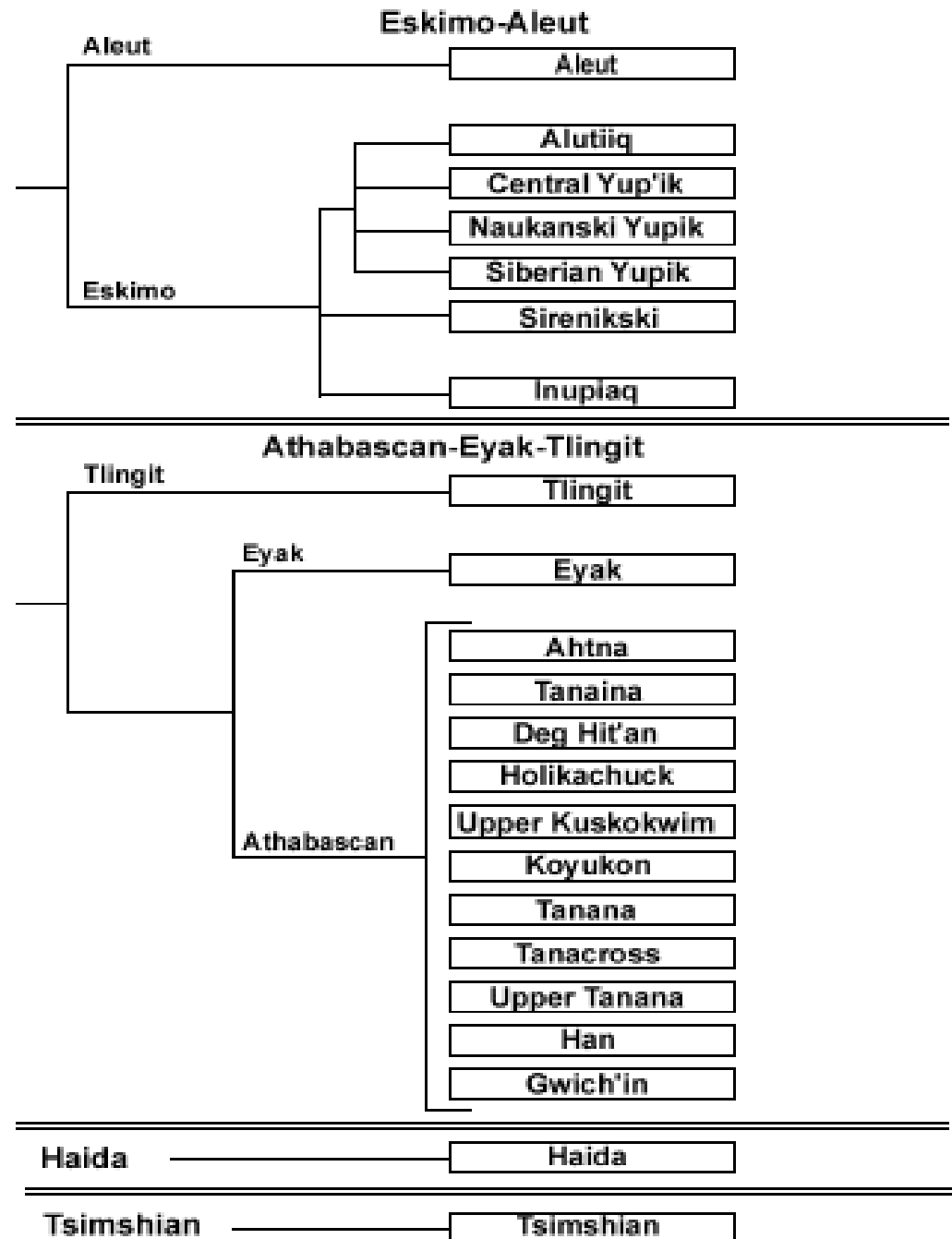


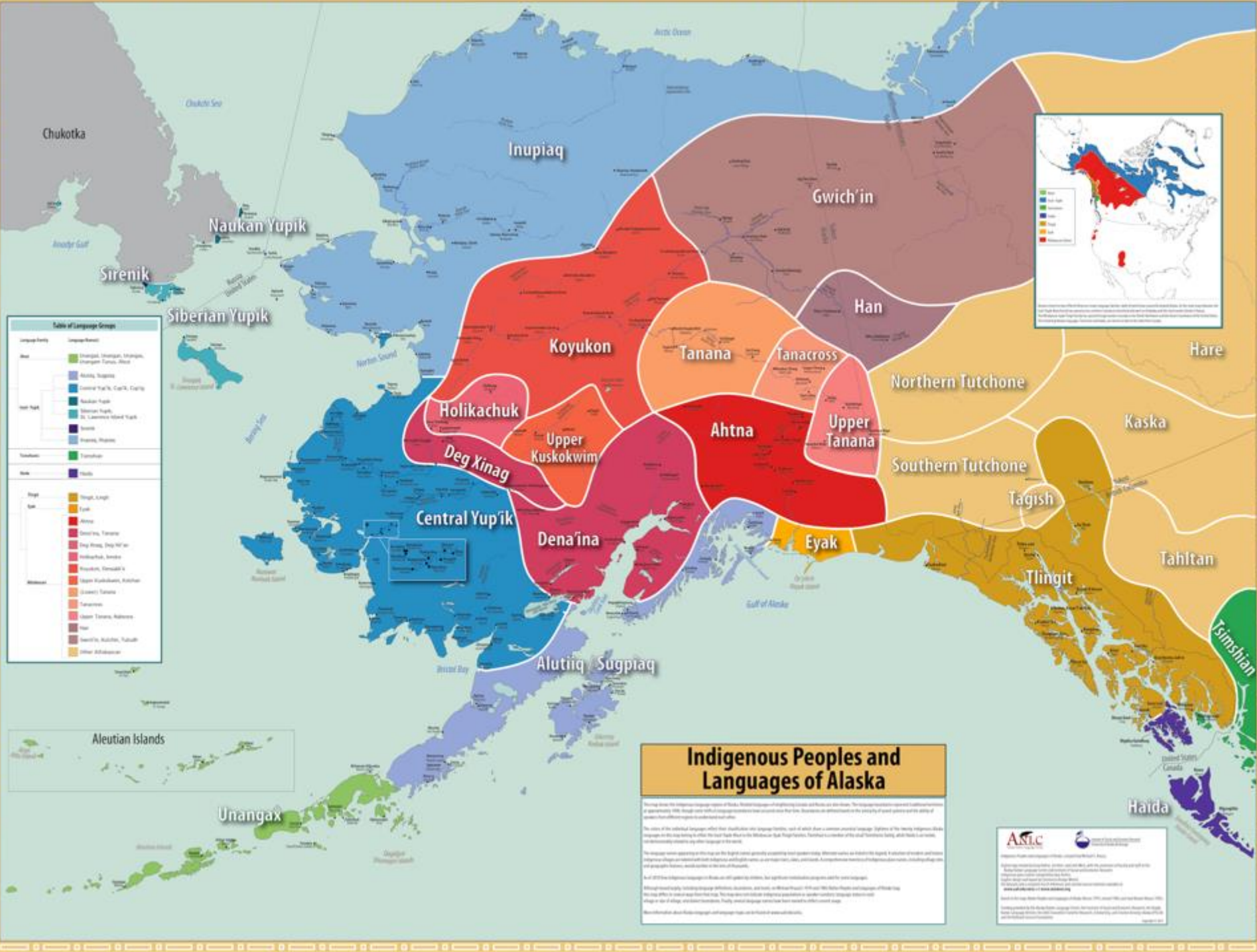


ALASKA NATIVE PEOPLES
A BITE SIZE BRIEFING OF A FEW
ESSENTIAL CONCEPTS

ALASKA NATIVE PEOPLES

- 231 Federally Recognized Tribes (often overlap villages)
- 20 + cultural groups and distinct languages
- 19.5% of the state's population





A COMMUNITY SNAPSHOT

**Three Sovereigns operate in Alaska:
Tribal Governments, Federal Government, State Government**

Types of Alaska Native Organizations

- Numerous Major Cultural Groups
- 229 Tribal Governments
- 7 Statewide Native Non-Profit Orgs
- 12 Regional Native Non-Profit Associations/Consortiums
- 50 Cultural and Heritage Centers/Museums
- 12 ANCSA Regional Corporations
- 195 ANCSA Village Corporations
- 5 Marine Mammal Commissions
- Alaska Migratory Bird Co-Management Council
- 1 Indian Reservation
- Plus others...



