

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 12, 2008

8:04 a.m.

MEMBERS PRESENT

Representative Anna Fairclough, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
Representative Nancy Dahlstrom
Representative Kurt Olson
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

Representative Mark Neuman

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 30

Disapproving the Local Boundary Commission recommendation regarding the annexation of territory to the Ketchikan Gateway Borough.

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 30

SHORT TITLE: DISAPPROVING KETCHIKAN ANNEXATION

SPONSOR(S): REPRESENTATIVE(S) THOMAS

01/25/08	(H)	READ THE FIRST TIME - REFERRALS
01/25/08	(H)	CRA
02/12/08	(H)	CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE BILL THOMAS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HJR 30.

SCOTT BRANDT-ERICHSEN, Attorney
Ketchikan Gateway Borough
Ketchikan, Alaska

POSITION STATEMENT: Requested the committee reject HJR 30.

RICHARD CARLSON, Superintendent
Klawock City School District
Klawock, Alaska

POSITION STATEMENT: Testified in favor of HJR 30.

KAREN CLEARY, Vice President
Prince of Wales Chamber of Commerce
Klawock, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

RONALD ERICKSON, Superintendant
Craig City School District
Craig, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

DON JOHNSON, Superintendant
Hydaburg City School District
Hydaburg, Alaska

POSITION STATEMENT: During hearing of HJR 30, discussed the impacts of the proposed annexation on Hydaburg.

DICK COOSE
Ketchikan, Alaska

POSITION STATEMENT: Testified in opposition to HJR 30.

LAUREN BURCH, Superintendant
Southeast Island School District
Thorne Bay, Alaska

POSITION STATEMENT: Testified in favor of HJR 30.

JAMES GOULD, Mayor
City of Thorne Bay
Thorne Bay, Alaska

POSITION STATEMENT: Testified in favor of moving HJR 30 forward.

MARK MINNILLO
Thorne Bay
Thorne Bay, Alaska

POSITION STATEMENT: Testified in favor of HJR 30.

SHERRI HAYWARD
Annette Island School District
Metlakatla Indian Community
Metlakatla, Alaska

POSITION STATEMENT: Encouraged the committee to support HJR 30.

LYNN CRYSTAL, Member
Local Boundary Commission
Valdez, Alaska

POSITION STATEMENT: Testified in opposition to HJR 30.

DENNIS WATSON, Mayor
City of Craig
Craig, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

BOB BLASCO, Attorney at Law
Thorne Bay, Alaska

POSITION STATEMENT: During hearing of HJR 30, expressed concerns with the proposed Ketchikan Gateway Borough annexation.

BRETT AGENBROD, Superintendent
Annette Island School District
Metlakatla Indian Community
Metlakatla, Alaska

POSITION STATEMENT: Testified in support HJR 30.

PETER CAFFAL-DAVIS
Hyder, Alaska

POSITION STATEMENT: Urged passage of HJR 30.

PAUL BRENDIBLE, Council Member
Metlakatla Indian Community
Metlakatla, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

ERIC GEBHART, Superintendent
Kake School District
Kake, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

ACTION NARRATIVE

CO-CHAIR ANNA FAIRCLOUGH called the House Community and Regional Affairs Standing Committee meeting to order at [8:04:08 AM](#). Representatives Fairclough, LeDoux, Dahlstrom, Olson, Cissna, and Salmon were present at the call to order.

HJR 30-DISAPPROVING KETCHIKAN ANNEXATION

8:04:26 AM

CO-CHAIR FAIRCLOUGH announced that the only order of business would be HOUSE JOINT RESOLUTION NO. 30, Disapproving the Local Boundary Commission recommendation regarding the annexation of territory to the Ketchikan Gateway Borough.

8:04:42 AM

CO-CHAIR LEDOUX moved to adopt CSHJR 30, Version 25-LS1378\E, Cook, 2/1/08, as the working document. There being no objection, Version E was before the committee.

8:06:28 AM

REPRESENTATIVE BILL THOMAS, Alaska State Legislature, speaking as the sponsor of HJR 30, opined that HJR 30 should be passed and allow the legislature to decide the fate of the petition for annexation of territory to the Ketchikan Gateway Borough. He recalled his time serving on the House Community and Regional Affairs Standing Committee when he encouraged the formation of boroughs. He emphasized that he's not opposed to the formation of new boroughs, but is opposed to a money grab for annexation of lands that impact other communities. The impact will be felt by 16 small communities with 12 school districts that has about 2,700 children. However, the Ketchikan Gateway Borough (KGB) won't provide any additional services in these areas. Therefore, Representative Thomas opined that this annexation is an attempt to obtain the forest receipts for the Tongass National Forest. He explained that the Tongass National Forest receipts are impact aid money given to the communities in Southeast Alaska where logging has occurred on federal lands. He said he is somewhat surprised that the recent petition by Ketchikan was accepted as it reads similar in form and language to the 1999 petition that was rejected. Representative Thomas then turned to the concern with regard to the payment in lieu of taxes (PILT), which is utilized in areas where there aren't boroughs. In the [area to be annexed], Prince of Wales District, the PILT amounts to \$543,913,000 of which about \$200,000 would be given to the Ketchikan Gateway Borough if the annexation were to be approved. The aforementioned will create an even stronger hardship coupled with the \$1.2 million loss in Tongass National Forest receipts. He highlighted that during testimony to the Local Boundary Commission (LBC), 36 members provided testimony and no members of the public spoke in favor of the annexation. Only borough staff and three current or

former assembly members of Ketchikan spoke in favor of the annexation.

