

**ALASKA STATE LEGISLATURE**  
**HOUSE RESOURCES STANDING COMMITTEE**

March 17, 2010

6:15 p.m.

**MEMBERS PRESENT**

Representative Craig Johnson, Co-Chair  
Representative Mark Neuman, Co-Chair  
Representative Bryce Edgmon  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Chris Tuck  
Representative Kurt Olson

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 295

"An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; relating to deposits made to the Alaska permanent fund received from certain lands conveyed to the University of Alaska; ratifying and reauthorizing certain prior conveyances of land to the University of Alaska; making conforming amendments; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 295

SHORT TITLE: UNIVERSITY LAND GRANT

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	EDC, RES, FIN
01/27/10	(H)	CRA REFERRAL ADDED AFTER EDC
01/29/10	(H)	EDC AT 8:00 AM CAPITOL 106
01/29/10	(H)	Heard & Held
01/29/10	(H)	MINUTE(EDC)
02/05/10	(H)	EDC AT 8:00 AM CAPITOL 106

02/05/10	(H)	Heard & Held
02/05/10	(H)	MINUTE(EDC)
02/08/10	(H)	EDC RPT CS(EDC) 1DP 3NR
02/08/10	(H)	DP: P.WILSON
02/08/10	(H)	NR: BUCH, EDGMON, MUNOZ
02/08/10	(H)	EDC AT 8:00 AM CAPITOL 106
02/08/10	(H)	Moved CSHB 295(EDC) Out of Committee
02/08/10	(H)	MINUTE(EDC)
02/18/10	(H)	CRA AT 8:00 AM BARNES 124
02/18/10	(H)	Heard & Held
02/18/10	(H)	MINUTE(CRA)
03/09/10	(H)	CRA AT 8:00 AM BARNES 124
03/09/10	(H)	Moved CSHB 295(CRA) Out of Committee
03/09/10	(H)	MINUTE(CRA)
03/10/10	(H)	CRA RPT CS(CRA) 4NR
03/10/10	(H)	NR: HARRIS, KELLER, MUNOZ, HERRON
03/17/10	(H)	RES AT 6:00 PM BARNES 124

**WITNESS REGISTER**

WENDY REDMAN, Executive Vice President  
 University Relations  
 University of Alaska  
 Fairbanks, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, provided a history on past university land conveyance bills and answered questions.

DICK MYLIUS, Director  
 Division of Mining, Land and Water  
 Department of Natural Resources  
 Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, answered questions.

ANNE NELSON, Assistant Attorney General  
 Natural Resources Section  
 Department of Law  
 Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, answered questions.

LARRY HURA, Member  
 Tenakee Springs City Council  
 Tenakee Springs, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested that the land parcels in Tenakee Springs not be conveyed to the University of Alaska.

STEVE LEWIS, Member  
Tenakee Springs City Council  
Tenakee Springs, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested that the land parcels in Tenakee Springs not be conveyed to the University of Alaska.

MOLLY KEMP  
Tenakee Springs, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, provided information regarding the lands near Tenakee Springs.

MARI MONTGOMERY, Director  
Land Management  
University of Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, answered questions.

MARTY PARSONS, Deputy Director  
Division of Mining, Land and Water  
Department of Natural Resources  
Anchorage, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, answered questions.

KEVIN HOOD  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested the Sumdum parcel be removed from conveyance to the University of Alaska.

MARY IRVINE  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, suggested language to protect the Sumdum parcel from development.

DONALD BULLOCK JR., Attorney  
Legislative Legal Counsel  
Legislative Legal and Research Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, addressed legal issues with the bill.

TIM LYDON  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested the Sumdum parcel be removed from conveyance to the University of Alaska or the covenant language strengthened if it is not removed.

ROBERTA CHARLES  
Sitka, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested that Biorka Island be removed from conveyance to the University of Alaska.

STEVE HENRIKSON  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested that Biorka Island be removed from conveyance to the University of Alaska.

MARY ANNE NAVITSKY, DDS  
Sitka, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, on behalf of herself and seven other Rudolf Walton family members requested that Biorka Island be removed from conveyance to the University of Alaska.

CHERYLE ENLOE  
Sitka, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, answered a question about Biorka Island.

LEO LUCZAK, Community Development Director  
City of Petersburg  
Petersburg, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested that Petersburg be given five additional years, rather than two, in which to form an organized borough and select lands that would otherwise be conveyed to the University of Alaska upon the bill's passage.

DAVID KENSINGER  
Petersburg, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested that Petersburg be given more time in which to form an organized

borough and select lands that would otherwise be conveyed to the University of Alaska upon the bill's passage.

DENNIS ROGERS  
Petersburg, Alaska

**POSITION STATEMENT:** During the hearing on HB 295, requested the Sundum parcel be removed from conveyance to the University of Alaska.

#### **ACTION NARRATIVE**

[6:15:19 PM](#)

**CO-CHAIR CRAIG JOHNSON** called the House Resources Standing Committee meeting to order at 6:15 p.m. Representatives Guttenberg, Edgmon, Olson, Seaton, P. Wilson, and Johnson were present at the call to order. He recessed the meeting to a call of the chair.

[6:22:09 PM](#)

**CO-CHAIR NEUMAN** called the House Resources Standing Committee meeting back to order. Representatives P. Wilson, Guttenberg, Seaton, Kawasaki, Johnson, and Neuman. Representative Tuck arrived as the meeting was in progress.

#### **HB 295-UNIVERSITY LAND GRANT**

[6:22:32 PM](#)

**CO-CHAIR NEUMAN** announced that the only order of business is HOUSE BILL NO. 295, "An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; relating to deposits made to the Alaska permanent fund received from certain lands conveyed to the University of Alaska; ratifying and reauthorizing certain prior conveyances of land to the University of Alaska; making conforming amendments; and providing for an effective date." [Before the committee was CSHB 295(CRA).]

**CO-CHAIR JOHNSON** moved to adopt CSHB 295(CRA) as a work draft. There being no objection, CSHB 295(CRA) was before the committee.

[6:24:31 PM](#)

WENDY REDMAN, Executive Vice President, University Relations, University of Alaska, stated that in 1915 and 1929, the federal government granted approximately 360,000 acres of land to the University of Alaska. This acreage was intended to generate revenue to support the university's educational mission. Only about 112,000 acres had actually been conveyed to the university by the time of statehood because much of the land had not yet been surveyed. The 1959 Alaska Statehood Act extinguished all land grants to the state, including the university's land grant, so the 112,000 acres went under state management. Commitments were made that the state would make good on the land because of receiving such a large land settlement from the federal government. At the time it was believed the state would be better served to receive its land in toto rather than with reservations for the university, schools, or mental health. Under state management, the university's original land grants were subsequently eroded by municipal selections, land grant offerings, and legislative designations. The university went to court and received the right to manage its own land in the late 1980s. Today, the university has approximately 160,000 acres. Since 1959 there have been six different land bills. The precursor to HB 295 began in 2000 with Senate Bill 7, which appropriated up to 260,000 acres of land. The bill was passed by the legislature, but vetoed by the governor. The veto was overridden by the legislature and the override was taken to the Alaska Supreme Court where the override was ruled valid and the bill went into effect.

[6:28:05 PM](#)

MS. REDMAN said that in 2005 the legislature decided it was not happy with 260,000 acres of undesignated land and passed House Bill [130] which provided the specific lands that the university would receive. Until about one year ago, the university and the Department of Natural Resources (DNR) proceeded with the process of conveying those lands. In that meantime, a lawsuit was brought against the university and the state by the Southeast Alaska Conservation Council and the Tongass Conservation Society claiming the bill was an abridgement of the dedication of funds section of the Alaska State Constitution. The Alaska Supreme Court ruled in favor of the plaintiffs, saying that the proceeds from the land could not go into an endowment as provided by the bill, but instead had to go back through the legislature for appropriation to the university.

MS. REDMAN explained that HB 295 is essentially the same as House Bill 130, with the addition of language that gives the

legislature the authority to appropriate the proceeds from the land back to the university. Of course, the legislature does not have to appropriate the proceeds back to the university, but that is the idea. In response to Co-Chair Neuman, said that if the committee wishes to hear about this appropriations issue from Legislative Legal and Research Services, she would ask that the committee also hear from the attorney general because there is a difference of opinion.

MS. REDMAN related that the University of Alaska's preference is for HB 295 to remain intact. The university had wanted to come back and deal with the same bill that the legislature had already passed and not re-address every acre of land. However, land has already been taken out of the bill by two subcommittees and she is aware that there will be amendments presented to this committee for even more land to be taken out of the bill. If the will of the legislature in 2010 is that the university should simply not have any lands, then that is a valid issue that should be discussed. Taking land out of HB 295 that has already discussed under House Bill 130 does not seem the best use of everyone's time at this point.

