

**SENATE BILL NO. 168**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR WARD

Introduced: 4/30/99

Referred: HESS, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to a tuition voucher system for education, and to a land  
2 endowment for public education."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 14 is amended by adding a new chapter to read:

5 **Chapter 31. Tuition Vouchers.**

6 **Sec. 14.31.010. Department to administer vouchers.** The department shall  
7 administer a tuition voucher system under the provisions of this chapter.

8 **Sec. 14.31.020. Tuition vouchers.** (a) The parent or guardian of a child  
9 receiving a comparable education as specified under AS 14.30.010(b)(1) may apply for  
10 a tuition voucher from the department.

11 (b) A tuition voucher may be redeemed through the department for the actual  
12 cost to the parent or guardian of the child's tuition for the school year or the per  
13 student amount represented by the child in that school district under AS 14.17,  
14 whichever is less. To redeem a tuition voucher, the parent shall establish to the

1 satisfaction of the department the actual cost of the child's tuition for the school year  
2 and that the child is receiving a comparable education under AS 14.30.010(b)(1).

3 (c) The department may adopt regulations to administer the tuition voucher  
4 system under this section.

5 **Sec. 14.31.030. Appropriations for tuition vouchers.** The legislature may  
6 make appropriations to the department for the tuition voucher system. If the  
7 appropriation for the tuition voucher system is insufficient in a given fiscal year, the  
8 department shall distribute the available funds on a pro rata basis.

9 \* **Sec. 2.** AS 37.14 is amended by adding new sections to read:

10 **Article 7. Education Fund.**

11 **Sec. 37.14.600. Education fund established.** (a) Under art. IX, sec. 18,  
12 Constitution of the State of Alaska, the education fund is established as a separate fund  
13 of the state.

14 (b) The principal of the fund consists of

15 (1) legislative appropriations to the fund; and

16 (2) gifts, bequests, and contributions of cash or other assets from a  
17 person.

18 (c) The net income of the fund shall be determined by the commissioner of  
19 revenue in accordance with investment accounting principles and in a manner that  
20 preserves the distinction between principal and income.

21 **Sec. 37.14.610. Powers and duties of the commissioner of revenue.** The  
22 commissioner of revenue is the treasurer of the fund and has the power and duty to

23 (1) act as official custodian of the cash and investments belonging to  
24 the fund by securing adequate and safe custodial facilities;

25 (2) receive all items of cash and investments belonging to the fund;

26 (3) collect the principal and income from investments owned or  
27 acquired by the fund and deposit the amounts in separate principal and income  
28 accounts for the fund;

29 (4) invest and reinvest the assets of the fund as provided in this section  
30 and as provided for the investment of funds under AS 37.14.170;

31 (5) exercise the powers of an owner with respect to the assets of the

1 fund;

2 (6) maintain accounting records of the fund in accordance with  
3 investment accounting principles and with distinction between the principal and income  
4 accounts of the fund;

5 (7) engage an independent firm of certified public accountants to  
6 annually audit the financial condition of the fund's investments and investment  
7 transactions;

8 (8) enter into and enforce contracts or agreements considered necessary  
9 for the investment purposes of the fund;

10 (9) report to the board the condition and investment performance of the  
11 fund;

12 (10) do all acts, whether or not expressly authorized, that the  
13 commissioner of revenue considers necessary or proper in administering the assets of  
14 the fund.

15 **Sec. 37.14.620. Administration of the fund; fund board established.** (a)  
16 The fund shall be administered by the Education Fund Board.

17 (b) The Education Fund Board is established in the Department of Education.  
18 The board is composed of

19 (1) the governor or a designee of the governor;  
20 (2) the commissioner of natural resources or the commissioner's  
21 designee;

22 (3) the commissioner of education or the commissioner's designee; and

23 (4) four public members appointed by the governor; in appointing the  
24 public members, the governor shall give a preference to persons who have experience  
25 and expertise in

26 (A) education; or

27 (B) private sector resource development.

28 **Sec. 37.14.630. Powers and duties of the board.** When acting as  
29 administrator of the fund, the board shall

30 (1) hold regular and special meetings it considers necessary; the board  
31 may hold meetings by teleconference;

1 (2) have the care, control, and management of land selected by and  
 2 conveyed to the fund by the commissioner of natural resources under AS 37.14.650;

3 (3) keep audio tape recordings of each meeting of the board to be made  
 4 available on request; and

5 (4) submit to the governor and make available to the legislature by  
 6 February 1 each year a report describing

7 (A) expenditures made during the preceding fiscal year from the  
 8 fund that are derived from sales, leases, exchanges, or transfers of the land of  
 9 the fund or of interests in land of the fund that were selected by and conveyed  
 10 to the fund under AS 37.14.650; and

11 (B) the annual level of contributions to, income of, and  
 12 expenses of the fund.

13 **Sec. 37.14.640. Uses of fund principal and net income.** (a) The principal  
 14 of the fund shall be retained perpetually in the fund for investment as specified in  
 15 AS 37.14.610.

16 (b) The net income of the fund may be annually appropriated by the legislature  
 17 for the support of public and private elementary and secondary education and for  
 18 support of the University of Alaska.

