

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

February 19, 2008

7:06 a.m.

**MEMBERS PRESENT**

Representative Anna Fairclough, Co-Chair  
Representative Gabrielle LeDoux, Co-Chair  
Representative Nancy Dahlstrom  
Representative Mark Neuman  
Representative Sharon Cissna

**MEMBERS ABSENT**

Representative Kurt Olson  
Representative Woodie Salmon

**COMMITTEE CALENDAR**

LOCAL BOUNDARY COMMISSION WORKING GROUP

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

LYNN CHRYSTAL  
Local Boundary Commission (LBC)  
Valdez, Alaska

**POSITION STATEMENT:** Provided information regarding the LBC and answered questions.

MARJORIE VANDOR, Senior Assistant Attorney General  
Labor and State Affairs Section  
Civil Division (Juneau)  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Provided information regarding the LBC and answered questions.

BILL ROLFZEN, Municipal Assistance, National Forest Receipts,  
PILT  
Juneau Office

Division of Community & Regional Affairs  
Department of Commerce, Community, & Economic Development  
(DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Provided information regarding the LBC and answered questions.

JEANNE MCPHERREN, Local Government Specialist  
Department of Commerce, Community, & Economic Development  
(DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided information regarding the LBC and answered questions.

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

**POSITION STATEMENT:** Answered questions.

PETER CAFFAL-DAVIS  
Hyder, Alaska

**POSITION STATEMENT:** Answered questions.

#### **ACTION NARRATIVE**

**CO-CHAIR ANNA FAIRCLOUGH** called the House Community and Regional Affairs Standing Committee meeting to order at [7:06:10 AM](#). Representatives Fairclough, LeDoux, Dahlstrom. Representatives Neuman, and Cissna were present at the call to order.

#### Local Boundary Commission Working Group

[Contains discussion of HJR 30.]

[7:07:12 AM](#)

CO-CHAIR FAIRCLOUGH announced that the only order of business would be an overview of the Local Boundary Commission (LBC) in regard to HJR 30.

[7:08:15 AM](#)

CO-CHAIR FAIRCLOUGH recounted the prior hearing on HJR 30 during which the testimony characterized the proposed Ketchikan annexation as a money grab that leaves communities [outside of

Ketchikan] unable to fund education. Therefore, she inquired as to the criteria the LBC uses to make its decision.

[7:08:54 AM](#)

LYNN CHRYSTAL, Local Boundary Commission, explained that the LBC begins with the Alaska State Constitution and then proceeds with the following in the following order: state regulations, state law, and then LBC regulations. With regard to the National Forest receipts, those are transitory funds that have been sunsetted. Therefore, the LBC doesn't place a tremendous amount of worth on those because they are transitory. The borough is long-term and thus the LBC looks more toward taxes that would be more ongoing.

[7:09:51 AM](#)

CO-CHAIR LEDOUX asked if, under existing law, it would be legally possible to approve annexation contingent upon the end of National Forest receipts.

MR. CHRYSTAL answered that he didn't know, and deferred to the Department of Law (DOL).

CO-CHAIR LEDOUX questioned whether the annexation could be approved with an exception specifying that if the National Forest receipts are reauthorized, those funds would continue to go to the communities they do now rather than the Ketchikan Gateway Borough.

[7:14:17 AM](#)

MARJORIE VANDOR, Senior Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law (DOL), explained that the National Forest receipts are governed by federal law and thus the recipients are determined by federal law. Although the LBC can place contingencies on petitions for annexation, approval from the federal government would be required for the territory to still be considered in the unorganized borough and those receipts to go to the other communities. Once [the land] is in an organized borough, she related her belief that the federal law treats it differently. She suggested that Mr. Rolfzen may be more familiar with this program. Ms. Vandor related her understanding that the LBC can make certain contingencies, but it can't violate federal law.

[7:15:22 AM](#)

CO-CHAIR LEDOUX surmised then that under existing law, the LBC can make an approval with a contingency.

