

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**March 22, 2001**  
**9:11 AM**

**TAPES**

SFC-01 # 50, Side A  
**SFC 01 # 50, Side B**  
**SFC 01 # 51, Side A**

**CALL TO ORDER**

Co-Chair Pete Kelly convened the meeting at approximately 9:11 AM.

**PRESENT**

Senator Dave Donley, Co-Chair  
Senator Pete Kelly, Co-Chair  
Senator Loren Leman  
Senator Lyda Green  
Senator Gary Wilken  
Senator Lyman Hoffman  
Senator Donald Olson

**Also Attending:** Senator Gene Therriault, sponsor of SB 4, Alaska State Legislature; Senator Johnny Ellis, sponsor of SB 6, Alaska State Legislature;

**Attending via Teleconference:** Dennis McMillen, United Way;

**SUMMARY INFORMATION**

SB 4 - MUNICIPAL PROPERTY TAX EXEMPTION

After brief debate the bill was held in Committee.

SB 6 - MOBILE HOME PARK EVICTION NOTICE

The bill was amended and reported from Committee.

SB 48 - MUNICIPALITIES:INCORP/PROPERTY VALUATION

The Committee heard a presentation by Senator Wilken and after some debate the bill was held in Committee.

SB 103 - ELECTION CAMPAIGNS AND LEGISLATIVE ETHICS

The bill was amended and held in Committee.

#sb4

SENATE BILL NO. 4

"An Act relating to a mandatory exemption from municipal property taxes for certain residences and to an optional exemption from municipal taxes for residential property; and providing for an effective date."

Senator Therriault indicated that as they discussed before, SB 4 was an attempt to satisfy the desire of the state to provide some property tax relief to property owners. The bill proposed that they expand the current statutory allowance to make a portion of personal residential property exempt from taxation. He pointed out that the current statutory language allowed the local government to do that up to \$10,000 and they asked to expand that to \$50,000, but due to concerns expressed by Senator Torgerson they backed it down to \$40,000. He added that they held the service areas in municipalities out of the calculation, because they would be the one entity at the local level that had no other way to make up potential lost revenue. He noted that in the Fairbanks North Star Borough the mayor had formed a revenue tax force to look at alternative ways of raising revenue other than using the mill rate. He did not believe that there would be any interest in giving a tax break on the residential property and increasing the overall mill rate for everyone else. He indicated that they would be looking at a mix of sales tax or users fees or reductions in government spending. He indicated that when they left off last time Senator Donley expressed concern with regards to the fiscal note. He believed that they had addressed those concerns to a large part with the committee substitute (CS). He said that Senator Green had a question with regards to the potential impact on the foundation formula and they received a clarification that the foundation formula equivalent is computed on the true and full value of the government; therefore, there would be no impact from SB 4 on the foundation and the way the mill rate was calculated.

Co-Chair Kelly indicated that there was a proposed CS, Version P, which had not been adopted as a work draft.

Senator Wilken made a motion to adopt the proposed CS, Version P, as a work draft.

Co-Chair Kelly asked if there was any objection.

Co-Chair Donley objected. He supported the Community and Regional Affairs (CRA) CS for the same reasons that the CRA Committee adopted it. He noted that the CRA CS does not include the change to existing law regarding residential exemption and he believed that it was a separate issue. He said that there was significant taxation in some of the communities, especially the North Slope Borough and the new CS, Version P, would just be "throwing gasoline on an already burning fire".

Co-Chair Kelly referred to Senator Donley's amendment, which would essentially take care of his concerns. He pointed out that Senator Lemman brought up a possible compromise, before the meeting, between Senator Donley's amendment and the new CS, Version P. He said that he would like to adopt the CS, Version P, and then adopt the amendment or possibly take up Senator Lemman's recommendation.

Co-Chair Donley indicated that he was not familiar with Senator Lemman's recommendation.

Senator Lemman called his recommendation the "anti-back sliding amendment," intended to keep the limits that were currently in place in those municipalities as the cap. He explained that it would keep them at their current maximum and the change in the law would not increase the taxes on oil and gas property; therefore, providing partial exemption.

Senator Therriault indicated that it would be somewhat helpful. He pointed out that they did have some service areas that were currently over the 18 mills. He noted that the City of North Pole has two refineries within its' boundaries very close to the 18 mills. He clarified that if it were up to Senator Lemman, everyone would be frozen at his or her current mill rate. He said that it would not be his personal preference.

Co-Chair Donley wondered if Senator Lemman had that language drafted.

Senator Lemman indicated that he offered that language as a conceptual amendment.

AT EASE 9:20 AM/ 9:27 AM

Co-Chair Kelly announced that SB 4 would be HELD in Committee.

Senator Hoffman believed that it was a complicated issue and expressed appreciation for the extra time to look over the bill.

[Heard and Held]

#sb6

CS FOR SENATE BILL NO. 6(L&C)

"An Act relating to required notice of eviction to mobile home park dwellers and tenants before redevelopment of the park."