[6:32:27 PM](#)

CO-CHAIR NEUMAN related that legislators have been hearing from the public and many people have said they were unaware of the university recently coming to their communities to talk about this land conveyance. He asked whether the university has made an effort to visit or notify communities that these lands were going to be conveyed.

MS. REDMAN responded that this has been the law for the last five years, given that these lands were conveyed in 2005. The university does not actually have access to most of these lands at this point because it was in the process of conveyance. When the university conducts land activities it is always in the communities talking about the process and looking at the communities' land management plans. She pointed out that every parcel of land in House Bill 130 and HB 295 is land from DNR that was already available for conveyance. She said she is therefore confused about how anyone in a community could have an opinion that the lands were somehow off limits for conveyance to the university or anybody else.

[6:35:02 PM](#)

REPRESENTATIVE KAWASAKI observed that there has been discussion about adding covenant language for the land in some of the communities.

MS. REDMAN replied the last committee put covenants on some of the acreage and this is not usually a good thing, although it depends on what the covenants are. By the law itself, the university is required to provide the right of first refusal to any borough for purchase of the property if the university is prepared to sell that property. The purpose of a land grant university is to get land into development and the purpose of House Bill 130 was to put Alaska lands into the hands of Alaskans. The university has done this very well by developing residential and commercial properties. She noted that DNR is understaffed and cannot manage the lands as efficiently as would the university. People have been able to use these lands for personal uses and the university would not allow this, so she understands why people oppose the transfer.

[6:37:47 PM](#)

REPRESENTATIVE KAWASAKI inquired whether the university would prefer that covenants not be applied and those lands instead be stripped from the bill so the university could pick other lands.

MS. REDMAN answered yes.

REPRESENTATIVE KAWASAKI understood it is difficult to purchase state lands in over-the-counter sales and asked whether Ms. Redman believes the university could do a better job of this if it is given the lands.

MS. REDMAN deferred to DNR for that answer, but said DNR has many hundreds of thousands more acres than does the university. The university has been very efficient at managing its lands and getting lands out to development. She said she does not think DNR has the staff that is needed to manage the kinds of lands that Alaska has. The university does not take general fund money to manage its lands; all management costs for lands are paid by the proceeds from the lands. The university's land grant trust fund stands at \$135 million and pays for the entire University of Alaska Scholars Program. The university has generated about \$10 million per year in income off its lands since taking over their management in 1988 or 1989.

[6:40:42 PM](#)

REPRESENTATIVE KAWASAKI inquired how the lives of people in these communities would be changed if these lands are conveyed. He said he has heard from many people expressing concern that their lifestyle will be changed because of this conveyance.

MS. REDMAN answered it is hard to provide specifics for each parcel because at this point in time the university does not have land plans for all of the acreage. The bill includes many educational properties as well as gas lands in Interior Alaska. She has heard a lot of scare stories about what the university will do, from clearcutting to building McDonald's restaurants. While she understands people's concerns, they are unrealistic in many cases.

CO-CHAIR NEUMAN said legislators feel that the concerns are realistic because they know what is going on in their districts and have heard from people in the communities. He argued that even if some acreage is taken out, there would still be plenty of land from which the university could make money.

[6:44:05 PM](#)

REPRESENTATIVE GUTTENBERG asked how these lands were selected to begin with.

MS. REDMAN explained that after passage of Senate Bill 7, in which all 260,000 acres were undesignated, it became clear that it would be a very difficult, expensive, and time-consuming process. It was decided to go back to the Department of Natural Resources and have the department select lands around the state from its portfolio of lands already designated as available for conveyance. While the university had some discussions with DNR, the department basically had a list of lands it felt most appropriate. The university therefore agreed on those lands and came forward with those lands in House Bill 130.

[6:45:21 PM](#)

REPRESENTATIVE GUTTENBERG inquired whether the arguments on the parcels that have been withdrawn have been made before.

MS. REDMAN responded yes, but some things have changed. New boroughs have been formed and existing boroughs have expanded and can now make other selections. Some of the changes made in HB 295 to date reflect changes that have happened since the original bill was passed. For example, Haines is trying to form a larger borough and the only lands available for additional

selection would have been the lands in HB 295, so those lands were dropped from the bill.

[6:47:14 PM](#)

CO-CHAIR JOHNSON observed that in the northern areas on the map he sees a lot of pipeline rights-of-way that have been selected. He asked what the advantage is to the university in selecting lands around the Dalton Highway, the Trans-Alaska Pipeline, and the proposed gas pipeline.

MS. REDMAN deferred to Mr. Dick Mylius and Ms. Mary Montgomery.

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources, replied that the Dalton Highway parcels are specific nodes that have been envisioned as areas where there would be future development along the highway. For example, the parcel at Coldfoot has always been envisioned as a possible community development; the parcel where the pipeline and the road cross the Yukon River is an ideal parcel for some sort of development related to the road, river, or gas load-off facility; and the northern-most parcel has some potential for commercial recreational facilities. Therefore, these are parcels that have good potential for various development activities that may or may not be related to the gas pipeline.

[6:49:41 PM](#)

CO-CHAIR JOHNSON surmised the current right-of-way-easements through these parcels would remain in effect under a new owner.

MR. MYLIUS answered correct. These parcels are subject to any existing authorizations for rights-of-way, including some right-of-way applications and rights-of-way issued for gaslines. For any new authorizations, the applicant would have to work with the university. However, since the university is looking at these parcels as economic development opportunities, he said he is sure those kinds of additional rights-of-way would be something the university would be willing to consider.

[6:50:42 PM](#)

CO-CHAIR JOHNSON asked whether the State of Alaska can condemn by eminent domain property owned by the University of Alaska.

ANNE NELSON, Assistant Attorney General, Natural Resources Section, Department of Law, responded that under state code,

which she believes is AS 14.40.291, university property can only be acquired by the state through eminent domain condemnation proceedings. In further response, she said she misspoke and she believes the wording in the statute is that the state may acquire university property through eminent domain.

[6:51:48 PM](#)

CO-CHAIR JOHNSON inquired whether it would cost the state money to get its own land back should it need a new right-of-way.

MR. MYLIUS replied yes, that is a possibility if new rights-of-way are needed that do not already exist. He added that if it is a private right-of-way across state land, such as a gas company, the private entity would have to pay the state, unless the state itself is building the gasline.

[6:53:40 PM](#)

CO-CHAIR JOHNSON noted that north of the Yukon River there is a five-mile corridor along the Dalton Highway where snowmobile access is denied. He asked what the university's position is on making available turnouts and other areas that could be used to have access outside of that five-mile corridor.

MS. REDMAN answered she is not familiar with this, but she will get information on that specific area to the committee members.

CO-CHAIR JOHNSON said he would appreciate the university's cooperation and if a five-acre parcel needed to be carved out of this for keeping with the state, he would be willing to do that.

CO-CHAIR JOHNSON reiterated his question to Mr. Mylius.

MR. MYLIUS responded it would be up to the university to determine whether it wanted pullouts, but these would be ideal locations because one is right at the Yukon River, one is at Coldfoot, and the other is at an airstrip/old development node from pipeline construction. In response to further questions, he reiterated that these would be good locations for pullouts and such. Because the easement through that area is already state-owned, any pullouts would be subject to the existing state highway rights-of-way. He said he would get back to the committee regarding how wide that easement is.

[6:56:50 PM](#)

CO-CHAIR JOHNSON, in response to Representative Tuck, said the university chose the aforementioned sites because they are ideal for development, especially on the Yukon River and in the Coldfoot area. They would provide places for communities and offtakes, and are potential development areas for natural gas up and down the Yukon River.

MR. MYLIUS agreed.

[6:57:48 PM](#)

REPRESENTATIVE KAWASAKI inquired whether Mr. Mylius thinks it is a good idea to convey the Nenana oil and gas tracts to the University of Alaska, given the university changes presidents from time to time and could decide it does not want to develop that area.

MR. MYLIUS replied the transfer is subject to the existing exploration license, so the university would basically step into DNR's shoes and would have to honor those existing commitments for that license. The whole intent is for the university to receive lands that generate revenue, so he cannot imagine it would not pursue development of the oil and gas resources on this property, if the resources are there.

[6:59:28 PM](#)

REPRESENTATIVE KAWASAKI asked how covenants would interact with the university in the future and would it be better to place covenants or to strip that land out.

MR. MYLIUS answered that the question of whether a covenant is preferred over not getting the land would be better addressed by the university. He said CSHB 295(CRA) puts a covenant on the Sumdum parcel to protect the archeological and historical resources. That is the only parcel that currently has a covenant, except that all the parcels are subject to Revised Statute (RS) 2477 and any valid and existing rights.

[7:00:53 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 1, labeled 26-GH2829\C.2, Bullock, 3/16/10, written as follows [original punctuation provided]:

Page 9, line 20:  
Delete "and"

Page 9, line 21, following "Place":

Insert "; and

(4) Parcel Number KT.1002, Cleveland Peninsula, Sunny Bay parcel"

REPRESENTATIVE KAWASAKI objected.

