



DIVISION OF COMMUNITY ADVOCACY

Frank H. Murkowski, Governor

September 9, 2005

The Honorable Gary Stevens
State Senator and Chair of the Advisory Commission on Local Government
State Capitol, Room 103
Juneau, AK 99801-1182

Dear Senator Stevens:

The purpose of this letter is threefold. First, I express my sincere compliments to you, the other eight members of the Advisory Commission on Local Government (ACLG), and Melanie Lesh of your staff for the good work to date by the ACLG. Those efforts have rich potential to solve fundamental problems relating to local government in Alaska, some of which have existed at least since statehood.

Second, I offer the resources of this agency to assist in any practical manner with regard to furthering the work of the ACLG. At its meeting of September 1, ACLG members expressed interest in addressing a number of vitally important topics. If this agency can assist in that regard, please feel free to call on us at any time.

Lastly, I wanted to share with you select materials relating to just four of the issues that were raised during the September 1 meeting. There is a tremendous amount of other material available through this agency relating to most, if not all, of the issues addressed at the September 1 meeting. However, I have greatly limited the attachments. The purpose of the attachments is simply to give a sense of the type of information available and to further the discussion.

Attachment No. 1 – materials relating to division of the single unorganized borough into multiple regional unorganized boroughs. Attachment No. 1 consists of statutory standards for regional educational attendance areas (REAs) and boroughs and a map of model borough boundaries defined by the Local Boundary Commission.

The ACLG discussed using REAA boundaries as a point of departure for subdividing the single unorganized borough into multiple regional unorganized boroughs. Some members of the ACLG also inquired about the criteria used to establish the REAAs. The statutory boundary standards for REAAs and boroughs are similar, albeit quite general.

There are fundamental difficulties in using REAA boundaries as a basis for unorganized boroughs. One is that REAAs, by definition, must encompass the entire unorganized borough. Circumstances suggest that certain parts of the unorganized borough have more in common with areas within existing organized boroughs than with other unorganized areas. Another difficulty is that the State created two tiny REAAs in 1985 that lack regional characteristics. One serves a single community; the other lacks contiguous boundaries and serves only three communities. Those circumstances were addressed by the Local Boundary Commission's model borough boundaries. The model borough boundaries were developed following hearings in 88 communities throughout Alaska in the early 1990s.

Attachment No. 2 – Categorical payments for State revenue sharing. The ACLG discussed the issue of reinstating a State revenue sharing program; one based on the extent to which each recipient local government assumed responsibility for the delivery of particular essential public services. As noted during the September 1 meeting, when the State revenue sharing program was instituted in 1969 it was structured in just that fashion. Initially, funding was provided for police services (\$5 per capita), fire protection (\$2.50 per capita), air or water pollution control (\$1 per capita), land use planning (\$1 per capita), and road maintenance (\$1,000 per mile). It is noteworthy that in the second year of the program, per capita funding levels were doubled (e.g., police was funded at \$10 per capita) and funding for road maintenance was increased by 50 percent. Additionally, in the second year funding was provided for transportation facilities (boat harbors, airports, and transit); Funding for certain of the categories was increased further over the years. In 1974, the legislature added a provision for area cost differentials. Details of the initial program are provided in the Attachment No. 2. In later years, the categorical funding structure was largely abandoned.

It is noteworthy that while the original State revenue sharing formula provided funding for certain responsibilities mandated to be exercised by organized boroughs and home-rule and first class cities in the unorganized borough (i.e. planning), it did not do so for

education. At the time, the State provided a far greater proportion of financial aid to borough and city school districts than it does currently (90 to 100 percent).¹ Today, the local contributions required of borough school districts under AS 14.17.410 are significant and constitute one of the greatest barriers to borough formation.

Attachment No. 3 – Home-rule provisions that accommodate rural preferences.

The ACLG discussed ways in which home-rule boroughs could accommodate interests of rural communities. Discussion centered on the Northwest Arctic Borough and the Lake and Peninsula Borough.

