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not a matter of vote.

Gilman: So you're saying that there should not be a nonareawide voted?

Berrier: The nonareawide powers for a first class borough, assuming you want to keep the first class borough, I think should not appear on the ballot.

Gilman: What about areawide powers? Should that appear on the ballot?

Berrier: The areawide powers do appear on the ballot.

Gilman: Why is that?

O'Connell: Well, that's required on number (8) there.

Gilman: Isn't that the same as a nonareawide? If a first class borough wants to exercise fire services, could they put that on the ballot?

Berrier: As I recall, an areawide power may be exercised by each of transfer from/the cities or as I recall by vote of the people.

I haven't looked at that in some, the areawide powers of a first class borough, --Let me state this, subject to verification, in my understanding is that an areawide power of the first class borough may be acquired in one of two ways. It may be acquired by transfer from all of the cities in the borough, or by a majority vote of all the residents of the borough. So this is different in that the assembly can't simply do this by ordinance; they have to do it either by transfer or by vote.

Gilman: That probably will be covered in the powers section; it undoubtedly will, and what we're talking about here now is what would appear on the petition. And Community and Regional Affairs is saying that nonareawide powers as well as the ability to establish service

areas should appear on the petition.

McCarter: Mr. Chairman, I can't argue with Billy in the sense that doesn't change the ability of the assembly in a first class borough by ordinance to exercise those powers. Our thought behind that was that as people are considering formation of a first class borough, either from scratch or from reclassification of second class city, it would give direction to the new assembly that is elected and we start the sentence out - "For information purposes" and that's the reason for that language. Its guidance to the new assembly as to what the voters are willing to suggest that they exercise on nonareawide or service area basis. They would still have to go through the ordinance process. It's a policy consideration

Berrier: I think it would mislead the voters.

Sturqulewski: I think it's confusing.

Berrier: Yeah, badly. Because if they saw this on the ballot, for the petition. they would think, Yeah, this is what they got to do and this is what they can do, and then when they do something different, people are going to be very frustrated.

Gilman: I think that we would be running into trouble if we put language in there about service areas. That's covered in the power of a borough to create service areas, and if. and I'm not really sure what you mean here about servicesareas should be given the authority to establish service areas at the time of incorporation. You are saying at this point its unclear whether they have that authority.

?????? : Not unclear. It just requires a separate action at a later date.

Gilman: But to me there's one hold in it. Are you meaning that if you have a broad area, say it was a second class borough that was going to go to a first class borough. And one of the political things was that somebody wanted a service area created. That there could be placed on

the ballot the same time the question of creation of the service areas so the people within that area could vote on it. What would keep the second class borough assembly from doing that anyway? I mean, if they have the authority to put it on there, it would only be at a time when it was coming from an unorganized area.

Sturqulewski: What's the answer to the question? Couldn't they do it anyway?

McCarter: Our suggestion is, and maybe Billy has his reasons to be against it. As people are voting either to upgrade the borough or to create for the very first time a new borough, is that all of those things are laid out on the ballot. What are the things we're going to exercise areawide, and what are the things that the assembly is going to do to <sup>need to</sup> adopt ~~the~~ <sup>by</sup> ordinance to exercise on a nonareawide basis which they have authority to do, and what would be the initial service areas. So that as people are voting, they know what is the extent and quality of government that is coming before them when they vote yes. It's not a question of what's voted, and then two months later the assembly is going to come along and attempt to create these or attempt to create that. Currently, there is no ability to lay those things on the ballot even if the people wanted to say - Well let's see what services and what service areas we are going to have; there is not that ability currently to lay that on the ballot. We can vote for the initial incorporation, and some areas may well decide that they want a service area for this ?? people for this type of service the day you are proposing the incorporation of the borough. But they don't have that ability to lay that question on the ballot for the incorporation.

Little missing, changed tapes

Berrier: You would at this stage grant the powers, you would establish the service areas at this stage--

Gilman: That's what Palmer is saying, unless I misunderstand.

Palmer: It should be an option. It should be "Shall the borough exercise fire (?) powers only on a service area basis?" And there could be even the option "And we will create service area 1 and service area 2," perhaps, in the future if other is going to come in, they coul' come in later. But the statement that fire power will be a service area function of the borough as opposed to nonareawide and areawide powers.

Gilman: But that's why you need a home rule type thing, so the people can sit down and say these are the things we are going to put in - this is how we are going to provide the services. But that isn't what we are talking about. I have to disqualify myself; I have such a fetish against service areas, that--

O'Connell: It seems to me we're talking about two different things here. It seems to me that the petition is simply a paper that people see when they're deciding whether or not to even ask for this process, and all of the information on the petition does not necessarily show up on the ballot, does it? As a question? The question is going to be - on the ballot - are we going to form this new borough, with the boundaries here and here and here,

Gilman: Yeah, and have a seven member assembly and eleven or seventeen, or whatever

Sturqulewski: Well, yeah, but there may be again reasons that people want it because of certain things, and that may be the thing. They want to know terms and options, too.

Berrier: Mr. Chairman, may I suggest that if you are going to do this, that you do it - I'd have to think about where in the code -in hard language and allow them to present as a separate question on the ballot, not just something in the petition, but if you're going to do it, do it in a way that is binding. If you want to allow them to establish service areas in the initial incorporation, allow that to be a separate question placed on the ballot and the powers that the service areas will assume as a separate question to be placed on the ballot. Not within a petition which is "informational," but does not go before the voters and that the voters wouldn't approve, and that you haven't really got that kind of guarantee. Possibly, when you are talking about what you put on the ballot--I'm not sure how to draft it, but maybe something like - where is the actual incorporation ballot?

Gilman: While you are looking for that--to me, it's flying in the face of 05.130. I guess that's talking about service areas that have already been created.

Grussendorf: We're talking about incorporating a borough, right?

Gilman: We're talking about incorporating a borough or reclassifying a borough from--

Grussendorf: And when you're incorporating a borough, you are also at the same time having to have an election for that borough assembly. And so when you are incorporating, you could put to the public just exactly what powers it can exercise and then let the given issues run politically as they elect their assembly.

Gilman: Well, you really aren't doing that.

Grussendorf: That's the way it should run.

Gilman: You're not voting on the powers that they can exercise.

Grussendorf: No, I'm just saying that when you're incorporating, the

public then is informed of what powers it could exercise if it wanted to.

O'Connell: In other words, elect assemblymen accordingly. As to whether they're in favor of talking on a lot of these or none of them.

Grussendorf: They may run on the platform of the areawide fire or whatever they're going to do, and let it go from there, and then the public expands (?) again.

Berrier: Mr. Chairman, may I try one more time to clarify what bothers me? You come down to an incorporation election; that's on the bottom of page 6, starting with line 29. We're talking now about the contents of the petition. Here's the question that goes on the ballot: "Within 30 days after notification, the lieutenant governor shall order an election in the proposed city or borough to determine whether the voters desire incorporation and, if so, to elect the initial municipal officials." If you adopt this, have you adopted the service area powers that were proposed in the petition?

Grussendorf:(?) I'm not quite certain.

Berrier: If you have, then it isn't the kind of problem I see. But/<sup>if</sup>you haven't, and I suspect you haven't, then you have placed/<sup>in effect</sup>before them something that may or may not be adopted/<sup>later</sup>by the voters, or by the assembly, and it must be adopted by the voters or the assembly.

Gilman: Let me ask a question before I lose my train of thought. In the formation of service areas, doesn't it say that the assembly is the only entity that can place before the voters the creation of a service area?

Berrier: Mr. Chairman, I took off without my copy of the Constitution.

Grussendorf: What you are driving at is what I'm concerned with, too. As ~~xxxx~~ a rule, you incorporate and then you come in and develop your service areas. ~~xxxx~~ We're turning it around somehow.

Gilman: I should know this damn thing by heart, as much trouble as I have had with service areas.

Woman in back: This is not a change from existing language that I can see.

Gilman: I know, ma'm, I agree with that. That's what we have been told; that according to the statutes, according to what we have in front of us, essentially what is in the statutes, but the Department of Community and Regional Affairs is recommending that we add something which, at the time of incorporation, would specify service areas.

Woman: Are you discussing something that is not in the bill?

Gilman: We are discussing an addition to the bill, yes.

Berrier: Your comment finally touched off--Article 10, Section 5 - Service Areas. "Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter." It seems to me clearly that constitutionally that's an assembly decision and that in fact I am correct that this would not have the affect of establishing but it would just be the petitioners idea of what the assembly later would do or would not do.

Gilman: That isn't really what you should put on an incorporation ballot, because again that gets to the point of misleading, being somewhat misleading, at least, to the voting public. Plus the fact that you always run into that question - If you don't make it a separate item, and it was just one part on the ballot, then somebody who is living outside of that service area, that proposed service area, is going to vote on either creating or not creating the service area, which then runs opposite to the concept of service areas.

Berrier: This doesn't have any effect legally, anyhow; it doesn't matter that much. I'm sorry.

Gilman: Well, that's why we have courts and orders.

Gilman: Then am I correct in saying that we should probably, since there was a good deal of thought put into this -- and I wish Senator Sturgulewski was still here, because I think there undoubtedly was discussion about that, at least <sup>as to</sup> ~~in~~ the concept of service areas.

Can we go on then to Article 3, page 9? All the rest of it deals strictly with those things we have talked about--integration of special districts, two-year period of time. Any comments on this?

Dye: Just one comment on 080. Minor change in terminology. Under "INVESTIGATION." (a) C&RA is suggesting that you change the words "public hearing" to "informational meeting."

Gilman: Why?

Dye: Because it is not a public hearing in the technical sense.

McCarter: When the department goes out, it's convey information and discuss questions that the public may have. It's not the purpose to go out there for the department, for the Boundary Commission, yes, but what the department goes out to do is investigative hearing, or informational hearings; it's to explain and discuss. The purpose is not to receive testimony from the public, which what you ordinarily do in a public hearing.

Gilman: Where does the Boundary Commission come into this?

McCarter: After the department.

Gilman: And they are then required - a public hearing has to be done by them. So would suggest that at least one informational meeting in the area proposed--Question: Is there anywhere within the Administrative Code that defines "informational" hearing, informational meeting where there has to be requirement for notice, requirement

McCarter: ~~XXXXXX~~ Mr. Chairman, I don't know that we did research at part. Within the Boundary Commission regulations, it defines the department's role in conducting these informational meetings; there are time frames that are established for giving notice, but I don't know that there is a definition in the Administrative Code.

Gilman: Is there a question then, is 05.080 redundant with existing procedure under the Boundary Commission?

McCarter: I can't answer that. I would like to see that writing retained in there, that the department has the obligation to go out there---

Gilman: Legally; legally has the obligation.

Recess----- After recess

Gilman: This brings us to Article 3, page 9, Transitional Assistance. Up to that point, do you want to go through the entire chapter, or do you want to take it article by article. 06 is still--this is the last section of 05, I think.

O'Connell: Well, let's just go through it one at a time and see if anybody has any questions; if they don't, we can just keep going.

Gilman: On Transitional Assistance, this is just a discussion - there is not much change in there. We still have to go back to 05.080. We have not made a decision on whether to include "informational Meeting" in the investigation, where we hold at least one public hearing and substitute for that at least one informational meeting. And the question that I have for that again is - under the terminology "informational meeting," is there a requirement for notice? And the answer is - no. there is not a requirement for notice. Palmer is saying that. The reason they want to add the one informational meeting is simply that it's the responsibility of the Local Boundary Commission to hold a

public hearing, and there is a connotation of a public hearing that after the hearing there will be some kind of a decision, and Community and Regional Affairs really is not empowered to make that decision. It is only the Boundary Commission that is empowered to make that decision. Right? But I have problems writing something into the law of an informational meeting and not having something that requires that there be notice of that meeting.

McCarter: Mr. Chairman, I did over the phone discuss to see if that is in the Boundary Commission regulations defining the notice requirements of the informational meeting; it's not there, but we do try to adhere to the notion of normal public hearing requirements. We would still like to strongly suggest calling the department's hearing an informational meeting. We might add language, and I am sure Billy could do it, that would require that we adhere to the requirements of state public hearings or something like that.

Sturgulewski: I think that's a good idea.

Berrier: I'm not sure how it would be drafted, but it wouldn't be difficult. It would be something like calling it an informational meeting of this--held under this section--shall be given the same notice as required for a public hearing under whatever the cite would be, but we could come up with something like that.

Gilman: I think it should be in there. Any objection to that? OK, Article 3, then, Transitional Assistance. There are no comments about Article 3, essentially it is the same as written in the law right now.

Someone says: No, not true.

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Gilman: I'm sorry. This section now applies only to organization grants for cities, and a new section that would deal with boroughs.

McCarter: Mr. Chairman, I might comment that there were two - I'm sorry, I've forgotten the details - but there was legislation introduced separately that dealt with this issue (rather inaudible, but evidently legislation introduced which passed C&RA committees but not either house) new language

Sturgulewski: It just gives more dollars because it takes more dollars to do it.

Gilman: What's you're saying then is on page 10, 190 - That was the gist of the bill that passed Senate Community and Regional Affairs--I think it also passed the House. But I don't know if it went through either house. This would be identical - Are we running a risk that this would have a fiscal note on it and running it through the Finance Committee?

Sturgulewski: I think it is.

Gilman: This bill is referred to Finance? Response: Yes

Otey: I don't think the House Bill is.

Gilman: What are we doing here? Forgot about that.

McCarter: If those separate pieces of legislation were to move through I think they're in Finance now in both houses, and were approved, then I would presume the referrals of this legislation would be waived, because I can't think of any other part of this legislation that would have fiscal implications.

Gilman: OK, going back to my point; 190 is the same as the bill that the administration introduced last year. On to .200- any questions about that? OK, then we move on to Chapter 06.