Important to Note



TRIBES

Inherent sovereignty, pre-dates US Constitution
“Federally Recognized Tribes” Pre-date ANCSA, but not mentioned in Act

- Govern and maintain jurisdiction over members; can enact laws
- Government to government relationship with the U.S. government and State of Alaska (per Attorney Generals memo)
- Often own little or no land (problematic for governance)

CORPORATIONS

- Construct of law; are state incorporated; exist to make profit; own ANCSA land in fee simple
- They do not govern
- Same relationship with state and federal govts as any other corporation; they pay dividends to shareholders
- Some federal laws include ANCSA corps as beneficiaries to the law that also include Tribes as beneficiaries
- Can develop land to increase revenue, if develop natural resources must share 70% of revenue with other ANCSA corps (7(i))

12 REGIONAL NATIVE NON-PROFITS

- Aleutian/Pribilof Islands Association
- Arctic Slope Native Association, Ltd.
- Association of Village Council Presidents
- Bristol Bay Native Association
- Chugachmiut
- Cook Inlet Tribal Council
- Copper River Native Association
- Kawarek, Inc.
- Kodiak Area Native Association
- Maniilaq Association
- Tanana Chiefs Conference
- *Central Council of Tlingit & Haida Indians – Federally Recognized Tribe

OTHER STATEWIDE NATIVE NON-PROFITS

- Alaska Federation of Natives
- First Alaskans Institute
- Alaska Native Science Commission
- Alaska Native Health Board
- Inuit Circumpolar Council
- Alaska Native Arts Foundation
- Alaska Native Heritage Center

Layers of Organizations in Villages

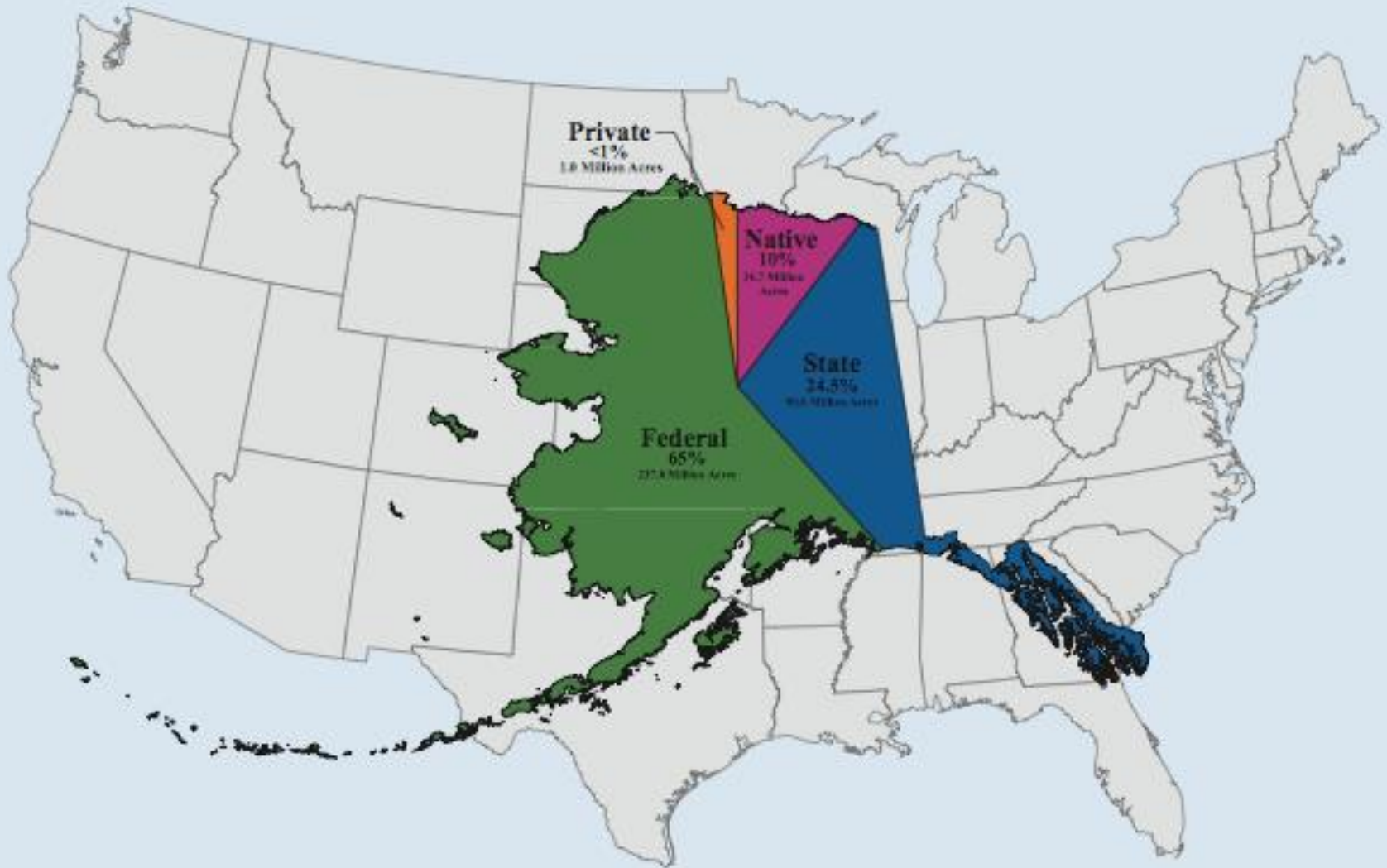
- **Many villages have a:**
 - Tribal Government
 - Municipal Government (State Charter)
 - ANCSA Village Corporation
- **Every village deals with:**
 - ANCSA Regional Corporation
 - Regional Non-Profit
 - Consortiums and Commissions
 - Statewide Non-Profits
 - Borough Governments
 - Borough School Districts
 - State Government, and all its departments
 - Federal Government, and all its departments, agencies, offices and programs



