

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

March 2, 2017

8:01 a.m.

**MEMBERS PRESENT**

Representative Zach Fansler, Co-Chair  
Representative Justin Parish, Co-Chair  
Representative Harriet Drummond  
Representative Dean Westlake  
Representative George Rauscher  
Representative Dan Saddler

**MEMBERS ABSENT**

Representative David Talerico  
Representative DeLena Johnson (alternate)  
Representative Jonathan Kreiss-Tomkins (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 47

"An Act requiring certain municipalities with a population that decreased by more than 25 percent between 2000 and 2010 that participate in the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to contribute to the system an amount calculated by applying a rate of 22 percent of the total of all base salaries paid by the municipality to employees of the municipality who are active members of the system during a payroll period; authorizing the administrator of the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to reduce the rate of interest payable by certain municipalities that are delinquent in transmitting employee and employer contributions to the retirement plan; and providing for an effective date."

- MOVED HB 47 OUT OF COMMITTEE

HOUSE BILL NO. 4

"An Act relating to military facility zones."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 10

Urging the United States Congress to pass the Improved National Monument Designation Process Act.

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 47

SHORT TITLE: MUNICIPAL PERS CONTRIBUTIONS/INTEREST  
SPONSOR(S): REPRESENTATIVE(S) FOSTER

01/18/17	(H)	PREFILE RELEASED 1/13/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	CRA, FIN
02/28/17	(H)	CRA AT 8:00 AM BARNES 124
02/28/17	(H)	Heard & Held
02/28/17	(H)	MINUTE(CRA)
03/02/17	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 4

SHORT TITLE: MILITARY FACILITY ZONES  
SPONSOR(S): REPRESENTATIVE(S) THOMPSON

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	MLV, CRA
02/09/17	(H)	MLV AT 1:30 PM GRUENBERG 120
02/09/17	(H)	Heard & Held
02/09/17	(H)	MINUTE(MLV)
02/14/17	(H)	MLV AT 1:30 PM GRUENBERG 120
02/14/17	(H)	Moved CSHB 4(MLV) Out of Committee
02/14/17	(H)	MINUTE(MLV)
02/15/17	(H)	MLV RPT CS(MLV) NT 5DP
02/15/17	(H)	DP: REINBOLD, RAUSCHER, SADDLER, PARISH, TUCK
03/02/17	(H)	CRA AT 8:00 AM BARNES 124

BILL: HJR 10

SHORT TITLE: LIMIT DECLARATION OF NATL. MONUMENTS  
SPONSOR(S): REPRESENTATIVE(S) RAUSCHER

02/15/17	(H)	READ THE FIRST TIME - REFERRALS
02/15/17	(H)	CRA, RES
03/02/17	(H)	CRA AT 8:00 AM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE STEVE THOMPSON  
Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented HB 4, as prime sponsor.

BOB DOEHL, Deputy Commissioner  
Department of Military & Veterans' Affairs (DMVA)  
Joint Base Elmendorf-Richardson, Alaska

**POSITION STATEMENT:** Testified in support of HB 4.

JEFF STEPP, Special Assistant  
Mayor's Office  
Fairbanks North Star Borough  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 4.

CHRISTINE NELSON, Director  
Planning Department  
Fairbanks North Star Borough  
Fairbanks, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 4.

DARRELL BREESE, Staff  
Representative George Rauscher  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HJR 10, on behalf of Representative Rauscher, prime sponsor.

ED FOGELS, Deputy Commissioner  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HJR 10.

JUDY BITTNER, Chief/State Historical Preservation Officer  
Office of History & Archaeology Alaska Historical Commission  
Division of Parks and Outdoor Recreation  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HJR 10.

#### **ACTION NARRATIVE**

[8:01:38 AM](#)

**CO-CHAIR JUSTIN PARISH** called the House Community and Regional Affairs Standing Committee meeting to order at 8:01 a.m. Representatives Rauscher, Saddler, Drummond, Fansler, and Parish were present at the call to order. Representative Westlake arrived as the meeting was in progress.

**HB 47-MUNICIPAL PERS CONTRIBUTIONS/INTEREST**

[8:02:35 AM](#)

CO-CHAIR PARISH announced that the first order of business would be HOUSE BILL NO. 47, "An Act requiring certain municipalities with a population that decreased by more than 25 percent between 2000 and 2010 that participate in the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to contribute to the system an amount calculated by applying a rate of 22 percent of the total of all base salaries paid by the municipality to employees of the municipality who are active members of the system during a payroll period; authorizing the administrator of the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to reduce the rate of interest payable by certain municipalities that are delinquent in transmitting employee and employer contributions to the retirement plan; and providing for an effective date."