MS. VANDOR clarified that there are certain contingencies that the LBC can place on a petition for annexation, but she said she's not certain the LBC can place the suggested contingency since the National Forest receipts are governed by federal law. She indicated that such a contingency may require approval from the federal government. In further response to Co-Chair LeDoux, Ms. Vandor said she would have to review the regulations regarding whether under current law an annexation could be approved contingent upon the disappearance of the National Forest receipts. Normally, contingencies occur when there is knowledge regarding something in the future that will or will not happen. For example, an annexation of the Greens Creek mine into the City & Borough of Juneau was allowed after a specific period of time. The period of time allowed the mine to stay outside of the mine and get up and running without paying a certain tax. The aforementioned is an economic moratorium, which is allowed under state law. Ms. Vandor said she would need to research whether the National Forest receipts will or will not be available in the future.

[7:18:08 AM](#)

BILL ROLFZEN, Municipal Assistance, National Forest Receipts, PILT, Juneau Office, Division of Community & Regional Affairs, Department of Commerce, Community, & Economic Development (DCCED), explained that the National Forest Receipts Program was established in 1908 and Alaska has been participating since statehood. He related his belief that as long as there are national forests in the U.S., there will be a National Forest Receipt Program. In response to the downturn in the timber industry, Congress, in 1998/1999, enacted the Secure Rural Schools Program which gives each state the average of its three highest payments from 1986-1989. What is possibly sunseting is the Secure Rural Schools Program, which would return the state to the previous National Forest Receipts Program. Mr. Rolfzen explained that under [the previous National Forest Receipts Program] 25 percent of the income generated within each national forest is returned to the state to be shared with the counties/boroughs within that national forest. Federal law is very clear that the National Forest receipt payments for each county or borough is proportional to the acreage within its boundaries. Therefore, Ketchikan's proposed annexation removes

acreage from the unorganized borough into the Ketchikan Gateway Borough.

7:20:08 AM

CO-CHAIR LEDOUX requested a comparison of the funds received by the unorganized borough through the Secure Rural Schools Program versus the amount of funds that would be received if the program reverted to the National Forest Receipts Program.

MR. ROLFZEN pointed out that the income within the Tongass National Forest was predominantly from stumpage fees charged for commercial harvesting. Although in recent years there has been very little timber being harvested within the Tongass National Forest, a new land management plan has been unveiled for the Tongass National Forest that calls for cutting 100-200 million board feet a year. Mr. Rolfzen related that recent estimates show that without reauthorization of [the Secure Rural Schools Program] the receipts to the Tongass National Forest will decrease by about 85-90 percent. In further response, Mr. Rolfzen confirmed that the receipts could increase later.

MR. CHRYSTAL remarked that it would be difficult to approve the proposed annexation on a contingency basis.

7:22:28 AM

CO-CHAIR FAIRCLOUGH asked if the Secure Rural Schools Program deposits funds into the general fund.

MR. ROLFZEN said that the National Forest Receipts Program is governed by Title 41, which does establish a fund. The department receives the funds, which are subject to appropriation in the operating budget. He indicated that the state would be in noncompliance with federal law if those funds were withheld from the boroughs. The federal law clearly states that the funds are to be provided to boroughs in an amount proportional to the National Forest acreage within the borough.

7:23:49 AM

CO-CHAIR FAIRCLOUGH inquired as to the criteria the LBC uses when considering annexation.

MR. CHRYSTAL explained that first the LBC determines whether the proposed annexation fits into state constitution, state regulations, and the Model Borough Boundaries. He directed

attention to a map illustrating the proposed annexation boundary in 1998/1999, which didn't include Metlakatla, Hyder, or Meyers Chuck. That proposed annexation was rejected by the LBC. He then directed attention to the pending proposed annexation, which includes Meyers Chuck and Union Bay. He noted that both Wrangell and Ketchikan included Meyers Chuck and Union Bay in their proposals. After public hearings in Wrangell and Ketchikan, it was determined that the residents of Meyers Chuck identified more with Wrangell and thus it and Union Bay were included in Wrangell's proposal. He mentioned that Ketchikan's proposed annexation fairly well conforms to the Model Borough Boundary, save Hyder.

[7:26:32 AM](#)

CO-CHAIR LEDOUX inquired as to the status of the Secure Rural Schools Program in 1998.