Important to Understand:

- Many tribes and municipal governments are separate types of governments. Tribe's sovereignty exists inherently and is also recognized by federal law, local governments derive their authority from their sovereign, the state government
- Some Tribes and Municipalities operate cooperatively, some do not, some enter into contractual agreements to share resources and administrative duties

WHO OWNS ALASKA?



Western World View



We Belong to Alaska.



Native World View

OUR WAYS OF LIFE

“I share what's on my table with you.

When I share with you my heart is happy,
so is yours, and this is the
way of [the] subsistence way of life.

I never heard the word Subsistence
until 1971 under the Native Land Claims Act.

Before that time, when I was brought up
in the culture of my people,
it's always been our culture and our land.”

-Jonathon Solomon, Fort Yukon



- It is who we are. It is a vital collective and personal experience (like being human, in community and breathing)
- It is central to what makes us able to live a healthy, strong, active, productive, cultural, and spiritual way of life.
- It is hard work, it is “expensive”
- It often requires working in the harshest of environments.

• **And we LOVE IT.**

Our Ways of Life


- Stewarded and managed for thousands of years by Native peoples
 - – Our Ways of Life -a rigorous management system with exacting behavior & interaction expectations (ceremonies, protocols, societal laws, customs, practices)
- Federal and State wildlife laws have a resource shortage use priority
 - State law
 - All residents qualify
 - ANCs may have add'l regulations
 - Federal law - Rural resident priority under ANILCA
- #Its Complicated... ANCSA/ANILCA/...
 - Federal and State management regimes are complicated
 - devalues Native needs

Eras of Federal Indian Policy



What is “Indian Country”?

As a term of art, identity, modern indigenous phrasing:

- all the lands where indigenous peoples have always existed
 - a way of referencing our collective “community”
 - a.k.a homelands, village, our lands, ‘The Vil’
- 

As a term of law (Federal Law 18 U.S.C.): (*in Alaska)

- (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, [METLAKATLA, ALASKA]
- (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and
- (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same

Why is it important?

- Tribes with “Indian Country”
 - extensive governmental powers
 - can manage fish & game, natural resources, have tribal courts and law enforcement, enact zoning ordinances, impose taxes, run businesses
- Tribes in Alaska, even without territorial jurisdiction, have the same legal status with the federal government
- ANCSA didn't address Tribes; ANCSA lands aren't tribal land
 - *Alaska v. Native Village of Venetie* (1998): SCOTUS held that ANCSA lands, even §19(b) lands, were not “Indian Country” because the land was no longer under federal supervision
 - Native lands pre-dating ANCSA were not included in the law and have same status (allotments, trust land, ...)

Tribal Jurisdiction in Alaska

- PL 280 -state to exercise federal authority over some aspects of criminal and civil jurisdiction
- Unwillingness by state to recognize Tribes' concurrent jurisdiction, =>frequent litigation
 - *Native Village of Venetie v. Alaska*, 944 F.2d 548 (9th Cir. 1991) Alaska must give full faith and credit to tribal child-custody determinations as neither ICWA or PL 280 prevent tribes from exercising concurrent jurisdiction
 - *John v. Baker*, 982 P.2d 738 (AK. 1999) Alaska must recognize tribal jurisdiction over members even in the absence of Indian Country, reversing their earlier decision in *Native Village of Nenana v. State of Alaska DHSS*, 722 P.2d 219 (AK 1986)
 - *Kaltag v. Hogan* (AK. 09 960) Concerned adoption of an Indian child handled by tribal court. Court declined to hear the State's appeal, sending strong message to the State to recognize Tribe's ICWA jurisdiction

