

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

April 11, 2005

3:34 p.m.

MEMBERS PRESENT

Senator Thomas Wagoner, Chair
Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Fred Dyson
Senator Bert Stedman
Senator Kim Elton
Senator Gretchen Guess

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 198(RES)(title am)
"An Act relating to aquatic plant and shellfish farming; and providing for an effective date."

MOVED CSHB 198(RES)(title am) OUT OF COMMITTEE

SENATE BILL NO. 85

"An Act repealing the ban on the use of certain off-road vehicles within five miles of the right-of-way of the James Dalton Highway; and providing for an effective date."

MOVED SB 85 OUT OF COMMITTEE

SENATE BILL NO. 96

"An Act granting certain state land to the University of Alaska and establishing the university research forest; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 198

SHORT TITLE: AQUATIC PLANT& SHELLFISH FARMING

SPONSOR(S): REPRESENTATIVE(S) ELKINS

03/04/05 (H) READ THE FIRST TIME - REFERRALS
 03/04/05 (H) FSH, RES
 03/18/05 (H) FSH AT 8:30 AM CAPITOL 124
 03/18/05 (H) Moved CSHB 198(FSH) Out of Committee
 03/18/05 (H) MINUTE(FSH)
 03/21/05 (H) FSH RPT CS(FSH) 3DP 2NR
 03/21/05 (H) DP: WILSON, ELKINS, THOMAS;
 03/21/05 (H) NR: HARRIS, KAPSNER
 03/30/05 (H) RES AT 1:00 PM SENATE FINANCE 532
 03/30/05 (H) Moved CSHB 198(RES) Out of Committee
 03/30/05 (H) MINUTE(RES)
 04/01/05 (H) RES RPT CS(RES) 4DP 3NR 1AM
 04/01/05 (H) DP: OLSON, ELKINS, CRAWFORD, SAMUELS;
 04/01/05 (H) NR: KAPSNER, LEDOUX, RAMRAS;
 04/01/05 (H) AM: GATTO
 04/04/05 (H) TRANSMITTED TO (S)
 04/04/05 (H) VERSION: CSHB 198(RES)(TITLE AM)
 04/06/05 (S) READ THE FIRST TIME - REFERRALS
 04/06/05 (S) RES
 04/11/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 85

SHORT TITLE: OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

SPONSOR(s): SENATOR(s) SEEKINS

01/31/05 (S) READ THE FIRST TIME - REFERRALS
 01/31/05 (S) TRA, RES
 02/08/05 (H) TRA AT 1:30 PM CAPITOL 17
 02/08/05 (S) Scheduled But Not Heard
 02/15/05 (S) TRA AT 1:30 PM BUTROVICH 205
 02/15/05 (S) Heard & Held
 02/15/05 (S) MINUTE(TRA)
 02/17/05 (S) TRA AT 1:30 PM BUTROVICH 205
 02/17/05 (S) Moved SB 85 Out of Committee
 02/17/05 (S) MINUTE(TRA)
 02/18/05 (S) TRA RPT 3DP 1DNP
 02/18/05 (S) DP: HUGGINS, COWDERY, THERRIAULT
 02/18/05 (S) DNP: FRENCH
 03/21/05 (S) RES AT 3:30 PM BUTROVICH 205
 03/21/05 (S) Heard & Held
 03/21/05 (S) MINUTE(RES)
 04/08/05 (S) RES AT 3:30 PM BUTROVICH 205
 04/08/05 (S) Heard & Held
 04/08/05 (S) MINUTE(RES)
 04/11/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 96

SHORT TITLE: UNIVERSITY LAND GRANT/STATE FOREST
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

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|----------|-----|---------------------------------|
| 02/07/05 | (S) | READ THE FIRST TIME - REFERRALS |
| 02/07/05 | (S) | RES, FIN |
| 04/08/05 | (S) | RES AT 3:30 PM BUTROVICH 205 |
| 04/08/05 | (S) | Heard & Held |
| 04/08/05 | (S) | MINUTE(RES) |
| 04/11/05 | (S) | RES AT 3:30 PM BUTROVICH 205 |

WITNESS REGISTER

JOS GOVAARES

Staff to Representative Jim Elkins
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HB 198 for the sponsor.

MIKE BELL

Offnet - No address provided

POSITION STATEMENT: Opposed SB 85.

HEIDI SCHOPPENHART

Wiseman AK

POSITION STATEMENT: Opposed SB 85.

VARSHA MATHRANI

Anchorage AK

POSITION STATEMENT: Opposed SB 85.

WILLIE DUNNE

No address provided

POSITION STATEMENT: Opposed SB 85.

JULES DUNNE

No address provided

POSITION STATEMENT: Opposed SB 85.

DAVID NUETZEL

No address provided

POSITION STATEMENT: Opposed SB 85.

JEREMY MINER

Fairbanks AK

POSITION STATEMENT: Opposed SB 85.

DARCY WARDEN

Fairbanks AK

POSITION STATEMENT: Opposed SB 85.

JULIA SMITH

Anchorage AK

POSITION STATEMENT: Opposed SB 85.

LEWIS THEIA

No address provided

POSITION STATEMENT: Opposed SB 85.

BOB LOEFFLER, Director

Division of Mining, Land and Water

Department of Natural Resources

400 Willoughby Ave.

Juneau, AK 99801-1724

POSITION STATEMENT: Commented on SB 96.

JOE BEEDLE, Vice President

Division of Finance

University of Alaska

POSITION STATEMENT: Commented on SB 96.

DEB SPENCER

Pelican AK

POSITION STATEMENT: Commented on SB 96.

MIKE RIEVES

Hollis AK

POSITION STATEMENT: Commented SB 96.