Attachment No. 3 includes Section 1.12.010 of the Northwest Arctic Borough Code providing for recognition of a cooperation with villages recognized as Native American Tribes. Also included is Section 6.1 - 6.02 of the Lake and Peninsula Borough Code, which provides for funding for unincorporated communities including Native village governments or community associations representing unincorporated communities within the Borough. Sections 15.11 and 15.12 of the Lake and Peninsula Borough Home Rule Charter, which provides for revenue sharing to unincorporated communities and nonvoting representatives from communities not represented by an elected Assembly member to attend regular meetings of the Assembly.

Attachment No. 4 – Synopsis of Yukon Flats Borough Study. It was noted in the discussions of September 1 that many rural communities lack a tax base. While that is true, circumstances would change in some cases through borough formation. Attachment No. 4 briefly summarizes a borough feasibility study that was done by a group of University of Alaska graduate students for the Yukon Flats region earlier this year. The synopsis demonstrates the advantages of creating a borough government in terms of the financial resources available to support local services in some regions. In brief, without a regional government, the per capita tax base available to city governments in the regions was estimated to be no more than about \$16,000 (\$24,000,000 divided by 1,496 residents equals \$16,043 per capita). As a regional government, a prospective borough would include a sizable portion of the Trans-Alaska Oil Pipeline and would increase the per capita property tax base to an estimated \$227,273 per capita. That figure is more than two and one-quarter times the per capita average for all sixteen organized boroughs in Alaska.

¹ For example, in 1971, State law required the level of State aid for education to constitute at least 90 percent of the basic need of each school district. Over the following 12 years, the level of State support for local districts steadily increased with the guaranteed percentage of basic need moving from 90 percent to 100 percent. See *Public School Financing in Alaska*, p. 6, House Research Agency, February 1987.

Conclusion.

I look forward to the next meeting of the ACLG. Again, if this agency can be of assistance to the ACLG, please do not hesitate to call on us.

Cordially,

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

Michael Black
Director

Attachments: as stated

Attachment No. 1

Materials Relating To Division of The Single Unorganized Borough Into Multiple Regional Unorganized Boroughs.

Statutory Boundary Standards for REAAs

AS14.08.031. Regional educational attendance areas. (a) The Department of Commerce, Community, and Economic Development in consultation with the Department of Education and Early Development and local communities shall divide the unorganized borough into educational service areas using the boundaries or sub-boundaries of the regional corporations established under the Alaska Native Claims Settlement Act, unless by referendum a community votes to merge with another community contiguous to it but within the boundaries or sub-boundaries of another regional corporation.

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

(c) Military reservation schools shall be included in a regional educational attendance area. However, operation of military reservation schools by a city or borough school district may be required by the department under AS 14.12.020 (a) and AS 14.14.110 . Where the operation of the military reservation schools in a regional educational attendance area by a city or borough school district is required by the department, the military reservation is not considered part of the regional educational attendance area for the purposes of regional school board membership or elections.

(d) U.S. Bureau of Indian Affairs schools shall be included in a regional educational attendance area boundary.

Statutory Standards for REAAs (standards relating to boundaries are italicized)

AS 29.05.031. Incorporation of a borough or unified municipality. (a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

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

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

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

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

(b) An area may not incorporate as a third class borough.