[8:03:01 AM](#)

CO-CHAIR FANSLER noted that at a previous hearing on HB 47, Representative Saddler had suggested the proposed legislation was too narrowly tailored and he would be considering whether to offer an amendment. He asked Representative Saddler if he had since worked with the bill sponsor on an amendment.

[8:03:41 AM](#)

REPRESENTATIVE SADDLER answered that he had not yet had the opportunity to do so.

[8:04:05 AM](#)

CO-CHAIR FANSLER moved to report HB 47 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE DRUMMOND commented that she had heard this subject in bill form several times in the past, and she stated her belief that HB 47 is a fair piece of legislation that deals

with an issue that could not have been foreseen by the communities effected under HB 47.

[8:04:55 AM](#)

REPRESENTATIVE RAUSCHER asked for confirmation that the proposed legislation was not changed and would address just 2000-2010.

CO-CHAIR PARISH confirmed that the bill remains tightly focused.

[8:05:18 AM](#)

CO-CHAIR PARISH announced that there being no objection, HB 47 was reported out of the House Community and Regional Affairs Standing Committee.

[8:05:26 AM](#)

The committee took an at-ease from 8:05 a.m. to 8:08 a.m.

#### **HB 4-MILITARY FACILITY ZONES**

[8:08:29 AM](#)

CO-CHAIR PARISH announced that the next order of business would be HOUSE BILL NO. 4, "An Act relating to military facility zones." [Before the committee was CSHB 4 (MLV).]

[8:09:13 AM](#)

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, presented HB 4, as prime sponsor. He said in 2012, House Bill 316 created military facility zones, which are "areas around a municipality or city that are in close proximity to a military facility." The military facility zones enable enhancement of a military mission or lessen the expense involved in order for the military to do its job. Further, military facility zones encourage the military to stay in those areas. Representative Thompson said CSHB 4 (MLV) would allow someone who wants "to build something or do something that will enhance that mission for the military" in a military facility zone to be eligible for a low-interest loan or for tax credits.

REPRESENTATIVE THOMPSON said there has been a lot of interest around the state for military facility zones. For example: the naval range in Ketchikan needs a new dock; the military facility in Kodiak needs new housing; and there is a lot of activity

going on at Joint Base Elmendorf-Richardson (JBER) in Anchorage and at [Eielson Air Force Base] and Fort Wainwright in Fairbanks that could benefit under CSHB 4 (MLV).

REPRESENTATIVE THOMPSON said a problem had been pointed out to him. He explained as follows:

The way that you have to become a military facility zone is you have to apply to the adjutant general in the state and he has to approve it, but there are certain steps that have to be in place. One is that the plan has to comply with the comprehensive plan of the municipality. Comprehensive plans - a lot of places - they are aren't up to date; they only redo them about every 10 years; and to change a comprehensive plan could take up to a year or more. If somebody has something that they want to build or something that will enhance this military mission - it might not comply with the old comprehensive plan, and to change it would be cumbersome.

[8:12:01 AM](#)

REPRESENTATIVE THOMPSON indicated that an amendment adding "or local ordinance" would "allow this to happen in [a] more expeditious manner, as far as trying to get that." He mentioned another amendment to the bill that proposes an immediate effective date. A third change was to hold harmless the adjutant general.

[8:12:55 AM](#)

REPRESENTATIVE SADDLER asked if, from a local municipal government's standpoint, a decision on zoning has any more or less impact as compared to a decision in a comprehensive plan.

REPRESENTATIVE THOMPSON answered that sometimes it takes a long period of time to change a comprehensive plan. He said zoning must go through the community's assembly, which is a long process involving more than one meeting and public hearings. He concluded, "It's a process, but can be done in a month or so instead of a year or longer."

REPRESENTATIVE SADDLER asked for confirmation that "zoning is no less clear an expression of the local government's and the people's will than a comprehensive plan change."

REPRESENTATIVE THOMPSON answered that's correct.