REPRESENTATIVE P. WILSON said she would like to add this parcel to the area of land that the university cannot have. She explained that when House Bill 130 was discussed in 2005, both Wrangell and Petersburg were talking about becoming boroughs, but the boundaries had not been determined at that time. Wrangell became a borough in 2008. The Sunny Bay parcel on the Cleveland Peninsula provides economic income because it is an area used by Alaska Island Community Services (AKICS), a mental health provider that is the biggest employer in Wrangell. The university has told AKICS that it cannot guarantee what it will do with the land. So, unless the Wrangell borough controls this land, AKICS might have to move its operations from that area. She is therefore asking that the Sunny Bay parcel be included in this section of the bill so it would be available [for selection by] the Wrangell borough.

[7:03:27 PM](#)

CO-CHAIR NEUMAN asked whether Representative P. Wilson wants the university to receive this land or wants to remove the land from the list of property that would go to the university.

REPRESENTATIVE P. WILSON explained that as the bill is written, [Amendment 1] would give the City and Borough of Wrangell first priority to pick the land before the university. The State of Alaska has been encouraging borough formation across the state and that has now happened for Wrangell. However, there is not much state land to pick from because the borough encompasses much of the Tongass National Forest; therefore, this Sunny Bay parcel is crucial. She read aloud the following language from the original 2005 bill, House Bill 130:

Notwithstanding (a) of this section, the state land identified and described may not be conveyed to the University of Alaska under this section if the land is included in a borough formed before July 1, 2009.

[7:05:27 PM](#)

REPRESENTATIVE SEATON understood that by adding the Sunny Bay parcel to the bill it would be available to the City and Borough of Wrangell for selection, and if the parcel is not selected by the borough it would then go the University of Alaska.

REPRESENTATIVE P. WILSON said she is unsure whether this particular parcel was in House Bill 130, but she wants to ensure the parcel is included in the list of lands in HB 295 that the City and Borough of Wrangell can choose from. She said her constituents and her city want this provision, so she is sure the land will be selected by the borough.

[7:07:18 PM](#)

REPRESENTATIVE SEATON clarified for the listening public that the parcel is not being removed from HB 295. It is being moved onto a list of lands from which the City and Borough of Wrangell may make selections. However, if the borough does not select all or some of that land, then all or the remaining portion of the parcel would be transferred to the university.

REPRESENTATIVE P. WILSON responded yes.

REPRESENTATIVE P. WILSON, in response to Representative Guttenberg, confirmed that the Borough of Wrangell is newly formed and just began selecting land this past month, which is why the Sunny Bay parcel was not yet selected by the borough.

[7:08:29 PM](#)

CO-CHAIR NEUMAN noted that a lot of these local communities are working on development plans, and looking to the legislature for assistance. Whether communities choose to select these lands at a later date has yet to be decided, but the concept is that a tremendous amount of land will still go to the university. He asked how much land is currently in HB 295.

MS. REDMAN replied [the bill began with] 260,000 acres. In further response, she said 197,600 acres now remain in the bill.

CO-CHAIR NEUMAN added it is good policy to respect the public so he supports the amendment.

REPRESENTATIVE KAWASAKI withdrew his objection. There being no further objection, Amendment 1 was passed.

[7:11:18 PM](#)

CO-CHAIR NEUMAN drew attention to the March 16, 2010, letter in the committee packet from Mr. Don Pegues, Mayor of Tenakee Springs [requesting that the lands contained in the ST 1003 parcel not be transferred to the university.] He said members have talked to numerous folks in Tenakee Springs in this regard.

CO-CHAIR NEUMAN moved to adopt Amendment 2, labeled 26-GH2829\C.3, Bullock, 3/17/10, which read as follows:

Page 8, lines 26 - 27:

Delete "the portions of United States Survey 2459 and United States Survey 6855 that are within"

[7:12:17 PM](#)

REPRESENTATIVE SEATON objected for discussion purposes. He related that when HB 295 came before the House Education Standing Committee there were two parcels. One of the parcels, the 17-acres surrounding the dock area, was removed in response to a fair amount of testimony. He said he has not seen the second parcel, but he is concerned about stifling community development because a number of communities want to grow and have worries about school closings and economic development. While testimony in the other committee indicated a lot of people use that area for hiking and other uses, he wants to ensure there is strong, broad testimony about this second parcel.

CO-CHAIR NEUMAN opened public testimony.

[7:14:12 PM](#)

LARRY HURA, Member, Tenakee Springs City Council, drew attention to City of Tenakee Springs Resolution 2010-16, dated February 11, 2010, that supports the exclusion of Tenakee Springs lands from HB 295. He said removal of the parcels near the boat harbor from transfer to the university is greatly appreciated. The other parcel, which is designated C34, is near a logging road that is no longer used. He explained that both of these properties were subject to litigation in the early 1980s and the court judgment requires that these lands be kept for public use. Transfer of these lands to the university would not coincide with that judgment. If the university opened these lands to development all at once, the size of private land in Tenakee Springs would double and would overwhelm the city.

[7:16:44 PM](#)

STEVE LEWIS, Member, Tenakee Springs City Council, thanked the previous committee for removing the parcels near town. The other parcel, 261 acres, is a couple of miles east of the town core and is heavily used by the residents of Tenakee Springs for subsistence, hunting, recreation, and commercial trapping. He said Tenakee Springs already has quite a bit of land of its own, so it is not incumbent upon the state or the university to provide lands for the city to develop. The city has been developing its lands rationally and slowly and is not opposed to development, but it does not want development thrust down its throat. Development would double the private land and providing and supervising services to those lands would overwhelm this little community. Removing this land from conveyance would have a small impact upon the university, but transferring it to the university would dramatically impact the community of Tenakee Springs. He urged members to support Amendment 2.

MR. LEWIS, in response to Representative Seaton, said Tenakee Springs has a school with about 14 students.

REPRESENTATIVE SEATON related that school personnel in many areas where the schools are close to the minimum number of 10 students required for staying open have expressed concern about the need for development. Thus, it has been a balancing act when people testify that they do not want additional development, which in one way would probably lead to having enough people to keep the school open, and then there is also testimony requesting waivers to keep the school open. Therefore, he wants to be sure the city council considered the population of the school without development of the lands around the Tenakee Springs area.

MR. LEWIS answered that council members took that into consideration in their hearts while looking at this issue. He does not believe the lands in question would have any impact on the school, especially in the timeframe necessary to keep the school open because if the school were to close it would happen soon. The city needs people moving into the town core where there is plenty of property, rather than far out.

[7:21:32 PM](#)

CO-CHAIR NEUMAN said Amendment 2 addresses the land that is talked about on page 2, paragraph 1, of Mayor Pegues' letter, which reads [original punctuation provided]:

Two of those lands specifically excepted from the transfer to the City were lands designated as tracts C30 and C34 in the Northern Southeast Area Plan [NSEAP], adopted October 15, 2002. In 2005, DNR took the position [House Bill] 130 that tract C30 was not among the parcels in the 2005 list. The City is relying on DNR's position that C30 is, similarly, not included now in HB 295. However, if for some reason C30 is considered included in the 2010 legislation, the City objects.

CO-CHAIR NEUMAN surmised the plan is to have this land transferred to the City of Tenakee Springs.

MR. LEWIS replied he could not hear the question.

CO-CHAIR NEUMAN understood that the letter talks about a memorandum from the state to transfer those lands to the city.

[7:23:09 PM](#)

REPRESENTATIVE GUTTENBERG said he is trying to determine what the land in question looks like. He read from page 1 of the City of Tenakee Springs Resolution 2010-16 [original punctuation provided]:

WHEREAS, Parcel Number ST 1003 also includes the parcel identified in the NSEAP further as C24, 261 acres more or less, and the NSEAP and March 9, 1981 Court Order declares that "Lands within this parcel are to be retained by the state"; and

WHEREAS, the Stipulation for Settlement, (para 1.4), Tenakee Springs vs. State of Alaska, IJU-80-1666, March 9, 1981 stipulates these retained lands to be managed for "Commercial, industrial, right of way, and borrow pits" uses; and

MR. LEWIS responded the land has a road coming up from a landing facility that was used by the old logging process, and there is an old borrow pit along the road. The bulk of the rest of that land is forested, except for the area that was pushed around at the shoreline when the logging was going on.

[7:24:44 PM](#)

REPRESENTATIVE GUTTENBERG surmised that if the City of Tenakee Springs retained this land for its own use, it seems it would be inappropriate to use it as a buffer zone. For example, a hatchery, cannery, or something industrial could not be stopped.

MR. LEWIS responded he believes that would be correct under the existing stipulation. In further response, he said that at this point he does not think the city has any thought of using the land for the near-term future.