DENNIS MCMILLEN, United Way, testified via teleconference, indicated that about a year ago they became aware that there were developers asking for re-zoning on property that was currently occupied by manufactured homes. He noted that while many people living in those neighborhoods had the capacity to move, the United Way was concerned that some of them were marginal and might not be able to move their mobile homes. The intent was that if nothing was done they might be creating a new class of homeless families in their communities and indeed when they did the research that is what they found. He pointed out that they pulled all the groups working with housing, many non-profit organizations, municipalities of the state and most importantly residents of the communities to discuss the issue. He added that they also pulled in developers and looked at what was going on and the possible impact and what other state's have done. He explained that what they found was that current laws were not adequate to protect these people and they put together what was called "the manufactured home report." He noted that listed in the report were many different options for the municipalities of the state to look at, which would help build a structure to keep people from being so much at risk. He explained that the key was to give people a longer period from when they understood that their property was going to be redeveloped. He concluded that he was very pleased to see that it was going to be looked at by a task force and the legislature.

ANGELA LISTEN, Director, Department of Justice, Archdiocese of Anchorage, testified via teleconference, indicated that she worked on the task force. She said that they thought that a one-year notice was reasonable, on the other hand, time was of the essence for the developer and they only needed six months on this legislation. She expressed their support for SB 6 and said that they believed it was a balance between the right of the landowner and the right of the tenant.

STEPHANIE WHEELER, Program Director, Catholic Social Services, testified via teleconference from Anchorage, echoed the concerns of Mr. McMillen and Ms. Listen and reported that Catholic Social Services were currently working with some residents who had been recently impacted by the rezoning and they were assisting with the

re-location plan. She noted that SB 6 addressed their two major concerns, which were adequate notice and financial compensation. She urged the Committee to support SB 6.

MACKENNA JOHNS, Director, AMHRAC (tenant advocacy group) testified via teleconference from Anchorage, indicated that they support the bill and urged the Committee to pass SB 6.

Amendment #1:

Page 4, line 2: following "provided in a valid lease."

INSERT:

If the change in land use requires relocating 10 or more mobile homes, the mobile home park owner or operator may contribute to a pooled relocation fund \$5,000 for each mobile home being relocated, and the relocation fund shall pay the actual disconnection, relocation, and reestablishment costs of each mobile home; however, the relocation fund may not be required to pay more than the total received from the owner or operator.

Senator Lemman moved to adopt the amendment.

Co-Chair Kelly asked if there were any objections, there being none Amendment #1 was adopted.

Senator Green wondered if any of the developers had testified.

Senator Ellis indicated that one of the developers might be on-line to testify, but did send in a letter of support.

Senator Green wondered since this was an additional obligation to the developer whether they would cross over into the issue of "taking."

Senator Green clarified that she was talking about signing an obligation to a landowner in order to use their land and she wondered if they have then imposed the equivalent of a reduction in value to that person, because of what they have to go through to vacate the property or change the use of the property. She inquired as to whether that would be seen as a "taking" that the state is imposing on the landowner.

Senator Ellis did not believe that it would be imposing some unjustified "taking." He noted that there was no effective date on the bill.

Co-Chair Kelly indicated that a "taking" would be an extreme explanation and said that it is more of a procedural matter and did not see that it would drop the value of the property.

Ms. Listen commented that she found, originally, a similar statute in Oregon and at that time it had not been challenged.

Senator Green indicated that she was not sure in Alaska if "taking" would be challenged, since they do not have a "taking" provision, but clarified that what she was saying was if a landowner has another bar that he has to meet in order to use his/her land when it has been legally rezoned than the state is imposing a penalty until they can do what they want with their land. She said that she did not see it as something she could support. She believed that if a person owned the land and got the rezoning provision and was able to move forward with the change in purpose then they would have that right.

Senator Ellis explained that the research shows that Arizona, Florida, Pennsylvania, California and Oregon all have, in their landlord/tenant laws, a notice and compensation requirement. He noted that it was really not adequate compensation, but it would cover some people and it was a compromise and an effort. He believed that it was a measured and balanced approach.

Senator Green commented that she would be really reluctant to use Oregon as an example of land use.

Senator Hoffman indicated that he is a mobile home park owner. He asserted that if the mobile home owner had been using that land for income and then wanted to change that income source there would be some obligation to those people who have provided him with his livelihood. He expressed support for SB 6.

Senator Green wondered if there was any other provision in state law that would present a penalty or buy out to whoever was currently renting or using that income producing property.

Co-Chair Kelly explained that anytime the terms of a lease are interrupted there is not a penalty, but there would certainly be compensation to the leaseholder. He believed that SB 6 was sort of an extrapolation on that concept.

AT EASE 9:44 AM/ 9:45 AM

Senator Leman moved to report CS SB 6 (L&C), 22-LS0216\P, as amended from Committee with individual recommendations and accompanying fiscal note.