MR. ROLFZEN clarified that the Secure Rural Schools Program has been in existence since statehood.

JEANNE MCPHERREN, Local Government Specialist, Department of Commerce, Community, & Economic Development (DCCED), related her understanding that the Secure Rural Schools Program was established in 2002 and the National Forest Receipts Program existed in 1998.

[7:27:49 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to the depth of public comment [with the proposed Ketchikan annexation]. She also inquired as to why Hyder is being excluded.

MR. CHRYSTAL related that the residents of Hyder were opposed to inclusion in the Ketchikan annexation. Therefore, the LBC [amended] the petition such that Ketchikan and Hyder have five years to find ways in which Ketchikan and Hyder can merge. If Hyder and Ketchikan can't find a way to do so, the LBC "will do it" for them. Mr. Chrystal pointed out then that there was some concession to the public input on that issue. In further response to Co-Chair Fairclough, Mr. Chrystal informed the committee that the LBC had all-day hearings in both Wrangell and Ketchikan. He noted that no one opposed anything in the Wrangell proposal, but there was adamant opposition to the Ketchikan proposal.

[7:30:01 AM](#)

REPRESENTATIVE NEUMAN recalled legislation sponsored by Representative Coghill regarding annexation, and inquired as to whether it passed.

MR. CHRYSTAL related his belief that Representative Neuman is referring to HB 247, which was a reorganization of the LBC. He emphasized that the LBC is already a separate agency, and thus he questioned what HB 247 would really accomplish.

[7:30:44 AM](#)

REPRESENTATIVE NEUMAN opined that [House Bill 133 of the Twenty-Fourth Alaska State Legislature] could help alleviate some of the situations such as with the proposed Ketchikan annexation. He pointed out that part of [House Bill 133] requires a vote in the areas to be annexed as well as the area proposing the annexation. "I believe there's three ways that the Local Boundary Commission now can annex areas, but they only use pretty much one and that's the one that they decide on; that they've been using, it's what they say," he said. He then recalled that he had proposed an amendment [to House Bill 133] such that at least two votes would be taken in each community in order to have more informed voters.

MR. CHRYSTAL surmised that Representative Neuman is speaking to House Bill 133, which did pass.

MS. MCPHERREN pointed out that [House Bill 133] spoke to local action petitions and the proposed Ketchikan Gateway annexation is a legislative review petition for which no votes are taken at the local level. Therefore, if the LBC approves the Ketchikan Gateway annexation, it goes before the legislature for consideration. On the other hand, the Wrangell petition is a local option petition, and therefore upon the LBC's approval it does go before the voters in the area for approval.

[7:33:38 AM](#)

REPRESENTATIVE NEUMAN mentioned that he has heard from folks in the area [of the proposed Ketchikan annexation].

[7:34:05 AM](#)

CO-CHAIR LEDOUX remarked that the e-mails being received aren't from those in the areas to be annexed as virtually no one lives in the areas to be annexed. Those from which the members are

hearing are from outside the area to be annexed, but whose local schools are going to lose around \$9.6 million as a result of this proposed annexation.

7:34:48 AM

MR. CHRYSTAL, in response to Representative Cissna, said that he didn't recall anyone from Ketchikan who objected to the proposed annexation.

REPRESENTATIVE CISSNA related her understanding that [the Ketchikan annexation illustrates a situation in which] a large unorganized borough with lots of land places extreme hardship on existing boroughs. It appears that part of the problem is that the proposed annexation includes two areas that have difficulties in covering basic costs. She inquired as to whether the aforementioned may be a continuing problem and also inquired as to the LBC's part in that.

MR. CHRYSTAL clarified that the amount of funding the Prince of Wales Island schools would lose is \$1.2 million and the \$9 million mentioned earlier would be for the entire area. He reminded the committee that originally the Alaska State Constitution was set up to encourage the formation of boroughs, which the LBC must take into consideration when reviewing petitions. With regard to the National Forest receipts, Mr. Chrystal said he didn't want to down play the significance of the loss of receipts because one job or budget is very important, especially in a small community. However, he highlighted that the loss of National Forest receipts would amount to a decrease of about 1 percent of the Prince of Wales Island's budget. He opined that this will be an ongoing issue and other cities will likely come forward with petitions. Mr. Chrystal emphasized that the LBC is acting on a petition presented from the Ketchikan area.