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Sturgulewski: I'm going to give you a little clue, though. I think there may be a change on the part of some as to whether it's time for certain rural boroughs, and I think what's you're going to see is some requests for some very substantial increases for that, if that's true.

Gilman: That brings us to - I'm assuming that we all agree as to the language that's in there. Pat, do you want to go ahead - I'm going to put on the record that I will support a recommendation to the Senate Committee for the adoption of Chapter 5. With the reservation that we will have some changes that come back under that one investigation process, and that's the only change I remember - on the public hearing.

O'Connell: We're essentially going from the middle of page 3 to page 11. OK, if anyone in the House Committee has any questions, or any problems with any part of the proposed amendments, we could go ahead with them. Otherwise, I would entertain a motion to adopt Chapter 5 as presented.

Gilman: With one change.

Berrier: It would switch "public hearing" to "informational meeting" and we would develop language to make the public notice requirement the same as for the public hearing.

O'Connell: On page 6, line 8, you are speaking of. That a public hearing would not be required, but it would be informational and that notification to the public would be required as if it were a public hearing.

Berrier" I'm not sure what the language would be but that would be the gist of it.

O'Connell: Mr. Anderson, is that what you assume?

Anderson: Yes, I'll move for that it be adopted with that change in language.

O'Connell: Any objection from any of the House members? Then it is so moved for the adoption of Chapter 05.

Gilman: Ok, Article 1, under Chapter 06, there are no comments from anyone for any changes in that, and it's just a matter of changing how you change the name of a municipality. Article 2 has some problems in the annexation, and there were several comments, one submitted by Community and Regional Affairs and one submitted by the municipality - Haines Borough. But essentially, the language here has not changed very much. In the first one, in 040, it's clear-up language, changing local government to municipal government, and cities and boroughs to municipalities, and assembly or council is changed to government body. So it makes it clearer all the way through. And that's true in 050 and - in 060 we do have a new section, isn't it? It's just to make sure it is applying to all municipalities. Any comments or questions?

Berrier: Are you thinking of 170 that makes this also applicable to clearly applicable to home rule?

Gilman: Article 170? Haven't got that far yet. That's article 3 - that's merger and consolidation. All we're talking about here is annexation. So if there is no comments on the annexation section--

Sturgulewski: Well, how about

Gilman: Well, the only comment is - Henderson from the (Haines) Borough says that he doesn't believe that any municipality should annex any outlying areas without the express approval of the public. Within the area that is being annexed.

Dye: If you will look right above that there.

Gilman: I'm sorry, I missed it. What line would we find that on?

Dye: Wherever they use the term "exclusion" - would be in the title of the article itself on line 26, page 12; and then again--

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Gilman: You would recommend using "Annexation and Detachment" as opposed to "exclusion."

Dye: That occurs on line 7 on the next page, page 13. Used on line 11 again--it's used throughout the section.

Sturgulewski: Billy, do you have a comment on that?

Berrier: It seems to me that exclusion has been consistently used. Personally, I think that detachment is a better term but exclusion has a fairly long history; I don't really have any strong feelings one way or another on that.

Sturgulewski: Palmer, do you see --

McCarter: Yes, in the whole history of the Boundary Commission, they use the term detachment. Again, its semantics really, and we recommend in this new bill the language "detachment."

Gilman: Detachment means section of a city leaving the city.

Berrier: There are slightly different connotations, and frankly, and unless there's some constitutional reason, detachment seems to be more accurate. Both are accurate, the meaning of the term, but exclusion carries an overtone that I don't think is quite--

Sturgulewski: Mr. Chairman, would it be appropriate to, since there is common agreement there, to suggest at least for the Senate side that we use detachment, subject to Billy running through for negative legal implications? Would that be appropriate?

Gilman: That would be appropriate.

O'Connell: I would entertain a motion of the same from the House.

Anderson: I would so move.

O'Cinnell: Any objections? It is so ordered.

Bylsma: Mr. Chairman, under Article 2 "the Local Boundary Commission may consider any proposed municipal boundary change." The word "may"

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bothers me. That means you don't have to.

Gilman: He's talking about Art. 2, sec. 29.06.040, the word may, line 28. The reason that's in there, again it's a constitutional question, Bernie. The Boundary Commission has a constitutional responsibility to determine whether there is justification for the creation of a city or a borough. And that's why they use the term "may" is that people can petition for that. If we wrote it in here "shall" then regardless of what their findings were, they would have to proceed through the whole process-- I think I understand what you are saying; if a group of people, regardless of how well they put something together, petition for a city, do you feel that the Commission should at least consider it? And maybe it would be appropriate to put down - "A Local Boundary Commission shall consider any proposed municipal boundary changes." But it "may" present proposed changes.

Berrier: I would suggest the exact language of the constitution--the Commission or a board (?) to the Commission, we're talking about, may consider, and I think that giving it a command that it shall from the Constitution is already given it that discretion, it simply can't. In other words, they already have that discretion as a constitutional grant, and we're basically repeating, reiterating the language.

Sturgulewski: Those people may not have been witty and wise, but they were there We voted for it, I bet you did, too.

Bylsma: Has it ever caused a problem in the past?

Gilman: Yeah, I think there have been problems where -- Yes, I can give you an example. (but is discouraged and much muttering)

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O'Connell: I would like to ask Mr. Berrier a question: What is the meaning of the word "consider"? Is that where the constitutional question arises? In other words, if they even look at it and decide they never look at it again, that's considering it, isn't it?

O'Connell: Has that not been argued as part of this?

Berrier: That's not been argued as part of it. When you give it as a permissive - "They may consider" - You're correct, there is no depth. But if you give a requirement that they shall consider, not in this context but in other contexts, the court holds that it means they shall give reasonable consideration to - not just a perfunctory look at it - I don't care, we considered it.

Gilman: In other words, "shall consider" would probably mean holding a public hearing, etcetera.

Berrier: It would mean at least giving substantial consideration to it - probably a requirement of findings and--

Gilman: OK, so we're through that one. On to Merger and Consolidation, page 14.

Dye: There is one other comment (under 29.06).

Gilman: Isn't this more of a drafting thing?

Dye: No.

Gilman: It says "Provisions similar to Sec. 29.05.100 should be added, thus ending the question of the Local Boundary Commission's authority to alter boundaries from those presented in petitions for annexations and detachments."

Dye: Mr. Chairman, as you may recall when the Committee was considering the Nome Annexation, this question came up. I believe there was some ambiguity, reading the language of the Constitution in parallel with the language of

Title 29 and our own regulations about whether the Local Boundary Commission had the power to alter the language of the annexation petition. To change those boundaries. In the case of Nome, they in fact did that. They, I believe, enlarged or detached certain areas. Excuse me, reduced. And there was some question raised by an attorney for one of the respondents, I believe, as to whether or not that was the proper procedure under the Constitution and under Title 29. I don't have that language before me; Mr. Berrier has the Constitution there.

Gilman: Let's look at existing 05.100.

Grussendorf: Mr. Chairman, I think when they say "may consider" that certainly then gives them the option of reducing any request.

Dye: They're just suggesting something like 05.100. 05.100 doesn't speak to that question.

(Changed tape, missed some - Gilman is talking - think quoting from Const.)

Gilman: If the Commission determines that the proposed boundaries can be altered to meet the standards, it may alter the boundaries and accept the petition." And so what they're recommending is that for annexation, as opposed to incorporation, essentially the same language be installed, inserted, so that it clarifies their role in the annexation process.

McCarter: There is no question in the incorporation thing that the (?) commission has the ability to alter boundaries as the petitioners have presented it. As they mention, and in the case of Nome, and historically the Boundary Commission almost in every instance, I don't want to say in every instance, but in many instances, and those have gone through the Supreme Court, they have altered the boundaries of annexation with more detachments. It was raised at the last session when you were

considering Nome annexation - the question was raised, "Do they have the authority?" It's not clear in Title 29 currently that they should alter boundaries of an annexation or detachment. The recommendation that we're making is explicitly give them the authority. They pick up the authority; they've exercised it for years, but the legal issue was raised if they have the authority to alter boundaries for annexation or detachment.

Dye: Mr. Chairman, in current law, 29.68 says (a) The Local Boundary Commission may consider any proposed local government boundary change. But now the next sentence says - "It may present proposed changes to the legislature during the first 10 days of any regular session." So, the implication is that they can present any - they themselves can propose any change as opposed to petition changes.

Gilman: No, I think the implication is that the proposed change of a boundary of a municipality may be presented, or must be presented, in 10 days. But that doesn't answer specifically the question of whether city A out here proposed to annex certain properties and the Boundary Commission comes in and says - We're going to recommend to the legislature that you annex a smaller portion. They can do that in the terms of it's clear that they're the only entity that can recommend to the legislature a change in the municipal boundary. But whether they can change the city's proposal - because the city has the inherent legal right, it's not the only way they can annex, but they have an inherent legal right to propose annexation, and the question we're trying to resolve is "Can the Boundary Commission change the proposed annexation boundaries?"

Someone in Back: Whether they can or not, they have. Stood through a test in the Superior Court.

Someone else in Back: It's basically putting into writing something ad never been a until that has produced a question this last session.

Gilman: But it's been a question in the courts, though.

O'Connell: Theoretically, then, if we don't put this language in here, either the Boundary Commission will have to continue operating in a gray area to plow ahead, or else we'd have to assume that the only way to change a boundary would be that the boundary commission, or, that is if we did not want to accept the city's proposal, but instead go over to the Boundary Commission's recommendations, the legislature would have to reject it altogether, wait another year and hope they would the boundary commission's recommendations. The alternative is forcing them into at least a one year's delay, is that it?

Sturgulewski: A lot of times the people all agree that that's what they want, but there some reason in the investigation that makes sense to have a somewhat different boundary.

Gilman: I have no trouble at all writing into annexation and detachment that the Boundary Commission may alter the city's proposal, or whatever proposal is before them. I think it's very consistent throughout.

Someone in back (Palmer?): That's what we're asking is that language similar to what deals with their authority to amend boundaries towards incorporation --

Gilman: Do you have any trouble with that, Bill?

Berrier: There is a faint Constitutional question. I would think that this is an ambiguity in the constitution. "The Commission or Board may consider any proposed local government boundary change." Then it may present proposed changes to the legislature during the first 10 days of any regular session. A court could construe that as saying - the proposed change in both places is identical if they're talking about

hypothetical change. I don't think a court would hold that way, and I think particularly the court would hold in light of a statutory clarification that they have that power, the the court would attempt to uphold the statutory clarification. There is a faint chance of unconstitutionality but I don't think it's very strong.

Gilman: Using that same reasoning, then if there is a chance that the court would say it's unconstitutional for the Boundary Commission to change a proposed annexation, then why would constitutionally we have written in the Boundary Commission<sup>if</sup> its got to pass through everything that comes before it?

Berrier: I said I thought it was a thin chance. I just wanted to point it out; I thought I owed it to the committee to point out there is a possibility, and there is an argument.

Gilman: I think we would strengthen it by putting it into the statutes.

Berrier: It certainly would.

Sturgulewski: Then you don't object to that?

Berrier: No

O'Connell: I would entertain a motion from the House side to do that.

Grussendorf: I agree that it probably should be clarified, and I think the Boundary Commission should have authority to change it. If the community doesn't like it, then they stop the process right there.

O'Connell: The Boundary Commission is not under any obligation to forward the thing to the legislature anyway. Right? So in other words, if they<sup>do</sup>/in fact make a change or propose a change, that sends up howls from the community in question, they can either forward it in the face of all that opposition--

Sturgulewski: Then the whole scope is on the legislature. Yes,

O'Connell: And in the case of Nome, the fact that it never went, did it?

Sturgulewski: Two cases came to us; one in the area of Kodiak in the

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year before, and then the case of Nome. Both times, although people object to that, bringing it to the legislature, both times action was taken that's going to help those communities find an answer. And I just think - it's a bit of a club, but by golly it works.

Bylsma: I'll move that we accept that

Dye: There was one other small technical change. From Community & Regional Affairs, on line 6 on page 13, the statutory reference is incorrect, and needs to be revised. Mr. Berrier should be aware that Community & Regional Affairs has noted it, and they think its incorrect.

Berrier: They're talking about line 6, page 13, the citation 44.19.260. What I would like, if the committees would agree, I went through this in preparation to coming up, but I went through it rather rapidly, and I wasn't able to satisfy myself in my own mind what the correct citation is. I think if you would just direct us to check the citation, talk with C&RA and correct any error that may be there in the citation. I'm not really sure that either of these citations are right, I had some trouble running it down.

Dye: This particular section doesn't exist anymore. The origin of this reference is somewhat obscure.

Berrier: What we do need is direction to correct the citation to whatever it should be. Everybody knows what its referring to.

(All agreed)

Gilman: On to Merger and Consolidation. 090 through -- There are no comments on this section.

Bylsma: Mr. Chairman. I don't know if this is anything or not, but on page 15, line 21 - "A voter who is a resident" - Is resident defined, or is that automatic; or could it be somebody who just moved in?

Gilman: "A voter who is a resident of the area to be included within the proposed municipality may vote."

Berrier: Resident is defined for voting purposes; it would have to be a qualified resident. For whatever the voting thing is; all this does is require that they live in the area. The requirement of resident for voter things is rather expressly set out, I think its set out at 30 days. We have some strict constitutional limits there.

Gilman: Essentially, the procedures are the same whether you're annexing, consolidating, incorporating.

Stur, lewski: I can't understand; we've got those attorneys back there and they're just sitting there. They're not leaping up.

Gilman: They wrote this thing; it's pride of authorship. As long as we don't change it, we're in good shape.

Gilman: On to unification of municipalities. Article 4. We do have some comments - from Okey Chandler. Community & Regional Affairs has a comment. Both of them are on 210. Petition requirement. Actually, it's writing the petition. The comment is that - from Mr. Chandler - that "requires that petition to put unification of municipal governments before the voters be signed by 25% of the voters in the most recent election. That number is excessively high. Other provisions of law limits question to once a year. Urge you amend above section to require 100 signatures." Rather than 25% of the voters in the most recent election.