[8:14:07 AM](#)

REPRESENTATIVE WESTLAKE remarked that the proposed bill "looks pretty good." He cited language in Section 1, on page 1, lines 7-8, which read:

consistent with the comprehensive plan of the municipality or local zoning ordinances

REPRESENTATIVE WESTLAKE commented that Kotzebue, in which he lives, "belongs to the municipality," and he questioned whether the language could be misinterpreted, such as, "Well, we're ... the local zoning authority; we can do this."

REPRESENTATIVE THOMPSON answered that he does not see any issue there, because the term "local zoning ordinances" is a common one to use in a municipality or a borough, both of which have local zoning ordinances that address property use inside their designated areas.

REPRESENTATIVE WESTLAKE noted that there still is a military base in Kotzebue. He said Kotzebue has both city and borough planning commissions. He surmised that other communities with the same composition of commissions may have worked out a way to integrate. He suggested that changing the language on line 7 to read something along the lines of "with the comprehensive plan of the municipal local zoning ordinances" would "make it much easier."

REPRESENTATIVE THOMPSON said he had not been aware there were any places in the state that had both borough and city zoning; most places in the state are set up for the borough to control the zoning.

[8:16:44 AM](#)

REPRESENTATIVE RAUSCHER mentioned that the House Special Committee on Military and Veterans' Affairs had heavily vetted HB 4 and had come up with [CSHB 4(MLV)], which he said does not overstep or bring something into play that is not allowed in a specified zones. He said he has served on comprehensive planning boards in the past and is familiar with the lengthy process that can take two to three years. He stated his support of CSHB 4(MLV).

8:18:04 AM

REPRESENTATIVE DRUMMOND asked if the borough does not need to be mentioned because it is covered under local ordinances.

REPRESENTATIVE THOMPSON answered, "Yes, whoever the authority is in that particular area around a military facility zone." He noted that [under AS 26.30.020(a)(1)] a military facility zone is considered to be within close proximity [to a facility]. He offered his understanding that the federal government describes a military facility zone as within 100 miles of a military facility. He said, "It'd have to be an organized municipality that applied for that." He questioned whether Delta, which he said is not an organized city, would be able to make such an application.

REPRESENTATIVE DRUMMOND asked, then, if it was not necessary to add "borough" to line 7, on page 1. She said it sounds like Representative Westlake has a comprehensive plan in the North Slope Borough, as well as in the City of Barrow. She said she was involved with the Anchorage Municipal Assembly with a 2020 Comprehensive Plan, which she indicated took ten years in the making.

8:19:51 AM

REPRESENTATIVE SADDLER asked for confirmation that CSHB 4(MLV) would not require a new zoning ordinance of any community; an existing zoning ordinance would allow for creation of a military facility zone.

REPRESENTATIVE THOMPSON answered that if a municipality or city wanted to change land use in order to build something that will "enhance the military," it would need to change its zoning for that area through a zoning ordinance.

REPRESENTATIVE SADDLER suggested, "Or for an existing zoning ordinance allowed for the planning and zoning board, for example, to make that decision, without a new ordinance - that would be sufficient."

REPRESENTATIVE THOMPSON responded yes.

REPRESENTATIVE SADDLER summarized that the proposed legislation would not prevent a community that has a new or active comprehensive plan or one with a regular updating cycling plan from including an active military facility zone; CSHB 4(MLV)

would just "broaden the applicability of the military facility zones."

REPRESENTATIVE THOMPSON confirmed that is correct.

REPRESENTATIVE SADDLER stated that he was a sponsor of another bill that created the [military facility] zones; is a co-sponsor of HB 4; and he thinks the proposed legislation is a great way to "make this beneficial mechanism available to more communities on a more expeditious basis."

[8:21:31 AM](#)

CO-CHAIR PARISH opened public testimony on CSHB 4 (MLV).

[8:22:07 AM](#)

BOB DOEHL, Deputy Commissioner, Department of Military & Veterans' Affairs (DMVA), testified that DMVA supports CSHB 4 (MLV) as meeting the intent of the original legislation of 2012 that allowed military zones in Alaska. He said the department believes that the proposed legislation would provide the necessary flexibility to enable local jurisdictions "to go forward." He emphasized that allowing military facility zones where appropriate for local jurisdictions and the nearby military bases is important toward maximizing the competitiveness of bases nationwide.

[8:22:55 AM](#)

REPRESENTATIVE SADDLER asked Mr. Doehl if he is familiar with how other military zones are being used around the country.

MR. DOEHL answered that currently they are being used to enable infrastructure or supply. He noted that in a week he would be giving a presentation on the issue in Fairbanks, Alaska.