19 **Sec. 37.14.650. Fund land from Statehood Act land selection conveyances.**

20 (a) The board may select and is entitled to receive the conveyance of 5,000,000 acres  
 21 of land conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-  
 22 508, 72 Stat. 339). The board shall annually submit a list of selections to the  
 23 commissioner of natural resources. If there is disagreement between the board and the  
 24 commissioner of natural resources about the land selected, the disagreement must be  
 25 submitted to the governor, who shall make the final decision. The board and the  
 26 governor shall annually and jointly submit to the legislature, within 30 days of the  
 27 beginning of a regular legislative session, a list of the selections of land proposed to  
 28 be conveyed to the fund under this section. Each list must contain not more than 25  
 29 percent of the total acres of land to which the fund is entitled after subtracting previous  
 30 conveyances under this section, but not less than 25,000 acres or the remaining  
 31 entitlement under this section, whichever is less. The legislature may by law approve

1 or disapprove the list of selections submitted to it. A list of selections submitted shall  
 2 be considered approved for conveyance to the fund if the legislature does not  
 3 disapprove the list during the legislative session during which the list was submitted.  
 4 If the amount of land to be conveyed exceeds the balance due the fund under this  
 5 section, the fund shall set out the land to be conveyed in priority order. Land may not  
 6 be selected if, on the date of its selection by the board, it

7 (1) has been reserved by law from the public domain;

8 (2) is land

9 (A) included in a five-year proposed oil and gas leasing  
 10 program under AS 38.05.180(b); or

11 (B) leased under, or for which a lease application is pending  
 12 under, AS 38.05.180(d) or 38.05.150;

13 (3) is subject to

14 (A) an oil, gas, or coal lease, or coal prospecting permit;

15 (B) a mining claim, offshore prospecting permit, a prospecting  
 16 site, an upland mining lease, or a mining leasehold location;

17 (4) is necessary to carry out the purpose of an interagency land  
 18 management agreement; or

19 (5) is subject to conveyance under a land exchange or land settlement  
 20 agreement.

21 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and  
 22 management of land from the Department of Natural Resources to the fund under this  
 23 section includes the interest of the state in

24 (1) the coal, ores, minerals, fissionable materials, geothermal resources,  
 25 and fossils that may be in or on the land; and

26 (2) the oil and gas that may be in or on the land, but only as to land  
 27 that is selected by the board under this section on and after the date that is the fifth  
 28 anniversary of the effective date of this section.

29 (c) When the board selects the land to which it is entitled under this section,  
 30 selections must be made in parcels of 640 acres or larger unless the selection is an  
 31 isolated tract or the commissioner of natural resources finds it is in the best interest

1 of the state to convey less. When the fund becomes entitled to land under this section,  
 2 the commissioner of natural resources shall convey a document of interim conveyance  
 3 under (j) of this section or a patent to land.

4 (d) Notwithstanding any other provision of law, for land selected under (a) of  
 5 this section but not yet patented to the fund or for which a document of interim  
 6 conveyance has not been issued to the fund under this section,

7 (1) the commissioner of natural resources is authorized to enter into  
 8 contracts and grant leases, licenses, prospecting sites, claims, permits, rights-of-way,  
 9 or easements and any interim conveyance or patent shall be subject to the contract,  
 10 lease, license, prospecting site, claim, permit, right-of-way, or easement, except that  
 11 the authority granted the commissioner by this subsection

12 (A) is the authority that the commissioner otherwise would have  
 13 had under existing laws and regulations had the land not been selected by the  
 14 fund; and

15 (B) may be exercised only if the fund has concurred before the  
 16 action is taken by the commissioner;

17 (2) income from and management of the land is subject to  
 18 AS 37.14.680.

19 (e) Unless the governor provides otherwise under (a) of this section, the  
 20 governor may not include on a list of selections of land submitted to the legislature a  
 21 land selection made by the fund under this section if the commissioner of natural  
 22 resources determines that the proposed selection

23 (1) includes land for which, at the time of its selection under this  
 24 section,

25 (A) a municipality has made a selection under AS 29.65 unless  
 26 the land selection is, at a later date, rejected by the commissioner of natural  
 27 resources or relinquished by the municipality; or

28 (B) the commissioner reasonably believes the land may be  
 29 selected by a municipality under AS 29.65, but the commissioner may not  
 30 withhold under this subparagraph the conveyance of title to land selected by the  
 31 fund longer than three years after the date of the municipality's incorporation;

1 or

2 (2) includes land that, at the time of its selection under this section,

3 (A) is subject to an oil and gas exploration license; or

4 (B) the commissioner reasonably believes will be made part of  
5 an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the  
6 commissioner may not refuse to convey title to land to the fund under this  
7 subparagraph for more than three years after its first selection by the fund.

8 (f) When land is conveyed to the fund under this section, the fund takes the  
9 land subject to any possessory interest held by another person on the effective date of  
10 the conveyance.

11 (g) In conveying land to the fund under this section, the commissioner of  
12 natural resources shall give public notice that substantially complies with notice  
13 requirements under AS 38.05.945(b) and (c) and provide for access under  
14 AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not apply.