Sturgulewski: Mr. Chairman, there's probably a lot of debate on that, but considering that the low percentage of people that turn out for elections - we had a lot of discussion on this, there's a lot of costs involved in the whole process,, and best to have some fairly good show that people really are interested in seeing that issue pursued.

I just don't think that's acceptable.

Gilman: Also on line 11, page 17. Community and Regional Affairs is recommending that the sentence be prefaced with "If the petition is initiated by the residents of the territory proposed for unification"

Sturgulewski: That doesn't make sense

Berrier. I think, Mr. Chairman, that's bad drafting.

Sturgulewski: What's the purpose here?

Gilman: The purpose here, undoubtedly - Let's see if I can ~~fix~~ <sup>ferret</sup> it out. What we're saying - we're changing to say that if people who live - Wait a minute - residents of the territory propose the unification/

Berrier: Mr. Chairman, there's only one petition process. The petition-- is correct, because there is only one petition. When you start tossing in this, which is unnecessary reference, because that's the people that's going to sign it anyway, it sounds like somewhere vaguely out in the woods, there's another formal petition someplace. There's just one kind of petition.

Gilman: Actually, when you're talking about territory, you're talking about the merger of municipalities.

Berrier: I don't like the language, but the concept - the thing I particularly dislike, is it suggests when you say "If the petition is that there is some other form of valid petition that need not be and there isn't. I think it's confusing.

Dye: May I ask a question of Mr. Berrier. There are two methods by which you can do this. One is by resolution of the assembly and other by petition.

Berrier: But a resolution is not a petition.

Dye: Evidently there is some confusion.

Berrier: There shouldn't be, and that would add to the confusion..

Someone asks if David discussed that with someone. Response is: No, I didn't but I did have some question in my mind about it.

Sturgulewski: Why don't we suggest that we don't take any action unless there is a clarification. Well, I mean if there is a real case there, we'd better be sure.

Gilman: I have to go back and ask the same question here, though, that I asked about in the second class cities. We're specifying here that the number - we're again separating areas inside, outside cities. And we're specifying that people within the second class city are included in the area outside, called outside, --are we being consistent?

Berrier: Mr. Chairman, you're not being consistent, but that's an inconsistency that's been very, very strongly politically pressed by everybody for years. The reason for this inconsistency; that the second class cities should be included in the area outside cities is that really there is a differential impact on the formation of a borough, because of school primarily, and there seems to be a - having been involved in this statute since it started, that seems to have been a very strong current for many years that this should be handled differently.

The unification and incorporation.

Gilman: Because of the inherent powers of the home rule and first class cities hold as opposed to second class cities.

Berrier: And because - Remember/<sup>in</sup>dissolution - Whenever the cities are dissolved - In the question of dissolution, apparently there's a feeling that this is a different question when you're dealing with a second class city. I'm not able to really explain the political feeling, but it's been there since the late sixties when we put the unification thing together.

Gilman: You don't have to explain it to me.

Berrier: Ok, since I can't, anyway. But that's the reason.

Gilman: In the case of the Kenai Peninsula Borough, there will be a cold day in hell before that will ever be exercised. And I know the political feeling.

O'Connell: Are you still over here discussing 210?

Gilman: They're saying that it should be prefaced by - If it's initiated by the residents of the territory proposed for unification. Well it has to be initiated by the people.

Dye: Excuse me, no, actually it can be initiated by - the petition can be initiated by an assembly or council. However, if we adopted this change in language, then the implication would be that there was two different kinds of petitions. But since it mentions only a petition initiated by the voters, then there would be no requirement--

Berrier: It's initiated either by resolution of the assembly or by petition. The resolution of the assembly is not a petition.

Dye: No, but under (b), line 23, page 16.

Berrier: "An assembly, or council

Dye: or person living within the area - Comments: Ah, that's it. They don't go by resolution, they do it by council or assembly.

Dye: They can do it by both methods, but if we adopted the language suggested here, then there would be a minimum of 25 per cent - a requirement of 25 per cent of the votes cast in the last regular election for the petition initiated by - but it wouldn't be a requirement on assemblies and councils.

Gilman: Ok, so in (b), I think I'd rather use some different language. Let's put it this way: If the petition is initiated by residents of the borough? This is what we're talking about. Or the municipality. See, we've got three kinds here - We've got a city council, assembly of a borough -

Berrier: Let me give you some rough language for refining. If the petition is initiated other than by council or assembly, the petition shall be signed by at least

Gilman: When you say council or assembly, if you have a borough with multiple city councils, one council can initiate the question of unification?

Berrier: That's what is says in (b).

Gilman: That's the point that I want to get to.

Dye: They can initiate it but they have to have - but to go to an election, you must have 25 per cent of the votes cast in the last election. If you have this language, then the implication would be that where the petition were initiated by the assembly or council, there would be no requirements for the minimum number of votes.

Gilman: That's the point that I want to get clarified. Because again you've got three different things. If the borough assembly by resolution votes to put unification on the ballot, there is no requirement for 25 per cent of anything. A city council should not have the authority to place that on the ballot; the city council should have to have something besides just a resolution of the city council to put that on the ballot.

Berrier: And what they should have is the same as what the voters should have. But going back to my original position, you don't want that language, because this is limiting language for the petition that puts it on the ballot. Regardless of who initiates the petition, there is only one type petition, and the petition must meet these requirements. You have different ways of initiating the petition - but no matter how the petition originates, the petition is just a petition to put it on the ballot and it takes these requirements, no matter where it starts out if you're going to use a petition. If the

assembly doesn't want a petition, let them use a resolution.

Sturgulewski: So that's the key then. It's either a petition, regardless about form, or a resolution. If it's a resolution, it's not a petition.

Gilman: We still aren't being consistent. We should leave then under (b) of 200, the assembly out of it, because the assembly is not going to initiate a petition. An Assembly is going to pass a resolution.

O'Connell: They won't have the authority.

Berrier: They have the authority to

Gilman: It says "formation of a charter commission to propose a unification charter shall be proposed by resolution of the assembly or by petition. An assembly resolution for the purpose may be adopted not more often than once every 12 months." An assembly resolution. Then it goes on "An assembly, a council, or a person living within the area of proposed unification may initiate a unification petition." It doesn't make any sense to me to have the assembly initiate a petition. When they can do it by resolution.

Berrier: Maybe an assembly wants to duck the question.

Sturgulewski: Get the voters.

Gilman: That isn't the assembly - it's an assemblyman.

Berrier: Maybe the assembly itself thinks this is worth considering, but they don't know whether there is substantial interest in the thing, so rather than doing it by resolution, they initiate a petition just to see if there is enough interest in it to bother going ahead to an election.

Grussendorf: They wouldn't have to be an assembly body to do that then. Just an assemblyman.

Berrier: He would fit under the definition of a person.

Someone in Back: Without that language, is there anything that would prohibit an assembly or a council from initiating a petition by resolution anyway? Guess I'm suggesting that regardless of who initiates the petition, is it necessary even to itemize who starts the petition? The only person that can generate this onto the ballot without going through the petition form and has the authority over the entire municipal jurisdiction is the borough assembly. If that particular assembly doesn't do it by resolution, or by its own action, then it takes a petition. But is there anything barring anybody either assembly, or council, or individual, from initiating a petition?

Gilman: Going back to your original statement, then, you're saying that leaving the term in here "An assembly" that would leave the assembly an option of either doing it by resolution or passing a resolution that says "Let's circulate a petition" to see what --

Lee Sharp: Why don't you just eliminate (b)? You're protected. because if it is by petition, no matter who starts it, whether it's ARCO, or the assembly, or some small second class city, or large first class or home rule city, whoever circulates the petition has got to get 25 per cent of the voters. So why should we really be concerned with who it is who drafts it up and puts it on the street. Putting it out for signatures. The other thing is, as Jim points out, the assembly ought to be able to initiate by resolution. But I think you really add to a lot of confusion in saying the assembly can do it by petition.

Berrier: Does this language really add anything? Let's use these examples. Would there be a problem under this? Arco wants to

unify the North Slope Borough and starts a petition against the residents. Is there any reason they should be prohibited from doing it? As a matter of fact, they're not--they can always find a resident. Do you need to be?

Dye: Mr. Chairman, I can think of one reason why it's a good idea to identify who initiates it, and that's Sec. 29.050.220. The petition is reviewed for sufficiency, and if its insufficient, then it's returned to the person who initiated it. I think at least in some other petition requirements, there is a chance to correct the deficiency, and that's the responsibility of the person who initiated the petition, so that person needs to be identified for that purpose.

Gilman: But your question is, does that person have to be a resident of the area?

Berrier: In other words, do these limitations strike you as necessary? I think basically what you are down to is not this technical which I think you should not adopt, but the basic question of - Do you want to limit who may initiate a petition, and if so, are these the limitations that you want. In other words, I think what you're talking about really is 200 (b), - and that's an essentially pure policy thing as to whether you do or do not want to limit the power to initiate a unification petition to particular persons or groups.

Back of room - ----or to make it more consistent with other official procedures, just change it to read "A person living within the area may initiate petition." If the council and or city wants to do it, surely there are going to be one of those persons who voted for it to say "I'm sponsoring the petition." I mean, you've got the individual; if a corporation wants to do it, certainly one of their officers could use that, be designated as the person.

Gilman: I agree we need to spell out in the statutes who can initiate the petition and I just have a helluva lot of problems with the assembly doing it. I'm not so sure that I have problems with the city council. By resolution circulating a petition, but normally what would happen is that the petition is circulated by somebody and the city council makes a resolution endorsing it. That would be the normal political way for it being handled.

Sturgulewski: We did it here by assembly resolution. We probably never would have gotten the petition to put it on, and we unified and it worked swell. You're not saying that you don't think we should be--

Gilman: No, I'm saying an assembly initiating a petition doesn't make sense to me.

Berrier: In other words, they got the power to do it by resolution so what he's suggesting is that the assembly's power should be limited to either doing it by resolution or not doing it at all.

Gilman: I have no argument with the language in 200 (a).

Sturgulewski: Which seems to me gives them the power to do it right there.

Gilman: That's right. By resolution. And that's what you did. What I'm arguing is the language in (b). I don't think that we should have in there an assembly to initiate a petition. I think we should probably do what Lee says - and that says "A person living within the area.." "Of proposed unification may initiate a unification petition." And then the petition shall have--

O'Connell: I just don't see any problem with it the way it is. I want to ask you - Do you feel that the assembly should not have the authority to take the petition route simply because it's redundant, or

Gilman: I don't think they should initiate the thing because over here they've got to review it for its sufficiency.

O'Connell: And if they do it by resolution, there is no review process.

Grussendorf: But Mr. Chairman, that's sufficiency that they're looking at is really whether or not those 25 per cent of the people are legal voters.

Sturgulewski: I seem to have lost something along the way with the forms (forums?), I usually do. It seems to me that by resolution, <sup>of</sup> the assembly, or by petition, can't they by resolution either just set the motion forward, or send out a petition?

Gilman: That's what it's saying here - An assembly may send out a petition

Sturgulewski: Do they say that in 200? Are they limited in 200(a) to simply set forth like we did here in Anchorage.

Gilman: Yes, they are limited in (a). No, it doesn't say they are limited. It just says there are two ways you can have a petition-- assembly action and a petition. Two ways you can propose unification, by assembly resolution or by petition. Then second it says - who can initiate a petition. An assembly, a council, or a person living within the area.

Sturgulewski: To Billy Berrier, do you agree that if we just had (a) That the assembly would be limited only to a resolution and not to setting for a petition?

Berrier: If you eliminated (b)/ Yes, I think the assembly as an assembly would be limited to a resolution. You could argue that by not prohibiting them from doing so, that you've allowed anyone to do it.

Sturgulewski: Is a resolution - will a resolution be used to establish the petition? What would establish the petition?

Gilman: If the petition is going to be taken out in the name of the assembly, then it's got to be a vote of the assembly proposing to take it up. A lot of assemblies could do it by voice vote, just by a motion. It depends on the ordinances of that particular assembly how they do those kind of things.

Grussendorf: Don, as you mentioned, basically it's just checking the political wind, and it's kind of a cop-out for the assembly to avoid a resolution if its simply go to see what type of straw vote they get.

(Some lost here, changed tapes)

---Gilman: Initiated by the council, or a petition initiated by the assembly doesn't have to have that requirement. What Billy says is that if we leave the language over here, whether we wanted to keep the assembly in the swing of things or the council in the swing of things, is a policy decision, but if we leave them there, there's just two ways for this thing to be proposed; it's either by the action of the assembly by resolution, or by a petition; and there is only one petition, and the petition then has to have these things over here. If we inserted the language that C&RA wants us to do, then there's a fuzzy area that says, "Well, the assembly takes out a petition, but they don't have to have anybody sign it; or if the council takes out a petition, they don't have to have anybody sign it."

Berrier: The C&RA language should definitely not be added, regardless of whether you decide whether you decide if the assembly should go on with the petition or not. Bad confusing drafting.

Gilman: So the question really is - Who do we want to be able to initiate a petition. The process of the petition is settled. Who do we want to be able to initiate a petition.

Grussendorf: Any individual or group, which includes an assembly.

Gilman: Assembly, a council and a person is what it says here.

O'Connell: Well, it seems to me that it's not too hard to conceive of an assembly that could get the vote among it's members to initiate a petition, whereas it may not have the vote to get the resolution putting it directly to the ballot.

McCarter: Of course, you have the restriction on the resolution that if it fails, you do it once in a year.

Sturgulewski: There could be again this big showing of interest in doing it, and for all kinds of expediencies and time, I mean a mass-out of the public to get it started. I really don't see why we should sit in judgement and bar them from taking the political action. I just don't - Do we know best - we really don't know best. There's kind of maximum flexibility to local people to solve their problems, and the people are protected in that way. So I just don't see the big hang-up with this. Now, we might add a group--I have no problem with a group.