Co-Chair Kelly asked if there were any objections, there being none CS SB 6 (L&C) was reported from Committee.

#sb48

CS FOR SENATE BILL NO. 48(CRA)

"An Act relating to the determination of full and true value of taxable municipal property for purposes of calculating funding for education and certain other programs, to incorporation of third class boroughs, to incorporation of certain boroughs in the unorganized borough and annexation of portions of the unorganized borough to boroughs and unified municipalities, and to the formation of separate unorganized boroughs; and providing for an effective date."

Senator Wilken, Sponsor, referred to some handouts that were presented to the Committee. He spoke to the handouts entitled "The Need to Reform State Laws Concerning Borough Incorporation and Annexation" by the State of Alaska Local Boundary Commission (LBC) and "Background on Boroughs in Alaska" by the Department of Community and Economic Development and the "Equity in Education Funding Act." He summarized that SB 48 simply asked the question "can you help." He pointed out that 92 percent of Alaskans pay for education and 8 percent do not pay anything for education. He noted that those 8 percent command 21 percent of the education budget. He explained that SB 48 simply looked in an organized and professional manner at those places that do not and asked "can you help?" He indicated that 84 percent of Alaska is in boroughs that they did not vote for, 4 percent of Alaska is in boroughs that were voted for and the rest is in unorganized Alaska.

Senator Wilken further reported that Alaska is the only state in the union that has unorganized areas. The Constitution of the State of Alaska envisioned, back in the early 1960s, how Alaska should be organized as it matured and developed over time. He said that SB 48 would leave existing law in place, but provided another method for organizing Alaska. Under the current system the petition is filed and it goes through public hearings and the Local Boundary Commission goes over the areas affected and receives all sorts of input and develops what amounts to a structure for organization. Next, it would be voted on and brought before the legislature, which would have to take action within a certain timeframe to deny the vote. He pointed out that SB 48 suggested a different way. He explained that the process does not start at the local level, but rather at the departmental level and they nominate each year areas of the unincorporated Alaska that they feel may

have the capacity to organize and support government. The Local Boundary Commission has the charge to go to those areas and validate that nomination and the Local Boundary Commission would make a decision and come before the legislature. He summarized that in simple terms there would be two changes: one, the process starts at the departmental level; and two, the provision for a public vote is not in SB 48. He noted that existing law still would stay in place for those that want to voluntarily organize.

Senator Wilken referred the book entitled "The Need to Reform State Laws Concerning Borough Incorporation and Annexation" and indicated that it was a book that they have come out with every year by law. He pointed out that it was the basis for SB 48. He said that SB 48 was supported by a 5-0 vote on October 31, 2000. He detailed that of the unorganized area amounts to 375 square miles, 11 census areas, 37 of the school districts, 19 regional education attendance areas, 96 of Alaska's 145 cities and 66 percent of all city government. He pointed out that there are 11 standards that need to be met. He pulled out one in particular; "each area (organized or unorganized) should have a population and area with common interest." He indicated that the LBC would have to check off each standard in order for them to come up with a plan to bring to the legislature. He said that it was the blue print for this legislation.

Senator Wilken continued, "Founders intended that regions would be classified as organized boroughs or unorganized boroughs depending on their readiness and capability for government." He explained that what SB 48 did was take the 375 thousand square miles of unorganized area and section it up and asked, "what areas can help?" He said that the Mandatory Borough Act of 1963 stated, "No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized of incorporation." He suggested that organized Alaska is being penalized by unorganized Alaska without unorganized Alaska even asking, "can you help?" First, in his mind what drives the whole issue [referring to a chart] is that general fund contributions between the years of FY97 and FY02 that support operation of the school districts was an average of \$124 million out of roughly a \$700 million budget. He said that the legislature needed to ask the question "is it valid and can those that don't pay today help pay?" He pointed out that \$124 million was going to unorganized Alaska without any validation of that contribution.

Senator Wilken explained that on the capital budget side between the years FY92 through FY01 they have spent \$197 million on capital spending in Rural Education Attendance Areas (REAs). He pointed out that there is \$20 million a year going out for capital spending

without any local contribution. The problem that creates is all the people in organized Alaska have working people having to pay four mills to get a nickel of state money. For example, he pointed out a list of capital improvement projects by the Department of Education and Early Development where in one instance the City of Kenai had a project with a total of \$550,871 and the people of Kenai were going to come up with \$165,261 and the state would come up with \$385,610, because Kenai is a borough. In another instance there was an REAA project with a total of \$981,237 and the REAA would come up with \$19,625 and the state would come up with \$961,612.