PL 280 Consequence

- State = bulk of law enforcement, but often lacking, centralized system
- Villages tribal courts hear civil and misdemeanor offenses, but State may dispute
 - Courts limited by funding, trained personnel, or may limit themselves, by choosing what cases to hear
 - DOI balks at funding tribal courts in PL 280 states
- 2010 Tribal Law and Order Act had beneficial provisions for Alaska tribes, but were eliminated due to a State complaint and Congress members unwilling to create an “Alaska earmark”

Alaska Law Enforcement

- Alaska State Troopers respond to serious crimes, response can be slow or non-existent; vast territory, limited resources
- VPOs/TPOs (Village/Tribal Police Officers)
 - Hired by villages using BIA funding; low pay, inadequate resources for training; More Tribal Law and Order Act funds available since 2010
- VPSOs (Village Public Safety Officers)
 - Funded by State, tribal non-profit consortiums supervise
 - Responsible for public safety, fire fighting, water safety, emergency medical assistance, search and rescue
 - Often only 'law enforcement'; expected to be available 24/7
 - Low pay, distance supervision by troopers, lack back up

Land into Trust

- DOI underwent rulemaking earlier this year
- State continued litigation but ultimately withdrew
- Tribes can now petition to take land into trust, thus potentially creating new Indian Country in Alaska



What is ANCSA?

- A land settlement
 - Alaska Natives who opted in relinquished aboriginal title to roughly 350 million acres of land in exchange for (fee simple title to) 44 million acres of land and almost \$1 billion (roughly \$3/acre)
- Signed into law on December 18, 1971
- Result of a decade long effort led by AFN
 - After Alaska became a state, land selections began but Native claims still needed to be settled; oil was key driver by state
 - Amended numerous times
- Settlement split among 12 (later 13) regional corporations (not tribes)
- All Alaska Natives alive on Dec. 17th who met requirements became shareholders
- Regional corporations have subsurface rights (eg, minerals)
- Village corporations have surface rights (eg, timber)

ANILCA (separate law but connected to ANCSA)

- Has 3 sections important to Alaska Natives – most critical:
 - Title VIII subsistence management on federal public lands due to ANCSA § 4(b) extinguishing aboriginal hunting & fishing rights; per Congressional committee reports Congress expected AK & DOI to protect Native rights, but this did not happen
- Native leaders went back to Congress to obtain a solution
 - Congress responded with Title VIII – provides a subsistence priority for Native hunting and fishing on fed lands during shortages; Alaska complained that priority was race-based and in conflict with State Constitution => language changed to “rural resident” instead
 - Fails to properly protect Alaska Native communities, especially those located in areas considered “non-rural”; potential solution: change the language to read “Native and rural” and have Title VIII officially declared to be Indian law
 - When Congress enacts Indian law that law can give rights to Native people different from those enjoyed by other Americans; Alaska Natives have two separate and distinct statuses: 1) Political, as noted above, and 2) Racial, as protected class of citizens under US law
 - Other: Title IV ANCSA/State Law, XIV ANCSA “1991 amendments”, etc

EDUCATION (Before Statehood)

- Native peoples educated their children and community members throughout life, used rites of passage to demarcate life changes, grow responsibility, continue knowledge learning and sharing
- After immigration started happening at the front end of the colonial period, saw a shift as church, state, and business beginning to work together to colonize Alaska.
- Colonial education efforts varied
 - **Before Treaty of Cession**, about 50+ Russian Orthodox Church schools
 - Between **1867 -1884** education largely ignored
 - Presbyterian Church schools in Sitka, Wrangell, and other places in SE; Russian Orthodox Church in Aleutian Islands, SW Alaska, and Sitka
- **1884** Organic Act made provision for education; 99% of children- Alaska Native; DOI to provide for education *“without reference to race”*
- **1905** Nelson Act codified segregated school system; 1929 lawsuit by William Paul finally changed this
- **1885** DOI Dept. of Education appointed Sheldon Jackson, a Presbyterian Missionary to carry out education in Alaska
 - Responsibility for education given to different religious denominations
 - Schools segregated where enough White children for separate schools
 - Pribilof Islands schools maintained by the Alaska Commercial Company

Boarding Homes and Boarding Schools

- Many damaging effects from church and state run boarding schools from removing children – still seen today as intergenerational harm and trauma (*see Alaska Native statistics*)
- Alaska boarding schools and boarding homes were part of the colonial process – just as it had been in the Lower 48
 - Sheldon Jackson was a student of the Carlisle Indian Boarding School experiment – “Kill the Indian, save the man”
 - Easy and cheap for Territory (and later State) to take children from their families and communities
 - Many attendees suffered atrocious acts of violence and degradation being taken from their families and exposed to bad-acting adults; some attendees had positive experiences; many of today’s AK Native leaders attended Sheldon Jackson, Mt. Edgecumbe, Wrangell Institute, Galena Interior Learning Academy, and Nenana Living Center...
- Now, though the state constitution requires equal opportunity for children to receive local education, there are still a number of boarding schools in AK and each year the state legislature brings up consolidation/boarding schools as solutions despite the legacy of harm to most students and communities.