REPRESENTATIVE THOMAS directed attention to a letter dated January 31, 2008, from the Ketchikan Gateway Borough, which mainly refers to the inequities of funding. He emphasized that most of the communities being impacted are former logging camps that became small communities. The letter alleges that the unorganized boroughs receive a disproportionate amount of the National Forest receipts, which are divided into three types of funds. With regard to the funds for the roads, Representative Thomas pointed out that on Prince of Wales Island alone there are between 5,000-6,000 miles of road [due to logging activities] and thus that area should share a greater proportion of the funding. He clarified that he isn't speaking against logging.

[8:15:14 AM](#)

REPRESENTATIVE THOMAS emphasized that this proposed annexation is about the money because save that there's no reason to move forward with the annexation. Furthermore, with approval of the annexation, Ketchikan's revenues will increase by five times its current revenues with no increase in impact to the borough. However, the following cities will experience the following losses: City of Craig - 1 percent; Hoonah - .9 percent; Kake - .9 percent; Hydaburg - 1.4 percent; and Klawock - 1.3 percent.

[8:16:35 AM](#)

CO-CHAIR LEDOUX inquired as to whether any school children live in the areas to be annexed.

REPRESENTATIVE THOMAS replied no. He characterized the areas to be annexed as uninhabited and for which Ketchikan would provide no service at all. However, the Southeast Island School District may need to close one of its schools if this annexation occurs and it loses it's share of the National Forest receipts. This proposed annexation is going to create a large financial hole for the earlier mentioned communities and doesn't seem to encourage the formation of a borough. He then highlighted the timeline of events with this proposed annexation and the actions of former LBC Commissioner Dan Bockhorst. He suggested that the committee may want to ask Mr. Bockhorst what is different and made him change his mind with the current annexation application.

[8:18:57 AM](#)

REPRESENTATIVE CISSNA related her understanding that the sponsor's concern is the funding lost due to loss of Tongass National Forest receipts. She inquired as to how that relates to education funding.

REPRESENTATIVE THOMAS explained that the Tongass National Forest receipts are to be used primarily for education funding.

REPRESENTATIVE CISSNA asked if the receipts were originally intended for schools.

REPRESENTATIVE THOMAS clarified that the receipts are intended for roads and schools. However, he reiterated that the primary use of these receipts is for education. Juneau is the number one recipient of these receipts, although there are no clear cuts in the City & Borough of Juneau. Representative Thomas then pointed out that the Tongass National Forest receipts weren't reauthorized, although there's a strong effort to reopen the Tongass National Forest at a level of 300 million board feet a year.

[Co-Chair Fairclough passed the gavel to Co-Chair LeDoux.]

[8:23:08 AM](#)

CO-CHAIR LEDOUX inquired as to who currently receives these forest receipts in the uninhabited areas.

REPRESENTATIVE THOMAS explained that currently the receipts are placed in a pool and the receipts are parsed out based upon whether the area is organized or not. This refers to the receipts for the unorganized areas. Ketchikan, since it's a borough, already receives its funds as do other organized areas [in the Southeast Alaska]. The proposed annexation results in the loss of about \$1.2 million in Tongass National Forest receipts [from the areas outside the borough] because it's based on the acreage left outside the borough. At the same time, the PILT amounts to an additional \$200,000 loss to communities, which totals \$1.4 million loss to these [unorganized] communities. In further response to Co-Chair LeDoux, Representative Thomas deferred to others regarding what percentage of that is federal revenues.

[8:26:04 AM](#)

SCOTT BRANDT-ERICHSEN, Attorney, Ketchikan Gateway Borough, requested that the committee reject HJR 30. He informed the committee that there is a pending court challenge on this proposed annexation. Therefore, the legality and propriety of the LBC process will be determined by the court. Although the legislature may wish to consider the aforementioned, it doesn't need to guide the committee's decision. During the legislative review process, the legislature has the opportunity to express its view with regard to the policy. He suggested the committee consider the message it would send if this annexation is rejected.

[8:27:43 AM](#)

CO-CHAIR LEDOUX inquired as to the difference between the original annexation proposal and this most recent proposal.

MR. BRANDT-ERICHSEN specified that there are some structural changes, both in the regulations and the way in which the petition was put together. He explained that in the first process, the Ketchikan Gateway Borough sought to carve out small pockets around Meyers Chuck and Hyder without following the natural geography. At that time, the LBC initially said it would reject the petition, but would approve it if Hyder and Meyers Chuck were included. The Ketchikan Gateway Borough Assembly determined that if the LBC wishes, it can amend the petition to include Hyder and Meyers Chuck. The residents of Hyder and Meyers Chuck didn't want to be included in the Ketchikan Gateway Borough. Therefore, the borough stayed with it's initial application, which the LBC rejected. With the most recent application, the Ketchikan Gateway Borough petitioned to include Meyers Chuck and developed more detailed information about Hyder. He informed the committee that Hyder uses the Canadian phone system, power, and money. Hyder's connections lay more with Canada than the U.S.