Senator Wilken referred to a chart titled "1998 Per Capita Earnings From Local Employment" and pointed out that there were only three of the REAAs that had per capita earnings from local employment higher than those in ten organized boroughs. He said that at least it validated the question that there is economy out there. He noted that they think of the amorphous area as destitute, but it is not destitute. He referred to a newspaper that was sent to him dated November 16, Thursday, and there is a real estate advertisement for homes that are for sale all over close to \$200,000, which tells him two things: one, there is value out there; two, there are arms-length transactions going on. He noted that when the home is bought it establishes a value between the buyer and the seller, which means there is a way to quantify what goes on in the unorganized area and establish value. He referred to the next chart titled "REAA Wages and Average Employment (FY1999)".

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Senator Wilken further pointed out that in 1999 in the unorganized areas 15,848 people made \$388 million in earned wages and in 2000 16,257 people made \$405 million in earned wages. He said that to him it begs the question that there is wealth out there and there is an economy. He reiterated that SB 48 asked the question "can you help?" and if they can help than they should help like the people in organized Alaska. He believed that it would be a ten-year project. He added that it was the job of the legislature not to focus their resources on the amorphous area known as the unorganized borough, but rather on targeted areas.

ROBERT KOPCHAK, Director, Planning and Community Development for the City of Cordova, read the following testimony into the record:

The City of Cordova has been in favor of the formalization of

a borough government for the Prince William Sound and Copper River region for many years. In the past two decades, at least four borough studies for the area have been undertaken.

These are in addition to the work done by the Local Boundary Commission, and represent significant investment by the community and the state. The Cordova City Council has adopted a "Borough Priority", and an additional "in house" borough economics study was completed about four months ago in a continuing effort to move this governance issue forward.

For our region the borough government concept seems to be economically desirable, and politically difficult. There are significant disincentives for the formation of a borough, and few resources available to provide for the level of financial analyses and concept promotion needed to gain broad regional approval. In areas with diverse interests, concentrations of population, and rich/poor communities, current borough formation law allows the "haves" to dictate the regional politics related to borough formation at the expense of the "have nots". I would offer the following example.

The model boroughs proposed by the LBC for Prince William Sound (5) and the Copper River Basin (6) would be combined to reflect a more "ideal" approach to responsive and representative regional government. Entire drainages undivided by multiple political/jurisdictional borders provide for the maximum local participation in decisions that would affect residents of the region. This borough would encompass the entire drainage system, reflect the interconnected dependence on regional resources, and the shared risks from pollution and catastrophic oil spills that damage subsistence lifestyles, economies and ecologies Coastal Zone Management, Platting, and other related land use issues within the drainage would be consolidated, and communities would share in the risks and rewards related to resource development and land use. Drainage boundaries would allow "upriver" residents to share in the value of fisheries resources exploited by coastal communities, resources that depend on the upriver areas for their health and vitality. Coastal communities, and communities removed from oil transportation corridors and ports, would share in the value of the business of transporting oil. Sharing in this value during normal safe operations would help offset the impacts from inevitable spills and catastrophic events.

Each community within this region shares a dependence on the resources supported by the waters of Prince William Sound and the Copper River/Bering River. Some communities are

completely dependent on the fisheries and subsistence game found within the region. Over 75 percent of Cordova's economy is directly tied to the fisheries of PWS, the Copper River and North Gulf of Alaska. In PWS, Chenega and Tatitlek are 95 percent dependent on true subsistence and commercial fishing.

Although the shipment and loading of oil is a huge part of the regional economy, few of the benefits of the dollars generated by this part of the regions economy are shared outside Valdez and the support service communities located adjacent to the pipeline. It is interesting to note that "down stream" communities most likely to be damaged by oil spills enjoy virtually none of the economic benefits from oil transportation and shipment. A break in the pipeline at a river crossing has the potential of devastating salmon production on the Copper River, impacting subsistence and commercial fishing communities, both upriver and coastal, for generations. These communities receive no benefits from the shipment of oil across lands and waters put at risk. It is unconscionable that a community at slight financial risk to oil spill damage has a reserve account in excess of \$70,000,000 from regional oil transportation revenues, while neighboring villages and communities whose economies and subsistence lifestyles were damaged by and are still at risk to spills struggle.

Most communities in this region do not contribute to the local cost of education, and facilities and programs suffer from limited budgets spent on duplicate administration. It is interesting to note that in a recent evaluation of school students ability to take the standardized graduation tests, it was in communities with the greatest tax base/student ratios that students performed best. Revenues produced from modest borough taxes would easily pay the cost of a consolidated regional education program and still allow for local education control. In the region, the benefits of modest tax programs in an expanded regional base are significant. After paying the costs of Borough government administration, regional education costs, and platting/coastal zone management, sufficient revenues would remain to provide \$100,000 in revenue sharing to each community, and a per capita share of any revenue surplus. This would be after a \$450,000 deposit to a Borough Reserve account. For the Prince William Sound/Copper River Region, a borough makes financial sense from an education and a revenue sharing standpoint. Why isn't there a borough?