REPRESENTATIVE GUTTENBERG inquired whether this land is designated for anything besides commercial, industrial, road right-of-way, and borrow pits under the Northern Southeast Area Plan (NSEAP).

MR. LEWIS answered he does not know.

[7:26:04 PM](#)

REPRESENTATIVE TUCK said he does not have a copy of the memorandum of understanding between the city and the state. He read the following from Mayor Pegues' letter, beginning with the last paragraph on page 1 [original punctuation provided]:

The Stipulation for Settlement provides that the State "convey to the City ... fee simple title to all selected lands within the City's boundaries conveyed to the state by the Bureau of Land Management, except for the sites and acreages set out below."

Two of those lands specifically excepted from the transfer to the City were lands designated as tracts C30 and C34 in the Northern Southeast Area Plan, adopted October 15, 2002. In 2005, DNR took the position [House Bill] 130 that tract C30 was not among the parcels in the 2005 list. The City is relying on DNR's position that C30 is, similarly, not included now in HB 295. However, if for some reason C30 is considered included in the 2010 legislation, the City objects.

MR. LEWIS noted that C30 is no longer included for conveyance to the university because it was taken out by the House Community and Regional Affairs Standing Committee. In further response, he explained that C30 is comprised of two parcels and parcel C34 is comprised of 261 acres located to the far east of town.

CO-CHAIR NEUMAN directed attention to the topographic maps in the committee packet for the location of C34.

[7:28:43 PM](#)

REPRESENTATIVE TUCK understood Mr. Lewis to be testifying that the concern is this area will be developed too fast for the city to provide services and asked whether this is the reason for the second and fourth whereas clauses on page 2 of the city's resolution, which state respectively [original punctuation provided]:

fiscal Note 3 of [HB] 295 indicates, "after substantial additions to the LGTF endowment UA can see modest operating revenue i.e., in approximately 20 years UA anticipates annual investment earnings on new land sales to reach 1 percent of state general fund support or \$2.6M."; and ...

parcel number ST 1003 is approximately 301 acres in size, which equates to .0013 percent of the total acreage of land to be conveyed to the University;

MR. LEWIS replied the council was trying to clarify that excluding .0013 percent of the land included in HB 295 would have a trivial effect on the university, but transferring this land would have a major effect on Tenakee Springs.

REPRESENTATIVE TUCK asked what would create fast development in this parcel if it is supposed to be managed for commercial, industrial, road right-of-way, and borrow pits.

MR. LEWIS answered that should the university take the position that the stipulations are invalid and therefore choose to put in subdivisions or other development that would impact the city, it would take a legal effort to fight that development and the community is not rich.

REPRESENTATIVE TUCK inquired where the city is at in regard to the [Stipulation for] Settlement from its previous lawsuit.

MR. LEWIS responded that the litigation was resolved nearly 30 years ago in 1981 and prior to his time in Tenakee Springs. In response to Co-Chair Neuman, he said he cannot hear over the telephone much of what the committee members are saying.

[7:32:44 PM](#)

REPRESENTATIVE TUCK requested further explanation of the potential legal problem should this parcel be transferred to the university.

CO-CHAIR NEUMAN requested former city council member, Molly Kemp, to answer the question since she was in Tenakee Springs during that time and he talked to her by telephone last night.

MOLLY KEMP replied she was present in Tenakee Springs at the time of that lawsuit, although she was not on the city council at that time. She explained that there was a long-term controversy over U.S. Forest Service logging operations up the Indian River Valley because the City of Tenakee Springs controlled the tidelands in that area. Negotiations occurred in 1977 between Tenakee Springs, the State of Alaska, and the Alaska Pulp Corporation, which were resolved by a memorandum of understanding that conveyed land to the city through the state selection process. When that process did not occur after several years, the city litigated against the state. That suit was resolved in 1981 with the Stipulation for Settlement, which she said she believes is still in effect. The stipulation states that this specific area will be retained as public property and assigned the uses of commercial, industrial, road right-of-way, and borrow pits. Those uses were assigned at that time because there was an ongoing logging operation that was utilizing the road and this was to accommodate that process until it was over.

[7:35:28 PM](#)

REPRESENTATIVE SEATON said his concern with this amendment is that the school has low population; therefore, he wanted to hear full discussion about development of this property so that if in the future the school falls below 10 students and closes local residents do not then say it is the legislature's fault.

REPRESENTATIVE SEATON, given the community support for removing this parcel from conveyance, withdrew his objection to Amendment 2. There being no further objection, Amendment 2 was passed.

CO-CHAIR NEUMAN commented that he just heard a great sigh of relief from Tenakee Springs.

[7:37:45 PM](#)

REPRESENTATIVE GUTTENBERG asked whether the university has backup land for adding to the bill to replace those lands that are being taken out.

MS. REDMAN answered no.

[7:38:45 PM](#)

CO-CHAIR NEUMAN presumed it would take awhile to sell the conveyed parcels, but that the sale of those parcels would provide a substantial amount of money to fund the university.

MS. REDMAN responded the bulk of the properties in HB 295 are already educational properties on which the university has campuses, and an additional 95,000 acres are the Nenana gas lands. The other pieces are much smaller and not all are saleable. In further response, she confirmed the university might lease some lands for gas and other lands would provide substantial funds to the university.

REPRESENTATIVE KAWASAKI commented that Ms. Redman is not before the committee to pitch for university funding, she is here to pass this bill. He said conveying these lands does not necessarily translate into a budget item down the road, and he is hoping the actions taken on HB 295 will not have an impact on how the legislature addresses the University of Alaska budget. To say that the university will become suddenly solvent with passage of HB 295 would not be accurate, he argued.

[7:41:15 PM](#)

REPRESENTATIVE P. WILSON, to give Petersburg extended time to become a borough, moved to adopt Conceptual Amendment 3 as follows:

Page 9, line 1:  
Delete "2012"  
Insert "2017"

REPRESENTATIVE P. WILSON added that while she doubts this will happen, she would like to give Petersburg extra time in case it does happen.

[7:42:40 PM](#)

REPRESENTATIVE GUTTENBERG objected, saying that while he does not mind allowing Petersburg more time to decide whether to be a

borough, he is wondering what the impact of an extension would be for other entities that might be in a similar situation.

CO-CHAIR NEUMAN said this provision specifically addresses Petersburg and whether a borough is formed in that specific area of the state.

REPRESENTATIVE P. WILSON agreed.

[7:43:49 PM](#)

REPRESENTATIVE GUTTENBERG inquired about the background and reason for including this provision.

REPRESENTATIVE P. WILSON said this language was included in [House Bill 130] because at that time Petersburg and Wrangell were talking about becoming boroughs. Wrangell has since become a borough, but Petersburg is still working on it and she thought it would be nice to give the city some extra time. In further response, she clarified that the provision was in [House Bill 130] in 2005, and the language from that bill is now before the legislature again. The amendment does not make any changes other than extending Petersburg more time and right now it looks like it will take longer than 2012.

[7:45:42 PM](#)

REPRESENTATIVE SEATON moved a friendly amendment, Amendment 1 to Conceptual Amendment 3, to change "2017" to "2014". He said that since the desire is to stimulate action, 2017 is too long and a shorter time extension might be better. Thus, Conceptual Amendment 3, as amended, would read:

Page 9, line 1:  
Delete "2012"  
Insert "2014"

REPRESENTATIVE P. WILSON accepted the friendly amendment.

CO-CHAIR NEUMAN stated that forming a borough is a tremendous amount of work given the legal issues involved and the amount of time required for public notice of meetings and so forth. He said he therefore thinks a five-year extension of the deadline to 2017 is appropriate.

REPRESENTATIVE KAWASAKI said he thinks hastening the formation of a borough is where the sponsor of the friendly amendment to

the amendment is going. He asked whether the lengthened timeline could hinder the university's ability to acquire other lands and whether the Department of Natural Resources and the university could figure out other lands in the meantime.

[7:48:47 PM](#)

CO-CHAIR NEUMAN directed Representative Kawasaki's question to Ms. Redman. He further understood that House Bill 130 included a federal land match of 250 million acres as a result of work by U.S. Senator [Lisa] Murkowski.

MS. REDMAN answered the original land grant bill in 2000 [Senate Bill 7] was prior to that match. The federal idea picked up steam by the time of House Bill 130 and it was at that point that they came together. She deferred to Mr. Mylius regarding any contingency plans. She said she did not expect quite so much controversy on HB 295 because she thought much of the controversy had been worked through. During the five years since passage of House Bill 130, the university worked with several communities and was therefore anticipating land trades and development activities in these communities.

[7:51:15 PM](#)

MS. REDMAN, in response to Co-Chair Neuman, said she thinks the University of Alaska currently owns 160,000 acres. In regard to a further question from Co-Chair Neuman about how much university land is available for sale that is not under lease, she deferred to Ms. Mari Montgomery.