7:39:24 AM

CO-CHAIR LEDOUX asked if Ketchikan wanted to annex Hyder.

MR. CHRYSTAL said that Ketchikan didn't include Hyder in its petition. In fact, the LBC rejected the 1999 proposal by Ketchikan based on the fact that it didn't include Hyder. Mr. Chrystal specified that the only logical place for Hyder is within the Ketchikan Gateway Borough.

CO-CHAIR LEDOUX inquired as to the reasons Ketchikan wasn't interested in annexing Hyder.

MS. MCPHERREN pointed out that Hyder depends on communications, transportation, and services from Canada. The LBC has encouraged the development of communications and transportation between Hyder and Ketchikan over the course of the next five years. If Ketchikan doesn't come forward with a petition [including Hyder], the LBC is going to direct the department to do so, she indicated.

CO-CHAIR LEDOUX surmised then that the inclusion of Hyder isn't a given. Therefore, five years from now, the process could start over and there could be a discussion regarding Hyder.

MS. MCPHERREN indicated agreement.

MR. CRYSTAL pointed out that the LBC specified that the relationship between Hyder and Ketchikan would occur within five years.

[7:42:30 AM](#)

CO-CHAIR LEDOUX questioned whether Ketchikan would've continued with its proposed annexation if it was necessary to include Hyder and pay for its schools.

[7:42:50 AM](#)

SCOTT BRANDT-ERICHSEN, Attorney, Ketchikan Gateway Borough, related that at time the 1998 petition was pursued, the LBC told Ketchikan that if it included Hyder and Meyers Chuck, the petition would be approved. Based upon protests from residents of Hyder, the Ketchikan Assembly elected not to amend its petition to include Hyder and Meyers Chuck. From a financial standpoint, the Ketchikan Gateway Borough could provide those services to Hyder, but whether it would've elected to do so to ensure approval of the petition, Mr. Brandt-Erichsen couldn't answer.

[7:43:46 AM](#)

REPRESENTATIVE CISSNA surmised that the Hyder situation seems to illustrate the LBC's desire to have a governmental element in annexation. "We are looking at expanding boundaries where there's a benefit that is specific to needing to annex the boundaries without there being a governmental need and that

plays a part in this, in my mind," she said. Only a marine road separates the two islands. She then asked if boundaries have been expanded in existing boroughs without the areas to be annexed having any communities attached to those lands.

MR. CRYSTAL related his belief that there have been, but perhaps not to the extent in the proposed Ketchikan annexation.

MS. MCPHERREN pointed out that different standards apply to borough annexations versus city annexations. Borough annexations don't necessarily imply that the area that's being annexed or incorporated into the borough has any current or future need for government. There have been supreme court decisions regarding what the founding fathers meant to encompass in creating regional governments in Alaska.

MS. VANDOR interjected that the framers mention in various spots in the constitutional minutes that the entire state is to eventually be organized into boroughs and a regional government. To accomplish the aforementioned, territory isn't going to meet all the criteria in every situation. The borough concept was chosen over the county concept as it's a regional government with smaller governments within it.

MR. CRYSTAL related that on at least three occasions within the last year, two of the framers have attended LBC meetings and have provided insight into the intent of the portion of the constitution [related to the state organizing into boroughs].

[7:49:45 AM](#)

PETER CAFFAL-DAVIS, in response to Co-Chair Fairclough, recalled that the impact to individual schools within the Southeast Island School District amounts to 15-39 percent. He noted that when Ketchikan discussed taking over the school in Hyder it discussed utilizing correspondence, which is much less expensive.

[7:50:41 AM](#)

CO-CHAIR FAIRCLOUGH recalled testimony that the \$1.2 million loss represents 1 percent [of the school district]. She inquired as to the impact the loss of the National Forest receipts would have on the school district as a whole.

MR. CAFFAL-DAVIS said he would try to obtain that information for the committee.