Borough and Model Borough Boundaries

MODEL BOROUGH BOUNDARIES FOR UNORGANIZED BOROUGH

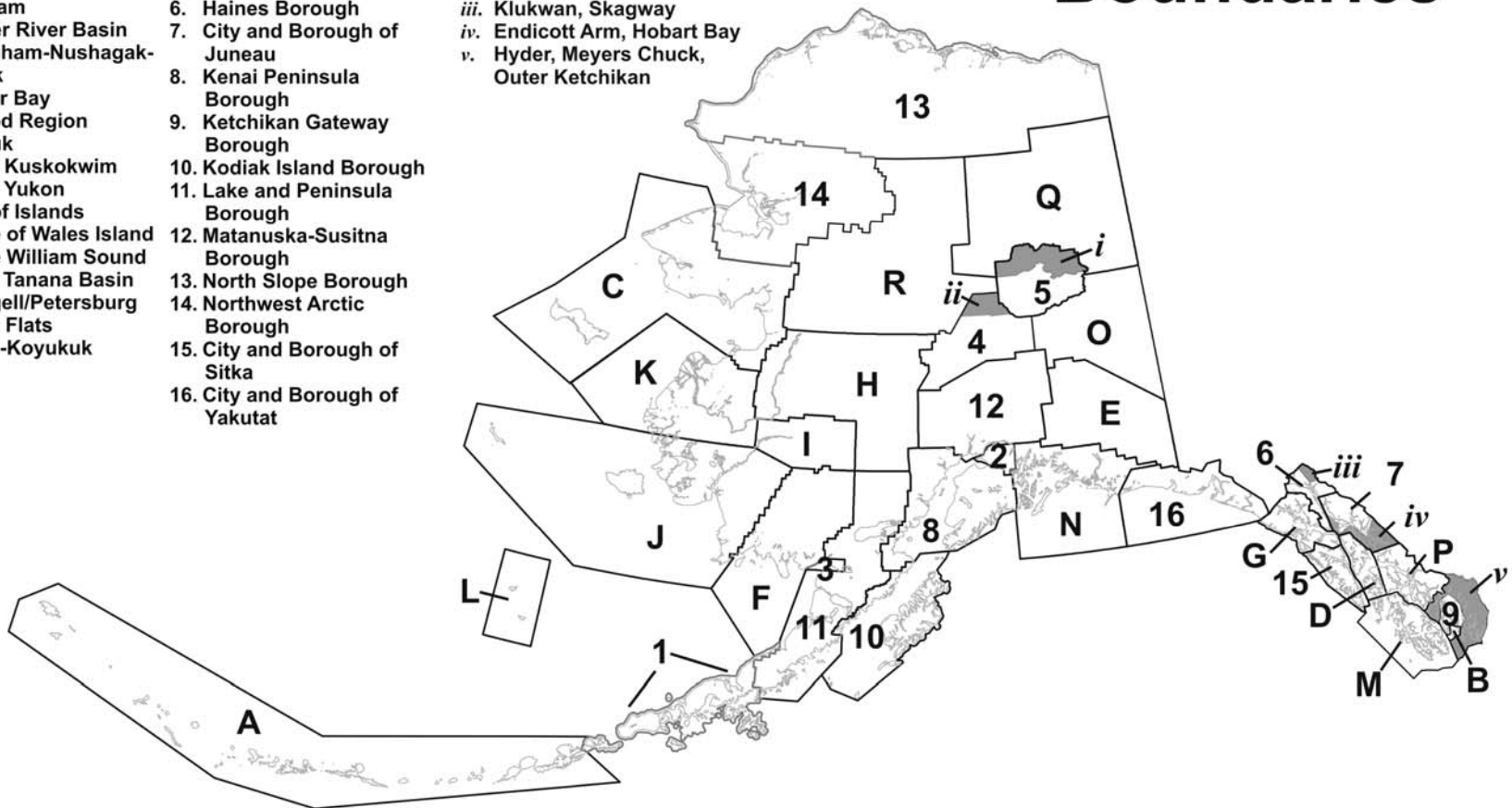
- A. Aleutian West Region
- B. Annette Island Reserve
- C. Bering Strait
- D. Chatham
- E. Copper River Basin
- F. Dillingham-Nushagak-Togiak
- G. Glacier Bay
- H. Iditarod Region
- I. Kuspuk
- J. Lower Kuskokwim
- K. Lower Yukon
- L. Pribilof Islands
- M. Prince of Wales Island
- N. Prince William Sound
- O. Upper Tanana Basin
- P. Wrangell/Petersburg
- Q. Yukon Flats
- R. Yukon-Koyukuk

