities, with less local tax base, have fared poorly.

Here some comments from communities:

Aleknagik

"...with the state Revenue Sharing cutbacks, the City had to cut back on staff work hours to part-time, with no medical, dental, nor life insurance benefits. ...completely eliminated city's refuse pickup services."

Nondalton

"...due to these funding reductions...this community was left without funding for water/sewer, forced to reduce clinic hours, and couldn't afford to maintain roads leaving the community with seriously hazardous road conditions upon which children could not be safely transported from school."

Cordova

"Impacted by cuts in revenue sharing....In 1991, the mil rate was 7.094 and 1996 is projected to be 13.5 without an increase in services. In addition, a flat sales tax has increased from 4% to 6%."

Aleutians East Borough

"decreasing state revenues has shifted more of the burden against local taxes. The (borough taxpayers) already contribute 8 mills (for schools) which does not include another four mills each year in payments on financed school improvements... This in turn has forced us to halt our technology program."