MS. MCPHERREN clarified that the \$1.2 million loss is for all of the school districts on Prince of Wales Island and Metlakatla, not just Hyder that's in the Southeast Island School District.

CO-CHAIR FAIRCLOUGH surmised then that the loss of National Forest receipts may be more of an impact on an individual school in Hyder, as far as a percentage of its budget. She inquired as to the meaning of \$1.2 million being 1 percent.

MS. MCPHERREN answered, "Overall, ... the average loss to all of the school districts in the region would be about 1.1 percent."

[7:52:39 AM](#)

CO-CHAIR FAIRCLOUGH noted that [Mr. Rolfzen] provided the committee with a chart titled "Impact of Wrangell Incorporation and Ketchikan Annexation Upon Distribution of National Forest Receipts Revenues in Southeast Alaska as a Percent of Total Education Expenses" representing each individual school [and its loss].

[7:53:22 AM](#)

MR. ROLFZEN interjected that he provided the committee with a chart that illustrates that the \$1.2 million impacts every municipality, including municipal school districts, in the unorganized borough in Southeast. [The loss of National Forest receipts] also impacts Hoonah, Petersburg, Wrangell, Pelican, and second class cities. Forest receipts are restricted to schools and roads. He explained that for a second class city in an unorganized borough, National Forest receipts are provided to those cities based on the miles of roads the city maintains.

[7:54:14 AM](#)

CO-CHAIR FAIRCLOUGH requested hard numbers in regard to the 1 percent impact.

MS. MCPHERREN confirmed that some communities will suffer a greater loss than others. She said that Petersburg and Wrangell will likely suffer the greatest loss. Because of Hydraburg's low student population, it will fall within the 2-3 percent range. Ms. McPherrren clarified that the 1.15 percent [loss] discussed was an overall average loss to the school district. She offered to provide specific percentages to the committee.

[7:55:48 AM](#)

CO-CHAIR LEDOUX, referring to the aforementioned chart, related her understanding that the Hoonah school is losing \$74,000. She asked if that \$74,000 is just 1 percent of Hoonah's school budget.

MR. ROLFZEN clarified that the chart he provided specifies the sum total lost to the City of Hoonah. Since the City of Hoonah is a first class city it receives National Forest receipts for both schools and roads, and therefore the \$74,000 loss is a combination of school and road funds.

MS. MCPHERREN acknowledged that many of the witnesses have testified that although the numbers may seem small, they are significant to the communities.

[7:58:15 AM](#)

CO-CHAIR FAIRCLOUGH recalled testimony last week that the LBC doesn't take into account the financial impact or consequence of the decision [on the proposed annexation]. She opined that the state will have to fill the [loss of National Forest receipts] because there's no desire to have communities adversely impacted by the [proposed annexation]. Communities are apprehensive to change when it's unknown whether the state will step up to that responsibility.

MR. CHRYSTAL said that the LBC does take [any financial impact] into account. Still, the bottom line is that the National Forest receipts are funds that aren't guaranteed. Mr. Chrystal remarked that since the proposed annexation would be cast in stone but the National Forest receipts aren't, not as much emphasis is placed on the National Forest receipts.

[8:00:03 AM](#)

CO-CHAIR LEDOUX inquired as to when there will be knowledge as to whether the Secure Rural Schools program will be reauthorized.

MR. ROLFZEN explained that a one-year extension was received for fiscal year (FY) 2008. In the last three to four months, Congress has reauthorized the program. However, the reauthorization was attached to war funding or troop withdrawal bills that were ultimately vetoed by the president. Mr. Rolfzen related that there is much bipartisan support for

reauthorization and the president's recently released budget includes reauthorization at a reduced funding level. Recently, U.S. Senator Ted Stevens relayed that the bill would likely not be voted on until August or September of this federal fiscal year. In further response to Co-Chair LeDoux, Mr. Rolfzen related that the Secure Rural Schools Program went into effect in 2000, sunsetted in 2007, and extended for one year in 2008. Therefore, the program hasn't been officially reauthorized yet.

MS. MCPHERREN highlighted that President George W. Bush's budget proposes that the Secure Rural Schools program or a similar program be funded at less than half of its current level and phased out over three years. The National Forest Receipts Program will remain, she noted.