ORGANIZED BOROUGHS

- 1. Aleutians East Borough
- 2. Municipality of Anchorage
- 3. Bristol Bay Borough
- 4. Denali Borough
- 5. Fairbanks North Star Borough
- 6. Haines Borough
- 7. City and Borough of Juneau
- 8. Kenai Peninsula Borough
- 9. Ketchikan Gateway Borough
- 10. Kodiak Island Borough
- 11. Lake and Peninsula Borough
- 12. Matanuska-Susitna Borough
- 13. North Slope Borough
- 14. Northwest Arctic Borough
- 15. City and Borough of Sitka
- 16. City and Borough of Yakutat

PORCTIONS OF UNORGANIZED BOROUGH WITHIN MODEL BOUNDARIES OF ORGANIZED BOROUGHS

- i.* Livengood, Central, Circle Hot Springs
- ii.* Nenana
- iii.* Klukwan, Skagway
- iv.* Endicott Arm, Hobart Bay
- v.* Hyder, Meyers Chuck, Outer Ketchikan



Attachment No. 2

Categorical Payments for State Revenue Sharing.

Summary of Original (1969) Structure for State Revenue Sharing Payments and Changes Through 1975

Service or Facility	1969 Funding Level	1970 Changes	1973 Changes	1974 Changes	1975 Changes
Police	\$5.00 per capita	Increased to \$10 per capita		Increased to \$12 per capita	
Fire Protection	\$2.50 per capita	Increased to \$5 per capita		Increased \$7.50 per capita	
Air or Water Pollution Control	\$1.00 per capita	Increased to \$2 per capita			
Land use planning	\$1.00 per capita	Increased to \$2 per capita			
Road maintenance	\$1,000 per mile	Increased to \$1,500 per mile			
Parks and Recreation		Funding added – \$5 per capita			
Boat harbors, airports, transit		Funding added – \$5 per capita	Technical changes		
Health facilities		Funding added – \$1,000 per bed funding or \$4,000 per facility			
Area Cost differential				Provisions added	

Laws Enacted to Establish and Modify the State Revenue Sharing Program 1969 – 1975:

- Chapter 95, SLA 1969
- Chapter 194, SLA 1970
- Chapter 87, SLA 1973
- Chapter 43, SLA 1974
- Chapter 95, SLA 1974
- Chapter 45, SLA 1975

Attachment No. 3

Home-Rule Provisions that Accommodate Rural Preferences

Northwest Arctic Borough Code Provisions:

Section 1.12.010 Recognition and cooperation.

A. The borough recognizes the villages within the borough's boundaries as Native American Tribes which are organized under terms of the Federal Indian Reorganization Act, as amended (25 USC 476 and 477), as bodies politic and corporate eligible for borough funding, grants and contracts. The borough also recognizes the villages within the borough's boundaries as Native American Tribes which are organized under traditional forms of government as bodies politic, similarly eligible for borough funding, grants and contracts.

B. Authority to cooperate with units of local government and federal and state agencies.

1. In performing a duty imposed upon it, or in exercising a power conferred upon it, the borough may cooperate, by agreement or otherwise, with a unit of local government or a state agency of this or another state or of another country, or with the United States, or with a United States governmental agency, or with a Native American Tribe or an agency of a Native American Tribe. This power includes power to provide jointly for administrative officers.

2. With regard to a Native American Tribe, the power described in subdivision (1) of this subsection, includes the power of the executive departments of the borough to enter into agreements to insure that the borough or an agency of the borough does not interfere with or infringe on the exercise of any right or privilege of a Native American Tribe or members of a tribe held or granted under any federal treaty, executive order, agreement, statute, policy or any other authority. Nothing in this subsection shall be construed to modify the obligations of the United States to a Native American Tribe or its members or the rights of the tribe under federal or tribal law.