RICH FLEISHMAN

Warm Springs Bay AK

POSITION STATEMENT: Opposed SB 96.

ELIZABETH TULLIS

Warm Springs Bay AK

POSITION STATEMENT: Opposed SB 96.

JOHN HERSHENRIDER

Warm Springs Bay

POSITION STATEMENT: Opposed SB 96.

CHRISTINE LUNDSFED

Warm Springs Bay AK

POSITION STATEMENT: Opposed SB 96.

SASHA CONTE
Southeast Alaska
POSITION STATEMENT: Opposed SB 96.

PAUL JOHNSON
Elfin Cove AK
POSITION STATEMENT: Commented on SB 96.

NEAL DARISH
McCarthy AK
POSITION STATEMENT: Opposed SB 96.

HENRICH KADAK
No address provided
POSITION STATEMENT: Opposed to SB 96.

MICHEL NILAND
McCarthy AK
POSITION STATEMENT: Opposed SB 96.

JASON ESLER
McCarthy AK
POSITION STATEMENT: Opposed SB 96.

JULIE HURSEY
Petersburg AK
POSITION STATEMENT: Opposed SB 96.

MELINDA HOFSTAD
Baranof Homeowners Association
Petersburg AK
POSITION STATEMENT: Opposed SB 96.

VALERY MCCANDLESS, Mayor
City of Wrangell AK
POSITION STATEMENT: Opposed SB 96.

RON SHONENBACK
Juneau AK
POSITION STATEMENT: Opposed SB 96.

JOAN BRODY
Kodiak Island AK
POSITION STATEMENT: Commented on SB 96.

JENNIFER PRICE
Sitka AK

POSITION STATEMENT: Commented on SB 96.

DANIEL TRAIL
Tom's Place AK

POSITION STATEMENT: Commented on SB 96.

GABE SWINEY
Sitka AK

POSITION STATEMENT: Opposed SB 96.

ALLAN SMITH
Anchorage AK

POSITION STATEMENT: Opposed SB 96.

MERYL THOMPSON
Susitna Valley AK

POSITION STATEMENT: Opposed SB 96.

DAVE NUETSEL
Girdwood AK

POSITION STATEMENT: Commented on SB 96.

ACTION NARRATIVE

CHAIR THOMAS WAGONER called the Senate Resources Standing Committee meeting to order at [3:34:06 PM](#). Present were Senators Seekins, Dyson and Chair Wagoner.

HB 198-AQUATIC PLANT & SHELLFISH FARMING

CHAIR THOMAS WAGONER announced CSHB 198(RES)(title am) to be up for consideration.

JOS GOVAARES, staff to Representative Jim Elkins, sponsor of HB 198 said it is identical to SB 126, sponsored by Senator Stedman. He offered to answer questions.

SENATOR KIM ELTON arrived at [3:34:58 PM](#).

SENATOR RALPH SEEKINS moved to pass CSSB 198(RES)(title am) from committee with individual recommendations and the attached zero fiscal note. There were no objections and it was so ordered.

[3:35:53 PM](#) At ease [3:38:30 PM](#)

[3:38:46 PM](#)

SENATOR STEDMAN joined the committee.

SB 85-OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

CHAIR THOMAS WAGONER announced SB 85 to be up for consideration.

SENATOR SEEKINS moved to adopt the letter of intent. There were no objections and it was so ordered.

[3:39:46 PM](#)

MIKE BELL testified on behalf of the oil trucking industry and said that the Dalton Highway was not designed with recreational vehicles in mind. It has no shoulders and there is no enforcement. Safe driving is up to the judgment and experience of individual drivers. Opening up the road will encourage more users. He suggested upgrading shoulders if this bill happens to pass.

[3:42:45 PM](#)

HEIDI SCHOPPENHART, Wiseman lodge owner, opposed SB 85 urging the committee to think seriously about what the bill really does. The Dalton Highway was developed as a utility corridor. People are already able to travel on it and it attracts visitors from all over the world.

[3:45:51 PM](#)

VARSHA MATHRANI, Environmental Health Coordinator, Alaska Community Action on Toxics, Anchorage, said she is speaking on her own behalf in opposition to SB 85. She has graduate training in environmental health sciences from the University of Michigan and a Bachelor's Degree in Biology focusing on environmental and ecosystem science. She has also worked at Toolik Research Field Station and in the Brooks Range where the University of Alaska Fairbanks does state-of-the-art Arctic field and lab research. She opposed SB 85 because of what it would do to the pristine untouched tundra in the Arctic and the consequences it would have on current and future scientific research. Further, she said SB 85 would be economically burdensome for state agencies and would violate long-standing promises made to local area residents. She said:

The implications on scientific research are real as tracks formed in the Arctic are long-lasting and pretty much permanent. It can affect the biogeochemistry of this area profoundly. It also has negative effects on wildlife from noise and pollution

and local Native populations who use this area for subsistence....

[3:49:33 PM](#)

WILLIE DUNNE, hunter, fisher and biologist for 30 years said he lives adjacent to the Anchor River watershed, a wonderful area for salmon and steelhead fishing. He testified that:

We have a Kenai area plan that is designed to regulate uses of the lands. We also have laws, which prohibit the use of motorized vehicles in salmon spawning streams. Despite all that, we have a great deal of damage from ATVs in our salmon spawning streams.

MR. DUNNE presented the committee with photographs of some of the damaged Anchor River watershed areas. Sedimentation has been documented that affects both the salmon fry and the eggs. Rechannelization cuts off spawning areas and isolates fry from their egress out to the river. "Basically, despite having laws to try and prevent this, we have had an incredible amount of damage from ATVs in the Anchor River watershed."

[3:52:06 PM](#)

SENATOR GUESS joined the committee.