[8:29:30 AM](#)

MR. BRANDT-ERICHSEN, in further response to Co-Chair LeDoux, specified that the Ketchikan Gateway Borough proposed annexation of Meyers Chuck, as did the Wrangell Borough. The LBC decision on the Wrangell petition placed Meyers Chuck and Union Bay within the Wrangell Borough. The LBC has approved the aforementioned so far, but there are still some required steps remaining, such as a vote on the matter in Wrangell. He noted that the Ketchikan Gateway Borough told the LBC that it didn't object to those communities being included in the Wrangell

Borough, if the LBC viewed that as more appropriate. Earlier on in the process the residents of Meyers Chuck indicated a preference to be included in the Wrangell Borough. Another difference between the two petitions was the amendment of the LBC's regulations. One of the amendments shifted the focus to whether the proposed borough would have sufficient resources provide the services throughout its proposed boundaries, which the LBC found to be the case. He then noted that another difference is that the Department of Education and Early Development (EED) opposed the earlier petition, but did not oppose the current petition. The other difference is that there seemed to be a change in LBC philosophy such that there's a less strict adherence to the Model Borough Boundaries. This change in philosophy, he opined, is reflected in the Wrangell and Ketchikan decisions because the Model Borough Boundary for Wrangell includes Wrangell and Ketchikan in a single borough. The LBC didn't reject Wrangell's petition, although it didn't include Petersburg. Furthermore, the LBC expressed interest in Ketchikan ultimately including Hyder, and didn't strictly hold to the Model Borough Boundaries.

MR. BRANDT-ERICHSEN then clarified that the area proposed for annexation isn't completely vacant, but includes some remote lodges and privately held land. The owners of those haven't objected to the proposed annexation, he related. However, those objecting are folks from communities and school districts located outside of the proposed annexation area. The only explanation, he opined, seems to be the National Forest receipts.

[8:33:00 AM](#)

MR. BRANDT-ERICHSEN informed the committee that when the draft petition was presented to the Ketchikan Gateway Borough Assembly in 1996, it was accompanied by two budgets. One budget was based on the premise that Congress continued to fund National Forest receipts at a high level and second budget based on no National Forest receipts. On one budget the Ketchikan Gateway Borough would gain \$1 million or more, but on the other budget there would be revenue losses in the first year or two and the revenues in the future would be about \$100,000 in additional funds each year. The assembly at the time recognized that the National Forest receipts may not continue and was willing to accept the additional territory and provide local government services to the territory, even without the current level of National Forest receipts. Mr. Brandt-Erichsen said that it's unfortunate that communities on Prince of Wales Island are

objecting to the expansion of the Ketchikan Gateway Borough as there has been a long history of a positive and cooperative relationship between the communities on Prince of Wales Island and the Ketchikan Gateway Borough. Furthermore, Ketchikan has served as a regional service and support center. He related the hope that this process doesn't result in long-term damage to the relationship. The Ketchikan Gateway Borough agrees with the LBC's finding that what the federal government does with National Forest receipts shouldn't be a guiding factor in borough formation or expansion. Singling out the Ketchikan Gateway Borough annexation is inappropriate [in light of the fact that] the Wrangell borough would result in taking about \$250,000 of National Forest receipts from the unorganized borough to the Wrangell borough. The difference between the impact of the Wrangell borough formation and the Ketchikan Gateway Borough expansion is only in terms of the dollar amount of Tongass National Forest receipts. For the above reasons, Mr. Brandt-Erichsen, on behalf of the Ketchikan Gateway Borough, urged the committee not to forward HJR 30.

[Co-Chair LeDoux returned the gavel to Co-Chair Fairclough.]

[8:36:08 AM](#)

REPRESENTATIVE CISSNA inquired as to the benefits of this proposed annexation.

MR. BRANDT-ERICHSEN said there are several reasons for the proposed annexation. He then stated that it would be incorrect to say that the potential of National Forest receipts wasn't taken into consideration. However, he highlighted that it wasn't the driving factor, which is evidenced by the fact that the Ketchikan Gateway Borough Assembly was prepared to proceed even with the prospect of not receiving the National Forest receipts. He mentioned the mineral exploration possibilities in the areas to be annexed. Most significantly, Rudyard Bay is a world class tourist destination to which about 50,000 tourists went last year. When there are problems, as was the case this summer with a plane crash, the response services come from Ketchikan. He noted that the Ketchikan Gateway Borough has a long history of supporting the Ketchikan Volunteer Rescue Squad. In fact, the borough has purchased a boat and provided office space for the squad. The Ketchikan Volunteer Rescue Squad is an initial responder along with community volunteers and borough firefighters. If [Rudyard Bay] is in the borough, the Ketchikan Gateway Borough is better able to handle providing services.

8:38:30 AM

REPRESENTATIVE CISSNA pointed out that the boundaries chosen for annexation don't actually have to do with communities that the borough would want to develop and serve in the future.

MR. BRANDT-ERICHSEN acknowledged that there aren't large settlements in the area to be annexed, but reiterated that there are outlying properties and a couple of lodges. To the extent the owners of the aforementioned properties want services that are among those that borough provides, the Ketchikan Gateway Borough would provide those. He said that the economic activity in Ketchikan is significantly impacted by what happens in those outlying areas. Metlakatla is seeking to have the U.S. Secretary of Interior expand its boundaries to include waters up to Canada. The waters desired are prime fishing grounds for charter, sport, and commercial fishermen from Ketchikan. If Metlakatla is expanded to include those waters, it could adversely impact those economic interests in Ketchikan whereas if those waters were within the Ketchikan Gateway Borough, the borough would have a better ability to communicate with the U.S. Secretary of Interior and represent the citizens of Ketchikan whose livelihood could be impacted.

8:41:01 AM

CO-CHAIR LEDOUX related her understanding that the Ketchikan Gateway Borough is already performing search and rescue services in the areas proposed for annexation.

MR. BRANDT-ERICHSEN confirmed that the Ketchikan Volunteer Rescue Squad, which is a private nonprofit entity that's supported by the borough, is performing those services. In further response to Co-Chair LeDoux, he confirmed that the same entity performs search and rescue services within the borough. He then informed the committee that there are three fire departments in the Ketchikan Gateway Borough and one within the City of Ketchikan. While those fire departments may assist with rescue, most often the rescue services performed are outside of the service areas for those fire districts. Therefore, for incidents out on the water or in a more remote part of the borough, the Ketchikan Volunteer Rescue Squad is the front-line of response.