MARI MONTGOMERY, Director, Land Management, University of Alaska, estimated that approximately 10,000 to 15,000 acres are currently for sale. She explained that about 500 parcels are usually for sale or in an offering at any given time. It is a balance of not flooding the market and easing the lots out. The university watches how it moves parcels out because it does not want to put 50 or 100 lots for sale in any one community.

CO-CHAIR NEUMAN said the university could use the money from lands it sells to buy other lands for resale that are more valuable or could undertake other upgrades. He said his point was the amount of property the university actually sells per year and how much land the university already actually owns.

[7:53:11 PM](#)

CO-CHAIR NEUMAN asked what ability DNR has to assist the university in selecting other lands to replace the lands removed from conveyance under HB 295.

MR. MYLIUS responded there are no contingency plans because legislation would be required to allow the university to select other lands. The idea with HB 295 was that this is a set list of lands with no backup lands if land was taken out. He pointed out that if the date on page 9, line 1, is changed the subsequent dates in that section would also need to be changed accordingly.

CO-CHAIR NEUMAN inquired whether it is difficult for DNR to assist the university in selecting other state lands.

MR. MYLIUS reiterated that DNR would need specific legislative authority to transfer additional lands. He said the challenge in this process is finding lands that have development potential. Even though the state owns a lot of land, the acreage fitting that criteria is fairly limited. For example, the department did not want producing oil and gas properties to be on the list and has tried to minimize the impact on the state's timber program as well as minimize the impact on some of the prime recreational parcels. So, any parcels that meet the criteria for giving to the university are probably going to be equally or perhaps even more controversial than those currently in HB 295. It is not an easy process to come up with 200,000 acres of land that have development potential that are not in someone's back yard.

[7:55:44 PM](#)

REPRESENTATIVE SEATON maintained his motion to adopt Amendment 1 to Conceptual Amendment 3.

REPRESENTATIVE P. WILSON objected.

A roll call vote was taken. Representatives Seaton, Guttenberg, Kawasaki, and Tuck voted in favor of Amendment 1 to Conceptual Amendment 3. Representatives P. Wilson, Neuman, and Johnson voted against it. Therefore, Amendment 1 to Conceptual Amendment 3 passed by a vote of 4-3.

REPRESENTATIVE GUTTENBERG withdrew his objection to Conceptual Amendment 3 as originally offered. There being no further objection, Conceptual Amendment 3, as amended, and with any conforming language necessary, was passed.

7:58:36 PM

CO-CHAIR NEUMAN moved to adopt Conceptual Amendment 4 to remove Frying Pan Lake from the list of parcels that would be conveyed to the University of Alaska. He explained that this parcel is located in Southcentral Alaska near Nancy Lake State Recreation Area, an area that is unavailable for development. He said the amendment is in response to the needs and desires of people in the community of Willow, one of the fastest growing areas in the state. Willow is currently working on its development plans and several hundred people usually come to the community council meetings.

8:00:54 PM

REPRESENTATIVE KAWASAKI objected, saying the Frying Pan Lake parcel was identified by DNR as being land from which the university could benefit. Given the university's testimony, he surmised that it would use these parcels for development and would put the parcels on the market and into private ownership faster than would be the case under DNR. He said he is hesitant to pull a lot of these parcels out if the committee is serious about ensuring that this bill passes.

CO-CHAIR NEUMAN pointed out it is not like the community is unwilling to give up some lands within its boundaries. It is a give-and-take situation of one parcel being taken and one being left. The other parcel, Deception Creek, is prime land.

8:03:06 PM

CO-CHAIR JOHNSON inquired what DNR would do with the Frying Pan Lake land if it remained in the department's possession.

MR. MYLIUS responded he believes this is an area the department would look at for possible land sales. A number of dog mushing trails go through this area and DNR worked extensively with the community to identify and reserve these trails when preparing the deeds for the university on this parcel. Any sort of land sale would have to protect the recreational trails that go through this area. He added that the deeds have already been prepared for many of the other parcels included in the bill. In further response, he said that protection of the recreational trails would be required with conveyance to the university because the draft deeds include reservations for the trails. If the land remained with DNR, the department would also likely

reserve those trails in a land sale, given they have already been identified as important trails.

CO-CHAIR NEUMAN interjected that due to the rapid growth in this area, conflicts have been arising between motorized and non-motorized uses. It is important to keep trails where the dog mushers can have their piece and motorized trails where the motorized people can have their piece. He said Willow is a huge mushing community, especially with the start of the Iditarod trail being located there, and it is out of respect for these people that he is proposing the amendment.

[8:05:17 PM](#)

REPRESENTATIVE SEATON related that HB 295 was heard in the House Special Committee on Education and not one person from that area testified in opposition to including these areas in the bill. He offered his belief that the House Community and Regional Affairs Standing Committee also did not hear any objections from the Willow community. Since work has been done with the community on this, it does not seem like the community is unaware of the proposed conveyance to the university. He said he is reluctant at this point to remove this parcel given there has been no correspondence.

CO-CHAIR NEUMAN said there was lots of correspondence a few years ago that included dog mushers from the area. The amendment is out of respect for their goals and what they would like to see in their community. He reiterated he wants to be responsive to the people in the area because they have been working on development plans. He said he has another issue with the university: when the new Trunk Road extension went through from the Palmer experimental farm, the university made the Department of Transportation & Public Facilities (DOT&PF) pay tens of millions of dollars for that property. He allowed that while the money goes from one pocket or another, the university sold that land to the state but did not put any of that money back into the experimental farm or other nearby areas.

[8:08:38 PM](#)

REPRESENTATIVE TUCK inquired whether Co-Chair Neuman wants to see this parcel developed or not.

CO-CHAIR NEUMAN replied he would like to see this land used as the community sees fit because he likes local control rather than the state telling the community what it must do.

REPRESENTATIVE TUCK asked whether keeping this parcel under state ownership would provide more local control than would be the case under university ownership.

CO-CHAIR NEUMAN answered the community would love to receive this conveyance so it could sell the land to support the community. The community would like to grow but does not have the ability to do so because it does not have land to sell and does not receive state revenue sharing since the area is unincorporated. He said communities cannot be weaned from state coffers unless they are allowed these opportunities.

CO-CHAIR NEUMAN, in response to Representative Tuck about the boundaries of Willow, said Nancy Lake at White's Crossing is about four miles south of Willow town center. In further response, he agreed this location is close to the borough limits.

[8:11:43 PM](#)

CO-CHAIR NEUMAN, in response to Representative Guttenberg, clarified that the Frying Pan Lake parcel is within Willow city limits. In further response he said he did not know whether the parcel was available for selection [through the state land selection process].

REPRESENTATIVE GUTTENBERG proffered that when looking to build a tax base, the university is generally considered to be an aggressive developer, which would provide property tax if Willow has property taxes. He said the university's development process is generally much less cumbersome than the state's. Not wanting to convey the land because the desire is no development is one thing, but if the desire is for development then it would seem that conveyance to the university would be doing people a favor because the mushing trails would be retained.

[8:13:10 PM](#)

CO-CHAIR NEUMAN allowed that is a good point, except that Willow is not yet an organized community. A goal in the community development plan is to become an organized area. If Willow received conveyance of this land the community could sell those properties for development and set the boundaries and covenants as the community sees fit. The dog mushing trails would create conflicts and controversy when trying to sell the properties.

CO-CHAIR NEUMAN, in response to Representative Seaton, confirmed that Willow is not a municipality and added that it is an unincorporated area of the state. In further response, he said Willow has city limits but is not a Class B city.

[8:14:55 PM](#)

REPRESENTATIVE TUCK asked whether Willow is organized or unorganized.

CO-CHAIR NEUMAN replied his best guess is that Willow is unorganized because there is only one organized city within his district and that is Houston, which is a Class B city.

REPRESENTATIVE TUCK suggested implementing language for a future date similar to that included in the bill on page 9 for the cities of Wrangell and Petersburg. He said this would give Willow the time to organize and have the ability to acquire lands, including the Frying Pan Lake parcel.

CO-CHAIR NEUMAN appreciated the suggestion, but said he does not know the timeframe that this would take and he is trying to respond to the community.

REPRESENTATIVE TUCK said he is hesitant without any written or oral testimony in this regard. A good way to promote local control is to provide the opportunity to become organized and independent and able to acquire the land, so his suggestion would be a potential solution to meet the needs and desires of the Willow community.

[8:17:29 PM](#)

CO-CHAIR NEUMAN agreed that this could be done on page 9 by adding a paragraph (6) after line 11. However, he would like to allow Willow a longer time period, at least until 2016, which is why he thinks it would be easier to remove the parcel.

REPRESENTATIVE TUCK said he wants to see this area protected for the interests of Co-Chair Neuman's district, but it is difficult without any testimony and no further information. He said he supports giving more time and wants boroughs to be developed so they can sustain themselves and develop their own areas. He said he would like to propose a friendly conceptual amendment to Conceptual Amendment 4 that would be a compromise and would give the community a chance to weigh in, and would likely be located on page 9 after line 11.