[8:02:43 AM](#)

CO-CHAIR LEDOUX asked if it would've been possible for the LBC to approve annexation and specify that in five years Hyder will be part of Ketchikan and direct Ketchikan to keep the Hyder school open rather than utilize correspondence.

MR. CHRYSTAL said that he didn't know.

[8:03:36 AM](#)

REPRESENTATIVE CISSNA inquired as to how many students are enrolled in the Hyder school.

MS. MCPHERREN answered that at last count there were 18 students enrolled in the Hyder school.

[8:04:34 AM](#)

MS. VANDOR, in response to Co-Chair LeDoux, explained that since Hyder is an unorganized city, it was probably possible for the LBC to direct the annexation of Hyder in five years rather than reconsider it again. However, the Ketchikan petitioners could object to such. Since [Hyder] wasn't included in the original petition, analysis, hearings, and input would be necessary to determine whether the minimum standards have been met. Therefore, Ms. Vandor opined that [inclusion of Hyder] would need its own petition. Now that the statute change allows the LBC to specify contingencies, it was proper for the LBC to do that.

[8:07:14 AM](#)

MS. MCPHERREN pointed out that Hyder is opposed to being annexed, and therefore she surmised that if the LBC had done what Co-Chair LeDoux suggested the residents of Hyder would've been very upset.

[8:07:42 AM](#)

CO-CHAIR FAIRCLOUGH expressed the desire to know the impact [in the loss of National Forest receipts] on each community with regard to the government budget and school budget.

MS. MCPHERREN offered to work with the Department of Education and Early Development (EED) to obtain that information. She highlighted that the Joint Legislative Education Task Force is also reviewing the sunset of the Secure Rural Schools Act. Ms. McPherren informed the committee that the Ketchikan Gateway Borough will receive nothing from the National Forest Receipts Program or the Secure Rural Schools Act until FY 10 because of the timing of the annexation and the way the funding mechanism works under the regulations for boroughs.

REPRESENTATIVE NEUMAN asked if the [National Forest receipts] are used as part of the local contribution under the student funding formula.

MS. MCPHERREN replied no, adding that they aren't part of the basic need.

MR. ROLFZEN clarified that it doesn't play into the state foundation aid formula, but a municipal school district can use its National Forest receipts to meet the 4 mill local equivalency. He noted that some communities do the aforementioned and some don't.

CO-CHAIR FAIRCLOUGH expressed interest in receiving information regarding [which communities use it to meet the 4 mill local equivalency].

[8:12:45 AM](#)

REPRESENTATIVE CISSNA expressed concern with the proposed annexation of Hyder. She related her understanding from the Alaska State Constitution that "you're growing your borough so that you can grow your ability to give service to the people that are going to be coming into that area." She related her further understanding that areas proposed for annexation are

areas that could be inhabitable and where new communities and schools could be created. Representative Cissna questioned whether there's the attitude that embraces and welcomes new responsibility and service to people.

MR. CRYSTAL said he would hope that's the case. He then mentioned the control destiny aspect in which a community may want to control its destiny. He related his understanding that Ketchikan already provides quite a few services to areas that it hasn't annexed. In regard to the proposed annexation by the Ketchikan Gateway Borough being a money grab, he said he wouldn't have supported the annexation if he had thought that was the case. "I really do not think this is a money grab, in my own heart and mind," Mr. Chrystal opined.

[8:16:38 AM](#)

MS. MCPHERREN pointed out that education is a mandatory borough function, and therefore the Ketchikan Gateway Borough would have to provide educational services to the students within its boundaries. In response to Representative Cissna, Ms. McPherrren related her understanding that when there are 10 or more students, a school is involved. She noted that she has only heard the remarks regarding Ketchikan utilizing correspondence for those students in Hyder only from the residents of Hyder. She deferred to a Ketchikan representative.

MR. BRANDT-ERICHSEN said that there wasn't discussion at the assembly level regarding education. However, amongst the interactions of staff with Hyder residents, there was discussion regarding the services Hyder desired and the notion that the easiest method to continue a school in Hyder may be to contract with the Southeast Island School District to continue providing services. The education services aren't something that the borough assembly can control as the school board and superintendent would make the actual decision. The current superintendent has experience in rural districts in Northwestern Alaska and thus wouldn't be new or difficult for him.