REPRESENTATIVE SADDLER noted that most of the discussions about investees have focused on the Interior or Ketchikan, Alaska. He asked if there is any possibility for military facility zones to be used within 50 to 100 miles of JBER.

MR. DOEHL answered that without judging a military facility zone application from Anchorage or one of the Matanuska-Susitna Valley jurisdictions, he thinks there is ample opportunity to "look at options that make our bases more competitive." He related that military bases in Alaska are challenged by the high

cost of transporting goods, housing, and energy - all of which he said he thinks are potential projects that could reduce the costs, where Alaska businesses could thrive from some federal money coming in and, in the process, lower the operating costs for the bases compared to bringing the goods and services in from Outside.

REPRESENTATIVE SADDLER mentioned JBER and an effort that had been made for Alaska to maintain a military presence in the face of pressure to reduce "basing costs." He asked if military facility zones would help JBER become more competitive and, thus, more able to resist closure under the Base Realignment and Closure (BRAC) process.

MR. DOEHL answered that in the event another BRAC is introduced by Congress, a military facility zone could considerably enhance competitiveness, which could keep JBER and other military bases in Alaska open. He added, "And as long as we're sitting where we are today with the military saying they have 22 percent excess capacity, it's important that we maximize the competitiveness of our bases."

[8:26:48 AM](#)

JEFF STEPP, Special Assistant, Mayor's Office, Fairbanks North Star Borough, thanked the bill sponsor and the committee for efforts to ensure that military facility zones are a viable mechanism to generate economic development in military communities throughout Alaska. He said he would like to echo and affirm the remarks made by the bill sponsor and Mr. Dole. He said Mayor Castle, of the Fairbanks North Star Borough supports CSHB 4(MLV). He noted that a staff of the borough, Christine Nelson, was available to talk about issues specific to the borough's comprehensive plan and local zoning ordinance.

[8:28:14 AM](#)

REPRESENTATIVE RAUSCHER referred to the previous discussion regarding municipalities and boroughs and asked if boroughs are incorporated.

MR. STEPP said he does not know.

[8:29:11 AM](#)

CHRISTINE NELSON, Director, Planning Department, Fairbanks North Star Borough, stated that while she could not parlay the status

of every borough, the interpretation of "municipality" in "the original bill" did include the Fairbanks North Star Borough and other designated boroughs, the incorporated status of which she indicated she did not know. She said, "If there's an unincorporated city that is not in a borough, [then] ... this may not apply to them, but if it is in a recognized borough, it would."

REPRESENTATIVE RAUSCHER questioned if the bill sponsor would want language to include boroughs. He asked the same question of Mr. Doehl.

[8:30:39 AM](#)

MR. DOEHL stated that the department believes the current language in CSHB 4(MLV) is "adequate for the purposes going forward." He said the department believes that the local jurisdictions "will sort out any jurisdictional issues before they get to us." He reiterated that he does not see a potential conflict that would require amending CSHB 4(MLV).

[8:31:35 AM](#)

MS. NELSON began her testimony by offering a brief example of the reason the proposed legislation is necessary. She stated that in 2014, the Fairbanks North Star Borough planned to apply for a military facility zone to establish an unmanned vehicle technical and research park. The site was near Eielson Air Force Base and was intended to be a partnership cooperative agreement between the University of Alaska Fairbanks, the borough, and possibly the U.S. Department of Defense (DoD). Ms. Nelson explained that although the existing general use zoning would have allowed for the park, the comprehensive plan designation was for an agricultural and open space and would have required an extensive and costly amendment process. She added that while the borough's comprehensive plan was updated in 2006, the actual map with the land use designation was from 1990. She said the project died in progress because of the necessity for that change.

MS. NELSON related that comprehensive plans cover general, broad-based land use. Conversely, zoning is parcel specific and tailored to "exact needs of the land area in those locations." She stated that allowing a community to use either the local zoning ordinance or the comprehensive plan gives the community more flexibility to determine compliance and greater opportunity to establish a military facility zone, "thus supporting the

military mission and bringing jobs and economic development both to the community and the state in general."

[8:33:49 AM](#)

REPRESENTATIVE DRUMMOND again directed attention to the language on page 1, [beginning on] line 7 [through line 8], which read as follows:

the comprehensive plan of the municipality or local zoning ordinances

REPRESENTATIVE DRUMMOND noted that "or local zoning ordinances" was proposed language. She asked Ms. Nelson if the Fairbanks North Star Borough would be covered under the word "municipality" or if following "municipality" the words "or borough" should be added.