CO-CHAIR NEUMAN suggested that a conceptual amendment to Conceptual Amendment 4 allow the community of Willow 10 years to request conveyance of the Frying Pan Lake parcel, and if this does not occur within that time period the parcel would be conveyed to the university.

REPRESENTATIVE TUCK agreed that 10 years is reasonable given that the timeline for Petersburg was extended to 2014 and that community is further along in the process.

[8:20:32 PM](#)

REPRESENTATIVE TUCK moved to adopt Conceptual Amendment 1 to Conceptual Amendment 4 [to allow the community of Willow 10 years to request conveyance of the Frying Pan Lake parcel and if this does not occur within that time period the parcel would be conveyed to the university].

REPRESENTATIVE KAWASAKI objected, pointing out that there are no contingency plans for adding more lands to the bill and this amendment would potentially lock out the university from being able to use this land. He said he would prefer the land either be given to university or not, rather than having to wait.

[8:21:49 PM](#)

REPRESENTATIVE SEATON observed that the time period for Wrangell under House Bill 130 was from 2005 until 2012, so he agrees that 10 years is a long time. With a hold on this parcel, neither DNR nor the university could do anything with the land. Given that DNR has worked with the community and the university and drawn up deeds for the trails identified by the community, this parcel is probably in a readily developable stage, so a 10-year limbo would be a long time. This would tie up the parcel even more than would its removal from the list of conveyances. He said he also has a problem with this amendment because no objections to the conveyance have been heard from any community members during any other committee hearings. He recalled that objections expressed during consideration of House Bill 130 were from people fearing that the dog mushing access would be cut off, but this issue has now been handled in the title transfer.

[8:23:43 PM](#)

CO-CHAIR NEUMAN said he also recalls those discussions, but he does not think 10 years is too long because the university would

receive about 190,000 acres under HB 295 and already has other lands. He reiterated it is a give and take as the Deception Creek parcel would remain in the bill and the Frying Pan Lake parcel would be taken out. He estimated the Deception Creek parcel to be about one section [640 acres] in size and argued that this 10-year delay would not cause a problem given that the university does not want to dispose of land too quickly at one time in an area. He asked Ms. Redman whether he is correct.

MS. REDMAN responded she is the wrong person to ask.

[8:25:16 PM](#)

CO-CHAIR JOHNSON inquired who the owner is of land that is conveyed with a timeframe on it.

MARTY PARSONS, Deputy Director, Division of Mining, Land and Water, Department of Natural Resources, replied that, technically, until title passes from the state, the state still owns that land.

CO-CHAIR JOHNSON asked whether this would be like a lien where nothing could be done with the property until it is transferred.

MR. PARSONS answered that if the land is set aside where no action or development can be taken for a 10-year period while the community of Willow determines whether to incorporate, then no development or land sales could occur in that parcel through either the university or the state.

CO-CHAIR JOHNSON inquired whether the state would be able to maintain or monitor the dog mushing trails.

MR. PARSONS responded the state would still have ownership and would be required to manage the land just like any other state parcel. From the committee conversation that he has heard, he said there would be no conveyance available to any other entity or individuals until the 10-year period had run.

CO-CHAIR JOHNSON asked whether the state would make any improvements on the parcel during that 10-year period.

MR. PARSONS replied that if this land is set aside and in a state of limbo, the department would maintain the status quo as he cannot imagine there would be any development or expenditure of state funds on lands for which future ownership is unsure.

8:28:05 PM

CO-CHAIR NEUMAN inquired whether Willow could request conveyance of the land to itself if it forms a city.

MR. PARSONS answered the land surrounding the parcel has been transferred to the borough, so nothing could be done as far as conveying the parcel to a new municipality until it had incorporated and any land entitlement determined and which lands would be available. He said it is quite a process that must take place after a community is incorporated and he believes the state has about 2.5 years to complete that process.

8:29:06 PM

REPRESENTATIVE SEATON understood Mr. Parsons to have said that the lands around this parcel were selected by the Matanuska-Susitna Borough, but that this parcel was not selected by the Matanuska-Susitna Borough for borough entitlement.

MR. PARSONS responded correct, the Matanuska-Susitna Borough has received its entire entitlement of 355,000 acres. This land was retained by the state and that is one reason why it was selected for inclusion in the university bill.

8:29:56 PM

REPRESENTATIVE TUCK asked whether Willow is part of the 355,000 acres that were given to the Matanuska-Susitna Borough.

MR. PARSONS replied Willow is within the boundaries of the Matanuska-Susitna Borough, so much of the lands surrounding the community of Willow would have been conveyed to the borough as part of its selection.

CO-CHAIR NEUMAN said the [Willow] city boundaries within the Matanuska-Susitna Borough are not incorporated and he is sure the community would take this land if it could.

8:30:53 PM

CO-CHAIR NEUMAN reiterated the effect of Conceptual Amendment 1 to Conceptual Amendment 4.

REPRESENTATIVE KAWASAKI maintained his objection.

CO-CHAIR NEUMAN stated a roll call vote would be taken and that a yes vote would support the adoption of Conceptual Amendment 4, as amended, and a no vote would reject the adoption of Conceptual Amendment 4, as amended.

A roll call vote was taken. Representatives Tuck, Neuman, and Johnson voted in favor of Conceptual Amendment 4, as amended. Representatives Guttenberg, Kawasaki, and P. Wilson voted against it. Therefore, Conceptual Amendment 4, as amended, failed by a vote of 3-3.

CO-CHAIR NEUMAN realized he was mistaken and the vote should have been on whether to adopt Conceptual Amendment 1 to Conceptual Amendment 4.

The committee took an at-ease from 8:33 p.m. to 8:33 p.m.

[8:33:42 PM](#)

CO-CHAIR JOHNSON moved to rescind the action on adopting Conceptual Amendment 1 to Conceptual Amendment 4. There being no objection, Conceptual Amendment 1 to Conceptual Amendment 4 was before the committee.

[8:35:31 PM](#)

REPRESENTATIVE KAWASAKI objected.

CO-CHAIR NEUMAN clarified that a yes vote supports the adoption of Conceptual Amendment 1 to Conceptual Amendment 4.

A roll call vote was taken. Representatives Tuck, Neuman, Johnson voted in favor of Conceptual Amendment 1 to Conceptual Amendment 4. Representatives Kawasaki, P. Wilson, Seaton, and Guttenberg voted against it. Therefore, Conceptual Amendment 1 to Conceptual Amendment 4 failed by a vote of 3-4.

CO-CHAIR NEUMAN announced that before the committee was Conceptual Amendment 4, as originally proposed to remove the Frying Pan Lake parcel from HB 295.

REPRESENTATIVE KAWASAKI objected.

A roll call vote was taken. Representatives P. Wilson, Neuman, and Johnson voted in favor of Conceptual Amendment 4. Representatives Tuck, Seaton, Guttenberg, and Kawasaki voted

against it. Therefore, Conceptual Amendment 4 failed by a vote of 3-4.

[8:38:49 PM](#)

KEVIN HOOD requested that the five-acre Sumdum parcel located about 50 miles south of Juneau in Endicott Arm be removed from HB 295. Recalling the Department of Natural Resources' earlier testimony that it tries to avoid disposal of prime recreation areas, he said the Sumdum parcel would qualify as such an area. The parcel is a state in-holding that is entirely surrounded by [federally] designated wilderness, he explained. He and his fiance make regular trips to this special area to view wildlife and pick berries. It is further unique in that the Endicott Arm-Tracy Arm-Holkham Bay area is the first place south of Juneau with no development. This area is the only federally designated wilderness between Skagway and the Stikine-LeConte Wilderness. The Sumdum parcel is used by big game hunters and provides a protected anchorage, which is hard to find in this area because Endicott Arm is a fjord with sheer walls and a lot of fetch.

MR. HOOD suggested that the Sumdum parcel be traded to the U.S. Forest Service for lands closer to Juneau that would have higher value and be more appropriate for development, rather than extending development into every bay south of Juneau. The wilderness designations of the lands surrounding the Sumdum parcel indicate this area has much value to many different people. He said he supports withdrawing the Sumdum parcel from conveyance to the university, but if it is not withdrawn he would then request that a restrictive covenant be added that disallows any development. In response to Co-Chair Neuman, he said his state representatives are Representative Munoz and Senator Egan.

[8:43:51 PM](#)

CO-CHAIR NEUMAN suggested that Mr. Hood make his opinions known to Representative Munoz and Senator Egan.

MR. HOOD said he would do that.

MR. HOOD, in response to Representative Kawasaki, confirmed the Sumdum parcel has already had covenants added to it that would restrict mining and timber. However, he said that in his opinion those covenants do not go far enough because that is neither the value nor the threat to this parcel.