The ineffectiveness of the voluntary incorporation provisions of the 1961 law is evident in the fact that only 4 percent of

Alaskans live in boroughs that were formed in a truly voluntary manner. That is contrasted to 82.6 percent of Alaskans who live in boroughs that were formed under the 1963 mandate drafted by Representative Rader. It must also be recognized that most of the boroughs that formed voluntarily had extraordinary resources that make boroughs particularly attractive. The North Slope accounts for 25 percent of the residents of Alaska that have formed voluntary boroughs, and their tax base is an enviable \$1,550,950 per capita.

If we look at the "ability to pay" as it relates to existing and proposed boroughs, we note that 10 of the 12 areas in the "unorganized borough" have a larger per capita income than the Mat-Su, which was compelled to form a borough through legislative action. Of the "Top Ten" areas on the state per capita income list, it is notable that #6 (the Cordova/Valdez census area) is the only non-borough area.

The difficulty in using local initiative to form a borough results from decades of incrementally expanding disincentives to borough formation. An unfair burden is placed on communities with the fewest assets. To even begin the borough process they must pursue complicated, difficult and costly processes. The resources simply are not there.

Boroughs empower regional populations and enable them to provide for their own interests. With a modification in the borough formation process that removes some of the burdens to formation, additional boroughs will follow.

KEVIN WARING, Chairman, Local Boundary Commission, read the following testimony into the record:

Chairman Donley, Chairman Kelly, and members of the Committee, thank you for this opportunity to testify on behalf of the Local Boundary Commission on Senate Bill 48. One of the duties of the Local Boundary Commission under the Alaska Constitution and under state law is the duty to review and approve or disapprove all proposed city and borough incorporations and boundary changes. The Commission would play a central role in implementation of SB 48. My purpose today is to explain how the Commission views this bill, and its responsibilities under the bill.

First, some history on the origin of SB 48. Over the past year, the Commission has worked to develop a new legislative approach to borough incorporation in the unorganized borough.

We held several work sessions to study the issues and to work

on draft legislation. In October, the Commission voted unanimously to approve a draft bill, and to make it available for legislative consideration. Our goal was to put forward for legislative and public discussion a fresh approach to incorporation of new borough governments that was uniformly fair, accountable, and within the framework of existing law. The Commission believes that the legislation that Senator Wilken and the co-sponsors have introduced as SB 48 meets those goals.

As background for the proposed legislation, the Commission also prepared and provided to committee members:

- a position paper on "The Need to Reform State Laws Concerning Borough Incorporation and Annexation";
- a factual booklet that provides background on boroughs in Alaska; and
- a four-page handout that summarizes key points about the Commission's proposal and how it fits into existing law.

SB 48 as amended has eight sections. My remarks focus on Section 4, which authorizes a new method for borough incorporations and annexations in unorganized areas. I will talk about the new method proposed for borough incorporations.

The method proposed for annexations of unorganized areas to existing boroughs works similarly.

Section 4 of SB 48 authorizes two new steps in the borough incorporation process:

- a new first step to initiate a borough incorporation petition; and
- a new last step to approve a petition.

#### **New First Step: Incorporation by Administrative Petition**

Under current law, a petition for borough incorporation can only be initiated voluntarily by residents of a proposed borough. Few have volunteered. Only four percent of the State's residents live in boroughs that were created by local initiation. Another 83 percent live in boroughs established by the 1963 Mandatory Borough Act, an extraordinary act of local government legislation.

Section 4 of SB 48 adds a new option for incorporation by administrative petition. It directs the Department of Community and Economic Development to prepare annually a preliminary list, with supporting analysis, of unorganized areas that reasonably appear to satisfy existing legislative

standards for borough incorporation. It further directs the Local Boundary Commission to select from this list areas that may warrant incorporation, and to instruct the Department of Community and Economic Development to prepare and file a petition for incorporation. The Commission would then follow the process now established in law for public review and local public hearings on petitions.

### **New Final Step: Petition Approval**

Section 4 also proposes a new final step to approve incorporation petitions initiated under SB 48. This new step is modeled on the process for approval of city and borough annexations established by Alaska's Constitution, which was overwhelmingly ratified by the voters in 1956.

Briefly, Article X, section 12 of the Alaska Constitution established a method for approval of municipal boundary changes without local election. The first legislature put this process into law. Some annexation proposals, whatever their merits, are not well-received by affected residents. Therefore, the Constitution and legislature established a method by which contested petitions that met standards set out in law could be approved by the Local Boundary Commission without a local election, but were subject to legislative veto. Legislative review annexation has been successfully used for over 100 city and borough boundary changes since statehood. Most significant annexations are approved by this method.

Similar to the existing method for legislative review annexation, Section 4(c) of SB 48 authorizes the Commission to approve incorporation petitions that meet the same incorporation standards that apply to all other boroughs, without a local election but subject to legislative veto.

Apart from these two new steps for initiating and approving a borough incorporation or annexation petition, the Commission would:

- standards for borough incorporation now in law, and
- follow other procedural requirements now in law, including local public hearings, written decision by the Commission explaining its decision, and opportunity for administrative and judicial appeal.