CO-CHAIR LEDOUX surmised then that the Ketchikan Gateway Borough Volunteer Firefighters would still respond if the proposed areas are annexed.

MR. BRANDT-ERICHSEN confirmed that they would likely be the initial response.

CO-CHAIR LEDOUX questioned then how things would be different if the proposed area for annexation is annexed.

MR. BRANDT-ERICHSEN said that there would be the potential for expanding the service areas of the existing fire departments. "More directly, once the economic activity that is generating the need for the services is within the borough, there's the ability to develop ways to get revenue from that economic activity, which can be given as grant supporting the Volunteer Rescue Squad and those sorts of efforts," he explained. In further response, Mr. Brandt-Erichsen used Yes Bay lodge as an example. He explained that with the sales tax revenue and the transient occupancy tax revenue from the visitors, the borough would have the ability to provide some financial support for the Ketchikan Volunteer Rescue Squad. Although the borough has done so in the past, it hasn't been a regular budget item.

[8:44:14 AM](#)

CO-CHAIR LEDOUX related her understanding that some of the areas being annexed are fairly remote from the Ketchikan Gateway Borough.

MR. BRANDT-ERICHSEN replied yes, adding that one may need to get there by aircraft or boat. He clarified that the annexed areas wouldn't necessarily be service areas on their own, but rather may be included in a larger service area. For example, currently almost all the populated areas are within an existing fire service area. Therefore, if the borough was to adopt nonareawide fire powers, those areas would be within the fire service area. Similarly, if one of the existing service areas was expanded to include the areas to be annexed.

[8:45:25 AM](#)

REPRESENTATIVE SALMON inquired as to how much of an increase in funds and land the Ketchikan Gateway Borough would experience. He also asked how much would be taken from the [National Forest] receipts.

MR. BRANDT-ERICHSEN answered that the area to be annexed is about 4,300 square miles, which would roughly triple the current borough size. He pointed out that currently the Secure Rural

Schools payments haven't been reauthorized. If the distributions of receipts are based upon timber harvest and activity within the Tongass National Forest, he estimated that the amount of money will likely be less than \$300,000. However, if Congress appropriates at the same funding level as in the past for the Secure Rural Schools funds, the Ketchikan Gateway Borough would expect an increase of about \$1.2 million. He explained that each acre within the National Forest is valued in relation to the total receipts off the forest and the money is distributed based on how many acres are within a borough's boundaries. The distributions are based upon the geographic boundaries as of September 30, two years prior and thus any receipts would be received two years out if reauthorization occurs.

[8:48:11 AM](#)

REPRESENTATIVE OLSON inquired as to what the borough would use the \$1.2 million for if it's actually reauthorized.

MR. BRANDT-ERICHSEN answered that most of the funds would probably go to the Ketchikan Gateway Borough's school district. He related that about 75 percent of the allocation is earmarked for education. Currently, the borough receives approximately \$158 per student, while the unorganized areas receive \$1,400 per student. If the Wrangell Borough is formed and the Ketchikan Gateway Borough annexation is approved and the funding remains at the same level, Ketchikan would receive \$500-\$600 per student and the unorganized boroughs would receive about \$1,200 per student. Therefore, the unorganized boroughs would face a reduction in the per student amounts for the unorganized areas. In further response to Representative Olson, Mr. Brandt-Erichsen said that the Ketchikan Gateway Borough doesn't anticipate picking up any new students until the annexation of Hyder.

[8:49:34 AM](#)

CO-CHAIR LEDOUX asked then if the smaller school districts' loss of funds as a result of the annexation would result in the state, which serves as the school board for the unorganized boroughs, having to supplement from the general fund the balance.

MR. BRANDT-ERICHSEN deferred to EED. He related his understanding that the National Forest receipts aren't included in the formula for the basic need, although they can be used as part of the local required tax burden. He further related his

understanding that most districts use the National Forest receipts in addition to the basic need amount. Therefore, the state wouldn't necessarily be required to makeup those amounts, but it would be a reduction in the total funds available. If the communities wanted to makeup the loss from National Forest receipts, they would have to come from local revenue sources.

The committee took a brief at-ease.

[8:51:39 AM](#)

REPRESENTATIVE THOMAS recalled a community in his district that filed for the formation of a municipality, but the LBC carved out the lodges in the areas to be annexed. The aforementioned resulted in thwarting the formation of the municipality. He opined that it seems surprising that now the LBC is allowing lodges to be included in the area to be annexed in the Ketchikan Gateway Borough. The aforementioned seems to illustrate inconsistency. Representative Thomas, recalling his time on this committee, related his understanding that annexation usually occurs when a community outside an area impacts the services provided by the community desiring annexation. However, he didn't believe that to be the situation in this case and thus he opined that the real reason for the proposed annexation is the money [from the National Forest receipts].

[8:54:33 AM](#)

RICHARD CARLSON, Superintendent, testified in favor of HJR 30, although he mentioned that he strongly believes there are constitutional questions. The annexation will cost small unorganized communities and the districts within them \$1.2 million annually. Klawock's share of that is about \$63,000 annually. Although \$63,000 isn't a large sum, it will have a tremendous impact on Klawock, particularly when compounded over the years. The aforementioned loss in revenue translates into one staff position. He said that the district will have to severely reduce or eliminate some educational programs and potential reduction of staff. Furthermore, districts are up against a timeline in which it will have to make staffing decisions. While the amount of actual dollars seems to be relatively small, this could be a death blow for some schools and school districts in Southeast. Mr. Carlson urged the committee not to allow the aforementioned to occur, but to allow HJR 30 to go before the full House for further debate.