C. Within the context of this chapter, "Native American Tribe" means an entity defined as a "tribe" in federal legislation and includes specifically the villages within the boundaries of the borough organized under the terms of the Federal Indian Reorganization Act or as traditional councils which are federally recognized and eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans. (Ord. 89-13am § 1, 1989: prior code § 2.90.010)

Chapter 6.01 DISTRIBUTION OF STATE SHARED REVENUES

Sections:

- 6.01.010 Determination of Available Funds**
- 6.01.020 Distribution of Available Funds**

6.01.010 Determination of Available Funds

Each year the Assembly shall determine the amounts available for distribution to eligible unincorporated communities out of state revenue sharing and municipal assistance funds applied for and received by the Borough from the state. Such amounts shall be included in the annual budget adopted by the assembly and no further appropriations therefore shall be necessary. Eligible unincorporated communities include Native village governments or community associations representing unincorporated communities within the Borough.

6.01.020 Distribution of Available Funds.

- A. Available state revenue sharing funds for road maintenance and for maintenance, repair, equipment and supplies for health facilities, shall be distributed to eligible unincorporated communities pursuant to the procedures set forth in Borough Ordinances 90-04 (Road Services) and 90-05 (Health Services).
- B. All other state revenue sharing and municipal assistance funds available for distribution shall be transferred by the borough clerk to each eligible unincorporated community when received by the borough. Each eligible unincorporated community shall be responsible for administering such funds; however, each eligible community shall report to the borough on January 15th and June 30th all expenditures made from such funds during the past six months on forms provided by the borough, and shall provide such further documentation regarding expenditures as the borough manager may require.

Chapter 6.02 DISTRIBUTION OF BOROUGH SHARED REVENUES

Sections:

6.02.010	Determination of Available Funds
6.02.020	Distribution of Available Funds
6.02.090	Definitions
6.02.010	Determination of Available Funds

6.02.010 Determination of Available Funds

Each year, as a part of its annual budget process, the Assembly shall determine what amounts, if any, of Borough revenue shall, in addition to any State Revenue Sharing or Municipal Assistance funds received by the Borough from the State of Alaska, be made available for distribution to Borough communities as Borough Shared Revenue. Such amounts shall then be included in the adopted annual budget, to be distributed to eligible incorporated and unincorporated communities as provided in this chapter, and no further appropriations therefor shall be necessary.

6.02.020 Distribution of Available Funds

- A. Funds appropriated pursuant to Section 6.02.010 shall be distributed as follows:
1. Twenty-five percent (25%) of the funds appropriated pursuant to Section 6.02.010 shall be divided by the number of eligible communities and be distributed in equal amounts to each eligible community.
 2. Seventy-five percent (75%) of the funds appropriated pursuant to Section 6.02.010 shall be distributed to each eligible community on the basis of population as determined by the latest U.S. Census, or by such other information as the Borough Assembly may determine accurately reflects the actual year-round population of each community.
 3. Distribution of funds shall be authorized by resolution and made only after the Assembly determines that sufficient actual Borough revenues have been received to meet all budgeted expenditure requirements.
(Subsection 6.02.020(A)) amended by Ordinance 93-08 on 9/21/93)
- B. Funds distributed to eligible communities may be used for any public purpose as defined in this chapter. However, each community receiving such funds shall be required to enter into a written agreement to comply with the requirements of this chapter and report to the Borough by June 30th, on forms provided by the Borough, all expenditures made from those funds during the past twelve months, together with such additional information or documentation regarding its expenditures as the Borough Manager may request.

6.02.090 Definitions

"Eligible Community" means any incorporated or unincorporated community within the Lake and Peninsula Borough that complies with all of the requirements of this chapter, including all contractual and reporting requirements.

"Public Purpose" means a purpose that serves the convenience, safety or welfare of the entire community and not the welfare of a specific individual or class of persons, the essential requisite being that the service or use so provided shall affect the inhabitants as a community and not merely as individuals.

(Established by Ordinance 92-22, 10/19/92)

distribution at such reasonable cost. Copies certified by the clerk shall be prima facie evidence of their contents.

Section 15.08

Notice of Lien

When any lien other than for ad valorem taxes or special assessments is placed by the borough on any real property, notification of the lien shall be sent by registered or other special mail to the person whose name appears as owner of the property on the most recent tax assessment roll.