Gilman: But a group will have a person. The important thing is that they live there. I just think - For the assembly to initiate a petition doesn't set well with me, but I don't have any problem with it staying there; but if it stays there, I don't want to see this language put over here.

O'Connell: I'd like to ask a question of Palmer, though. You suggested there - I forget exactly what it was in reference to, but you made a comment that they should be restricted to passing that resolution only once a year, even if it's the one--exactly what were you saying there?

McCarter: The way the current language is, and is retained here, is that if the issue is placed before the voters as a result of an assembly resolution, and if it is defeated, the assembly would have to wait a full year before they could initiate that process again. That same requirement would hold if the assembly initiated a petition, whether

it required the 25 per cent of the vote or whether the assembly said: "Listen, get 10 per cent of the vote on our assembly-initiated petition, then we'll put it on the ballot by resolution."

O'Connell: I'm not sure that I followed that yet. Are you saying that if the assembly passed a resolution to circulate a petition, and failed to get the number of people they wanted, then they could still come back and pass the resolution anyway? Within 12 months? You're saying that if they failed to get the number of people they wanted

McCarter: If it fails on the ballot, they can't initiate it by resolution. Within a year.

O'Connell: Within 12 months of what? At the time they asked for the petition, or at the time it failed on the ballot?

Gilman: The initiative process would take place here.

Berrier: It would be from the date of the adoption of the petition-- adoption of the resolution. An assembly resolution for the purpose may be adopted not more often than once every twelve months. So the twelve-month period would commence on the date of the adoption of the resolution by the assembly after that language.

O'Connell: Maybe I didn't make my question clear, but - assuming an assembly passes a resolution to circulate a petition, and they go ahead and get their 25 per cent, both inside the cities and out, throughout the borough, and that fails on the ballot. But there may be 6 months from the time they passed the resolution asking for the petition until the question comes up on the ballot (maybe even more), how soon can they ask for it again?

Gilman: Let me see if I can clarify it for you? The language in the first part says "If the assembly places unilaterally - makes a resolution for unification, and they adopt it on the 10th day of August, 1981, and they put it on the ballot in October of 1981, they cannot pass

another resolution putting it on the ballot until the 10th day of August, 1982. However, if they were to pass a resolution to initiate a petition, and they got their 25 per cent, and they put it on the ballot in October, 1981, and it failed, there would be nothing in this statute that would prevent them from coming back January 15 of 1982 and passing another resolution. To place it on the ballot.

McCarter: Mr. Chairman, I didn't understand the background myself of our recommendation - one final thing - it was to differentiate again between the petition process that might be initiated by an assembly versus by residents. If the assembly said, to get some feel for whether we've got enough votes to put the resolution on the ballot, we will initiate a petition process. Our language would have said that 25 per cent requirement would necessarily hold to the assembly resolution.

Gilman: I feel very strongly that as a matter of public policy that if there is a requirement for an individual to meet a certain standard, then the same requirement should be for the governmental system to meet the same standards.

Berrier: The assembly can put it on the ballot without 25 --

Gilman: I know that. But if they damn well want to put it out on an initiative petition, then they should have to get the same number of voters signatures as an individual would have to.

O'Connell: So we have rejected C&RA--

Gilman: Right, and as far as I'm concerned, we should just leave the language the way it is.

Moving on, we're going to try to finish this one on unification.

That will probably be all we can handle today, which would take us over to Chapter 10. There are several comments down through here that C&RA has proposed, and I think they are the only ones who have made any comments. on the remainder of this. On page 19,

lines 3 to 5, where it says where it says "home rule or general law borough and all cities within it shall unite to form a single unit of home rule government. Should substitute "charter commission shall be formed."

Berrier: I'd like to ask C&RA what their thinking was there because in the context of the existing statute, which I think we're not looking at major modifications, two distinct questions are presented, and its very deliberately two distinct questions. And the question is not "Shall the charter commission be formed?" but "Shall the government unite?" And that is realistically and genuinely the question. And then you elect the charter commission. And if that fails of course the charter commission fails. Then what you have is an inchoate government that must adopt the charter, and you get two opportunities to adopt the charter, if you make that change, you have knocked out the vital first question as far as I can see, and would have to virtually rewrite the whole section. I am not quite sure that I understand the recommendation.

Dye: I agree with what you are saying, but if you will go back to the sections on the petition, there is statutory form on the petition, and the question is "Shall a charter commission be formed? Not "whether" but shall - So the people who signed the petition are asking that a charter commission be formed, not if the municipalities unify. So when you get over to 260, it's just asking that the language on the election conform to the petition. I think the problem is not with 260 but 210.

Gilman: What we're doing is saying, if I read this right, we have had in the past a simple question that has gone on the ballot - Shall the municipal governments within the borough unite? For a single government? We're saying here that before that decision can be placed before the

voters, there has to be a charter commission formed to draw the charter to present to the voters, as I read it.

Berrier: May I explain the mechanics of unification? The voters vote at the original election to form a unified government. And they elect a charter commission. Assuming the proposition to form a unified local government passes, the charter commission then comes into existence, and prepares a charter. Then you have a vote on the adoption of the charter. This is not a vote on unification. If the vote on the charter fails, you may appoint another charter commission, and it appears to me that most often there has been a second charter commission. We had one, I believe Sitka did, and I believe you did.

Sturgulewski: No, we had two votes. We voted to form the charter commission, they presented two charters. One failed, both failed and then we had a new charter commission.

Berrier: But there are really two cracks at the thing.

Sturgulewski: I think we ought to go back here now on this 16 and 17, this whole petition thing. That's current law. We haven't changed that at all. What about David's comments in that light?

O'Connell: It seems to me that the proposed bill here is not consistent with this. Maybe we should go back to the bottom of page 16, the petition. What the petitioners are asking for is - We the undersigned qualified voters do hereby petition that the following proposition be placed before the voters. The question is - Shall the charter commission be formed and the charter commission members be elected as elsewhere provided to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the borough?

Sturgulewski: So shouldn't it be repeating the same thing here when it gets to the election? Shall that question---

O'Connell: But then when we get to page 19, line 9 - Here it says <sup>members</sup> the election of the charter commission/shall take place at the same time, well, maybe I misinterpreted it. At the same time as the election on the question of unification. So the question of unification is not until the charter commission has already written the charter. It seems to me that line is not consistent with this--

Sturgulewski: I think that we are inconsistent there, that we need-- and I think that's what C&RA is saying - we ought to do the same as we did over there.

Berrier: It looks like that should be looked at for consistency. It appears to me that either they should not both be in quotes, or they should be made consistent. But the statement on 19 does describe what you are in fact doing.

O'Connell: But its not consistent with the ballot question at the top of page 17.

Dye: But 17 it seems to me is susceptible to the interpretation that you have two elections required; one to form a charter commission, and two to vote on unification.

O'Connell: In other words, when you adopt the charter, then you are unified.

Berrier: That's why I was suggesting; I think we do need to look at this for consistency, which I would hope you would direct us to do. But I would be inclined to think that the stuff on 17 really is the stuff that should be changed.

Sturgulewski: I wonder what current law is.

Berrier: This is exactly current law in both instances.

Gilman: I'm looking at the current law, and it is very confusing when you really read that. "Shall a charter commission be formed...."

to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the borough and ... all cities within it in a single unit?" Under that language, the only thing you are voting on is "Shall we form a charter commission? or not?"

O'Connell: And at the same time you would elect those members.

Gilman: And if the answer is yes, then here are the people you have elected. And the question of whether we're going to unify is left up to whatever they submit as the structure in which the unification will take place. Right? So it isn't a unification election per se. I thought I heard you say, Billy, that the question is: "Shall we unify the government?" And if the answer is yes, then here are the people who will draw the charter for the new unified government which will be submitted to the voters for approval, which is a hellova lot of difference.

Grussendorf: Yeah, Mr. Chairman, also in that approval, it has to be by a majority in the areas that are to be considered. In other words, we're talking about different areas. It might be several little cities; or an area that is basically unorganized.

Gilman: It has to be a majority of the inside and outside.

Grussendorf: Right. So that's where that comes in there. I guess sometimes you may have the people in the city saying yes, we want to; and those in the outside borough say no.

Lee Sharp: To straighten this out, there is additional language on page 23 you may want to look at ..... because according to Billy's analysis, there are two questions on the ballot. Starting at line 12. "If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of unification shall be treated as if it had never been proposed or approved." So they're talking about a <sup>(separate)</sup> separate question of unification, as I see it. So that line also needs to be addressed. You are either going to have two questions

on the ballot, and this language is then consistent with that, or if there is only one question, then your procedure is - 'shall we elect a commission to propose a charter for unification? And if the charter passes, ~~xxxxxx~~ then the charter unifies. That would be the other procedure.

Grussendorf: The actual adoption of the charter.

Sharp: The actual adoption of the charter is the thing which unifies rather than the way it seem to be drafted; if there is a question of unification, and that passes, then you are unified, but we don't know how you are unified until you folks have adopted a charter. You get two shots at a charter; if you don't adopt the second charter, then we just pretend you never voted on unification.

O'Connell: That's kind of like what we're doing on the capital move at this time.

Dye: As I understand you, though, it's just a question of changing the one section or the other section to make it clear that you're using one or the other of those two methods.

O'Connell: Well, but as Senator Gilman suggested, there is a difference. If we assume that the very first election in fact unifies everybody, and then you just wait around for a charter, who governs you in the meantime?

Berrier: In the meantime it's specific that the government will continue to function.

Sturgulewski: I think if there is agreement that the process is a stage one; one, you get the petition, you have a question on the charter commission, you have the election, then the bringing back of the charter. If those things are agreed, and I happen to think there's a lot into that, and that's a good process, then I think we ought to direct staff to go back and make those consistent, and not hang up the problem. Without

question, unification does not occur until there is a positive vote on a charter. It's obvious. Is there a problem?

Gilman: Maybe we could solve it somewhat easily by just looking at 190 and broadening that statement, because that's just a statement that says that a borough may unite with its cities to form a single unit in home rule government by complying with this chapter. And rather than saying by complying with this chapter, maybe we could just broaden that by saying, "by holding an election..."

Berrier: If you make any of these changes, you are virtually going to have to re-write this whole thing.

O'Connell: It seems to me that if we go to page 19, on line 9, and simply say " the election of charter commission members shall take place at the same time as the election on the question of whether or not the former charter commission - rather than on the question of unification. Strike the word unification and insert what would read - on the question of formation of a charter commission. Then that would trigger the question back at the top of page 17 - Charter commission would be formed and the commissioners would be elected all in one election date. They would go to work and write their charter, and bring it back to the voters. It's either accepted or rejected. If it's rejected, they've got one more crack to write another one. Is that correct? And if it's rejected a second time, then the language that Mr. Sharp referred to on page 23 is triggered, and if it's rejected a second time, everybody is back to ground zero. You need a new petition and everything at that point. Is that correct:

Sharp: The point was, the language on page 23 talks about the question of unification---

Gilman: Your point is that there has never been a clear question

of unification on the ballot.

Sharp: It seems to me that on page 17, if you would change the language of the petition - "Shall the following question be placed before the voters: Shall all cities and the borough unite into a single form of government, and shall there be a commission elected to propose the charter?---

Gilman: Well, some people might want to unite without a commission.

Response: But, you can't. (From several)

Gilman: Could you say something like this? "Shall all of the governments within a certain borough unite into a single unit of government by electing a charter commission as elsewhere provided on this ballot?" Or something - Do you understand what I'm saying? Rather than saying "and elect a charter commission." By electing a charter commission and submitting back to - to submit to the voters for their approval.

Berrier: Could I suggest--We have a very tightly interrelated set of statutes, they've been pretty tightly drawn and pretty tightly inter-related. I would think it be desirable for us to look at it - What we're really doing is clearing up language discrepancies, and present that language to you. Because any language we propose...I can find about two or three other places, that if you change this you're creating doubts there. You just direct us to clear up whatever inconsistencies there are, but look at other sections to make sure that we are not creating problems and come back to you with some language. I'd be very leery of any language adopted at the table.

Gilman: We had agreed that we were going to adjourn at 5:30, and it's 5:29 and a half. Is there anyone here who would like to make some comment about what we're going to do tomorrow? Adjourn at noon to accommodate those who had made other arrangements?

Page 72

Gilman: Tomorrow wanted to get through to Chapter 35 on page 71.

One of the major things that we're going to have to wrestle is Recall, because the language in this new bill has broadened all of the steps and hoops, and everything you have to go through for Recall. That's one of the things I think will be a major part of the--

Sturgulewski: It was a major issue before this group of people composed of legislators and rural - other kinds of people. We thought it through and we have to do it again. It's a big one.

Gilman: We're adjourned.

5:25 PM

Saturday Morning, September 11, 1981

Meeting already in process--

???? - Anderson(?): I don't think there is any conceptual problems in terms of what's going to be happening, but the ballot does not say what it proposes here in 260.

Berrier: I understood that that was referred to us to iron out the discrepancies, which nobody I think had ever noticed before. Without making any changes in the scheme.

~~Gilman:~~  
Anderson: We were trying to finish that 06 out. There's only a couple of other items on 320, page 22, line 13. Talk about publication and posting of proposed charter. It says the clerk shall publish notice by radio and television. We all know that there is a lot of places in the state where we don't have one or the other or both, and that could pose a problem someplace. So C&RA has proposed just leaving those words out - the clerk shall publish notice. I don't know if we should write in there the normal procedure we used to have - whether

we should attach the published notice from the newspaper, general circulation, you know, on the post office wall, etcetera.