MS. NELSON stated that the borough's attorneys have interpreted "municipality" as inclusive of the borough, and she offered her assumption that the state's attorneys have the same interpretation. She reiterated that the borough had planned to apply "under this ... previous version of this bill." She said if a city is not incorporated or in a recognized borough, then it would not have a comprehensive plan or a local zoning ordinance; therefore, "this would be comprehensive to those communities that have those tools in which to plan land use."

MS. NELSON, in response to a question from Representative Drummond, confirmed that [Eielson Air Force Base and Fort Wainwright] are within the boundaries of the Fairbanks North Star Borough. She said the borough does not regulate land use on those bases, but does regulate land use all around them. She noted that Fort Wainwright is also partially in the City of Fairbanks, as well. She related that the Fairbanks North Star Borough is the local planning authority for the entire borough, including the few incorporated cities, and it has both a local zoning ordinance and comprehensive plan that cover "all around those bases," and the military facility zones would be located somewhere near either of the bases should the borough choose to apply in the future.

[8:36:16 AM](#)

CO-CHAIR PARISH, after ascertaining that there was no one else who wished to testify, closed public testimony on CSHB 4 (MLV).

[8:36:59 AM](#)

CO-CHAIR PARISH announced that CSHB 4(MLV) was held over.

**HJR 10-LIMIT DECLARATION OF NATL. MONUMENTS**

[8:37:06 AM](#)

CO-CHAIR PARISH announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 10, Urging the United States Congress to pass the Improved National Monument Designation Process Act.

[8:37:32 AM](#)

REPRESENTATIVE RAUSCHER, as prime sponsor, presented HJR 10. He stated that the proposed joint resolution would express the Alaska State Legislature's support for Senate Bill 33, sponsored United States Senators Lisa Murkowski and Dan Sullivan and called the "Improved National Monument Designation Process Act." The Act would amend the Antiquities Act to require the President of the United States to obtain congressional approval, certify compliance with the National Environmental Policy Act of 1969 (NEPA), and receive notice that the legislature [of the state that would be affected] has enacted legislation approving the designation of any new monument. Currently the President can declare national monuments without these checks and balances and has done so repeatedly in past history. He stated that passage of Senate Bill 33 would ensure participation of the American public, Congress, and local governments. He urged passage of HJR 10.

[8:40:20 AM](#)

REPRESENTATIVE SADDLER expressed appreciation for HJR 10. He asked the sponsor if he had come across any evidence that previous administrations had considered the standard of ["the smallest area compatible with the proper care and management of the objects to be protected"]. He opined that there has been a broad interpretation of the authority granted under the Antiquities Act.

REPRESENTATIVE RAUSCHER deferred to his staff.

[8:41:08 AM](#)

DARRELL BREESE, Staff, Representative George Rauscher, Alaska State Legislature, on behalf of Representative Rauscher, prime sponsor of HJR 10, stated that there has been no interpretation of what "the smallest area" is. He said the most recent [past] administration added 440,000 square miles to a monument on the Atoll Islands, which are northwest of the Hawaiian Islands. He questioned whether that was the smallest possible area.

REPRESENTATIVE SADDLER asked if the bill sponsor was aware of the response of other states to U.S. Senate Bill 33 - particularly the Western states.

REPRESENTATIVE RAUSCHER deferred again to his staff.

[8:42:21 AM](#)

MR. BREESE pointed to a press release from U.S. Senator Lisa Murkowski's office included in the committee packet and noted that 27 U.S. Senators had signed on in support of U.S. Senate Bill 33, and they are listed as being from the following states: Kentucky, Wyoming, Montana, West Virginia, Louisiana, Mississippi, Idaho, Texas, Arizona, Utah, Iowa, Nevada, Wisconsin, Kansas, South Dakota, Florida, Alabama, and North Carolina.

REPRESENTATIVE SADDLER noted that on pages 5 and 6 of the aforementioned press release, it reads that President Obama had designated 555 million acres - an area five times the size of California - as onshore national monuments, and that is well in excess of twice the entire acreage designated by all previous Presidents who had access to [the Antiquities Act]. He concluded, "So, obviously I'm going to support this."

