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# *Bristol Bay Borough*

## **BRISTOL BAY BOROUGH RESOLUTION 2009-32**

### **RESOLUTION URGING THE ALASKA MUNICIPAL LEAGUE TO SUPPORT THE STATE OF ALASKA LEGISLATURE TO REVISE THE FORMULA USED TO CALCULATE THE LOCAL CONTRIBUTION FOR SCHOOL TAX REQUIRED BY STATE LAW FOR THE 18 ORGANIZED BOROUGHES OF THE STATE**

**WHEREAS**, the Bristol Bay Borough strongly supports our local school District as during the FY 2010 with a contribution of \$981,424 and 2009 of \$781,493 which equates to a 63% increase in the last two years using the current formula to calculate the required local contribution; and

**WHEREAS**, the Bristol Bay Borough in 2009 provided over \$6,676 per student which is one of the highest among all 53 school districts in Alaska; and

**WHEREAS**, based on the current figures for 2010 from the State Tax Assessor the Bristol Bay Borough's required local contribution would have an increase of 20% percent from last year; and

**WHEREAS**, the 1963 Alaska State Legislature passed, and Governor Egan signed into law, the "Mandatory Borough Act" (Chapter 52, SLA 1963), Section 1 of the Mandatory Borough Act promised that, "No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation;" and

**WHEREAS**, key State agencies have acknowledged that "contrary to the express intent of the 1963 Mandatory Borough Act, organized boroughs are being severely deprived of State services, revenues, or assistance and are being penalized because of incorporation" (See: *School Consolidation – Public Policy Considerations and a Review of Opportunities for Consolidation*, p. 54, February 2004, Department of Education and Early Development, Local Boundary Commission, with assistance by the Department of Commerce, Community and Economic Development); and

**WHEREAS**, Article I, Section 1 of the Constitution of the State of Alaska prescribes that "all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State;" and

**WHEREAS**, more than one-third of Alaska’s school districts – those operated by regional educational attendance areas – are exempt from the required local contribution provisions of AS 14.17.410(b)(2) that apply to organized boroughs as well as home-rule and first-class cities in the unorganized borough; and

**WHEREAS**, Chief Justice Rabinowitz and Justice Matthews indicated in *Matanuska-Susitna Borough School Dist. v. State* that any remedy regarding concerns over the required local contribution must be pursued through the legislative and executive branches rather than the judicial branch, stating, specifically, “Here, as with State spending decisions, any available remedy must be pursued through majoritarian processes rather than through the courts;” and

**WHEREAS**, Article X, Section 1 of Alaska’s Constitution encourages the creation of borough governments (*See Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 101 (Alaska 1974)); yet, on the eve of the fiftieth anniversary of the creation of the State of Alaska, more than half the geographic area of Alaska lies outside organized boroughs; and

**WHEREAS**, multiple studies in the post-mandatory-borough era have indicated that the biggest deterrent to voluntary formation of boroughs is the financial penalties that result; the late Jay Hammond expressed the matter well when he wrote in *Tales of Alaska’s Bush Rat Governor*, (page 149), that “Attractive enough on paper, in practice, the organized borough concept had little appeal to most communities. After all, why should they tax themselves to pay for services received from the state, gratis?;” and

**WHEREAS**, the Bristol Bay Borough urges Senator Hoffman and Representative Bryce Edgmon to promote legislation to repeal or mitigate AS 14.17.410(b)(2), the onerous and discriminatory State tax on municipalities that operate school districts.

**NOW THEREFORE, BE IT RESOLVED THAT**, the Bristol Bay Borough urges the Alaska Municipal League to make this a priority item for the upcoming legislature to repeal or mitigate AS 14.17.410(b)(2), the onerous and discriminatory State tax on municipalities that operate school districts.

**ADOPTED AND APPROVED BY THE ASSEMBLY OF THE BRISTOL BAY BOROUGH, ALASKA** this 2<sup>nd</sup> day of November, 2009.

  
Daniel O’Hara, Mayor

**ATTEST:**

  
Tami Johnson, Borough Clerk