Section 15.09

Dedication of Borough Property

Dedication of streets, right-of-ways, easements or other areas for public use by the Assembly may not be construed to require the borough to maintain, improve, or provide for borough services in the area dedicated and the dedication does not impose any liability on the borough for the condition of the area dedicated.

Section 15.10

Separability

If any provision of this Charter is held invalid, other provisions shall not be affected. If the application of this Charter or any of its provisions to a person or circumstance is held invalid, the application of this Charter or any of its provisions to other persons or circumstances shall not be affected.

Section 15.11

Return of Funds to Communities

The Borough Assembly shall establish procedures by which available funds generated in the organized and unorganized communities by revenue sharing and municipal assistance shall be returned to those communities to the extent allowed by law.

Section 15.12

Community Participation

The Assembly will make provision for nonvoting representatives from communities not represented by an elected person on the Assembly to attend regular meetings of the Assembly.

ARTICLE XVI TRANSITIONAL PROVISIONS

Section 16.01

Effective Date

This Charter shall be effective immediately on ratification of the borough.

Section 16.02

Election of Initial Officials

The initial Borough Assembly shall be elected as provided in AS 29.05.110 and AS 29.05.120, and provisions of this Charter.

Attachment No. 4

Synopsis of Yukon Flats Borough Study.

Five graduate students in the University of Alaska Fairbanks Engineering Science Management and Civil Engineering Departments prepared a borough feasibility study of the Yukon Flats region in April 2005 ("Study").

The Study estimates that the value of taxable property in the Yukon Flats REAA is \$340 million. The Trans-Alaska Pipeline System (TAPS) accounts for \$316 million of the value of property in the REAA. The estimate of the value of the TAPS property was based on information provided by the Alaska Department of Revenue.

The estimated \$24 million figure for other taxable property was developed by adjusting the figure used in a 1979 Yukon Flats borough study prepared by a private consultant (Darbyshire and Associates). Examination of the accuracy of the estimate of the non-TAPS property was beyond the scope of the study. It is noted, however, that in 2002, the State Assessor roughly estimated that the value of taxable property in the Yukon Flats REAA (excluding TAPS) was about \$29 million.

With 1,496 residents, a \$340 million tax base is equivalent to \$227,273 per capita. That figure is more than two and one-quarter times greater than the \$99,948 per capita average for all sixteen organized boroughs in Alaska. Based on figures in the report, without a borough government the region would have a property tax base limited to, at most, \$16,043 per capita (\$24 million divided by 1,496 residents). That figure is only 7 percent of the per capita tax base available to a prospective borough.

It is also noteworthy, that TAPS accounts for 93 percent of the value of the estimated taxable property in the region. Thus, based on the estimates provided, TAPS would pay 93 percent of any property taxes levied by a borough encompassing the Yukon Flats REAA.

According to the Department of Labor and Workforce Development, the region had average monthly employment of 539 jobs that generated \$18,480,964 in wages during 2004. The Study notes the prospect for significant deposits of oil and gas in the region. It states, for example, that Doyon estimates that "a 1 in 20 or 30 chance exists for oil revenues of 200 to 800 million barrels."

One additional noteworthy aspect of the report was an innovative effort by the graduate students to analytically evaluate and rank various subjective factors likely to encourage and/or discourage formation of a Yukon Flats borough. Not surprisingly, their findings indicated that the threat of being annexed to the Fairbanks North Star Borough represented the greatest motivation for forming a

Yukon Flats borough. Factors such as the general opportunity to achieve “maximum local self-government” through borough formation and the ability to exercise platting and land use regulation powers provided almost no influence on the decision. After examining four options (remain unorganized or incorporate as a home-rule, first-class, or second-class borough), the Study concluded that the best option is for the region to form a home-rule borough. The Study also recognized that further study of the matter was warranted.

The Study addressed certain benefits of borough government. Among those is the opportunity to provide greater administrative capacity for the region as a whole compared to what is possible at the individual community level. In that regard, the Study noted that only two of the eight Yukon Flats communities examined participate in the State’s Power Cost Equalization Program.