Berrier: Mr. Chairman, this question when you get to the unorganized borough, has come up time after time and fter time. We have developed some fairly "boiler plate" language that accomplishes this. I all of a sudeen don't remember what it is, but we've struggled with this particular problem and pretty well have developed boiler plate. I would suggest that you have us look at some of the others.

Gilman: I know that CRA has for things like the formation of the coastal resource service districts and this type of thing, had to go through this same proces and at the time we were writing the regulations for that, we wrestled whether it should be in two languages, and --

Berrier: We've been through that hassle a lot. Shall we just check out one that we've done on that?

Gilman: 330, which is jst down the page. CRA's comment is that there should be a provision for certification of election results. to the Commissioner in order that a certificate of reclassification may be issued. I am assuming that would come in after (e), or maybe a part of (c). After "If the charter is ratified, two copies of the charter shall be filed with--maybe we could

Anderson: Doesn't that last sentence really say it - Line 23, page 22, "The election shall be conducted under procedures applicable to regular elections."

~~Gilman~~  
~~O'Connell~~: "applicable to regular elections." What I think they're talking about here, Chuck, is after the election is over, the way it is right now--if, for instance, there is an election and it is held on some question of the function of power or something like that within the organized borough, the mayor or the clerk signs a certification saying the election was successful and then that is sent to the Dept. of Community and Regional Affairs, and then there is a certificate

that is issued by them. And I think their question is: Do we want a certificate to be issued by Community and Regional Affairs back to the newly organized borough? If so, do we want to write it in here?

Berrier: Mr. Chairman, it seems to me it would be no real problem. And if they feel they need it for administrative purposes, I think we could put it in probably as an additional sentence in (c). I don't have the wording --

Gilman: You might write right here - If the charter is ratified, two copies of the charter and a certification of the election shall be filed.

Berrier: No, because you don't want to file the certification with all of these people. If the charter is ratified, the results of the election shall be certified to the Department by whoever does the election, and two copies shall be filed with--

Gilman: Something to that effect.

O'Connell: Question - Doesn't the election have to be certified even if it's not ratified?

Berrier: Yes.

Gilman: That's what Chuck was saying. Because - The election shall be conducted under procedures applicable to regular elections. That includes the certification.

Berrier: You end up with the certification. Apparently, what they're asking is that a copy of the certification be forwarded to the Dept.

Gilman: And then there are no other comments until 470, which is line 11 on page 26. They're saying that - "If the Local Boundary Commission determines that a municipality fails to meet the standards for dissolution, it shall reject the petition. If the commission determines that the municipality meets the standards, it shall accept the petition. And the comment from CRA is that there should be some

provision similar to 05 100 (b) to be added for a formal appeal procedure. Did we actually accept that? 05.100(b)? It's page 6, line 25. And it says "A Local Boundary Commission decision under this section may be appealed under the Administrative Procedure Act." And they're recommending that that language be put in to (a) and (b) with (b) being the statement that would be an appeal under the Administrative Procedure Act. I don't think there's any problem with that.

Berrier: I don't think there's any problem with that. In fact, Local Boundary decisions have ended up in court several times. Not very successfully, but they have--

McCarter: They've been to court and haven't been successful?

Berrier: Yes, there have been several that went to court.

McCarter: And they have been successful.

Gilman: You mean setting aside Boundary Commission decisions?

McCarter: No, upholding Boundary Commission decisions.

Berrier: No, I say there have been several appeals from Local Boundary Commissions, and the appeal has been unsuccessful.

Gilman: OK, so we just insert an (a) and (b). And that's all the comments that we have anywhere along the line on Chapter 06. It's pretty much the same as the law reads right now. Any questions?

O'Connell: We never did establish for the record that we have a quorum. Rep. Grussendorf, Rep. Anderson and myself. Do you guys want to move for the adoption of this?

Anderson: I'll move.

Gilman: I intend to recommend to my committee that we adopt 06, too. On Chapter 10, Home Rule Municipalities. We had quite a few comments from different areas on home rule municipalities, and as a matter of course we are running into again the concept of writing into state

statutes certain things that might conflict with somebody's home rule charter out there. I think that's what we've run into in the case of probably Wrangell, and I'm not sure how many others. But there was a thought that kept running through the teleconference from several places was - Be careful that you don't write something that's going to erode the home rule responsibilities or the home rule authority that has been established precedent-wise throughout the state. And I don't know who would have that kind of information on top of their head. I don't think anybody has ever made a complete research of home rule charters throughout the state, and so we probably will be doing it unknowingly. There is this question that is raised right out of the chute, practically by the Wrangell City Manager about the inter-relation between Title 14 and whether there should be anything written in home rule limitations which come under this section of 110, because as I understand 110, those are the items (on page 29) that the borough overrides the city's home rule charter. Am I correct in this?

Berrier: Mr. Chairman, you are talking about 110? These are the sections in which state law overrides everybody's charter. And if I might comment on that, there has been a policy decision over the years in other Titles, there are areas that affect municipalities one way or another--it's been felt that if this section were extended to try to cover matters of other Titles, you would essentially create a lot of confusion throughout the whole area of law and leave questions. Some of the earlier questions, for example, may a home rule municipality provide for divorces in a manner other than that provided by state law, obviously, no. As you start getting into other Titles, you start bringing up very difficult questions; and once you start getting into that, then they'll look - Well, they provided this in Title 14, how

about over here in Title 44? So you're getting into a real quagmire that everybody carefully avoided trying to put other Titles in this section.

Gilman: Ok, but if you'll look at that, there's 45 items that we're saying state statutes, meaning things in this statute will override a home rule charter. And my question is, has there been additions or deletions from existing law? And I think there have.

Dye: Mr. Chairman, there are in the back of this bill a number of amendments to Title 14, and other Titles, also.

Berrier: Mr. Chairman, on the changes, I would suggest you look at page 10 of Tam's Analysis; she has set out the ones that have--

Gilman: There have been one, two ---eleven items added to the limitations of home rule powers and thirteen deleted. Now this is a significant change or changes and we'd better pay some attention to what we're doing on this one. Most of these have already been authorized by state law?

McCarter: There are 47 current---

Gilman: I know, but these are new ones that are being added, plus you are taking away some, and that's where the major change of policy is going to be. For instance, if you're looking at (31) assessment and collection of taxes, in the existing law - what's the number - what page

Dye: Page 9, 29.13.100 under current law.

Gilman: Right, page 9, but I'm looking for what the statement is there on assessment and collection of taxes.

Berrier: Why don't you look on 29.35.170?

McCarter: Basically, the item 22 - Borough and city property taxes

Berrier: 29.35.170 on page 77, isn't that what you're referring to?

Gilman: No, I'm referring to the list of limitations that appear in here.

In current law. There are 47 of them; we have 45 proposed but there are some changes, and I was just using 31 as listed on the proposed law - assessment and collection of taxes, as an example of what is being changed. What they have evidently done is substituted that for several items within that statement - assessment and collection of taxes - which is 35.170. That narrows it down to one item, where in the old law, it was a whole chapter 53 - not the entire chapter 53 but nearly. 53.010 to 53.400. ----- What I am wondering is - what's the full ramification of that type of change? Because it could be significant. Someone in back: I think the committee that supported the receipt(???) were conscious of that same impact--Inaudible-- involve those areas that we did specifically add new language and make it a home rule limitation or --

Berrier: Mr. Chairman, you've also got to read (31) with (35). The limitation in 31, this is just the broad thing on collection of taxes; then the specific one that has all of the chapters and so forth - you have to look at section 35, which is the rest of the original list, I believe.

Gilman: Right. But what I'm trying to do is have the committee be aware that there is a potential here for some broad policy change that maybe doesn't look quite that broad, but in talking with the members of the committee, they thought that this accommodated the concerns that they had heard from home rule municipalities, and yet did not completely usurp state responsibility in most of the areas. But there are some changes, and some of the most important changes as far as I'm concerned are those changes that have been left out. If you look at the changes that have been left out, the election and term of mayor, while it comes back into Elections, I think, doesn't it, Palmer?

McCarter: I believe it does. So often, in old Title 29 you'd have to reference it because of the way the legislation was spread out throughout the Title, if you wanted to make a home rule limitation against that, you'd have to cite it two or three times. In the new bill, they'd tried to package elections, so you may just get one citation that applies home rule to that entire election caption.---

Gilman: I think what we'll do is, rather than adopt this or go completely through each one, as we go into the body of each one of these, then we can have that in the back of our minds, that this is a limitation on a home rule charter. This is the law, and no municipality through home rule can change it. Maybe we'll want to come back and forth to refer to it as we go through.

Someone in back: Just as a note in that particular process, one of the flags which you will see which I think will help you identify those is that whenever the review committee felt that the particular item should be left up to local/option there was an attempt to insert some language such as "unless otherwise provided by local ordinance" or whatever. So those will be flagged, I think, as you go through it for those items it was felt could and perhaps should be left up to local option. That should help.

Gilman: The comments on this particular one came from CRA, and from the City Manager in Wrangell and her comment was - those sections entitled 14 - Education - which pertain to home rule municipalities should be enumerated in home rule limitations under Sec. 29.10.110, or a chapter dealing with those sections in Title 14 should be added to Title 29. In essence, I think what has happened is that there is proposed in this law, in the back of this bill, our changes in Title 14. And I think probably she didn't enumerate exactly what items she was talking about, she just enumerated those things that applied to home

rule immunity as an area to be flagged to look at. And from what I can remember, I haven't look at that section for some time, those are being changed in Title 14.

Be rier: I don't think so. If I draw from experience, I think I know what you are referring to. There is a section that was kind of the base of the borough/school argument, which is contained now in Title 14, which was originally in Title 29, which is relations between the boroughs and the schools--central accounting, construction, etcetera. I think primarily she is talking about that one section. That the school board has the responsibility for developing plans for schools but the borough has the responsibility for construction; the schools have the responsibility for minor maintenance, the borough has the responsibility for major maintenance, the borough has the right to have a central treasury with all the money in the treasury, but the school has the right to have its own accounting system. I think probably she is talking about that particular section which was basically put in Title 14--it logically belongs in either one of these.

Gilman: I think in that case there is not a borough, it's a home rule city.

Berrier: This applies to cities, too, cities and school boards.

Gilman: I think those are the things she is referring to, all right, but I'm not sure exactly what she means here. Does she want to have that as a limitation that the charter can't override that? Or that the city council can by changing the charter or by their own motion change that system is what I suspect is what she is referring to.

Palmer, do you know?

McCarter: I think part of the thing was the notion of - for example, you may have over in Title whatever some state law requirement that

says "All local governments must adopt procedures or ordinances on conflict of interest and whatever. That's in another \_\_\_\_\_, but if your home rule city or home rule borough does let state law regulate in this aspect typically goes with Title 29 \_\_\_\_\_ and if you go through this laundry list and you don't see that you're limited by the home rule limitations, then you assume that you're free to do whatever you want to do. Well, in going through this list, assuming that that whole issue is over in another title, you would not know that state law requires that you must adopt procedures for conflict of interest and whatever else, and I think that's what's suggested in this - where other parts of state law say this is regulating local government whether you're home rule or not, it ought to be flagged in this section of home rule limitations. Regardless of what title, and Billy has made the statement already that that created some problems. So often local governments don't read all 48 Titles of state law, they look at this one section when they want to see what are the limitations on that.

Gilman: That was the theme that kept running through the hearings, particularly representatives from the smaller communities. They kept saying - "Hey, look, I want-we want a municipal code that we can go to that tells us how to run the damn city. So we don't have to have to go through '8 volumes of other law to find out whether we're doing it right or not.

Berrier: Mr. Chairman, I can sympathize with this, but also as a practical matter, this is impossible to do. Let me use an example: The municipal grant grant pact two years ago, which is over in state fiscal procedures, which necessarily has to be in state fiscal

procedures; now the procedures for that do affect municipalities. If a municipality wants to get a grant, they have to do this and this and this. Or if, under certain circumstances, if they want a construction project under 26 (b) (8) (?) and it's over a million dollars, they have to have that approved by the voters. And inevitably, as you're dealing with other areas of law, it's going to have impact on the municipality, and as a practical matter, it's impossible, it would be very confusing if you tried to reference all of those in Title 29.

Gilman: Well, you'd never keep up.

Someone in back:-----I think we'd run into \_\_\_\_\_ litigation if we attempted to put anything in the references \_\_\_\_\_ Title 29 limitations here because inevitably you would not get ~~them all~~ them all, it would be almost impossible ==

O'Connell: Well, you would 't until the next legislature met.

Back of room: To find every reference to it as the years go by, and new information. Those that were not referenced would in all likelihood cause litigation as to whether they apply.

Gilman: On page 29, line 25, Community & Regional Affairs has recommended that we substitute 29.10.110 for 29.10.115. Is that just a typo?

Dye: Mr. Chairman, that is a typo, but actually they should probably substitute 29.10.080. In existing law, the rest of 110 incorporates the rest of Chapter 10, and there is no 115 in Chapter 10. It ends with 110, but it's redundant to incorporate 110 into itself. So, if you just change that to 29.080 instead of 110. That is, 29.10.080.

Berrier: 080 is the last number.

Gilman: It's the one we're working on right now. As David was saying, it's redundant to put down home rule limitations within itself. OK, then on page 30, lines 11 and 12, add 29.25.060--just add one to it?

Dye: Mr. Chairman, in current law as well as in this bill, this section on resolutions is a limitation on home rule powers but for some reason it was never added to this laundry list.

Gilman: It is currently in the law?

Dye: As a limitation, yes, we can look at it right now if you'd like.

Gilman: Let's look at it.

Berrier: What it does is require that the municipalities keep a permanent file of their resolutions, under the codification.

Sturgulewski: It was just an oversight.

Berrier: My comment on that is just a simple yes.

Gilman: OK, so we'll be adding a (19) and renumbering everything else.

Adding (9) which would be 29.25.060 (resolutions) and then we'd end up with 46 items.