[8:19:37 AM](#)

CO-CHAIR FAIRCLOUGH recalled testimony that Ketchikan's current petition is the same as the one disapproved by the LBC in the recent past. She asked if there was any change in the composition of the LBC between the two different applications.

MR. CRYSTAL confirmed that there was a complete change in the membership of the LBC. In further response to Co-Chair Fairclough, he acknowledged that different individuals have a different view of things. However, during the time period in [between Ketchikan's first petition and this most recent petition] there were also changes in statute and regulation. He related his understanding that 10 years ago a lot of political play occurred. The staff was more or less directed to oppose Ketchikan's first proposed annexation, whereas today staff were given free reign to provide their honest opinion and no one was directed to do anything. He further related that the regulations were changed such that they refer to what's in the best interest of the state. This LBC, he said, doesn't view the Model Borough Boundary as cast in stone but rather as a guideline.

[8:22:55 AM](#)

MR. CRYSTAL, in response to Co-Chair Fairclough, reviewed the document titled "A Number of Significant Differences KGB Annexation Proceedings", which is included in the committee packet.

[8:23:38 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to why under Ketchikan's 1998-1999 annexation proposal 17.9 square miles around Hyder was excluded while in the 2006-2007 proposal 205 square miles around Hyder was excluded.

MR. CRYSTAL related his belief that it has to do with following the geography.

MS. MCPHERREN noted her agreement that the current proposal uses the natural geography, adding that the exclusion of the Hyder area, not just the community of Hyder itself, is a short-term exclusion.

MR. ROLFZEN said that there was no discussion directly related to National Forest receipts when there was discussion regarding the area around Hyder.

MS. MCPHERREN pointed out that the National Forest receipts for Rural Education Attendance Areas (REAs) and city school districts on Prince of Wales Island aren't based on acreage but rather the average daily membership (ADM) whereas for boroughs the receipts are based on acreage. Therefore, the Hyder

exclusion is based on the number of students in the Southeast Island School District.

[8:26:23 AM](#)

MR. CRYSTAL continued reviewing the document titled "A Number of Significant Differences KGB Annexation Proceedings" and highlighted the substantive amendments to regulations in which new provisions referring to the best interest of the state as well as a new procedure for legislative review of annexation proposals. He also highlighted that the EED did oppose the 1998 petition but not the 2006 petition. As mentioned earlier, the LBC's reliance on Model Borough Boundaries changed in that it's now used as a guide. In response to Co-Chair Fairclough, Mr. Chrystal specified that the change in use of the Model Borough Boundaries was codified in regulation after a work session on the matter.

MS. MCPHERREN clarified that it was originally codified in the Skagway decision when it stated that the Model Borough Boundaries was a tool rather than deterrent to the formation of or annexation to boroughs. This was made clear in case law prior to the codification in regulation.

[8:28:16 AM](#)

MR. CRYSTAL, continuing his review of the document titled "A Number of Significant Differences KGB Annexation Proceedings", directed attention to the information regarding the department's positions in which this time staff was free to do what it felt was right and didn't receive any political pressure in the matter. In regard to the National Forest receipts, Mr. Chrystal related that the LBC certainly did review it.

MS. MCPHERREN pointed out that the LBC has brought the issue of the use of National Forest receipts to the legislature consistently in its annual report over the past 10 years. Furthermore, when EED and the LBC were required to study the issue of school consolidation in 2004, the National Forest receipts were cited as an issue needing review.

MR. CRYSTAL then highlighted another change in the LBC, which is the new unit supervisor, Jennifer Abbott, for the LBC staff in Anchorage.

[8:30:14 AM](#)

CO-CHAIR FAIRCLOUGH acknowledged that some have raised an issue with the former unit supervisor of the LBC, Dan Bockhorst, alleging that he was involved in the proposed annexation. Co-Chair Fairclough then thanked everyone for coming today. Co-Chair Fairclough noted that public testimony on HJR 30 is still open.

[8:33:49 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:33 a.m.