What do Native families want?



- AK Native families want what every other family wants and expects, equal education opportunity in their communities so children are where they belong, with their families, communities, and cultures; so they may grow to be thriving, healthy, happy Native peoples of this land



Lawsuits Filed to Protect this Right

- 1971: Five 9th grade Kivalina students sue the state to require a secondary school in their village
 - Outcome: Kivalina got a K-12 school and a new state regulation stating that every child has a right to education without leaving home
- 1972: “Molly Hootch” litigation (*Tobeluk v. Lind*): group of children sue the State for noncompliance with the new regulations
 - Outcome: Consent decree providing for the establishment of a high school program in every one of the 126 villages covered by the litigation, unless people in the village decided against a local program.

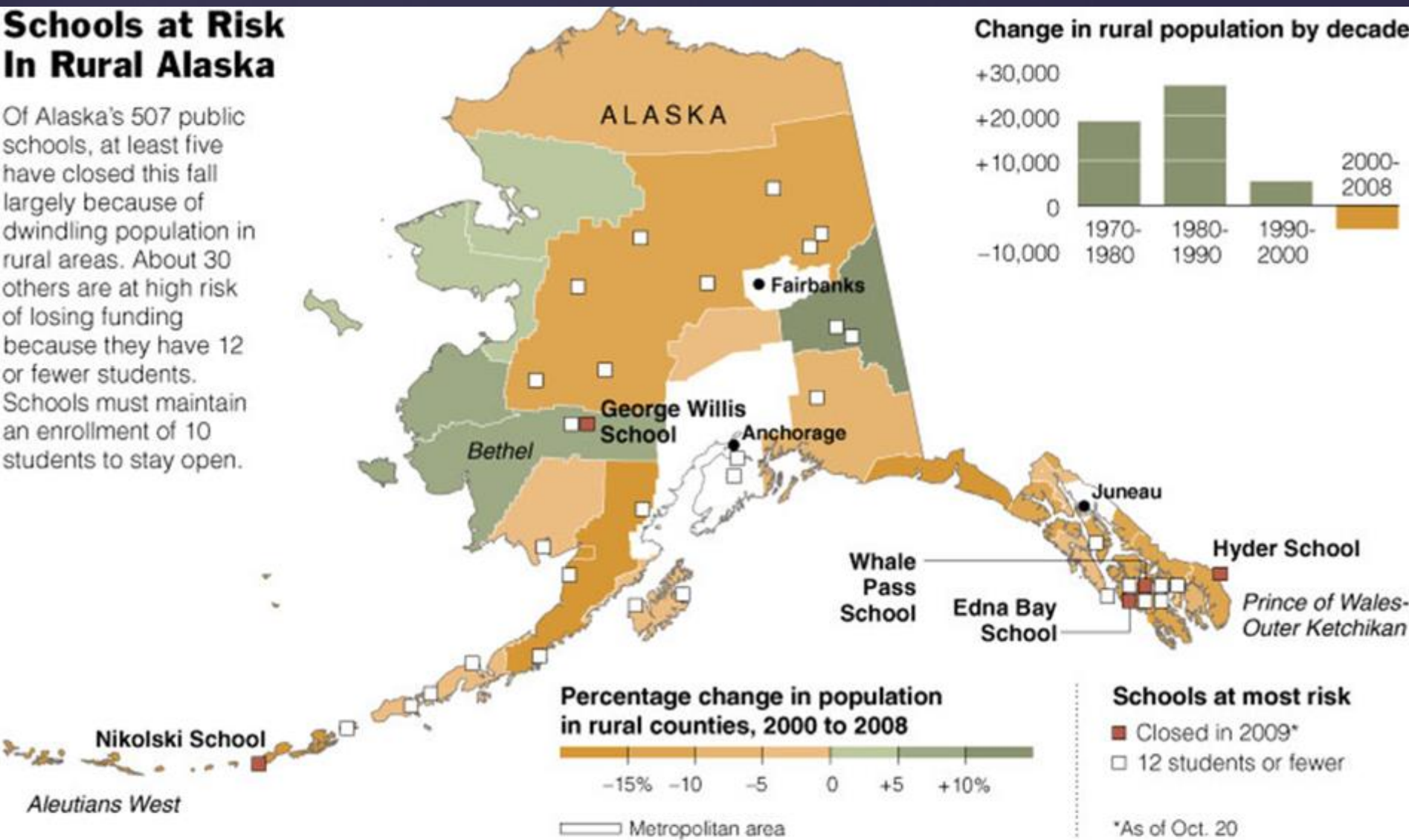


Lawsuits Cont'd

- **Kasayulie v. State (1999):** Court finds AK has dual, arbitrary, unconstitutional, and racially discriminatory system for funding school facilities
 - Held education is a fundamental right
 - Rejected motion from state to reopen the decision, as the new info provided reinforced the court's findings
 - State then allocated significant funds for construction and renovation of rural schools but has not yet changed the unconstitutional, dual system of facilities financing
- **Moore v. State (2009):** Court finds the state continued to deny students in rural schools the education guaranteed them by the AK Constitution by not meeting its constitutional responsibility to “maintain a system of public schools open to all children of the State”
- Currently, schools with less than 10 students enrolled are not eligible for state school funding, forcing closure and communities to once again be lifeless without their children

Schools at Risk In Rural Alaska