[3:52:51 PM](#)

JULES DUNNE said she felt the existing statute making nonmotorized access possible is working well and opposed SB 85. Opening the corridor to off-road vehicles would have devastating irreparable long-term effects on the fragile ecosystem. It opens the door to many legal, safety and enforcement problems that there is no fiscal note for. It makes more sense to plan ahead for the necessary regulations and provide the funding now.

[3:53:59 PM](#)

DAVID NUETZEL opposed SB 85. He has traveled the entire distance to the North Slope and said the existing law is working well. He said there are only two law enforcement personnel for the entire area and he didn't see where funding would come for more. He pointed out that SB 85 doesn't create any new standards, but only repeals the existing law. The whole area could be destroyed at once.

[3:56:26 PM](#)

JEREMY MINER, Fairbanks resident, asked what the motivation is for repealing the law without consideration of its effects on the land. One year is not long enough to adequately study the

issue if this bill passes. He suggested allowing local, state and federal officials to develop management plans and impact assessments beforehand and providing funding for them. Once the findings are made public, specific sections of the law could be addressed rather than just repealing the whole thing.

[3:58:12 PM](#)

DARCY WARDEN, Fairbanks resident, said she formerly lived in Galena. She likes having the opportunity to hunt and fish. If the five-mile corridor were opened up, use activities would change; there would be damage from off road vehicles including damage to nesting birds. She emphasized that tundra damage is not repairable.

[4:00:09 PM](#)

JULIA SMITH, Anchorage, opposed SB 85. There are no limitations or regulations and people will get into trouble. She wanted to know where the money to rescue people would come from. She said the Dalton Highway has limited services; sometimes people have to beg for gas from the pipeline businesses located there.

[4:02:34 PM](#)

SENATOR FRED DYSON asked if she feels that public lands shouldn't be opened up to the general public.

MS. SMITH replied that she thought that limitations should be put in place depending on where the land is and how dangerous it is.

SENATOR DYSON asked if people going into the wilderness should be forced to go to classes or go through an inspection before going out and dealing with the risks.

MS. SMITH replied that they should have some training.

[4:03:48 PM](#)

LEWIS THEIA, testifying in Juneau, said the original protection for the road, which is in the pipeline corridor, is quid pro quo to get allowances for pipeline construction. He is proud of the stewardship the state has exhibited over the past 30 years. If the eyes of the nation are on ANWR, he thought it would be a poor choice on state's part to abandon protection of this corridor. He said:

On the contrary, we should hold it up as an example of follow-through of responsible development. I think

good stewardship is consistency and good business for Alaska.

[4:04:44 PM](#)

CHAIR WAGONER closed the public hearing saying he would hold the bill in committee this year. He plans to hold hearings in Barrow, Fairbanks and Coldfoot to get more of a feel for how the public thinks about it.

[4:06:12 PM](#)

SENATOR GUESS said she dealt with this in the Judiciary Committee and asked what the zero fiscal note from the Department of Public Safety means.

[4:06:39 PM](#)

SENATOR SEEKINS replied the bill itself does not create a fiscal note for a number of reasons.

First, the Department of Public Safety has not said that they think there is any reason at this point to increase traffic in order to be able to take care of visitors. There's an extended effective date - the planning process will take some time. DNR has said they don't believe that there is a huge planning process that will have to take place for them to be able to take a look at some of these things. The first 180 miles of the road is federal property. The BLM has had a land use plan on the shelf - a draft plan - since 1991. They will go through the public hearing process to be able to take into consideration the thoughts of the people along the route...what affects it might have on different animal species....

[4:07:47 PM](#)

SENATOR BEN STEVENS joined the committee.

[4:07:56 PM](#)

SENATOR SEEKINS continued explaining that the Board of Game said it would look at changes out of cycle if need be and while there might be fiscal impacts down the road, much of the thought behind the planning has already taken place. The landowners have anticipated that there will be demand from people to access public lands and the federal portion or the road already has campgrounds, pullouts and restrooms.

[4:10:59 PM](#)

SENATOR SEEKINS moved SB 85 from committee with the letter of intent and individual recommendations.

SENATOR ELTON objected to say if that kind of outreach is happening to people along the corridor, then it makes sense to keep SB 85 in this standing committee. The bill could be moved in January 2006.

CHAIR WAGONER said the agreement is to move it to Rules. If the Resources Committee wanted it back, he was sure he could get it.

SENATOR ELTON removed his objection.

SENATOR SEEKINS explained his agreement with the Rules Committee is that the bill would be brought back after the public had testified on it. Therefore, SB 85 moved from committee with the attached letter of intent.

[4:13:35 PM](#) At Ease [4:15:34 PM](#)

SB 96-UNIVERSITY LAND GRANT/STATE FOREST

CHAIR WAGONER announced SB 96 to be up for consideration.

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), explained that the Governor promised to provide the University of Alaska an adequate land base. In 2000, the Legislature addressed this problem and passed SB 7 transferring 260,000 acres to the University, but it had some significant problems. It had a \$17 million fiscal note and took 10 years and didn't transfer particularly good quality land. This bill provides a mechanism that transfers 71 parcels to the University all at once for less than 5 percent of the original estimated cost. In short, it accomplishes the objective of SB 7 and gives significant value to the University at a significantly less cost to the state.

[4:18:31 PM](#)

SENATOR ELTON said he was concerned about transfer of Pelican, Mite Cove and Idaho Inlet, parcels on northwest Chichagof Island. He related that:

It's been characterized to me that those parcels make up almost 100 percent of the state land in the northwest Chichagof region, 99.76 percent. Does that sound right to you?

MR. LOEFFLER replied that sounded right.

SENATOR ELTON said a lot of land in the northwest Chichagof area was disposed in earlier years and then in another 800-plus acres were given to the University in the 2000s. He asked if that sounded right.