Gilman: On page 30, line 26, substitute 35.330(b) for 330(c). Is that a type? So it becomes 330(b).

Berrier: Yes, (b) is the correct reference there.

Gilman: Have we doublechecked some of the changes of last year on municipal lands for correctness under (42)? Has that been significantly changed?

McCarter: There were changes but I don't know --

Gilman: I think all we'd need to do is have someone check that out to make sure that that still is proper because there was some re-wording and also there was some renumbering.

Berrier: Yeah, it was pretty substantial; I know it went through, but I don't know enough details. I think you're right; someone should check that and see what should be done with that.

Sturgulewski: I was just going to say, there were changes and that raises a kind of an interesting point; there will have to be a review

and I would hope that any changes that took place in 29; if there are inconsistencies--because obviously any changes were done with the existing legislation. We may find, and I don't know if that's true, some conflicts with what we have due to legislation that was passed. I was thinking of not just in terms of the lands, but larger--we had other changes to Title 29, so maybe it would be appropriate just to ask staff to review the changes that took place in last year's--

Gilman: Well, I think they've got them flagged here, and a good deal of the changes dealt with lands as far as mapping changes of the state, and when we went through that in the Free Conference Committee, that was one of the things we tried to check was to see if there had to be something else done, but it was a little quick and dirty.

Berrier: Mr. Chairman, what I would like to suggest, and that is a broader thing; we, of course, already are planning to check the things for integration within the title, but I think when we check for integration in the title - each of the new bills - we should also check whether or not they should be included in this limitation on home rule power. Usually we try to cover that as we go through each bill; but each bill that was passed last year we should look at - besides its substance - with in mind whether it should included in this list.

Gilman: Are we finished with Chapter 10? I think that's all the comments that I had.

Sturgulewski: Mr. Chairman, you got the change - the meetings public to public meetings?

Gilman: What we're going to do - there is some language that they have wrestled with before because obviously there's no television

Sturquelwski: No, I'm talking about 29.10.110 - there's a transposition there.

Berrier: Where we have a pure transposition - meetings public instead of public meetings.

Dye: Mr. Chairman, I think we're talking about a chapter heading there, and I think it's a shorthand - meetings public where it should be meetings are to be public. Is what they mean rather than just public meetings.

~~XXXXXXXXXX~~ Gilman: You're talking about 9?

Dye: 9 - which refers to 29.20.020, which is on page 35, and the section heading is meetings public, which is obviously shorthand for

Berrier: Meetings public is correct, you're quite right. It is not a transposition. In other words, the catch line is to catch your eye - meetings public. Which sets out the requirement that they be public.

Gilman: Ok, so that should not be changed.

O'Connell: Should we move to adopt chapter 10? OK, without objection, the House C&RA has adopted chapter 10. (??with clarification??)

Gilman: And we are going to recommend adoption.

Sturquelwski: Of what?

Gilman: Of Chapter 10, with the changes - with the proviso, of course, that as the staff has checked to look at the integration of new legislation, and so on, it may have to come back before us.

Lee Sharp: I had thought earlier there was some mention of the fact that you were not going to go through this list now, but you were going to go through each section that applies; there are some of these in here that probably shouldn't be in here that were inadvertently included, such as the application it appears of all the sales tax, and use tax limitations for home rule.

Gilman: Are you referring to a particular one? Are you referring to 36, for instance, interest on sales tax.

Sharp: No, an earlier one - assessment and collection of taxes

Gilman: Or the whole broad issue?

Sharp: (31) says - if you go to that section it refers to, it says that property, sales and use taxes may be levied and collected in accordance with this chapter, and that section applies to home rule municipalities----(unclear) incorporated into that entire chapter.

Gilman: OK, but before we get into specifics, are you saying, Lee, that there may have been significant changes in 170 from the existing law?

Sharp: Yes, that existing law that that section takes from does not refer to sales and use tax. Something unclear about property taxes.

Berrier: Mr. Chairman, in accordance with what seems to be usual procedure, and what I thought that you had ruled earlier, if you look at this section, 29.35.170, it says a home rule or general law borough shall/<sup>assess</sup>- etcetera - and then it has the section that applies to home rule and general law municipalities. If at the time you look at the section, you decide home rule should be deleted, obviously then its in effect clerical to delete it from the laundry list. So, what you will be looking at, my understanding was - so under this section if you decide it does not apply, it is clerical to take it out.

Sturgulewski: But the point is, that issue should be raised and in the appropriate section so we can have some appropriate discussion.

Gilman: OK, so we're in the Capital City (Next Chapter - 14).

(Changed tape here - much levity over capital city chapter)

Gilman: Is there any discussion about Chapter 14?

Anderson: Does anyone know the rationale behind the Governor when he makes the council member appointments? It says in here somewhere that they don't have to be residents of the capital city.

Sturgulewski: The reason is, to begin with there will be no residents.

Anderson: But people are already living there. Well, I suppose whatever the boundaries will be, perhaps there no one within those

lines right now.

Berrier: We're taking 100 miles of state-owned land, and I assume there's nobody living there.

Sturgulewski: There's maybe three miles of private property encapsulated there, so there's nobody there.

Gilman: This follows pretty much the section of developmental cities; there's a phase period until the government begins to function and people have moved into the community, and they have an election, etc.

Someone: Mr. Chairman, the developing cities act is no longer in this bill.

Sturgulewski: Yes, Mr. Chairman, that's an issue that you might want to bring up, because that was a major policy issue.

O'Connell: The elimination itself of the developing cities act?

Sturgulewski: Yes, we put it out; we had a lot of debate about it-- like Afognak and everybody wants to use it, but it's kind of like third class boroughs; it doesn't really fit the circumstances. It's not saying we don't need a piece of developing city legislation. Did you like it?

Gilman: I don't know whether anybody knows whether they liked it or not because it was never used other than in the Lost River--

Berrier: It was drafted for Lost River specifically, used once, kind of failed, and I don't think anybody's/looked at it since as I remember.

Sturgulewski: Afognak did, and they also looked at it in connection with molybdenum(???)

Gilman: Let me throw this one out. At the time - or at a time- when some major corporations were looking at Beluga area, their first trek on that was to develop a city in the area, and we spent a good deal of time; we meaning the borough officials - spent a good deal

of time talking with major coal interests about what the development city law said, and how it functioned. So, it is something that I intend to bring back, but not in the context of what we're doing today, or maybe even with this legislation. I think we maybe want to go ahead and drop it out, but hold it as a - because there probably are going to have to be some changes.

Sturgulewski: Don. I really appreciate that. I think it ought to be an agenda item, because we know that we're going to have major mineral development say on the south face of the Brooks Range; there are going to be a whole lot of isolated ones, and I've talked to some of the Diamond-Shamrock people, for instance, and I'm going to meet with them just on that idea, just to try to get some sense of the economics as opposed to building a work camp vs. all the dollars you'd have to put in for the community facilities if you had a city. And a lot of it I think we're going to find is going to depend on the economics of that thing and the decision of the company as opposed to the strategy of the state, but I'm not sure that's a true statement. Whether we should be looking ahead and saying - You ought to be doing these things, but we're really letting the molybdenum company go ahead and prepare that. The state's not getting in and doing it's analysis; we're more or less leaving it up to the company, aren't we?

McCarter: (?) The state's involved, but certainly not anything that's going to shed any light on the developing cities statutes.

Dye: Mr. Chairman, during the interim process I was working for the Department of Community and Regional Affairs, and I testified on the developing cities statute, and the Department was quite opposed to it at that time. They would have liked to see it removed; there were a number of reasons for that. One is that it was a special piece of

legislation that has a number of flaws in it that would make it very difficult to apply in other parts of the state and other situations; and also there are flaws in it that make it not very appealing to most developers, which is the reason it has not been used. I do have in my files a number of reports from the Department of C&RA; their analyses of that, and I could provide that to you--

Gil man: That's kind of off the record--

McCarter: I think they did characterize the legislation as it currently exists, that it is so flawed it is unworkable. I would like to also mention that aside from the Department, the Local Boundary Commission did go on record of saying - We support leaving the concept in, but just re-write it. That came from --- but they didn't offer any rewrite.

Berrier: Mr. Chairman, when I commented earlier that it was developed for Lost River and hadn't been looked at, I meant the legislation hasn't been looked at, and I suspect the legislation itself was, as they characterized it, very definitely for a special situation and that it would be a fairly substantive job, and that probably would need looking through to see if the legislation itself is generally workable, and would be fairly major.

O'Connell: Don't some of those people who were involved in Lost River - do they have anything still active? Is there any life at all there? Anything we're eliminating if we drop it?

Several responses: No, I think the corporation has become dormant.

Dye: To my knowledge, nobody seriously is currently planning to use that statute. One of the problems with it was that it was designed for an area like Lost River where there are absolutely no private lands; but one of the problems that we ran into at Afognak was that there were a number of private landowners in the area that would have been incorporated, and they had absolutely no voice at all in the formation of that municipal government. However, they would

end up being ultimately responsible for all the bonding and indebtedness that went on there, so they had 40 or 50 private landowners who would have been liable for I don't know how many millions of dollars of bonded indebtedness in which they would have had no voice in approving at all. So there are those kinds of problems that should be worked out.

Gilman: Our next thing is my most - the thing that gave me some heartburn and gray hair. It includes those things called reapportionment and municipal officers and employees.

O'Connell: Just for the record, shall we <sup>on the House side</sup> adopt/Chapter 14?

Ben, do you have any problems with it at all? Capital city bill-- that's not intended to be a loaded question.

Grussendorf: Well, I understand there are no changes to that. While I was out of the room very briefly, you didn't pass--home rule limitation?

Gilman: Essentially, we haven't passed it. What we have done is said, as we went to the body, then we will be coming back and forth and making decisions whether that should apply to home rule or not.

Sturgulewski: What were the major issues on that, Ben? I'd just like to have that flagged in my head. What were the sections you criticized?

Grussendorf: Well, we weren't quite sure exactly just what some of this did do. Did it erode some of the existing powers of a home rule?

Sturgulewski: I'd like that flagged, too, because I was - in my mind I don't recall that we made substantive changes to the home rule powers, so I hope Mr. Barrier or somebody--

Grussendorf: Some things have been added and some things have been deleted and we want to figure out just what that does do---

Sturgulewski: I agree with you. I'd like to be refreshed, too, in my mind.

Gilman: OK, we are now at Chapter 20. And there have been about 7-1/2 pages of changes, or suggested changes, one of the areas where there has been some of the most significant language change, I think. I don't think conceptual change so much, but language change.

Conflict of interest. This conflict of interest has - there has been a change in it. The change simply is of procedure for ruling on conflict of interest. The law does not now say that the presiding officer shall rule on a conflict of interest. It says that an individual shall identify his conflict of interest and disqualify himself. But then, there has not been the next step about who makes that determination other than the individual. Is it a vote of the body or is it a - who rules on it? That's what I assume this is set up to clarify, that a person who has a substantial financial interest has to identify that, ask to be excused, and then the president or presiding officer will rule.

Berrier: r. Chairman, to use Juneau as an example, and I suspect this is fairly common almost everywhere - the point is that we have a nine-member assembly and the charter provides that it requires five affirmative votes in order to carry something, so that not voting is, in effect, a no vote, and I suspect that's fairly common; so when a person disqualifies himself, it's precisely the same as if he voted no. So possibly there should be some flexibility.

Sharp(?): This, I think, is more flexible. It doesn't say that the presiding officer will determine whether he has a conflict of interest.

Gilman: It says he will determine whether he will vote.

Sharp: Whether he may be excused from voting or not, so he can have the most outrageous conflict of interest, but the presiding officer may say, No, you're not excused from voting. So this, I think, is

a change in substance, not just procedure.

Gilman: I agree. A major change in substance.

Grussendorf: I think in a lot of charters, I think Juneau is the same way - it basically comes out and states that a person may bring out his conflict of interest, and ask to abstain from voting, but if one member of the council disagrees, that's it, the guy has to vote. I mean, not just the presiding officer. Any member of that governing body. Isn't that the way it is in Juneau?

Sturgulewski: That's the way it is in the legislature.

Grussendorf: Well, it isn't in the charter of the City and Borough of Sitka.

Berrier: I thought in Juneau ours was a flat disqualification. If you have a financial interest, you disqualify yourself and that's it.

Sharp (?): That's true, then there's another section that says you must vote unless - which I take to be separate from the conflict of interest - that you must vote unless excused by all the remaining members who are qualified to vote on the question. But that doesn't apply to the conflict of interest. Looking up the Charter Commission debate on that, the example was given that something may come up that somebody just feels technically totally unqualified to vote on, or for some other reason doesn't want to vote, he must vote unless excused by all the other members. But that's something that's separate from conflict of interest.

Someone in back: Correct me if I'm wrong, but it seems to me that the bulk of the comments during the time that this was considered in working sessions were directed toward the rural communities where it is almost impossible on significant pieces of legislation that come up before the body, for at least one person or not many people, to have definite conflicts; and there was a need to allow some

flexibility so that the local body could still govern. In many communities, Yakutat is a good example, where two of the six council members are also board members for the Native corporation; and when an issue comes up - a lease of a particular piece of property, it gets very difficult then for the body to even function unless here is this flexibility that's allowed the presiding officer and the body to recognize these conflicts - but still to require the vote to solve the problem that Mr. Berrier raised, that as a result you get a no vote which doesn't pass and creates an impasse.

Gilman: OK, but going back to a discussion we had just a few minutes ago, this is listed as a limitation on home rule charters. Now, does that mean if we pass this, that those provisions that might be written into somebody's home rule charter is overridden?

Berrier: Precisely. Sturugulewski: Mm-hmm.

O'Connell: Why are we leaving this up to a local option? Telling them they have to do it, and then forcing them to go through the hoops themselves, that is, to pass this ordinance? Why isn't it written in the state law that set the guidelines itself, and applies the same--

Gilman: That's what we're doing. (Garbled)

Kohler: Establishes two local options. Says it will apply.