Of Alaska's 507 public schools, at least five have closed this fall largely because of dwindling population in rural areas. About 30 others are at high risk of losing funding because they have 12 or fewer students. Schools must maintain an enrollment of 10 students to stay open.



Sources: "Alaska's Rural Population and School Population Trends Report 1," Alaska Division of Community and Regional Affairs; Department of Education and Early Development; Department of Labor and Workforce Development

Potential Solutions Exist!



- Utilize Self-Determination/Self-Governance over Education like the Alaska Native Health System has done, transforming health outcomes (over 10 year increase in life expectancy, over 90% of children immunized, higher than any other pop.)
- Fed-State-Tribe Partnership
- Children need an education to compete in the work force that includes Native ways of knowing and learning – it is an environment all children can thrive in

Health Organizations Today

- Solutions to health and wellness issues are approached from many angles
 - Re-establishing cultural pride, increasing local control of health care and local staffing of health programs
- Health care and treatment services are provided by tribal health consortiums and regional tribal non-profit entities, as well as individual tribes and State
- Federal 638 contracting and self-governance compacting enables Native orgs to increase their level of control over health-care delivery and work towards healthier peoples



Tribal Governments

- Term “tribe” used two ways:
 - **Ethnologically**: a social, political organization of a group of people who share race, customs, language, culture, etc.
 - **Legally-politically** (Montoya v. United States, 180 U.S. 261 (1901)): “a body of Indians of the same or a similar race, united in a community under one leadership or government, and inhabiting a particular though sometimes ill-defined territory”