[8:58:01 AM](#)

CO-CHAIR LEDOUX inquired as to how close Klawock and the other impacted communities are from the land the Ketchikan Gateway Borough wants to annex. She asked if there's any possibility of annexing the land and some of the communities.

[8:58:42 AM](#)

CO-CHAIR FAIRCLOUGH asked if the committee would like to have a work session with the LBC to discuss the 14 points it has to consider for annexation. Upon determining that there was some interest from committee members, Co-Chair Fairclough announced that she would try to set up a work session.

[8:59:50 AM](#)

MR. CARLSON said that Klawock isn't very close to the areas proposed to be annexed.

[9:00:20 AM](#)

KAREN CLEARY, Vice President, Prince of Wales Chamber of Commerce, began by noting that although she is not speaking in this capacity, she is the president of the Klawock City School Board. Ms. Cleary related that in these very small communities, the school districts are often one of the primary employers. As positions are lost due to the loss of funding, jobs will be lost and stores in the community will not have customers. Therefore, there's a ripple effect. Although Ms. Cleary said she was sure that the loss of the \$1.2 million is an unintended consequence, it's a consequence that can't be endured. Therefore, she encouraged the committee to move HJR 30 to protect the children and small communities of Prince of Wales.

[9:02:33 AM](#)

RONALD ERICKSON, Superintendent, Craig City School District, testified in support of HJR 30. He emphasized that the issue is money. The problem in Craig is that it's a first class city and the resources from the National Forest receipts are used to help support the school district. Under the proposed annexation, the loss for the Craig City School District and the City of Craig would amount to \$165,000, which equals approximately 40 percent of the local contribution. Craig has a limited ability to generate resources and funds, and therefore the loss of \$165,000 would mean the loss of 2-3 positions in the district if no other resources are found.

9:04:23 AM

CO-CHAIR LEDOUX inquired as to where Craig would look for other resources.

MR. ERICKSON answered that the school district would look for grants and approach the city. However, from the local standpoint, the availability of funds is limited. In further response to Co-Chair LeDoux, Mr. Erickson said that none of the districts would be eligible to receive more funds from the state due to the loss of the National Forest receipts.

9:05:29 AM

DON JOHNSON, Superintendant, Hydaburg City School District, related that although the amount of funds Hydaburg would lose is relatively small, the district has a small budget. He indicated that approximately \$34,000 would be lost due to the proposed annexation, which is about \$10,000 more than the in-kind contribution from the City of Hydaburg. Although it's a very important program, the vocational education program could be cut. The vocational education program includes a diving program, which has certified divers over the last seven years. The diving program has really had an impact on the children and the school as the classes are full every year. Unfortunately, that's the program that would have to be cut, which would be devastating to the children in Hydaburg. Hydaburg already has a high unemployment rate, and therefore to lose the program would result in the loss of training for young people in a field in which they could work.

9:07:07 AM

CO-CHAIR LEDOUX asked if Hydaburg is part of the Wrangell annexation.

MR. JOHNSON replied no, and specified that Hydaburg is the southernmost city on Prince of Wales Island.

9:07:25 AM

REPRESENTATIVE DAHLSTROM related that she and several other legislators have discussed the aforementioned diving program, which has kept several kids in school. She then commended Mr. Johnson and the diving instructor and further related that she

is trying to find a way to utilize the program in other school districts.

9:08:03 AM

REPRESENTATIVE CISSNA recalled visiting Hydaburg four years ago, and remembered the stress Prince of Wales faces to keep its economy going. She then inquired as to the number of students. She also inquired as to how long the forest receipts have been available for [Hydaburg], and inquired as to the percentage of the total budget.

MR. JOHNSON answered that the total National Forest receipts received By Hydaburg amounts to 10-12 percent of the total budget, although he noted that the \$34,000 will amount to a lot less than that. This last fall there were 77 students, which is a decrease over the past several years. For [Hydaburg] the loss of five students is devastating for the school's budget.

9:10:16 AM

DICK COOSE, began by relating that he served for two terms on the Ketchikan Gateway Borough Assembly back in 1997 and 2003. He related that he was one of the instigators of this [proposed annexation]. He further related that he is a retired forest service employee. In fact, he was the district ranger in Ketchikan from 1980-1987 during which he opined there should be a larger borough. In 1987, the intent was to follow the Model Borough Boundary. He acknowledged that a consequence of the aforementioned is redistribution of the forest receipts, although he opined that it wasn't the primary reason for the annexation. The primary reason for annexation, he proffered, was the influence a local government, especially a borough, can have with the U.S. Forest Service through a memorandum of understanding to address forest management. He reminded the committee of the loss of the timber economy in Southeast Alaska. In fact, Ketchikan lost 25 percent of its kids and the average wage has decreased. Therefore, Mr. Coose opined that it makes sense for Ketchikan to try to follow the state's laws, regulations, and constitution to form a complete borough. He explained that there isn't the inclusion of a great deal more population because the areas proposed for annexation tried to remain in the [Model Borough Boundary]. Prince of Wales makes a logical borough boundary itself, he mentioned. Mr. Coose said that the quandary is that timber harvest has decreased 95 percent in the last 10 years in the Tongass National Forest. Although there's a new forest plan, he said he didn't believe

that could be produced and thus he surmised that "we" will remain at 50 million feet, which won't increase forest receipts. From all the indications he has received from Alaska's congressional delegation, the subsidy for Secure Rural Schools isn't going to continue and the National Forest receipts won't be much and everyone will be hurting, including the Ketchikan Gateway Borough. Mr. Coose pointed out that the state is in control of the distribution of the National Forest receipts, which is distributed on the basis of acreage not the number of kids.