8:44:23 PM

MARY IRVINE stated she is a very strong supporter of the University of Alaska and has served the university for several years as a volunteer instructor. She said she is respectfully asking for the committee's help in regard to the Sumdum parcel. Abutted on either side by the mouth of two very productive salmon streams, the parcel was an important seasonal fish camp to the Sumdum Clan of the Tlingit people. The late Andy Hope documented clan houses about four miles distant from the parcel and the people there drew fish from all these streams. While there was no Tlingit village on the Sumdum parcel, it was the town site of Sumdum from 1879-1903. She said that in her research she came across Interior Board of Land appeals cases revealing the special nature of this area, as well as a PhD thesis documenting some of the cultural exchange that makes this area so interesting historically and culturally. The Tlingit name translates as the people of the sparkling green water.

MS. IRVINE said that although the Sumdum site was used by the Tlingit people as a fish camp, it was one of the very first towns in American Alaska during the gold mining days. The site was not frequented by the Russian America Company. From 1879-1903, the town of Sumdum consisted of several hundred people: some local Tlingits, some out-of-the-area Tlingits who came for work in the new economy, and some new gold miner immigrants to Alaska. These people used the very beach at Sumdum that is being talked about to pull up their boats and barges and later a large dock and staging area were erected. Cabins and a bunkhouse went up, as did a laundry, a cookhouse, and American Alaska's first brewery. A corduroy road and a horse ore cart tram system were put in place. Dozens of miles of tunnels were blasted into the surrounding hills for the hard rock gold and those tunnels still remain today.

8:49:51 PM

MS. IRVINE said that in October 1879, three Tlingit Indians from Wrangell paddled a dugout canoe through a storm to bring over a Presbyterian missionary and John Muir. Ship logs indicate that many ships stopped at the site. The Alaska State Library has several photographic collections showing the town of Sumdum. She herself possesses a letter with a stamp cancellation from the U.S. post office in Sumdum for a package that was mailed from Sutter Creek, California. The Alaska State Museum holds several items collected at Sumdum, one of which is a unique

rifle that was used experimentally by the U.S. Navy in the early 1800s. There are historical accounts of early botanists collecting un-to-for undiscovered plants at Sumdum, as well as writings about labor disputes that occurred during the early corporate mining era at the town of Sumdum. An early governor, Governor Shakely, stepped in to mediate civil unrest and disputes at Sumdum in a historical act of cross-cultural fact finding and discerning the rights of land users at Sumdum. She said the question is how this public history and diversity of people are valued because they are part of the formative beginnings for today's great and diverse state.

MS. IRVINE urged that the amendment regarding the Sumdum parcel made last week by Representative Munoz in the House Community and Regional Affairs Standing Committee be strengthened by adding the words "development including" on page 10, line 6, after the word "to" and before "commercial". Thus, lines 6-7 would read: "(1) may not be open to development including commercial timber harvest or mineral development;". She said she believes that if the House Community and Regional Affairs Standing Committee had been able to work on the amendment further, this is what it would have done.

[8:54:23 PM](#)

MS. IRVINE added that this change to the covenant would also technically and legally fulfill the letter and spirit of the [Central/Southern] Southeast Area Plan which outlines the state's long-standing management intent for the parcel known as Sumdum. She said the plan was the result of intense public process with adequate notice and comment and intense public input. The plan was formally adopted by the state in November 2000 and should be considered the controlling document that this committee and the legislature looks to, not the lands list that has been provided from House Bill 130 because there are many errors in that list. In the plan, Sumdum is designated recreation undeveloped (RU) and RU is the most restrictive category for lands as these lands cannot be sold to an individual. She maintained that under this language the university lands office would either constitute an individual or the university would intend to sell the land to individuals. She said the history of Sumdum does not belong to one person or one corporation; it is a history that can be offered to future generations and visitors.

[8:56:44 PM](#)

REPRESENTATIVE TUCK asked whether the university's intention is to use the Sumdum parcel for research and whether Ms. Irvine's intent is to not see any development of any kind.

MS. IRVINE responded her interest is to see the Sumdum land preserved and remain public. The 4.9-acre parcel is outside the city limits of Juneau and is surrounded by the 730,000-acre Tracy Arm-Fords Terror Wilderness. She said she cannot envision more than a lodge or a dock on that area, and has had heartburn with the meetings the university has had with potential buyers since 2005 because she does not believe that is in the best interest of the public.

[8:58:39 PM](#)

CO-CHAIR JOHNSON referred to page 10, lines 8-10, which state the site must be preserved for historical, cultural, scientific, and educational purposes and must remain accessible to the public. He surmised this provision would do what Ms. Irvine is asking.

MS. IRVINE said this language is very general and while it fits what she is talking about, it is so non-specific that someone could put in a tramway, a zipline, or a dock with full access to the public. Therefore, she is interested in the parcel receiving a more restrictive covenant to protect the land.

[9:01:11 PM](#)

DONALD BULLOCK JR., Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, said he thinks it would be helpful to outline the structure of the bill for the people still waiting to testify. Section 5 would convey the land to the university in AS 14.40.365(a): subsection (n) would take parcels out of the list that is referred to under (a) and would keep them in the custody of the Department of Natural Resources; [subsection (o)] would provide conditional delays in which land is conveyed to the university to allow newly formed municipalities to lay claim to those lands; and [subsection (r)], the Sumdum provision, would allow the land to go to the university but the parcel would be subject to certain limitations and covenants. He suggested that when witnesses testify they specify whether they want the land to be taken out of the list and not transferred, or have the conveyance delayed, or want the land to be transferred but subject to certain conditions.

[9:03:39 PM](#)

CO-CHAIR NEUMAN noted he is providing members with a list of concerns received from Mr. Bullock via electronic mail.

MR. BULLOCK, in response to Co-Chair Johnson and in regard to [Conceptual Amendment 3] which extended the date from 2012 to 2014, inquired whether the committee's intent is to also extend the date on page 9, line 29, from 2016 to 2018. He said his reason for raising the question is that 2016 is still past 2014, so it is conceivable that within that two-year period the land selection could be made, but whether or not it was the intent of the committee to extend that date to 2018 should be clarified.

[9:05:17 PM](#)

CO-CHAIR NEUMAN, in consultation with Co-Chair Johnson, said he would prefer not to take on a clarifying amendment at this time. He added that discussions with Speaker Chenault indicate there may be some constitutional issues with the bill so it will be receiving assignment to the House Judiciary Standing Committee.

[9:06:13 PM](#)

MR. BULLOCK addressed the issues he raised with the bill [in his paper entitled, "Issues with CSHB 295(EDC)]. He said one legal issue is with Section 13 [pages 14-15] which would provide that a certain amount of money that is generated from mineral lease rentals, royalties, royalty sale proceeds, and net profit shares go into the permanent fund. Article IX, Section 15, requires a minimum of 25 percent of these type of monies to go into the permanent fund. The beginning of Paragraph (1) in Section 13 would provide for the minimum amount to go into the permanent fund, but the paragraph is limited in time because the last part of the paragraph includes the dates of on or before December 1, 1979, and on or before February 15, 1980. Paragraph (2) would provide for 50 percent of those monies to go into the permanent fund, which is the 25 percent required by the constitution plus an additional 25 percent the legislature chose to appropriate.

CO-CHAIR NEUMAN said the committee would have Mr. Bullock return to address these issue further.

[9:08:25 PM](#)

MR. BULLOCK, in response to Representative Seaton, explained that when the state received land from the federal government it

was subject to the condition that the state could lease the mineral interest but could not dispose or transfer ownership of the mineral interest. It is possible to transfer land to the university which can hold title to land, and as an entity of the state the university can have the mineral rights with the land. Section 13 talks about mineral income. For example, if the Nenana gas fields prove to be productive, then the mineral income from that would be subject to being added to the permanent fund. Since university land is state land this raises the issue of whether some state land can be only subject to 25 percent and other state land subject to 50 percent. He said his recommendation is rather than applying it to these old leases, it be added to paragraph (2) or else to say nothing because it is mineral income from state land.

CO-CHAIR NEUMAN returned to public testimony.

[9:11:34 PM](#)

TIM LYDON said he and his wife Barbara Lydon are speaking on behalf of 18 commercial tour operators ranging in size from local operators in Southeast Alaska to large out-of-state operators that run multiple vessels in northern Southeast Alaska. He said when he last testified on the bill, he spoke on behalf of 17 operators, so the number of people concerned about the Sumdum parcel is growing. The group has testified before the other committees, but frustration is growing because the group's interests have not been met. He said it is important to note that this 4.9-acre parcel sitting in the middle of 730,000 acres of federally designated wilderness is the only undeveloped mainland bay between Juneau and Frederick Sound. It has this federal designation because it is a very unique place. It is valuable to him, his wife, and other Juneau residents who go to there to sightsee, fish, hunt, kayak, and camp because it is an undeveloped bay. It is also valuable to the 18 companies he is representing because they use this location for guided hunting, fishing, walks ashore, sightseeing, kayaking, and camping. Sanford Cove where the Sumdum parcel is located is a safe anchorage for the boats of these 18 companies; this is of very high value because Endicott Arm and Tracy Arm have virtually no anchorages. The reasons for caring about the Sumdum parcel are its important cultural and aesthetic values. Additionally, there is the compatibility issue with the surrounding federally designated wilderness, which is indicated by DNR's management designation for this parcel.