The proposed steps include significant checks and balances. Before an incorporation could take place under this new method:

- the Department of Community and Economic Development must find that a region likely satisfies incorporation standards;
- the Commission must find that the petition meets all applicable standards and should be approved on its merits;
- the Commission's decision is subject to administrative and judicial review; and
- the Commission's approval is subject to legislative veto.

### **Concerns Raised in Public Testimony**

Next, I want to address three specific concerns that have been raised in public testimony. A statement of how the Commission would implement SB 48, if adopted, may help dispel them as unfounded.

First, there has been concern that the Commission might approve incorporation of areas that did not have the economic resources to support borough government. Existing law—AS 29.05.031—already requires a Commission finding that the economy of any area proposed for incorporation has the human and financial resources needed to support municipal services. The Commission's regulations, at 3 AAC 110.055, spell out in detail the factors on which the Commission must make its findings. Given the public concern on this topic, the Commission is working with DCED staff to develop objective economic benchmarks that a region should meet before it would be nominated for incorporation.

Second, there has been concern that the Commission might not hold adequate local public hearings for incorporation petitions filed under the bill. SB 48 specifically requires the Commission to hold at least one local public hearing in each affected region. In practice, the Commission's intent would be to hold local public hearings at regional centers and, at minimum, in any community with 400 or more residents and in every home rule and first class city in the affected region.

Third, there has been concern that the Commission might move quickly to approve numerous borough incorporations. In reality, given the resources and time available to the Commission and its staff, the Commission could, at most, take up one or two petitions a year. In our view, implementation of this law would likely stretch out over many years.

Establishment of borough governments has been a matter of conflict for as long as Alaska has been a state. With that contentious history, it is easy to lose sight of the fact that borough governments have played an enormously positive role in Alaska's development. For most of the state, boroughs have been the means to fund and deliver local public services, accountable to local residents. In local matters, local government usually governs best. Boroughs have also been our main tool to influence economic development for community benefit. For example, it is hard to believe that urban and rural communities and regions affected by oil pipeline construction, oil and gas and mining development, management of forestry and fishing resources, growing energy demands, growth in tourism, and rapid urbanization would have fared better without borough government.

To sum matters up, the Commission does not view SB 48 as the second coming of the 1963 Mandatory Borough Act, or any similar legislation. The Commission is not on a mission to foster boroughs for the sake of boroughs. Unlike the 1963 Mandatory Borough Act, SB 48 provides for a measured, case-by-case evaluation of each proposed incorporation. Each petition will be evaluated on its merits. Proposals that do not meet statutory standards will not be approved. And, as under current law, even if a petition meets standards, the Commission can reject the petition when there are sound reasons to do so.

In closing, the Commission believes the new incorporation steps authorized by SB 48 meet its goal for an approach that:

- uniformly implements the standards for borough incorporation in existing law, but respects the diverse circumstances in different rural regions;
- provides checks and balances; and
- is modeled on existing law and minimally changes law.

Senator Wilken noted that on page 33 of the handout titled "The Need to Reform State Laws Concerning Borough Incorporation and Annexation" there were five members listed from across the state and four judicial districts and pointed out that they were all volunteers. He indicated that they presented to him five amendments and he said that he was okay with three of them. He supported their effort to make SB 48 better and hoped to bring a CS to the Committee next time.

Senator Hoffman wondered if any of the members of the Local Boundary Commission were Alaska Native.

Mr. Waring answered not at this time.

Senator Hoffman stated that the question Senator Wilken asked was "Can you help?" and the question he had was "Can it hurt", because he believed that SB 48 was divisive and would further divide urban and rural Alaska. He said that when they look at the communities in the unorganized borough 90 to 95 percent of those communities are predominately Alaska Native. He pointed out that they are heavily dependent on the subsistence lifestyle. He explained that just because they own land does not mean that they can pay and if there was a property tax placed on those people in rural Alaska, what land that they do have he believed would end up being lost in foreclosure. They do not have the necessary income to pay. He asked the representative from the Local Boundary Commission how many municipalities in Alaska have opted to dissolve and how many in the past ten years have formed or moved on to first-class cities in rural Alaska.

Mr. Waring responded that he believed that 3 or 4 municipalities have dissolved.

Senator Hoffman wondered if that was in the last ten years.

Mr. Waring reiterated approximately 3 or 4. He said that there have been a number of boroughs formed in the past ten or twelve years.