[9:13:32 AM](#)

REPRESENTATIVE OLSON asked if Mr. Coose would still pursue annexation even if National Forest receipts weren't going to the Ketchikan Gateway Borough.

MR. COOSE replied yes, adding that he views it as a forest management issue. He also said that he believes National Forest receipts will "go away." He clarified that he is in opposition to HJR 30.

[9:14:20 AM](#)

LAUREN BURCH, Superintendent, Southeast Island School District, testified in favor of HJR 30. Mr. Burch opined, "We do ... small schools exceptionally well." In fact, 7 of the district's 8 schools have 10-15 students in each. He related that all of the schools in the Southeast Island School District meet adequate yearly progress (AYP), with two schools in the top ten. He informed the committee that the school in Hyder will be retained without the National Forest receipts, which amounts to \$82,000 [for Hyder]. He recalled that the overall [district] budget is \$4 million of which approximately half would be in federal grants and other grants. Therefore, the \$82,000 loss to Hyder would result in the [reduction] of services to the other schools in the district. Although testimony indicated that residents of Hyder are more Canadian than Alaskan, the parents of children in Hyder are quite adamant that their children not be forced to attend Canadian schools. Mr. Burch said that he hasn't noted any keen interest from the Ketchikan Gateway Borough with regard to absorbing the Hyder students. Therefore, he presumed that the students in Hyder would either be encouraged to attend school in Canada or utilize correspondence programs. Hyder doesn't want to be part of this proposed annexation, he related. There is a school in Meyers Chuck that is included in this annexation, however the community has shrunk

such that a school is no longer viable. At last count, there was one student in Meyers Chuck who is doing correspondence. He indicated that had there been any other economic opportunities in this area to encourage year-round residents and the need for a school, that would've been the responsibility of Southeast Island School District. However, under the proposed annexation it will be the responsibility of the Ketchikan School District.

[9:18:07 AM](#)

JAMES GOULD, Mayor, City of Thorne Bay, testified in favor of moving forward HJR 30. He characterized the proposed annexation as a money grab that will devastate all the communities on the Prince of Wales Island. To the small town of Thorne Bay, the \$28,000-plus of the suspected loss due to the annexation would result in the loss of at least one city position. Economically, Thorne Bay has been devastated by the loss of the timber industry and now the proposed annexation will take the community's support for the school system and roads. As mentioned earlier, there are thousands of miles of roads on Prince of Wales Island. In the small community of Thorne Bay, there are approximately 21 miles of unpaved road that must be maintained. He related that as a result of annexation Thorne Bay would lose \$23,800 of its road maintenance funds. Although that may sound small, a loss in that amount would result in the City of Thorne Bay seeking outside funding or elimination of the services to 40 percent of the population. Mayor Gould emphasized that the Southeast Island School District is one of the major economic players in the economy of Thorne Bay, and therefore the loss to the district in terms of jobs and families would be absolutely devastating to Thorne Bay.

[9:20:39 AM](#)

MARK MINNILLO noted that although he is a member of the City Council of Thorne Bay, he is speaking as a resident of Thorne Bay and father of two sons who attend school in Thorne Bay. Mr. Minnillo testified in favor of HJR 30 and expressed hope that it would pass based on the repercussions it would have on the schools. He noted that he is also a wrestling coach in Thorne Bay. Funding for sports is always an issue, he remarked. The Thorne Bay wrestling team wrestles the other kids on Prince of Wales Island, but to expand their experience Thorne Bay wrestlers need to wrestle others off the island. The aforementioned would require transportation via boat or airplane. Mr. Minnillo related that the Thorne Bay wrestling team was allocated \$400 from the school district, which is

hardly adequate to cover the costs of wrestling on the island. Therefore, to further lose the National Forest receipts would result in no travel for these wrestlers. Furthermore, the loss of the National Forest receipts would also result in the loss of positions, including teachers with children in the school.

[9:22:17 AM](#)

SHERRI HAYWARD, Annette Island School District, Metlakatla Indian Community, informed the committee that she has two children who are members of the Annette Island Reserve, although she is not a member. She said that she's present today to advocate for all the children of the Southeast Island District. Ms. Hayward opined that this proposed annexation is wrong and every child matters. She further opined that if the proposed annexation is denied it won't impact the Ketchikan Gateway Borough, but if it's approved it will impact all of the children of Southeast Alaska, their education, and their future. Ms. Hayward concluded by encouraging the committee to support HJR 30.