[8:43:44 AM](#)

REPRESENTATIVE DRUMMOND asked the bill sponsor if U.S. Senate Bill 33 requires every state to provide a resolution in support.

REPRESENTATIVE RAUSCHER offered his understanding that the answer is no; however, he deferred to his staff for further comment.

[8:44:07 AM](#)

MR. BREESE said U.S. Senate Bill 33 does not require a resolution of support, but does call for congressional approval and approval from the state that would be affected. If a

President wanted to designate a monument in Alaska, for example, under U.S. Senate Bill 33, he/she would have to get a letter from the governor of Alaska stating that the Alaska State Legislature approves the designation. If a monument was being proposed in a marine environment, the President would need the approval of all states within 100 miles of the marine area.

REPRESENTATIVE DRUMMOND asked for confirmation that HJR 10 was not required.

MR. BREESE confirmed that is correct. He said HJR 10 is basically a letter of support for U.S. Senate Bill 33. In response to a follow-up question, he said he was not aware of any other states providing similar resolutions; however, he said he would investigate and get back to Representative Drummond with an answer.

[8:45:52 AM](#)

REPRESENTATIVE SADDLER clarified that the intent of HJR 10 was not to be an approval of "whatever designation comes up," but rather to be a simple expression of the legislature's support for future legislatures to be able "to have their say on future designations."

REPRESENTATIVE RAUSCHER confirmed that is correct.

[8:46:29 AM](#)

CO-CHAIR PARISH asked if the sponsor considered the requirement under U.S. Senate Bill 33 that the governor of each state deliver a letter reflecting his/her state's legislative approval as a "bug" or a "feature."

MR. BREESE answered, "You could look at it as a bug." He said he doesn't know if the governor would have a problem saying the legislature "approved this."

[8:48:10 AM](#)

REPRESENTATIVE SADDLER asked what the impact of designations of National Monuments in Alaska has been.

[8:48:42 AM](#)

ED FOGELS, Deputy Commissioner, Department of Natural Resources (DNR), offered his understanding that to date there have been

four national monuments created in Alaska: [Admiralty Island National Monument, Aniakchak National Monument & Preserve, Cape Krusenstern National Monument, and Misty Fiords National Monument Wilderness]. He said all four were designated by President Jimmy Carter by proclamation. He stated that once an area has been designated as a national monument, it has an extra layer of protection where uses are further limited in those areas.

CO-CHAIR FANSLER indicated that he was looking at a list of 11 areas in Alaska and questioned why Mr. Fogels had listed only four.

MR. FOGELS explained he had named only those areas designated as national monuments. He suggested state archeologist, Judy Bittner, could offer further details regarding the specific designations that exist under the Antiquities Act. He stated that the current [Alaska] administration supports HJR 10. He continued:

Fundamentally our position is that the designation of any additional national monuments in Alaska is counter to the minimal "no-more" clauses of the Alaska National Interest Lands Conservation Act and therefore should ultimately be authorized by the U.S. Congress with the input of the State of Alaska.

[8:51:08 AM](#)

MR. BREESE explained to Co-Chair Fansler that currently there are four national monuments in Alaska. He said there is a list in the committee packet of the national monuments that have been declared under the Antiquities Act. A majority of those names on the list were subsequently made into National Parks by Congress. In response to a follow-up question from Representative Fansler, he offered his understanding that it takes Congress to make a National Park, followed by the approval of the President.

CO-CHAIR FANSLER said a national monument has been clearly defined as something different from a National Park, and he suggested that "you're diluting what a national monument is through this resolution" by "making it follow the exact same path that a National Park would follow."

MR. BREESE responded that he does not believe that to be the case. He said, "What you're doing is you're extending the

public process and ... limiting the powers that the Presidents ... [have]." He said the Antiquities Act was an important Act to pass at the time, because many Native and tribal sites were being raided by people "looking to make a quick buck stealing some of the artifacts," for example. The Act gave the President the ability to act quickly to protect and preserve national monuments. He said that was 111 years ago, and there are improvements and protections in place that he indicated has resulted in less prevalence in the raiding of Native sites by "grave robbers." Although it still happens, he opined the need for such national declarations is not as it was before, and the process that can be followed through to Congress is "a better public process" involving more than just the President saying, "I think my backyard should be a national monument." He said that happened in Wyoming, when Franklin Roosevelt was offered land by John D. Rockefeller back in the 1940s; Congress denied making it part of the Grand Teton National Park, so President Roosevelt declared it a national monument. Following that, Congress passed a law requiring any further declarations of national monuments in Wyoming be approved by Congress.