[9:16:05 PM](#)

MR. LYDON addressed the issue of economics, noting that the 18 companies he represents include small and mid-size tour companies, hunting operations, kayaking operations, and others. He said research by the University of Alaska has demonstrated that this sector of Alaska's nature-based tourism industry pumps tens of millions of dollars into the Southeast Alaska economy every year. The clients served by these companies must spend their nights before and after their tours in hotels in Southeast Alaska, which makes them unique from the cruise ship industry. These 18 companies represent approximately 22 vessels that provision in Southeast Alaska throughout the summer, meaning each week's load of fuel, food, and supplies is shopped in Southeast Alaska. He pointed out that the backbone of this industry is nature-based tourism where people are brought to the undeveloped places in Alaska that they see on television and the Internet.

MR. LYDON said the 18 companies he is representing would prefer that the Sumdum parcel be removed from conveyance to the university. Given that the group realizes there is pressure to keep the parcel in the bill, it would be amenable to a covenant. However, the covenant as currently written is inadequate because the area is not threatened by mining or logging. The threat is someone building a small lodge on the parcel with flight seeing, catamaran tours, and so forth, and all of that can be done under the current language that describes preserving the area for education, cultural, and historical values. Therefore, an amendment providing for no development is important to these 18 companies, himself, and other Juneau residents.

[9:19:27 PM](#)

ROBERTA CHARLES expressed her concern about Biorka Island because it is a customary place for her family, which has a reinstatement application for the 115 acres that Rudolph Walton had applied for as a Native allotment but did not get. The basis of the reinstatement is that Mr. Walton was not provided a hearing to present evidence of use and occupancy for the additional acreage that was originally denied. The family would like Biorka Island to be excluded from conveyance to the university. In response to Co-Chair Neuman, she said she is 73 years old and this is a family matter that goes back to her grandfather's time.

REPRESENTATIVE P. WILSON asked whether there is a question of whose land it is and that this is not state land.

MS. CHARLES responded that the U.S. Bureau of Land Management is handling this. Her mother attended a hearing held a few years ago by the Sitka Tribe of Alaska to request the land be returned to the family. Congressmen were also present at the hearing. The family's request is still in process. In response to Co-Chair Neuman, she agreed to provide Representative Wilson with further information in this regard.

[9:22:20 PM](#)

STEVE HENRIKSON related that Rudolph Walton was born on Biorka Island in 1867 and was one of Sheldon Jackson School's first Tlingit students at the Sitka Industrial Training School. At the time of his graduation, Alaska Natives were not allowed to hold legal title to any property except through the homesteader Native allotment process. Rudolf Walton applied for about 140 acres, but only received 40 of those acres. Due to military emergency during World War II, those 40 acres were taken from him by the U.S. government with the stipulation that after the war the land would be returned. Instead, the land was turned over to several federal agencies. The family has been fighting for this land for decades and several family members have passed away during this time. In 2005, during consideration of [House Bill 130], both the family and the Sitka Tribe of Alaska pointed out this matter and explained it was not yet resolved, yet this property remained in the bill. The family understands through the Sitka Tribe of Alaska that this issue is being actively dealt with by the U.S. Bureau of Land Management and the family would like Biorka Island to be removed from conveyance to the university under this bill.

[9:24:52 PM](#)

CO-CHAIR NEUMAN observed that eight or nine other Walton family members are still waiting to testify. He requested that further information be provided to Representative Wilson's office.

REPRESENTATIVE P. WILSON said the bill would be remaining in committee and asked the Walton family members to contact her office. She surmised the university would not want something that has been in litigation, but she would like to know exactly what is being dealt with.

[9:26:37 PM](#)

MARY ANNE NAVITSKY, DDS, testified on behalf of herself and the following Rudolf Walton family members: Irene Vaden; Josephine Patterson; Charles Daniels Jr.; Elizabeth Goldsbury, great-granddaughter of Mr. Walton; Cheryle Enloe; William Craig; and Jeremiah Craig. Dr. Navitsky said she is a granddaughter of Rudolph Walton. She spoke as follows:

Rudolph Walton was a Tlingit Indian born on Biorka Island in 1867. Biorka Island was his summer home and fish camp through his whole life. Mr. Walton had applied and received Biorka Island as part of his Native allotment. The federal government established the Native Allotments Act of 1906 to return land to Alaska Natives. The federal government issued Rudolph Walton a certificate of ownership for the Native allotment on Biorka Island. During World War II the United States government requested Biorka Island to help protect this country, and Rudolph Walton's property was then used in the war effort. It was not returned to him or his heirs as was expected when it was no longer needed to protect the country. He was a responsible citizen and a patriot and always supported this country and believed his rights would be honored and protected. The heirs of Rudolph Walton and the Sitka Tribe of Alaska have worked very hard to have this property returned to his family. Federal agencies, including the Department of Defense, United States Coast Guard, United States Forest Service, have all supported this effort. The heirs and the Sitka Tribe of Alaska are continuing to work to correct this injustice and to have Biorka Island Native Allotment returned to Rudolph Walton heirs and respectfully request that Biorka Island not be included in the University of Alaska Land Grant List 2005, which is currently part of HB 295. Please amend this bill and remove Biorka Island.

[9:29:19 PM](#)

CHERYLE ENLOE, in response to Representative Wilson, said Biorka Island is further out in the ocean than is Fort Russo.

CO-CHAIR NEUMAN said it would be good to remove Biorka Island so it can be re-submitted to the family. He offered his assurance that Representative Wilson would work with the family on this issue.

REPRESENTATIVE P. WILSON agreed.

[9:30:13 PM](#)

LEO LUCZAK, Community Development Director, City of Petersburg, related that the Petersburg city council passed a resolution requesting an extension of the moratorium on the selection of university land within the boundaries of the proposed Petersburg borough. He thanked members for the two-year extension, but said he is afraid it may be unrealistic because the borough petition must be re-done, attorneys hired, and an extensive outreach program conducted to the 10 percent of the population that resides in the unorganized borough. He said there is not much to offer those residents in this regard, but one carrot is that the borough would be able to select some unencumbered lands outside the borough. He estimated that 95 percent of the land outside the borough is owned by the federal government, so would not be available for selection. The land that was available was selected by many state agencies, including prior selections by the University of Alaska. Nearly all of the remaining available land was then taken by the Mental Health Trust when it was reconstituted. The five parcels requested by Petersburg in HB 295 are the only available state lands left within the proposed borough. He requested that Petersburg be given a five-year extension because he does not believe an organized borough can be formed in two years and if the opportunity is lost to select these parcels, there will be nothing else to select that would benefit the proposed borough.

[9:32:33 PM](#)

REPRESENTATIVE P. WILSON pointed out that the committee added four more years by amending the deadline from 2012 to 2014.

MR. LUCZAK responded that Petersburg has a very open, Scandinavian-like government process that takes time and while Petersburg really desires to form a borough, he is afraid the 2014 deadline will be hit. He said his personal opinion is that if the opportunity is lost to select these remaining state lands Petersburg will then never form a borough.

[9:33:38 PM](#)

DAVID KENSINGER said he is one of the residents of the proposed Petersburg borough and is in the unique position of volunteering himself to be taxed because he feels very strongly that Petersburg must form this borough. He related that during the

past process, it became obvious that Petersburg was going to be unable to complete the process in time to receive the community selection lands. Hence, it was hard to motivate people outside the boundary of the City of Petersburg to sign on to the process. Forming a borough is a very cumbersome process. For example, it can take a year or longer for the local boundary commission to even look at the proposal and reply. He said he is therefore asking for more time because he thinks forming a borough is important and will happen.

[9:34:51 PM](#)

DENNIS ROGERS, regarding the Sumdum selection in Sanford Cove, stated that he is one of the small business owners referred to by Mr. Lydon. He said his business conducts extensive trips in the Sumdum area and Sanford Cove and, in addition to being a scenic location, it is one of very few anchorages in that area. He speculated that these attributes are why it has had all the historic attention referred to by Ms. Irvine. It would be a shame to see the Sumdum parcel go into private hands for development by a single corporation and preclude that area from use by Alaskans. He urged that this parcel be removed from conveyance to the university and, if not removed, then special attention be given to the covenants suggested by Ms. Irvine.

[9:36:37 PM](#)

CO-CHAIR NEUMAN left public testimony open and held over HB 295.

[9:37:31 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 9:37 p.m.