[9:25:28 AM](#)

LYNN CHRYSTAL, Member, Local Boundary Commission, provided the following remarks:

Borough annexations are a constitutionally endorsed means of fulfilling the purpose of Title 10, Section 1 of Alaska's constitution at the local level: "to provide for maximum local self-government with a minimum of local government units and to prevent duplication of tax-levying jurisdictions." The Ketchikan Gateway Borough petitioned for annexation of 4,701 square miles, instead the Local Boundary Commission recommend annexation of 4,510 square miles, putting Meyers Chuck and Union Bay into the Wrangell Borough. There are three elements to the annexation decision by the Local Boundary Commission. Number one, the process defined by law. Number two, the standards in law. And then three, the facts and the record. The annexation process was lengthy and thorough, all procedural requirements were met or exceeded. I have Attachment A Summaries "Key Steps in the Ketchikan Annexation Proceedings" Commission decisions on borough annexations are governed by standards in law, the commission's evaluation of borough annexation proposals is governed by 11 formal

standards established in law. Generally, these standards relate to such factors as suitability of proposed boundaries, the economy, the transportation and other factors, common interest, and best interest of the state. Attachment B lists the 11 standards applicable to the borough annexation. Based on the law and the facts in record, the commission found that annexation of 4,510 square miles satisfied all legal standards. The record of the Ketchikan annexation proceeding consists of the borough's petition, which includes a pre-petition hearing and the comment materials received during the pre-petition process; three responsive briefs, written comments on the petition by 19 persons; the borough's reply brief; DCCED's preliminary report and written comments on it; a letter of non-objection to the annexation by the Department of Education and Early Development; DCCED's final report and statements, testimony, and public comments made at the commission's November 6, 2007, public hearing. A copy of the commission's decision that is the basis for the legislative proposal before you sets out the commission's evaluation of the record in view of the standards in law The commission's letter dated February 1, 2008, sets out our opposition to House Joint Resolution 30 and notes several misstatements of fact in the resolution. Among other things we noted that every member of the commission who participated in the annexation proceeding received and studied all documents in the case and heard the testimony of all parties and interested members of the public before making the decision.

[9:28:54 AM](#)

CO-CHAIR LEDOUX inquired as to whether impacts on areas not to be annexed are considered by the LBC.

MR. CHRYSTAL answered that he didn't believe that's specifically mentioned in the law, although the LBC always listens to interested individuals. During the public hearings, the LBC listens to anyone with objection. Under the law many of the transitory matters that are unknown, such as the timber receipts, are difficult upon which to base decisions but certainly it was taken into consideration.

CO-CHAIR LEDOUX surmised then that the fact that the outlying communities would lose a considerable amount from National

Forest receipts in the short-term wasn't considered during the annexation.

MR. CRYSTAL said he couldn't say that it wasn't considered because it was one of the points that was discussed. However, it wasn't an overriding [factor in the] decision. At this point, the National Forest receipts are not in law as the program has been sunsetted. He opined that when a permanent decision in regard to boundaries is being made, it's difficult to "use a lot of transitory funds in our decision making."

[9:30:56 AM](#)

MR. CRYSTAL remarked that the suggestion of a work session is a good idea. He then concluded his testimony as follows:

The evidence submitted to the LBC, its discussions and decisional statements, constitutes a record that sufficiently reflects the basis for the decision of the LBC to enable meaningful judicial review. And then in conclusion, the ... commission ... reconfirms its recommendation that annexation to the Ketchikan Gateway Borough and oppose the resolution before you. And I certainly thank you for your time.

[9:31:47 AM](#)

DENNIS WATSON, Mayor, City of Craig, emphasized that he is in strong opposition to the annexation proposed by the Ketchikan Gateway Borough but in support of moving out HJR 30. The issue at hand in this situation is the National Forest receipts. He informed the committee that he has been a member of the National Forest Counties and Schools Coalition, which has worked on this issue for years. [These National Forest receipts] will continue to be an issue, he opined. Mayor Watson said that if the National Forest receipts aren't an issue, the Ketchikan Gateway Borough should've went forward with an annexation petition that specifies that it doesn't want any other community's National Forest receipts. He highlighted that Ketchikan isn't, in its proposed annexation, increasing its population or increasing enrollment in their schools. Furthermore, the Ketchikan Gateway Borough doesn't have road powers. However, Ketchikan is Southeast Alaska's second largest economy and has, on a number of recent occasions in recent months, touted the large amount of sales tax it has collected and the things on which it will spend those taxes. He further highlighted that Ketchikan is able to fund two competing forms of municipal government, and therefore

he questioned why the borough needs to take money from the smaller communities. The economies of all but a couple of the communities [from which the borough will take National Forest receipts] are just barely hanging on financially or already face financial difficulties. The needs will remain even if the funds are no longer. Mayor Watson emphasized that Craig and the Prince of Wales communities have no means to recoup the lose of funds if the proposed annexation were to move forward. He stated that becoming a borough is not an option for Craig. In fact, studies commissioned by island communities have clearly illustrated that at this time Prince of Wales Island couldn't generate enough revenue to fund even the very basic required borough services. Therefore, Prince of Wales Island was eliminated from the Mandatory Boroughization Act that passed a couple of years ago. With the aforementioned in mind, Mayor Watson requested that the committee vote to deny the proposed annexation and move HJR 30 from committee.

[9:35:18 AM](#)

BOB BLASCO, Attorney at Law, informed the committee that he is representing the 17 communities and school districts who have filed the appeal with the superior court. He related that this loss of National Forest receipts will continue as long as there is such a program. He then pointed out that there are two parts to the National Forest receipts: the Secure Rural Schools Act, which is the \$1.2 million; and the underlying Tongass receipts. Even if the Secure Rural Schools Act isn't funded, all of the communities and school districts will lose 22 percent of the underlying funds to the Ketchikan Gateway Borough if the proposed annexation is approved. However, the borough isn't taking in any new people or school students and thus no services would be provided. Mr. Blasco emphasized the importance of Representative Thomas's comment that this isn't a borough formation. There are constitutional mandates to form boroughs as is the case with Wrangell, but there are no such mandates to annex land into boroughs. Recalling Mr. Coose's testimony, Mr. Blasco opined that it's a shame that the committee doesn't have the comments from members of the Ketchikan Gateway Borough Assembly when it considered filing the current annexation petition. Those comments were related to the borough obtaining more money. As was mentioned earlier, if the Ketchikan Gateway Borough would move forward with the proposed annexation even without the funds, the petition could've been filed specifying that the borough wouldn't take the [National Forest] receipts. He highlighted that those petitioning to form the borough in Skagway did exactly that. The Ketchikan Gateway Borough is not