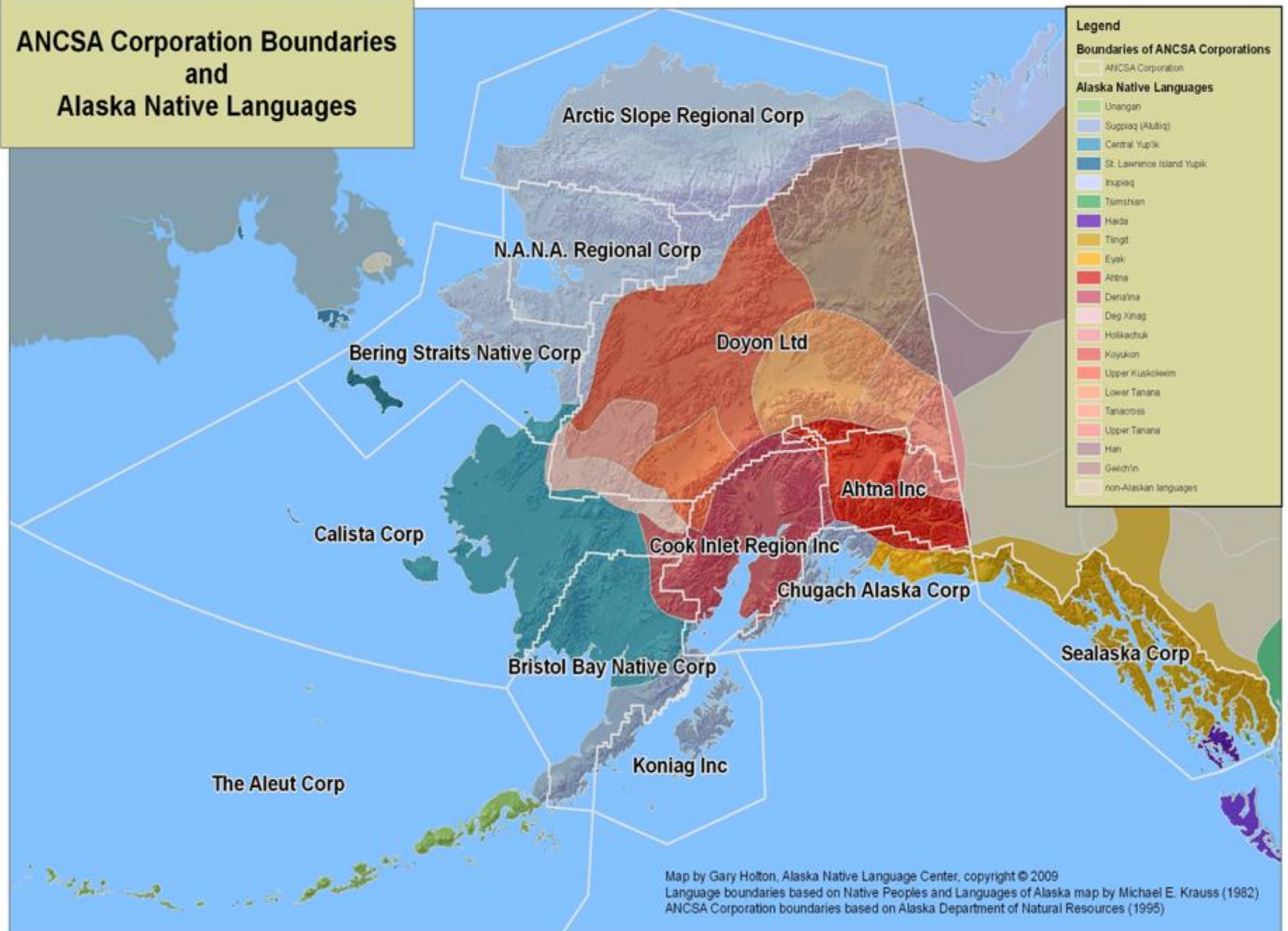


Tribal Governments



- 565 federally recognized Tribes (229 are in Alaska)
- Each tribe possesses inherent rights of self-government (i.e. tribal sovereignty) and are entitled to receive certain federal benefits, services, and protections because of their special relationship with the U.S.
 - Under federal law, Tribes are subject to the plenary power of Congress
 - The power to deal with and regulate the tribes is wholly federal; the states are *excluded* unless Congress delegates power to them (e.g. PL 280)
 - The federal government has a responsibility for the protection of Tribes from encroachments by the states and their citizens

ANCSA Corporation Boundaries and Alaska Native Languages



ANCSA Highlights

- 12 regional corporations (13th no land)
 - 18 million acres + subsurface estate of village-selected lands, fee simple
 - 195 village corporations (originally 224, some merge)
 - 22 million acres of surface estate, fee simple
 - \$962 million paid for 335 million acres of land (~\$3/acre) for business' incorporated under state law, to benefit shareholders
- ANCSA lands are privately owned, not held in trust; not Indian Country
- Important provisions
 - 7(i) and 7(j)– 70% of natural resource revenue must be shared among all ANC corps, distributed to Village Corps and shareholders
- Only 6 regional and some village corporations opened rolls to those born after December 18th 1971
- ANCSA stocks cannot be bought or sold on the open market
- Corporations responsible for maintenance and protection of historical places and cemetery sites
- ANCSA extinguished aboriginal hunting and fishing rights
- Many of the ANCs (regional corps) are top contributors to the economy in revenue and employment; Top 49
- Jobs often held by non-Natives and non-shareholders
- SBA 8(a) Contracting- Tribes and ANCs have unique rights in Federal procurement to jump-start Native economies

Village Corporations

- One for every village, but some merged
- Success of the village corporations is varied
 - Some corporations merged and pooled resources
 - Some no longer exist
 - Some heavily depend on 7(i) distributions
- NANA and AHTNA regions: all but one village merged with the Regional Corporation
 - Kikiktagruk Inupiat Corporation (KIC) in Kotzebue
 - Native Village of Chitina
- Calista Region: 56 communities organized into 45 Village Corporations

GOVERNORS TRIBAL ADVISORY COMMITTEE



Consists of 11 members representing expertise in 11 areas:

- | | | |
|----------------|------------------------------|-------------------|
| 1. Education | 5. Public safety and justice | 9. Transportation |
| 2. Healthcare | 6. Wildlife and fisheries | 10. Language |
| 3. Subsistence | 7. Economic development | 11. Culture |
| 4. Energy | 8. Housing | 12. Youth |