O'Connell: Well, but I would assume that this allows every municipality to decide for itself what a substantial conflict of interest is, for instance, we could have as many different interpretations of whether or not a person should vote as there are different municipalities. Why don't we say on the state level that - Forget the fact that they have to adopt an ordinance, but simply that a person must vote unless he is excused, and be done with it.

Berrier: Mr. Chairman, I believe what you're doing in this is fairly

typical. A typical conflict of interest ordinance will have much, than this much broader application/- as a minimum requirement, a member of the governing body shall declare - and give the voting procedure. But all of the conflict of interest ordinances that I've seen - for example, and also include staff, and requirements of what the staff may do and what they may not do, you get into areas other than this minimum requirement; and, in effect, you are requiring them to adopt a conflict of interest ordinance, but leaving the other details beyond this single point to the locals.

Gilman: However, the distinction is procedure. We're now making a uniform procedure. We're saying every municipality has to adopt a conflict of interest ordinance. And in that ordinance, a member with a substantial financial interest in the question before them must identify it and ask to be excused from voting. And that's where the thing has broken down. That's where we generally are now, anyway. What the hell is the next step, and who makes the decision and how is that decision then appealed? And this does set up a uniform standard that says - OK, the presiding officer shall make the original decision of whether a person can be excused or not; then it can be overridden by a majority of the remaining body; but there is always this question then, if you have a seven member assembly, presiding officer; the presiding officer may or may not vote; that's like the Mat-Su Borough or wherever, it depends on their form of government; does a person asking for conflict of interest, does he have a vote in whether he is excused or not, or if his vote is not counted, then is the majority of the remaining members, or is it a majority of the full body, such as the fact that it takes five votes in some areas to do anything.

Sturgulewski: We did discuss at least a part of it; the majority vote of the governing body is the fully constituted body, and the

way that I understand it, if it's seven it's seven etc. But I don't think there's any ambiguity on that. It's the totally constituted body, I think that's how we've been consistently through this. And as far as a vote, it doesn't write in you abstain; but is an automatic, you know, he may want clarification and think once he's given notice it's OK, so he may even vote for it, or he may vote against it. It doesn't say he abstains from that. I would think he would vote.

O'Connell: On the question itself, on whether or not he votes on the main question?

Sturgulewski: Yes.

Gilman: The question is - Yeah, he would vote on whether he should be allowed to vote on the main question.

Sturgulewski: Yeah, he would then give his preference. He had his day in court.

O'Connell: Is it unquestionably so, that when a person in fact is excused, on the basis of a conflict of interest, that the legally constituted body is not diminished by that number?

Berrier: Mr. Chairman, it is not diminished. Let me go back to my nine example, because I'm used to thinking in nine. You've got a requirement of a majority vote - five members of the assembly - the fact that one member of the assembly is disqualified means that you've got to get five out of eight, not five out of nine. It does not reduce the number necessary to adopt stuff. If you've got five disqualified, you've got to five out of four. Which could happen in the bush, I am told.

O'Connell: I can remember sitting in our own borough assembly where, in fact, our borough attorney interpreted it as that if one person was excused, then he was not even considered a member of the body; but apparently that was an incorrect interpretation.

Berrier: All the attorneys I know interpret it the other way.

Sturgulewski: The only thing I will say, Pat, there was a lot of discussion as we went through this, again and again, and I guess Tam assured us again and again that the way we were consistent though here, it's the full constituted one. When you've got absent members, people resign, or leave, so you have vacancies; in every case it's the full whatever the legal composition. You have to give the percentage of that.

O'Connell: If I may, there is one difference, and maybe we aren't addressing it here. Is there any provision - What is the person does not declare that he has a financial interest? That's what triggers this right now. Can anybody else trigger it?

Sharp: As a practical matter, yes, it has been done several times.

Sturgulewski: Has it? Yeah, by golly, we've done it, too.

O'Connell: My point is, and that's why I pursue it a little bit, essentially, the body is taking away one member's right to vote, and theoretically, at least, then disenfranchising the people that that person represents.

Gilman: As a practical matter, it does surface a good deal of the time, on one issue, if nothing else, and that is the issue of the mandated vote that the borough assembly must take on education, as far as the local share of the educational dollar in the total budget. And in many assemblies, there are either people who are connected in some way, either a spouse is, or they are, connected with the educational system, and that invariably brings the question

of conflict of interest. Should you be able to, should your wife, as a school teacher, -- should you be able to vote on the school budget? And it is a real case; it isn't just isolated instances; it occurs in more places than we all like to think about. And today, that really raises a question. In this balance between school board/borough assembly - And was a case of an ordinance introduced this year that would have spelled out that anyone who had relatives, and I guess they didn't identify who they meant by relatives, would not be allowed to vote on any appropriation items for schools. The attorney's opinion was that that was disenfranchising that person's vote, and the fact that the state statutes say that a teacher or a state employee may not be - what I want to say is they can run and be elected to a borough assembly, unless as a home rule charter prohibits it. As in your case, and their case (Juneau).

Berrier: That grew out of the same \_\_\_\_\_ case.

Sharp: On that, you should distinguish the fact - one of the things we argued in that Sevdy case, which we won - and then the teachers came in and got this whole section of the law added that you just mentioned - There are two things that arise in a conflict situation, one is where the courts say there is an inherent conflict; in other words, the person on this body is also a member of this other body, and these two bodies relate to each other in such a way that the person cannot perform both functions without at some time incurring a conflict. And that's what it is essentially with, say, the supt. of schools, for instance, also sitting on the assembly. Every time something comes up for the schools, he has to vote on it. There is going to be as a matter of law a conflict, and the courts say there is an inherent conflict there, and that's what this law addresses that you just mentioned. It doesn't go so far as to say that just

because a teacher is on the assembly, they can vote with this conflict of interest. In other words, if a teacher does sit on the assembly, they would be required to abstain from voting if there is what is determined to be a substantial financial conflict of interest.

Gilman: But this statement here would do that? Is that what you're saying?

Sharp: It would throw it into the - yes, the decision-making process as to whether or not there is a substantial financial interest, and they would be required to abstain.

Gilman: Yes, but let's go back to the question that was asked by Mr. Pat. Who can identify? This says that the individual has to identify. It's kind of silent on - Can anyone else identify? And call for this vote?

Sharp: It might be worthwhile to add a sentence that any other member of the assembly may raise the issue of conflict of another member.

Anderson: You know, I have a question. And this comes up - well, it came up in one of our Judiciary hearings that we had on an ethics bill. We had quite a discussion about what constitutes a conflict of interest. And even with some of the discussion around here, I'm not sure that everyone has the same understanding of what is a conflict of interest. And if you happen not to be involved in the Legislature, and you're sitting as a member of a Board or Commission or whatever, how is that person going to know sitting on that board or commission whether or not he has, in fact, a conflict of interest. If it's not somewhere clearly pointed out as to what a conflict of interest is.

Gilman: Yes, but that's the question. You know, sometimes conflict of interest is in the eyes of the beholder.

Sturgulewski: Mr. Chairman, that's one of the things--There's a great deal of flexibility for local communities to set their standards. You have now a particularly conservative bent in your local government. Isn't it appropriate if those people reflect the voters that their locally enacted ordinances, in this case, conflict of interest, would spell out those community mores. I have a real problem with the state legislature setting the standards for local communities. It may be very different in the case that Jim Kohler brought up in some of the Native communities. Because of the complexities of Native non-profit, profit - and on and on - it's very difficult sometimes to get people to run. Or they have to sit on three or four different things. There's no way we can set a law that really says - for that community - the standard. There is a difference in how people would do it. We all know we file our conflict of interest and lot of them never see the light of day, and I've yet to see in three years in the Senate, anybody ever being successfully allowed to abstain from a vote. You put it on the line, but at least you've protected yourself by making that kind of announcement.

Grussendorf: This particular section here, Conflict of Interest, is more or less a personal privilege of a member of an elected body by which he determines whether or not he feels he has a conflict of interest to bring out. Then the body determines from there whether or not there is a conflict. I would be very leery if it went the other way by which members of the body could say - I do have a conflict of interest, unless there was enough pressure there where he would say, Well, yes, perhaps I do. Because then in that case you would have the mayor here deciding on all issues, whether or not certain members could vote. In other words, this to me is a very personal thing - political ethics where the guy brings it up. Yes, somebody else

from the assembly can bring it up as a pressure, but if that pressure doesn't go, then that person who should have abstained from voting simply has to face the political realities of his vote. In other words, I would not like to see, as was suggested here, that we add another section or another sentence here where another member could bring this up, and then supposedly by this same thing have it triggered here where the presiding officer would decide. This is an ethical question.

Gilman: As a matter of course, and it doesn't make any difference which elected body you sit on, local or state or national, there is no way that you can completely eliminate total conflict of interest. Taxation - when you're voting on a mil rate, affects you financially - that can be construed to be a conflict of interest. If you're voting on the creation of a water line that goes past your house, that could be construed to be a conflict of interest.

Grussendorf: Mr. Chairman, I guess what I'm trying to say here is that this section here as written is really not that - it's all right, especially if they have the majority of the assembly then able to decide. If a person is asking to be exempt from voting, this, of course, would be a question that he would probably vote on as well.

Sharp: We were involved in a conflict of interest case in Juneau. Some of the cases from the more liberal states - if one member of the body had a conflict of interest which would have prohibited him from voting, but they voted anyway whether they announced it or not, then that entire action was voided by the courts. Even if that person had not voted and it still would have passed. That's how far some courts will go, so if the person doesn't raise it, and then some citizen does, then that entire action might be voided; where if

you allow somebody else on the body to raise it, you might be able to avoid that sort of result, and I don't know which way our court would go if they got one conflict of interest case. But that is one of the consequences of allowing somebody to vote who has a conflict of interest. Now in this case, if they have a substantial and conflict of interest, the law provides that they can be excused, then even if they have a substantial conflict, but they are excused according to law, I think the court may have a difficult time overturning that. But if it's never raised, but they can actually be excused, or not excused - I should say. In other words, as I read this, the mayor can force the person to vote, and not excused--

Gilman: Well, the mayor with a majority of the governing body if it's challenged.

Sharp: But anyway, you should be aware that there are some adverse consequences of a person voting who has a substantial conflict---

Gilman: There's no question about it. One of the prime considerations we have to take heed of is - The way this is written, does this do violence to existing home rule charters?

Sharp: I think it probably opens it up for more situations where there will be votes for this conflict of interest; where certain charters right now prohibit the vote - you cannot be permitted to vote in any circumstances - if there is an actual conflict of interest. In close cases, as in Juneau, the assembly decides whether there is a conflict of interest.

Gilman: But is that spelled out in the charter? Is it spelled out in the charter that - What is the procedure for making that final determination?

Sharp: No, it just says that you may not vote.

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Gilman: This does to a certain degree spell it out how you go from one step to the next step.

Sharp: But this doesn't say that the mayor or presiding officer determines whether there is a conflict.

Gilman: We, he de facto - wise, by saying - he might recognize the conflict but say you're going to vote anyway.

????: This certainly has the potential for changing the laws in various communities; whether it does or not, I wouldn't know. In Anchorage, for instance, it would not change it because I think this is written, more or less right out of the Anchorage code. But it certainly could in referring to other communities, not just because of their charter but because of the way their code is set up, I would suspect that after the charter is silent on this point, but they could adopt ordinances that could deal with it one way or the other.

Gilman: I think that's right in other words, the charter will say something about conflict of interest according to adopted ordinances. So it doesn't take a charter change every time that they want to -

Kohler(?): I'm trying to get a sense of how far the respective committees are willing to support - how much latitude the committees are willing to support at the local level on the conflict of interest law itself. As this is written, it says that this is the way it will be. I think during the working sessions of the re-write group, the predominant thing was trying to find a way so that locally a governing body could, in fact, put itself in a position where it could assemble a vote if the body felt that it was important to assemble that vote, given a potential conflict. And perhaps what I'm striving to hear now is that maybe this particular committee, and maybe the legislative body itself, is willing to allow this

section to be one that is not binding, but is, in fact, simply eligible for "unless otherwise provided for by local ordinance." this is the way it will be.

Gilman: I don't think that's what we're saying. I don't necessarily hear that from the committee. I think what we're saying is that conflict of interest has been a tough one for almost every municipality unless there has been a good deal of research done and legal work done as in the case of Juneau and Sitka and Anchorage, probably. What I hear us saying is - How far do we want to go with spelling out inside this conflict of interest statement what the steps and hoops will be, and under what conditions conflict of interest may be allowed to go forward? Or a person be allowed to abstain from voting? Again, I have to go back to my original statement, that the change here is simply procedural, that it clarifies who rules and what their appeal ~~fixid~~ process is, which is absent in almost every instance that I know of in general law municipalities.

Dye: Mr. Chairman, it's also substantive; in current law, an officer has to disqualify himself, and that's a limitation on home rule municipalities, also; so this provision would be more flexible than current law.

Gilman: End of tape

Grussendorf: Well, in a locally governing body there are going to be people coming up and saying they have a conflict of interest, and then probably still vote. But the question is "substantial conflict of interest" - and that's why I say it's a personal privilege as such - The personal privilege to say - I do not feel that I should exercise my responsibility in voting, and then the assembly has to make a decision of whether or not it is a substantial conflict. And I don't think we can sit down and determine what a substantial

conflict is. I don't think we could write a law that would cover all those areas there.

McCarter: Mr. Chairman, one of your earlier concerns was - Does this new language do violence to existing home rule charters, and I think the attorney from the municipality of Anchorage summed it up; in Anchorage's case, it probably would not; I don't know about other cases; I doubt that it would do violence to any of the charters; it might require assemblies or councils to sit down and modify their ordinances. And I think that might not be a bad idea given this one issue that constantly comes before the Department. Because those ordinances are lacking or have built in flaws in them. I think the proposal that the committee has come up with is reasonable, and though it may create problems, there are problems existing, so this is the lesser of two evils.