Senator Hoffman clarified his point and stated that the direction of government in rural Alaska was moving away from organization under state law and moving forward and incorporating under federal law. He said that to add another layer of government to one that does not work does not make sense to him. He believed that even though the thrust behind this was to pay for education this legislation goes far beyond that. He reiterated that this would further divide urban and rural Alaska. He noted that federal receipts presently pay many of the services provided for rural Alaska. He said that when they look at the health corporations a substantial portion of those dollars come from federal government and a very small portion of those dollars are paid for by the state. The corporations are formed to receive federal dollars in the unorganized boroughs. He said that if SB 48 passed possibly one or two boroughs would be formed on an annual basis, but all too often when something is beneficial to urban Alaska and detrimental to rural Alaska many financial dollars are spent there. For example, in the fight for subsistence the Legislative Council spent several thousand dollars when it was in the interest of urban Alaska and not in the interest of rural Alaska. He concluded that

the legislation clearly divided urban and rural Alaska. He added that if they went out and asked whether rural Alaska wanted to move toward more federal intervention or more state intervention, he believed that they would want more federal intervention and for that reason he informed the Committee that he was opposed to SB 48.

Co-Chair Kelly explained that the intent of the bill, as he understood it, was that if rural Alaska could pay then they should pay some part of it. He declared that frankly he was getting tired of comments regarding divisiveness and the rural and urban split. He pointed out that throughout his time in the legislature he has seen a lot of dollars going to rural Alaska and rural Alaska seems to get what they ask for except for maybe on subsistence. He suggested that Senator Hoffman check the Bill of Rights on that before he started talking about the rural and urban split.

Senator Wilken associated himself with Co-Chair Kelly's remarks.

Co-Chair Kelly appointed SB 48 to a subcommittee consisting of Senator Leman, Senator Wilken and Senator Hoffman.

[Heard and Held]

#sb103

CS FOR SENATE BILL NO. 103(JUD)

"An Act relating to election campaigns and legislative ethics."

JEFF BALASH, staff to Senate State Affairs Committee, indicated that he would walk through the Judiciary Committee Substitute (CS). He explained that Section 1 codified the current interpretation and regulation of the Alaska Public Offices Commission (APOC) concerning different groups under the control of a single candidate being treated as such towards the limit for contributions. Section 2 makes some clarifications as to the types of things that can be paid for with surplus campaign funds.

Senator Green requested clarification with regards to Section 1.

Mr. Balash clarified that if a number of groups are under the control of a single candidate then they are all bound by the contribution limits and they are treated as one group.

Senator Therriault further clarified, "Basically, for Gene Therriault, I could have, the friends and neighbors for Gene Therriault and I could also have the nonpartisans for Gene Therriault. My campaign effort could be split into different

groups, but if I control them than they all fall under the contribution limit for Gene Therriault."

Mr. Balash indicated that Section 2 made changes to the allowances for the use of surplus campaign funds. He explained that it allows for thank you advertisements and seasonal greeting cards and also removes the Public Office Expense Term (POET) account reserve to help eliminate additional paperwork that successful candidates have to go through each year. He added that this would allow the entire lump sum to be transferred to the POET account and would eliminate the reserve mechanism.

Senator Therriault said that he believes the Alaska Public Offices Commission (APOC) supported the change. He indicated that APOC was asked for the justification of the reserve account and they thought that it came from some concern over federal taxation of the reserve and that justification was not there anymore. He expressed that it never made sense to him to have a separate checking account that he wrote one check from each year just to transfer money from the reserve account to the POET account. He referred to page 3, lines 21 and 22, pointing out that the transfer is limited to \$10,000 for House seats and \$20,000 for Senate seats. He noted that it use to be \$5,000 per year multiplied by the number of years; in the current bill version it simply states the entire amount.

Mr. Balash referred to Section 3 and indicated that it made changes to the allowances for items that would be retained by the candidate in terms of personal property, for example, seasonal greeting cards, photographs used in the campaign and campaign signs. Section 4 made a change to the uses of state funds, which was necessary to conform to a later section regarding legislator's ability to campaign for or against constitutional amendments. Section 5 clarified the definition of contribution and also allowed for a political party to send out two mass mailings per election. Section 6 covered the definition of expenditures.

AT EASE 10:42 AM/10:43 AM

Mr. Balash referred to Section 7, which made conforming amendments to the ethics code to allow legislators to use their offices longer before and after session. Furthermore, it made an allowance for the use of resources by a legislator toward state or federal amendments to the constitution. Finally, Section 9 is a transitional provision dealing with funds already in the POET reserve account, which needs to be transferred to the POET account.

Senator Therriault pointed out that there was quite a bit of controversy originally with regards to legislators and their employees interacting with initiatives. He believed that it was appropriate that a proposed constitutional amendment come from the legislature, quite often an individual legislator, and a legislator should be able to act as advocate for that amendment.

Amendment #1:

Page 6, line 5:  
Delete "or"

Page 6, line 9, following ";":  
Insert "or"

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate;"

Page 8, line 13:

Delete "or"

Page 8, line 16, following ";":  
Insert "or"

(K) a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate;"

Co-Chair Donley moved to adopt the amendment.

There was no objection and Amendment #1 was adopted.