MR. LOEFFLER replied that he wouldn't characterize that as a lot of land, but in general, a small percentage of private land and even a small percentage of state holdings in Southeast have been disposed. The University got a significant amount as a result of a court settlement in 2000.

SENATOR ELTON asked him to characterize those lands and wanted to know if they were timber or cabin sites, for instance.

MR. LOEFFLER replied that, in general, lands that were classified forestry with the expectation of timber were not put on the list to go to the University. Because of the downturn in the Forest Service, the state's Division of Forestry is maximizing its allowable cut. To avoid impacting the division's allowable cut, he did not put timberlands in this settlement. He guessed they were recreational or subdivision-type lands for the most part.

[4:21:29 PM](#)

SENATOR SEEKINS asked if the Legislature, as a condition of the transfer of these lands to the University, could prohibit the future sale, lease or transfer of lands conveyed to 501c3 organizations or others that would make them de facto conservation lands rather than lands available for development without legislative approval.

MR. LOEFFLER said he didn't see why that couldn't be done.

[4:22:46 PM](#)

SENATOR STEDMAN announced that he had an amendment regarding the 50 ft. from mean high tide setback requirement, because if its impacts on shorelines in Southeast Alaska. The easement in the bill is unspecified and he thought the Legislative intent was for pedestrian access along the shorefront.

24-GS1034\G.2
Bullock
7/8/05

A M E N D M E N T 1

OFFERED IN THE SENATE

BY SENATOR STEDMAN

TO: CSSB 96(RES), Draft Version "G"

Page 8, line 18:

Delete "shall"

Page 8, line 19, following "(1)":

Insert "shall"

Page 8, line 20:

Delete "and"

Page 8, line 21, following "(2)":

Insert "shall"

Page 8, line 22, following "plans":

Insert "; and

(3) before granting a lease of the land estate or conveyance of land adjacent to any water affected by tidal action,

(A) shall reserve along that water an access easement that

(i) is continuous, unless topography or land status prevents a continuous easement; and

(ii) extends 10 feet from the mean high water line on the side to be leased or conveyed, and on both sides of the mean high water line if land on both sides is to be leased or conveyed; and

(B) may reserve an alternative upland access route if the department finds that access along an easement reserved under (A) of this paragraph might be difficult because of topography or obstructions"

SENATOR STEDMAN explained that most communities in Southeast Alaska use a 20 ft. front setback for their residential homes and he first thought of changing the 50 ft. setback to 10 ft. But, at the department's urging, his easement language is 25 ft. along saltwater shorelines, which addresses Southeast Alaska's concern.

SENATOR SEEKINS objected for discussion and asked him to explain what kind of easements he was talking about.

SENATOR STEDMAN replied public access easements.

[4:26:52 PM](#)

SENATOR GUESS asked him to clarify if he was suggesting moving the easement from "unspecified" or from 50 ft. to 25 ft.

SENATOR STEDMAN replied that historically department regulations have not defined a specific footage for easements, but 50 ft. is what is generally used. The issue here is the public should have right to access the shore and beach and what measurement off of mean high tide is applicable. He has other issues with the non-definition, but this amendment only addresses the front setback. Without defining the easement as a pedestrian easement, someone could start a four-wheeler road right through the front of your property. Some people have easements that are 50 ft. above mean high tide and 50 ft. below mean high, which would give an 100 ft. easement.

SENATOR GUESS said she agreed with him on insuring public access, but she wanted to hear from the department if this amendment was needed to do that. She also asked if it should specify feet or say public access, because the tide could be greater than 25 ft. in some areas - so there wouldn't be any public access at high tide.

[4:29:38 PM](#)

MR. LOEFFLER responded that the department doesn't have the ability to visit every site, so historically and through regulation, 50 ft. easements have been reserved. This figure has been used from Barrow to Hydaburg. This amendment would apply to salt water only and only in Southeast; those are the only saltwater parcels in the University transfer. This amendment would trump the regulation and reduce the 50 ft. easement to 25 ft.

[4:30:22 PM](#)

CHAIR WAGONER asked if that would generally be from mean high tide.

MR. LOEFFLER replied yes.

[4:30:36 PM](#)

SENATOR GUESS asked if public testimony said it needed to be lower than 50 ft. or greater than 50 ft. for some public reason, would the department consider adjusting it.

MR. LOEFFLER replied yes. The department doesn't have the ability to do site-specific visits because of time and staff constraints and that's why it uses 50 ft. with exceptions in

unusual circumstances - like the Kenai River that has a much bigger easement.

The department also has a vacation process for changing easements and uses it about once a year. This amendment would eliminate the department's ability to go above 25 ft. only in Southeast and for the University transfers. The University could add more easement footage if it wished before the parcel was further disposed of.

[4:32:07 PM](#)

SENATOR ELTON said he assumed that this language applies only to the commissioner prior to conveyance, but would not restrict the University from setting its own easement.

SENATOR STEDMAN responded that his understanding is that the University could use whatever plat restrictions it thought was in the best interests of the public in the area and noted that it had exhibited very good stewardship in the past.

[4:32:56 PM](#)

JOE BEEDLE, Vice President, Finance, University of Alaska, explained that traditionally the University has interpreted transfers from DNR that have these easements to be maintained on water bodies including salt water. It would be reluctant to diminish the restriction and would feel more capable of expanding it in an area that needed certain protections or accesses.

[4:33:54 PM](#)

SENATOR ELTON asked how Mr. Loeffler would treat rebounding glaciers along tidelands.

MR. LOEFFLER replied that easements only come into play when the department is disposing of private land and retaining something to the state. He has not had a lot of opportunity to dispose of private land in front of rebounding glaciers. He thought Gustavus might be an exception.