Sturgulewski: It's very sensitive, and again I don't want to over-emphasize it, but it's very sensitive to the rural parts that are really struggling to do this. It gives them the flexibility, and I hope we can keep it the way it is.

O'Connell: I have a question on this, and I suppose I have a conflict of interest in asking it, but getting back to the question of teachers, whether or not they can vote on a school budget as an assembly person, as I understand it right now in the state, is it in Juneau or Sitka or somewhere where it's been determined that a school teacher on the assembly cannot vote.

Gilman: No, they can't be on the assembly.

Lee Sharp: The charter said that you could not sit on the assembly if you were employee-interpreted, to include members of the school board and the administration, and the public school system and teachers. The term was "municipal employee" - The Commission has clearly indicated

that they intended that to cover teachers and administrators in the school system. And that's what went to court - What does our charter mean? And the court said yes, it was clear that the charter meant teachers, so Mr. Sevdý may not be seated. Then the state law was changed to override our charter provision, saying in spite of the charter provision, unless it's been voted on subsequent to this law, then teachers may sit on the assembly. And then Sitka had an election to cover that --

Grussendorf: Well, really what happened is in the charter commission's discussions over there in Juneau, they indicated that that was their druthers; they had said so, that that was their intent. Now in Sitka there was no such statement made; in fact, a teacher was chairman of the charter commission, which made it kind of interesting. So what happened is you had a special election asking the public again - Is the intent of the public - Can school district employees serve on the assembly? And the public said Yes.

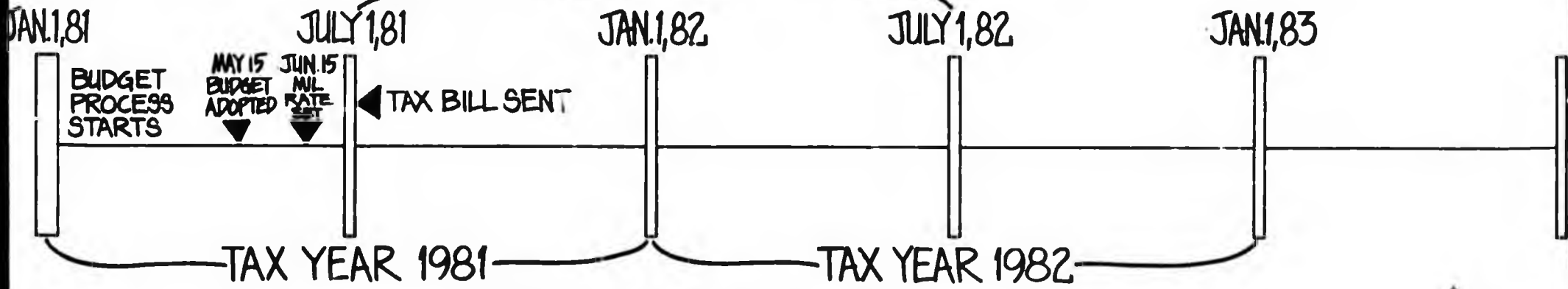
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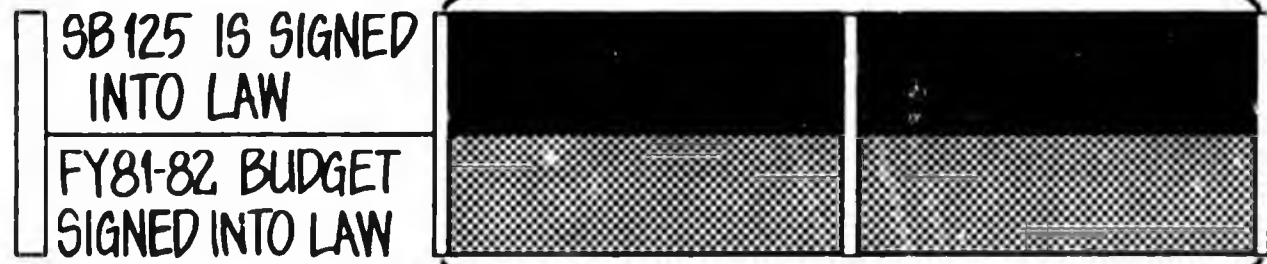




FISCAL YEAR 81-82



FROM SB 125 \$45,100,000



FROM FY 81-82 BUDGET \$80,500,000

SB 125 ASSISTANCE PLUS FY 81-82 ASSISTANCE EQUALS \$125,600,000



MUNICIPALITIES OPERATE ON SB 125 ASSISTANCE - \$45,100,000

MUNICIPALITIES OPERATE ON FY 81-82 ASSISTANCE - \$80,500,000

QUESTIONS AND ANSWERS ABOUT SB 236

Q. What does SB 236 do?

A. It directs the Department of Revenue to distribute municipal assistance payments on the last day of the fiscal year for which the appropriation is made.

Q. What affect would that have on municipalities?

A. A municipality would spend the funds in the fiscal year following the one in which the appropriation was made.

Q. Why is that desirable?

A. It would give municipalities almost a year's notice and lead time to budget for municipal assistance revenues.

Q. Why do municipalities need this extra time?

A. Most municipalities approve their budgets on or before May 15. Often the legislature has not approved the State budget by this date. The municipalities often have to use a "best guess" estimate of how much state funds will actually be available.

Q. Wouldn't there be a one year lag period during FY 82 when municipalities got no municipal assistance?

A. Yes, except that SB 125 would fill the gap.

Q. Isn't SB 125 for fiscal year 1981?

A. Yes, but many municipalities have indicated that these funds will be used for tax reduction in 1981. The revenues from 1981 taxes are used as operating funds for fiscal year 1982. (See attached chart.)

Q. So SB 125 funds would be used for fiscal year 82 and the State appropriation for fiscal year 82 would be used in fiscal year 83 and so on?

A. Yes.

Q. Are there any other benefits?

A. Yes. Municipalities would get all of the municipal assistance funds in a lump sum at the beginning of the year instead of widely spaced installments.

Without SB 236, municipalities will receive a "double-dip" during FY 82 (SB 125 and the FY 82 state budget). The legislature will have to appropriate over \$195 million to revenue sharing and municipal assistance in FY 82 just to maintain the level set in FY 82.

Q. Are there any other programs where funds are paid on the last day of the fiscal year?

A. Yes--The federal payment in lieu of taxes program.

LETTER OF INTENT

FOR

CS FOR SENATE BILL NO. 236 (C&RA)

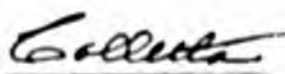
It is the intent of Committee Substitute for Senate Bill No. 236 (C&RA) that municipal assistance funds be distributed on the last day of the state's fiscal year to be used by municipalities to offset the taxes assessed for the calendar year in which the distribution occurs.


The distribution schedule mandated by this bill will benefit municipalities in two ways.

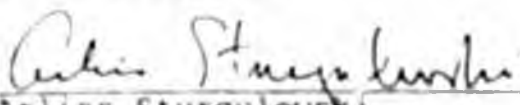
1. The funding level of the municipal assistance program will be known a year in advance of actual receipt of the funds.
2. Municipalities will have full use of the funds throughout their fiscal year.

  
\_\_\_\_\_  
Don Gilman, Chairman

Excused  
\_\_\_\_\_  
Robert Ziegler, Vice Chairman

  
\_\_\_\_\_  
Mike Colletta

  
\_\_\_\_\_  
Frank Ferguson

  
\_\_\_\_\_  
Arliss Sturgulewski

DATE = 4/24/81  
 TIME = 17:22

STATE OF ALASKA  
 OFFICE OF THE GOVERNOR  
 DIVISION OF BUDGET AND MANAGEMENT

R01-GBP-REV5  
 PAGE 1

REVENUE SHARING & MUNICIPAL ASSISTANCE COMPARISONS

BOROUGH, CITY, VILLAGE	FY81 RS	FY81 MA	FY 81 TOTAL	FY82 RS	SB 125 RS	SB 125 MA	FY 82 REVISED	FY83 RS	FY82 MA	FY 83 TOTAL
	\$33,500.0	\$11,400.0	\$44,900.0	\$51,900.0	\$18,400.0	\$45,100.0	11,400.0	\$51,900.0	\$80,500.0	132,400.0
-- (BOROUGHS) --	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0
ANCHORAGE MUN.	15,073.6	5,277.2	20,350.8	20,488.7	5,415.1	20,709.6	46,613.4	20,488.7	37,021.4	57,510.1
BRISTOL BAY BOR.	208.5	17.2	225.7	594.0	295.5	170.7	970.2	504.0	278.7	782.7
FAIRBANKS BOR.	1,326.3	622.7	1,949.0	2,745.3	1,119.0	2,325.7	6,490.0	2,745.3	4,171.9	6,917.2
JUNEAU BOR.	1,801.4	417.0	2,218.4	4,155.5	2,354.1	2,453.9	8,963.5	4,155.5	4,176.2	8,331.7
HAINES BOROUGH	19.4	3.4	27.8	48.3	28.9	56.4	133.7	48.3	94.9	143.2
SITKA BOROUGH	451.7	148.6	600.3	636.8	185.1	890.0	1,712.5	636.8	1,512.1	2,148.9
KENAI BOROUGH	354.7	374.1	728.8	694.7	340.0	1,409.5	2,444.2	694.7	2,532.1	3,226.8
KETCHIKAN BOROUGH	306.5	41.6	348.1	764.5	458.0	506.1	1,728.6	764.5	817.2	1,581.7
KODIAK BOROUGH	308.9	25.0	333.9	562.9	254.0	528.7	1,345.6	562.9	840.4	1,403.3
MAT-SU BOROUGH	978.7	126.6	1,104.9	1,605.4	62.1	1,803.8	4,103.3	1,605.4	2,990.7	4,596.1
NORTH SLOPE BOR.	327.6	1,228.5	1,556.1	670.2	342.6	512.5	1,525.3	670.2	2,015.4	2,685.6
<1ST CLASS CITY>	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0
BARROW	48.3	29.3	77.6	56.6	8.3	275.1	340.0	56.6	450.5	507.1
CORDOVA	249.4	50.7	320.1	531.5	262.1	281.7	1,079.3	531.5	482.0	1,013.5
GRAIG	39.2	6.1	45.4	80.8	41.5	59.4	181.7	80.8	97.2	178.0
DILLINGHAM	116.8	30.4	147.2	266.5	149.7	167.8	584.0	266.5	287.3	553.8
FAIRBANKS	4,994.7	1,106.7	4,101.4	4,301.6	1,306.9	3,695.0	9,303.5	4,301.6	6,775.6	11,077.2
GALENA	53.7	8.7	62.4	94.0	40.3	96.9	231.2	94.0	157.2	251.2
HAINES	75.2	22.7	97.9	156.0	80.8	138.4	375.2	156.0	234.7	390.7
HOMER	107.5	66.3	173.8	209.2	101.7	225.7	534.6	209.2	411.8	621.0
HOONAH	55.1	9.1	64.5	64.9	9.5	110.7	185.1	64.9	178.7	243.6
HYDABURO	19.1	2.6	21.7	26.0	6.9	38.6	71.5	26.0	61.7	87.7
KAKE	41.3	3.8	45.1	88.0	46.7	71.9	206.6	88.0	114.0	202.0
KENAI	312.1	154.5	466.6	650.5	338.4	448.0	1,436.9	650.5	840.5	1,491.0
KETCHIKAN	594.0	225.4	819.4	1,570.3	976.3	926.3	3,472.9	1,570.3	1,644.9	3,215.2
KIMO COVE	36.4	3.2	39.6	52.5	16.1	74.2	142.8	52.5	116.9	169.4
KLAWOCK	19.8	2.3	22.1	24.0	4.2	9.9	69.1	24.0	64.9	88.9
KODIAK	232.3	173.6	405.9	470.7	238.4	583.1	1,292.2	470.7	1,066.5	1,537.2
NENANA	53.3	13.5	66.8	90.4	37.1	50.9	178.4	90.4	91.5	181.9
NOME	299.3	58.7	354.0	504.3	205.0	293.1	1,004.4	504.3	507.4	1,011.7
NORTH POLE	41.3	32.9	74.2	64.3	23.0	83.4	170.7	64.3	142.6	224.9
PALMER	179.4	58.0	237.4	291.2	111.8	212.3	615.3	291.2	331.1	674.3
PELICAN	21.2	3.3	24.5	37.6	16.4	22.3	76.3	37.6	37.6	75.2
PETERSBURG	259.8	49.8	309.6	523.6	263.8	324.0	1,111.4	523.6	545.8	1,069.4
SAND POINT	60.5	5.9	66.4	114.7	54.2	80.4	249.3	114.7	129.1	243.8
SAINT MARY'S	88.7	1.4	90.1	137.3	48.6	55.6	241.5	137.3	86.8	224.1
SFDODVIA	33.5	6.5	40.0	48.0	14.5	53.5	116.0	48.0	88.4	136.4
SEWARD	258.9	49.0	307.9	402.6	143.7	181.2	727.5	402.6	326.5	729.1
SKAGWAY	52.4	23.3	75.7	95.0	42.6	88.8	226.4	95.9	159.3	254.3
SOLDOTNA	118.7	107.6	246.3	271.0	132.3	239.7	643.0	271.0	474.5	745.5
UNALASKA	194.0	25.8	219.8	422.0	228.0	131.8	781.8	422.0	228.7	650.7
VALDEZ	304.0	376.1	680.1	356.3	52.3	412.1	820.7	356.3	1,007.0	1,363.3
WRANGELL	229.9	43.2	274.2	435.7	226.7	337.0	1,019.4	435.7	561.2	1,016.9
YAKUTAT	28.8	13.5	42.3	57.0	28.2	44.7	129.9	57.0	82.1	139.1