willing to do so, he opined, because the amount of funds is so substantial. Furthermore, the PILT amounts to about \$598,000 for these communities, of which the loss would amount to about half of that to these communities yearly. The PILT is unrelated to the Tongass National Forest receipts program. He pointed out that either Ketchikan will gain the PILT funds or the federal funding will be lost. Mr. Blasco opined, "It's just hard to imagine how, under a best interest of the state standard, we're looking at something like this annexation that's in the best interest of the state for these 17 school districts and communities ... to lose that substantial amount of federal funding on a yearly basis, which is not going to go away."

9:40:25 AM

BRETT AGENBROD, Superintendent, Annette Island School District, Metlakatla Indian Community, echoed Mr. Blasco's comment that [annexation], which is proposed by the Ketchikan Gateway Borough petition, isn't mandated by the constitution. He then recalled testimony questioning what message the legislature would send if it didn't approve the LBC's decision. Mr. Agenbrod countered that by questioning the message the legislature and LBC send when the Ketchikan Gateway Borough annexation application excluded the communities of Meyers Chuck, Union Bay, and Hyder and refused to include them even upon the LBC's recommendation to do so. In the 2007 petition, the inclusion of Union Bay is held out as a major change. However, that community has no school children and thus the borough incurs no costs to annex the area. The one community that would benefit from borough services is Hyder, but that community wasn't [included in either annexation proposal]. Mr. Agenbrod relayed that the folks he represents at the Annette Island School District and the Metlakatla Indian Community don't feel it's in the state's best interest to burden the Southeast Island School District in Prince of Wales by Ketchikan taking \$83,000 of their National Forest receipts without annexing Hyder. At the very least, he opined that the LBC should've required immediate annexation of Hyder rather than suggesting possibly five years later with no trigger to implement annexation. Mr. Agenbrod mentioned a conflict of interest with a former LBC staffer who basically reversed the 1999 decisions and applied for and obtained a six-figure position and a multi-year contract as the city manager of Ketchikan. Until there's an investigation of the aforementioned, the decision regarding the proposed annexation should be halted. Mr. Agenbrod related his support of HJR 30 moving forward.

[9:44:09 AM](#)

CO-CHAIR FAIRCLOUGH announced that the committee will hold a work session on the LBC.

[9:45:29 AM](#)

PETER CAFFAL-DAVIS noted his appreciation of Mr. Chrystal's comments because Mr. Chrystal heard many of the arguments the committee is hearing. He related that the LBC chair, throughout the Ketchikan Gateway Borough annexation meetings, said that the LBC is bound by law not to consider the financial impacts such as those being discussed that will devastate the schools in the unorganized borough. If the LBC is not allowed to base its decision on this transitory financial information, the legislature can do so. Mr. Caffal-Davis pointed out that no one in the areas being annexed or in the Ketchikan Gateway Borough had the opportunity to vote on this proposed annexation, which he opined is a serious constitutional issue. He related his understanding that even residents of the Ketchikan Gateway Borough are opposed to the proposed annexation. Originally borough administrators said there would be an opportunity to vote on the proposed annexation, but reversed that opinion at the very next meeting. Therefore, the proposed annexation is going forward from the commissioners who aren't elected officials. Mr. Caffal-Davis opined that the Ketchikan Gateway Borough and Mr. Bockhorst were hoping that the LBC recommendation would sail through without attention from elected officials. In conclusion, Mr. Caffal-Davis urged passage of HJR 30 as he said that he wanted to see this proposed annexation overturned. He then turned to Hyder and related that the Ketchikan Gateway Borough hasn't sought a relationship with Hyder and has told Hyder that if it is annexed, the Hyder school would be closed and correspondence would be utilized.

[9:48:40 AM](#)

CO-CHAIR FAIRCLOUGH recalled the Chugiak Eagle River annexation into the Municipality of Anchorage, for which there was no vote. She further recalled that challenges to that annexation haven't been successful either.

MR. CAFFAL-DAVIS clarified that he doesn't believe the LBC commissioners did anything inappropriate, but he related his hope that [the legislature] gets to vote on the matter.

[9:49:36 AM](#)

PAUL BRENDIBLE, Council Member, Metlakatla Indian Community, informed the committee that he is a past president of the Annette Island School Board and past president of the Alaska Association of School Boards. He then related his support for HJR 30. He related that due to the closure of the Tongass National Forest, Metlakatla has lost 400 individuals. The proposed annexation is all about money, he opined. All the schools [outside the borough] will have to find a way in which to makeup the loss of funding. With regard to the earlier mention of Metlakatla's proposed boundary expansion, Mr. Brendible clarified that it's an expansion into the water only.

[9:51:36 AM](#)

ERIC GEBHART, Superintendent, Kake School District, testified in support of HJR 30. This year Kake's school will receive about \$170,000 in National Forest receipts and it's projected that approximately \$40,000 would be lost in the coming year. Mr. Gebhart opined, "I can't see how it is in the best interest of the state to take funds from so many and give it to one single entity, again, without any ... increase in service ... without any pickup as far as students."

[9:53:44 AM](#)

CO-CHAIR FAIRCLOUGH, upon determining no one else wished to testify, announced that the public hearing would be left open.

[9:54:57 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [9:55:00 AM](#).