SENATOR ELTON said we're rebounding here at a half inch per year. He thought this would be applicable to Pelican and Idaho Inlet.

MR. LOEFFLER pointed out that the easement is referenced to mean high tide.

SENATOR STEDMAN added that mean high tide changes over time and some surveys are 100 years old. The mean high tide is changing especially in northern Southeast due to the glacial melt, especially along the Stikine where sediment is built up.

[4:36:07 PM](#)

SENATOR SEEKINS removed his objection to Amendment 1. There were no further objections and Amendment 1 was adopted.

[4:36:23 PM](#)

SENATOR ELTON moved Amendment 2.

24-GS1034\G.1
Bullock
7/8/05

A M E N D M E N T 2

OFFERED IN THE SENATE

BY SENATOR ELTON

TO: CSSB 96(RES), Draft Version "G"

Page 7, line 30:

Delete "JU.LM.1001, Lena Creek"

Insert "SD.1001, Sumdum"

SENATOR SEEKINS and STEDMAN objected for an explanation.

SENATOR ELTON explained that this amendment basically replicates what a House committee did in deleting the withdrawal of Lena Creek, which is a 600-plus-acre parcel, which would probably be used for residential housing. In place of Lena Creek, it inserts Sumdum Island, a five-acre that is an historic Tlingit site. Line 5 duplicates the House Finance amendment that withdraws from conveyance the parcels on northwest Chichagof that are designated Idaho Inlet, Mite cove and Pelican. A couple of those parcels, especially the one at Idaho Inlet, can get in the way of some of the economic activity that is now occurring there.

He explained that those three parcels comprise 99.76 percent of all the remaining state land that is available on northwest Chichagof Island and that is one of the areas about which there have been serious discussions amongst the communities of Elfin Cove, Gustavus, Pelican and Hoonah about incorporating into a borough government. Withdrawal of these parcels constrains the lands that would be available to any new government that might be formed in that region.

SENATOR STEDMAN objected for discussion purposes.

MR. BEEDLE responded that it appears that Lena Creek was slated under the comprehensive plan of the Juneau Douglas Borough for development purposes and was withdrawn for negotiating purposes. "It is no surprise that it is trading stock for putting something else back on."

Personally, he would like to see Sumdum left on. It is unique for several reasons - for regional disparity it represents a portion that has very little land in its close vicinity. Second, it is true of the Tracy Arm - Ford's Terror Wilderness area that this particular parcel has no private in-holdings and is an equivalent to Bartlett Cove and Glacier Bay. The bay has several areas of cultural significance and he reminded the committee that the University is held to at least the highest standard of everyone else and has a self-imposed higher standard for historical, cultural, or architectural sites. Sumdum Island was a mining community development after its Native use. The other parcels at the northwest end of Chichagof Island would eliminate the possibility of selections by a government entity and he suggested a compromise of allowing Mite Cove to remain. It is the smallest, so there would be some economic regional land base.

[4:43:04 PM](#)

SENATOR STEDMAN said he has numerous issues, but the one that rises now is the issue of public process. If individual parcels are going to be dissected out, "There won't be much left when we are done. So, I'm not so sure...that we should try to look at a holistic approach to all these parcels...."

He thought water quality issues were much more legitimate than, "I don't want a neighbor" and that running lands through the University to get them into private hands was a good concept.

[4:45:22 PM](#)

SENATOR DYSON remembered talking to the president of the University about this issue a few years ago. He said:

'The University needs to watch out that the lands that are given are a long, long ways time-wise from producing revenue that will help to support the University.'

The whole genius of the land grant college program was, indeed, to give lands to the University that they might be able to, I think, largely convert to agricultural land and sell or put into production 100

years ago. But, Mark just went through with me several pieces of land that were at that time up for consideration saying, 'This is going to take a lot of work on the part of my staff to develop it finally and any revenue stream that comes from it is probably decades out in the future.'

Then he didn't say, but I got the implication, that University administrators kind of have to watch out that legislators won't say, 'Oh, I don't want to have to worry about funding you guys. What I'm going to do is give you a whole bunch of land and then go away and don't come back and bother me.'

SENATOR DYSON said he was worried in today's political social climate that lands in the University's jurisdiction and is going to be even less likely to end up in private hands than if it's in the state's.

[4:48:29 PM](#)

MR. BEEDLE agreed with the president's statements and said that the reputation of the University must be retained and that goes to the stewardship of the land it transfers. Giving land to the University doesn't mean it won't need a budget increment and he thanked the whole Legislature for funding it 5 percent incrementally over the last six years. It has leveraged that money for the betterment of the state and the University. He reiterated that getting land would not stop the funding increment needs.

But how significant and how material and how meaningful is the land grant? The University of Alaska's land grant endowment trust established by statute by the Legislature is \$135 million. That is not an insignificant amount of money. That's in trust and we pay out 5 percent by Board of Regents' policy, on a five-year average of the balances at year-end, market to market - those securities and those investments. So, we are paying out about \$5 million, because there's been rapid sales growth both from recent years earnings and also from sales. In the last 60 days we've received \$11 million in cash from sales. We've sold over 70 parcels of property in the last six months. We've sold over 1,200 parcels since 1987. All of this has allowed the land grant trust endowment to grow to \$135 million. So, today after many, many years of demand and market changes where finally something

that wasn't worth that much when it was received by the University in 1915 - some of the Interior properties - are now having demand and receiving proceeds to benefit the University.