Amendment #2:

Page 6, line 4  
delete "photographs and biographies of"  
insert "information about"

Page 9, line 26  
after "solicit"  
insert "or receive"

Co-Chair Donley moved to adopt the amendment.

Co-Chair Kelly asked if there was any objection.

Senator Leman objected and offered a friendly amendment to the amendment to include photographs.

Co-Chair Donley clarified that the amendment to the amendment would insert, "photographs, biographies, and information about".

There was no objection and the amendment to the amendment was adopted.

Co-Chair Kelly indicated that Amendment #2 was before the Committee and asked if there was any objection.

There was no objection and Amendment #2 was adopted.

Amendment #3:

Page 5, line 23-28, as follows:

Delete:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question [, BUT IT DOES INCLUDE PROFESSIONAL SERVICES VOLUNTEERED BY INDIVIDUALS FOR WHICH THEY ORDINARILY WOULD BE PAID A FEE OR WAGE];

Insert:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question, but it does include professional services, other than legal or accounting services, volunteered by individuals for which they ordinarily would be paid a fee or wage;

New Text Underlined [DELETED TEXT BRACKETED]

Co-Chair Donley explained that Amendment #3 would tighten up the Judiciary version of the bill, Version W, clarifying that the only exception to professional services being offered or volunteered to a campaign would be for legal or accounting services. He made a motion to adopt the amendment.

Co-Chair Kelly indicated that the change would be fairly significant. He asked if there was any objection to the amendment. There was no objection and Amendment #3 was adopted.

Amendment #4:

Page 9, following line 26:

Insert a new bill section to read:

Sec. 8. AS 24.60.080(c) is amended to read:

(c) Notwithstanding (a) of this section, it is not a violation of this section for a legislator or legislative employee to accept

(1) hospitality, other than hospitality described in (4) of this subsection,

(A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or

(B) at a social event or meal;

(2) discounts that are available

(A) generally to the public or to a large class of persons to which the person belongs; or

(B) when on official state business, but only if receipt of the discount benefits the state;

(3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;

(5) gifts from the immediate family of the person;

(6) gifts that are not connected with the recipient's legislative status;

(7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, or the office of the ombudsman;

[OR]

(8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern; or

(9) a gift of transportation from a legislator to a legislator if transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other means of transport owned or under the control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes."

Senator Olson addressed Amendment #4.

SFC 01 # 51, Side A 10:52 AM

Senator Olson noted that in his district access to most areas is limited to air transportation and it is for this reason that he asked that the Committee adopt Amendment #4. He moved for the adoption of the amendment.

Co-Chair Kelly asked if there was any objection. There was no objection and Amendment #4 was adopted.

Co-Chair Donley moved to report CS SB 103 (JUD), 22-LS0148/W, as amended from Committee.

Co-Chair Kelly interjected that there were people to testify on the bill that he had overlooked.

BROOKE MILES, Director, Alaska Public Offices Commission (APOC), testified via teleconference, thanked the Committee for taking up Amendment #3, which addressed volunteer professional services. She referred to page 6, line 6 and explained that under the proposed language any person is prohibited from campaign contributions, other than lobbyists, to conduct a poll and give the results to a campaign unless the poll was designed to primarily benefit the candidate. She expressed concern with regards to that language and said that the Commission saw this as administratively difficult. She referred to page 5, line 6 and the Commission identified this as costly, because it recognized a major change in current policy that would substantially restrict public money either to support or oppose ballot questions. She further explained that current law required that public funds could only be used to support ballot questions specifically appropriated to that purpose by state law

and municipal ordinance.

Senator Green requested clarification that if after two mailings they are taken over the contribution limit, which would put them in violation and they had no part of the decision making as to what group advertisements would contain their information.

Ms. Miles responded after two free mailings for each election if the state party or state party sub-division does a state mailing then yes it would be considered a state contribution.

SUSIE BARNETT commented that the Ethics Committee has always supported communication with constituents when the communication relates to access to the elected official or reporting on legislative matters. She believed that was the intent of Amendment #1 was to preserve that important function. She pointed out that there is a conflict in statute, AS 24.60.030 c.2 sets out certain parameters on mass mailings using funds other than office allowance. Secondly, the amendment actually broadens the current interpretation and practice of most legislators to allow activities beyond those of legislative matters. She recommended that they consider different language.

Co-Chair Kelly asked Ms. Barnett to fax those recommendations to Senator Therriault's office.

Co-Chair Donley indicated that he had spoke with the drafters that morning and since the prohibition that Ms. Barnett spoke of was a specific prohibition the bill would not negate that.

Ms. Barnett referred to Amendment #4 offered by Senator Olson and said that the amendment appeared to tilt the playing field in favor of those able to provide those types of gifts. She recommended that they consider requiring public disclosure of acceptance of gifts of that type.

Co-Chair Kelly reported that the bill would be HELD in Committee.

[Heard and Held]

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#### **ADJOURNMENT**

Co-Chair Pete Kelly adjourned the meeting at 11:04 AM