MR. BREESE stated that in the Alaska National Interest Lands Conservation Act (ANILCA), Congress added the "no-more clause" for Alaska that required congressional approval for any further national monuments to be designated in the state. Supporting [U.S. Senate Bill 33] would extend that to the other states. He emphasized, "We're not speaking in favor or opposed to any specific monument or creating a monument, just ... [in favor of having] a fair public process and having the checks and balances that this country was founded on."

[8:55:29 AM](#)

CO-CHAIR FANSLER said [the theft of Native American artifacts] still occurs, and "this was a mechanism to prevent that." He asked if there is a better way to tailor "this" rather than having to work through Congress, a state, and the President. He said typically the U.S. does not have a unified President and Congress, which he indicated could result in "a great problem with grave robbery if we did need to move with speed."

MR. BREESE suggested that would be a question to take up with Congress. He said the bill sponsor is putting forth a joint resolution that would express the Alaska State Legislature's support of the provisions in U.S. Senate Bill 33.

CO-CHAIR FANSLER remarked that Congress does not listen to him.

8:56:53 AM

REPRESENTATIVE WESTLAKE asked Mr. Fogel if the concern was that the designation of lands as national monuments could result in the stifling of development.

8:57:40 AM

MR. FOGEL answered yes. He said ANILCA already set aside "a huge swath of Alaska for conservation" and "the deal was cut that that should be it." Currently a President can designate additional monuments in Alaska without the blessing of Congress, and that could prevent development on federal lands in Alaska someday.

8:58:28 AM

REPRESENTATIVE SADDLER, in response to the concerns expressed by Co-Chair Fansler, said a state legislature and chief executive can quickly pass legislation when there is a consensus and need for it. He said he thinks one of the differences between the time in which the Antiquities Act was passed and today is that there now exists the National Park Service and Alaska has resources such as a state archeologist and others that are dedicated to the task of "identifying, inventorying, and advocating for protection of antiquities"; therefore, the need for a President to take action has been obviated by the state's current ability "to identify these antiquities." He opined that it is clear that federal authorities are overreaching their ability, and having the consensus and review of states that would be affected by the designation of a national monument is entirely appropriate. He said the question of federal designation of land and assertion of protection is a much broader issue than the Antiquities Act. He said authorities can go through the formal process of creating national parks, forests, and protections, which as ANILCA. Further, he said there have been creations of "quasi-legitimate areas of ecological concern" and "marine areas of climate concern." He stated there can be assertions that an area needs to be considered for evaluation for wilderness, which can create decades of de facto wilderness management. He said he thinks HJR 10 and the U.S. Senate Bill 33, which it seeks to support, is "an appropriate and narrow limitation of ... a runaway power that's been, to my opinion, abused by the federal administration."

[9:00:46 AM](#)

REPRESENTATIVE RAUSCHER indicated he thinks it is important for Congress to see support from other states. He said obviously Alaska has seen already the need for legislation such as U.S. Senate Bill 33, because of "the no-more Act." He stated his belief that the intent of the U.S. Senators in introducing their bill is to help all the states be able to control what they would like to see happen.

[9:02:12 AM](#)

REPRESENTATIVE DRUMMOND asked to hear from state's historic preservation officer, Judy Bittner, regarding her history in the state and her perspective on the need of the proposed joint resolution and the action of the U.S. Senate.

[9:02:44 AM](#)

JUDY BITTNER, Chief/State Historical Preservation Officer, Office of History & Archaeology Alaska Historical Commission, Division of Parks and Outdoor Recreation, Department of Natural Resources (DNR), stated that within Alaska there are about 50 historic landmarks that have been designated under the Antiquities Act. She deferred to Mr. Fogel to answer any questions regarding HJR 10 and U.S. Senate Bill 33.

[9:03:58 AM](#)

MR. FOGELS reiterated that the current administration [of the State of Alaska] supports HJR 10. He said ANILCA has several "no-more" clauses, and he reemphasized that the designation by the President of more monuments is counter to that and "should ultimately be blessed by Congress with the state's input."

[9:05:14 AM](#)

CO-CHAIR PARISH, after ascertaining that there was no one else who wished to testify, closed public testimony on HJR 10.

CO-CHAIR PARISH announced that HJR 10 was held over.

[9:05:47 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:06 a.m.