As far as the significance of this lands bill, the fiscal note talks about as much as 1 percent. Whether we interpret that to be state funding \$2 million or total budget of the University \$6 million a year, doesn't really matter because there's too many questions. The biggest parcel that is totally speculative at this time, the best odds I've received in the Nenana Basin gas potential is one to eight odds. But, thank goodness, thanks to the Governor and the DNR's support for selecting that parcel that you've had a hearing on, we would have 20 percent of that land that sounds like it's in the sweet spot. It sounds like it would be in an area that could produce. The numbers range from \$1 million a year up to \$30 million a year that could benefit the University. I don't know how short-term that is.... But they testified as early as the year 2010 to be in production. So, we're very excited about enjoying the one eighth, 12.5 percent, royalty gas potential off of that fee simple, including subsurface rights to that gas. Other properties, as you've already heard - three to one - our sales in acres across the state - Southeast Alaska generates per acre three times the value of our land throughout the rest of the state. It is attractive for that reason and for the most part that's where we're getting most of the feedback. To remind you, .9 percent of Southeast land is in private hands. We're hoping to add to that with full recognition that we have to be sensitive and good land stewards and work with people - all laws, all regulations, all zoning and whatnot in municipalities. And when not in the municipality, work with the DNR to gain approval prior to any development.

We handed out earlier an enhanced process that came out of House committee substitute in Resources that shows our public process and then we've chosen to interpret a portion of it to enhance our own regulations for where we would involve more public process and public notice prior to the development of real estate.

[4:53:45 PM](#)

SENATOR SEEKINS called the question on Amendment 2.

SENATOR ELTON summarized that he appreciated Mr. Beedle's comments and is motivated to amend Amendment 2 on line 11 to delete all of Number 9, the Mite Cove parcel, that he suggested could be a compromise the University could live with, and reword the amendment accordingly.

SENATOR STEDMAN asked if the intent is permanent removal or removal because of the concern for more public process, because he has an issue with permanent removal.

SENATOR ELTON replied that he shares his public process concerns and the intent is not for permanent removal.

SENATOR STEDMAN interpreted that to mean that it is a permanent removal from the University land request, but not from DNR. He did not think the state should go down that road. He had a list of 16 parcels for which that would not be good public policy and wouldn't be in the best interests of the University of Alaska either. He asked if the amendment to the amendment was to just remove Mite Cove.

SENATOR ELTON answered yes.

[4:56:43 PM](#)

CHAIR WAGONER noted there were no objections to Amendment 1 to Amendment 2 and it was adopted.

[4:57:05 PM](#)

SENATOR SEEKINS called the question on Amendment 2 amended.

SENATOR ELTON noted that the Sumdum parcel has been requested by the Douglas Island Indian Association and this action does not preclude DNR from a future decision to possibly convey the Sumdum five acres to anybody. For the most, part this amendment aligns with House actions.

SENATORS SEEKINS and STEDMAN objected. A roll call vote was taken. Senators Elton and Guess voted yea; Senators Seekins, Stedman, Ben Stevens and Chair Wagoner voted nay; and Amendment 2 amended failed.

[4:59:17 PM](#) At ease [5:00:20 PM](#)

SENATOR SEEKINS asked about the enhanced process for disposal of lands.

MR. BEEDLE replied that the University's disposal process has been expanded from its current annual sales plan to include any development or any disposal of any significance.

SENATOR SEEKINS asked if that plan had been approved by the Board of Regents.

MR. BEEDLE replied not yet, but he didn't anticipate opposition.

SENATOR SEEKINS proposed conceptual Amendment 3 that ties into the process. He explained:

Many of my constituents in my area, in the Denali area, particularly, feel very uncomfortable because they feel like the Wolf Township incident really kind of fractured their faith just a little bit in how land that went to the University would be used in the future. So my conceptual amendment would be just somehow here, Mr. Chairman, if this process is followed, I have no problem with it, but if this process leads to the conclusion that these lands would somehow be transferred into conservation lands, that it would require another step, that being the approval of the Legislature prior to it being done.

SENATOR GUESS objected.

CHAIR WAGONER asked Senator Seekins if he could turn that into a letter of intent.

SENATOR SEEKINS conceded to work with land experts to bring this amendment to the Finance Committee. He withdrew conceptual Amendment 3.

[5:04:23 PM](#)

Public testimony opened.

[5:04:53 PM](#)

DEB SPENCER, Pelican, said the City Council passed a resolution to exclude Mite Cove. The lands in the bill include over 99 percent of remaining public lands available in Southeast Alaska and there wouldn't be any left for Elfin Cove and Pelican selections if they choose to become boroughs. On an equity issue, this region has already given three times the amount of

land on a percentage basis as the rest of Southeast. She is not taking an anti-University stance, but feels Pelican has already given its fair share. She concluded saying she wanted Pelican, Mite Cove and Idaho Inlet parcels included in the list of exemptions.

[5:07:14 PM](#)

MIKE RIEVES, Hollis, said one of the Hollis selections, referenced as DWH01001 on his map, is inconsistent with the Prince of Wales area plan. The subject area is designated water resources with a management provision stipulating no development there. This fact was verbally acknowledged by Mr. Loeffler and the fix was intimated to be an excision of the area on the grant list. In Section 5 of CSSB 96(RES), the commissioner is given authority to make necessary corrections and paragraph (n) lists exemptions from transfer and Hollis is not included.

Hollis has two other problems that have not been mentioned. One is that a major water line supplying many Hollis public facilities runs through the same selection that is included in the mentioned water resources. It is in an area designated for settlement and public facilities; so this appears to be a conflict. The second selection problem includes part of the Harris River Subdivision, which was designated to be mutually exclusive of settlement and undeveloped public recreation. That area has a boundary that runs tangent to a section of the Harris River, which is a very important anadromous fish stream. The uplands have been used extensively for deer hunting. At a minimum what should happen is the selection boundary should at least be redrawn to exclude the settlement, undeveloped recreation designations and the subdivision areas.

Finally, he said that there are indications that the University has alternative avenues of funding that would have considerably less adverse impact on the community. A considerable amount of land is available for private ownership already in Hollis; a 30-parcel DNR subdivision is under way and the Mental Health Trust also has a significant amount of property in Hollis.

RICH FLEISHMAN, Warm Springs Bay, opposed SB 96. He noted that public testimony is 100 percent opposed to the bill.

[5:13:01 PM](#)

ELIZABETH TULLIS, Warm Springs Bay, opposed SB 96. DNR did a lot of work designating uses for these lands and any lands designated for recreation use and should be removed.

JOHN HERSHENRIDER, Warm Springs Bay, asked the committee to consider that 100 percent of public testimony is against the bill as was his.

CHRISTINE LUNDSFED, Warm Springs Bay, noted unanimous opposition to this plan. She opposed trying to make up for quality by giving away quantities of land. She accused that the bill was surrounded with secrecy and people are enraged about it.

[5:16:55 PM](#)

SASHA CONTE opposed SB 96.

[5:17:31 PM](#)

PAUL JOHNSON, Elfin Cove, said the lands on northwest Chichagof Island were selected had definite purposes.

We went through those selections. We waited after statehood. We were limited on the land we could be selected for; that land was asked for. We did not get greedy when we asked for these state lands and when they came forward and the University ended up with the northwest portion of Yakobi, we didn't object. They got that and they sold it for \$1.5 million or roughly thereabouts - 850 acres. For our future, for our community, the Cove and the community of Pelican and for our future borough, we have no economic status to work with on these lands. Please understand, the rest of the land is federal. We've got parks to the north of us. There isn't anything left. Don't jerk the rug out from underneath our feet....

MR. JOHNSON asked the committee to reconsider Amendment 2. "This is extremely important for our future.... We've got 91 acres in Elfin Cove, gentlemen. That's it. So, please understand that this is a very, very, the biggest important thing since statehood and ANILCA. Do not take this casually."

[5:22:38 PM](#)

NEIL DARISH, McCarthy, made the committee aware of a few issues regarding the McCarthy 12,500 acre parcel. He is a large business owner and employs a lot of local residents. They are not anti-development and value the University of Alaska. The danger is kind of unique in that this parcel serves as a buffer for the community. It is the only place residents can get wood and gravel for community maintenance needs, because other land belongs to the National Park Service. The Park Service is still trying to resolve ANILCA, which is still going after 20 years

and it still doesn't recognize the state's RS2477s that are all over the place in McCarthy. Once the land is given to the University, it becomes much more restrictive and the real danger is that it can turn around and sell it to the Park Service.

HENRICH KADAK opposed SB 96 because the Roan Bay area is used as a subsistence area.

[5:26:16 PM](#)

MICHEL NILAND, McCarthy, opposed SB 96. First, she didn't know that it would benefit the University and the loss of the land will devastate her community. There are hundreds of private lots available now and flooding the market with more property will bring prices down further. If this land is transferred to the University, residents might need permission to approach their own property. She noted a petition with 75 signatures opposing SB 96.

[5:31:30 PM](#)

JASON ESLER, McCarthy, said he is doing cultural anthropological studies in this area and thought the land transfer would destroy the community.

At a time when the preservationists' ideals are flooding the administration at the federal level, the Park Service is closing access and restricting various resources around the area. This specific 12,500 acres is not a small chunk. This is a large part of where our frontier community depends on resources to build cabins, to get wood to heat cabins for their families. These are extremely important areas.

Letting this land transfer go not only allows the environmentalist movement an opportunity to acquire more land in rural Alaska, but you're giving them the upper hand in the situation. These rural frontier Alaskans don't have the representation to make this fight. For this land transfer to go through and to allow the University to sell the land however it may, leaves these communities with no other options. As we move into the 21st Century cultural resource management, these are the kinds of decisions that are going to ruin rural Alaska. We've seen it happen across the Lower 48....

[5:33:18 PM](#)

JULIE HURSEY, Petersburg, charter boat owner, opposed SB 96 because it would hurt her business. She would lose opportunities to send people ashore into wilderness areas that she has been using for years. Tourism is a flourishing business and provides much needed dollars to Southeast towns. The small tourism ships and charter boats often use "RU" lands in their trips. The Forest Service has started limiting where outfitter guides and small ship tour boat visitors can go on federal land so the state lands are a very important alternative for them.

Selling these lands into private ownership blocks out public use. This could do long-term harm to locally-owned tourism businesses in Southeast.

MELINDA HOFSTAD, Baranof Homeowners Association, noted a resolution from the association in opposition to including Baranof lands in SB 96. One reason is because it is their watershed and there is no other area to get public water. Also it is one of the very few areas designated RU in the Southeast area land use plan and it has 11 hot springs.

[5:39:48 PM](#)

VALERY MCCANDLESS, Mayor, City of Wrangell, said its residents have numerous concerns about the three parcels - Earl West and Olive Coves and Tom's Place - totaling 6,374 acres depending on whether the community decides to form a borough. Tom's Place is also has significant historical value and archaeological significance, including petroglyphs.

AS 41.35 says it is the state's responsibility to protect the loss, desecration and destruction of these areas so that scientific, historic and cultural heritage embodied in these resources may pass undiminished to future generations.

[5:43:26 PM](#)

She said they would like to support the University and would be glad to have a dialogue with them about property that might be available.

RON SHONENBACK, Juneau, said he retired last year and worked for the Division of Mining, Land and Water for 25 years and was regional manager for the last five years. He is familiar with the land base here in Southeast. DNR area plans set management guidelines and classify state land. These plans go through an extremely long and involved two to three-year public process

before they are adopted. Eventually they need approval by the commissioner.

I guess what I find disturbing about the land list that's generated by this bill is the fact that it's included some settlement lands, some wildlife habitat and some public recreation lands. DNR, obviously, is funded to run a land disposal program and this bill would take all of the settlement lands that are out of control of DNR and hand them over to the University. What it means is that within five years that DNR basically would not be selling any land in Southeast. I find this a very short-sighted approach to a land disposal program that's functioned very well under DNR.

During this planning process, DNR and the public have agreed on a lot of these parcels to manage and be retained by state for wildlife habitat and public recreation purposes, which means that they should be retained by the state. So, once these lands are conveyed to the University, the classifications become absolutely meaningless. They have no bearing on the management by the University. So, DNR loses their creditability on what they've told the public in the area planning process and I think the University has to realize that in the future when they try to dispose of wildlife habitat and public recreation lands that they are going to have another battle on their hands in the future to think about.

MR. SHONENBACK also didn't think that 250,000 acres was a figure that needed to be adhered to and suggested removing some of the wildlife habitat, public recreation and DNR settlement lands, amounting to about 3,000 acres in Southeast.

[5:49:18 PM](#)

JOAN BRODY, Kodiak Island, said she is one of the over 2,300 Kodiak residents who signed a petition that opposed SB 96. They are mostly concerned with access to Narrow Cape (the rocket launch parcel) that provides access to Fossil Beach that aside from fossils has several historic World War II structures. It is also the site where the largest near-shore grey whale migration can be viewed from land.

CHAIR WAGONER indicated that it was already deleted.

JENNIFER PRICE, Sitka resident, said she works in Warm Springs Bay. She commended the committee for extending the time to talk about this issue and said that DNR has spent money and time classifying Southeast Alaska's public lands and she is concerned about the "RU" parcels that are included in this selection - Sanford Cove, Whitney Island, Reed Island, Mite Cove and Lynn Canal. She supported the suggestion to include more of Southcentral land and delete all of Southeast's.

[5:54:56 PM](#)

DANIEL TRAIL, Tom's Place, had a petition with 37 signatures and a resolution by the Tom's Place Community Association that opposed SB 96, especially selection of the parcel next to it. These lands were rated by DNR as community recreation and development, "So, we are being robbed of any future say in our development since they will be in other hands besides our own." He also presented letters from the Mayor and City Manager of Wrangell and the Wrangell Cooperative Association in opposition to the bill.

MR. TRAIL said he could understand Senator Seekins' concern about land being put into 501c3 conservation holdings and he thought the communities might want to reserve the land for their purposes.

[5:56:57 PM](#)

CHAIR WAGONER explained Senator Seekins' concern is that a tremendous amount of land has been taken out of the public domain and put into a non-profit situation where they will never be allowed to go on the tax rolls. If a community decides to develop it, it would go on the tax rolls.

MR. TRAIL responded that you can't trust the University because of its past performance with other parcels and said there must be language to protect the public interest.

[5:58:48 PM](#)

GABE SWINEY, Sitka resident, said he felt the same as previous testifiers and added that much of the land in Southeast Alaska is inaccessible muskeg or alpine. He opposed SB 96 and said he speaks for many people in Sitka who could not testify here in Juneau today.

ALLAN SMITH, Anchorage, opposed SB 96. He thought a creative idea would be to grant the University land in the North Slope areawide lease sale area.

[6:01:27 PM](#)

MERYL THOMPSON, Susitna Valley, opposed SB 96. He said the conceptual amendment bothered him and asked if churches would be excluded from buying land from University because they don't pay taxes.

[6:03:43 PM](#)

DAVE NUETSEL, Girdwood, pointed out that the bill doesn't require a certain number of acres to be given to the University. "So, if there are all these objections to all these places, why not reduce it?"

[6:04:41 PM](#)

CHAIR WAGONER related that Lisa Murkowski has a bill in Congress that will grant 250,000 acres of federal land to the University. It also has a provision that states it will match every acre of land the state of Alaska grants to it.

MR. BEEDLE added that the University's goal is 500,000 acres, but Congress wants evidence of the state's selection first.

[6:06:30 PM](#)

He also wanted to clarify the discussion earlier about the University selling Cape Bingham on north Yakobi Island to the Nature Conservancy that sold it to the Forest Service to become an addition to the West Chichagof Yakobi Island Wilderness.

In 1992, after 10 years of litigation for property that the University was to have received in the Anchorage Bowl - we did not receive it; it went to the municipality. There was a suit engaged; there was a settlement. The settlement was to provide the University of Alaska a one-time timber cutting right in the Gulf Coast - meaning north of Yakutat, Icy Bay. Then that was litigated by six groups. The groups included the Longline Association, the Trollers Association, Southeast Alaska Conservation, the Yakutat Quorum, the Community of Yakutat. What happened with the court adjudicated settlement was the University could harvest timber, which has to date brought the University some \$40 million. So, this was not a small consideration. And in exchange, we had to give 10 years from 1992 to 2002 for right for an intermediary to buy the West Chichagof Yakobi Island property. So, in that court settlement signed by a judge, the University had no choice for a 10-year period and they waiting their full 10 years, which is

typical. They could not close, we advertised in the open market for anyone interested in buying that property. We received none; we gave them another year; they came up with \$1.2 million for property that would be very hard to develop. And we sold it into that conservation unit. That seems to be the conservation unit that's getting the attention. Pelican spoke in favor of it; had people on that group that sued the University and insisted upon that settlement. Paul Johnson is specifically and individually aware of that settlement and supported it - individually. Many of the people who spoke today wanted that property to go into conservation.... So there's a story behind many of the testimonies that have been given today.

CHAIR WAGONER thanked him for his comments and adjourned the meeting at [6:09:31 PM](#).