15 (h) Land transferred or conveyed to the fund under this section

16 (1) is subject to

17 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.  
18 339);

19 (B) art. IX of the state constitution;

20 (C) AS 19.10.010;

21 (D) the payment requirements to the Alaska permanent fund  
22 under AS 37.13.010(a) and (b); and

23 (E) the rights of the state under former 43 U.S.C. 932 (sec. 8,  
24 Act of July 26, 1866, 14 Stat. 253);

25 (2) excludes any interest transferred to the state by quitclaim deed dated  
26 June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat. 141;

27 (3) based on a land selection filed by the fund on or after the effective  
28 date of this section and until the day before the day that is the fifth anniversary of the  
29 effective date of this section, is subject to reservation by the Department of Natural  
30 Resources in perpetuity of all oil and gas that may be in or on the land, together with  
31 the right to explore the land for oil and gas and to remove from the land all oil and

1 gas located in and on it.

2 (i) The fund shall bear all costs of selection, platting, surveying, and, except  
3 as provided in (k) of this section, conveyance of the land that it selects under this  
4 section and, subject to appropriation, shall reimburse the Department of Natural  
5 Resources for the reasonable costs incurred by that department relating to that  
6 selection, platting, surveying, and conveyance. As to land due the fund under (c) of  
7 this section,

8 (1) if the land has been surveyed, the boundaries of the land conveyed  
9 must conform to the public land subdivisions established by the approved survey;

10 (2) if the land is unsurveyed, the commissioner shall survey the exterior  
11 boundaries of the land to be conveyed without interior subdivision and shall issue  
12 patent in terms of the exterior boundary survey within one year of the later of the  
13 effective date of the approval by the legislature of the list containing the land or the  
14 adjournment of the legislative session during which the list containing the land was not  
15 disapproved by the legislature.

16 (j) For land due the fund under (c) of this section that is unsurveyed, pending  
17 the survey of exterior boundaries and issuance of patent, the commissioner of natural  
18 resources shall, within one year of the later of the effective date of the approval by the  
19 legislature of the list containing the land or the adjournment of the legislative session  
20 during which the list containing the land was not disapproved by the legislature,  
21 prepare and provide to the fund a document of interim conveyance for the land to be  
22 conveyed.

23 (k) Except as provided in AS 37.14.680(2), management of land conveyed to  
24 the fund by patent or by a document of interim conveyance vests with the fund from  
25 the date of recording of the patent or document of interim conveyance. The  
26 Department of Natural Resources shall pay the cost of recording all patents and  
27 documents of interim conveyance.

28 (l) The board may not make a land selection under this section after  
29 December 31, 2010.

30 **Sec. 37.14.660. Management and disposition of land.** (a) The board shall,  
31 by policy, establish procedures for mineral entry or location and mineral leasing on

1 land selections made under AS 37.14.650 that are substantially similar to mineral  
2 entry, location, and leasing procedures for state land under AS 38.05.185 - 38.05.275.

3 (b) Notwithstanding other provisions of law, the board shall seek public  
4 comment on proposals for development, exchange, or sale of land selections made  
5 under AS 37.14.650. The board shall adopt policies that provide that the fund shall  
6 prepare an annual plan for management and disposition of fund land under this section  
7 and shall, not less than 60 days before scheduled approval by the board of the plan,

8 (1) make copies of the plan available at all legislative information  
9 offices and at other locations as the board may designate;

10 (2) publish a notice in newspapers of general circulation in the state  
11 that provides the public with information on the locations where the plan is available  
12 for public inspection;

13 (3) give notice to all legislators and to local governments with  
14 jurisdiction over the land affected by the proposal; and

15 (4) seek public comment on the annual plan before action by the board  
16 approving the plan.

17 **Sec. 37.14.670. Confidential records.** Notwithstanding AS 09.25.100 -  
18 09.25.220, on a determination that it is in the best interest of the fund or on the request  
19 of the person who has provided the information, the board may keep the following  
20 confidential:

21 (1) the name of a person applying for the sale, lease, or other disposal  
22 of land or an interest in land conveyed to the fund under AS 37.14.650;

23 (2) before the announced time of opening of an offer to purchase, lease,  
24 or obtain a disposal of land conveyed to the fund under AS 37.14.650, the names of  
25 the participants and the terms of their offers;

26 (3) all geological, geophysical, engineering, architectural, sales,  
27 appraisal, gross receipts, net receipts, or other financial information relating to land or  
28 an interest in land conveyed to the fund under AS 37.14.650 and considered for or  
29 offered for disposal or currently subject to a contract;

30 (4) cost data and financial information submitted by an applicant in  
31 support of applications for bonds, leases, or other information in offerings and ongoing

1 operations relating to management of land conveyed to the fund under AS 37.14.650;

2 (5) applications for rights-of-way or easements across land conveyed  
3 to the fund under AS 37.14.650; and

4 (6) requests for information about or applications by public agencies  
5 for land conveyed to the fund under AS 37.14.650 that is being considered for use for  
6 a public purpose.

7 **Sec. 37.14.680. Land subject to encumbrances and trespasses.** Except as  
8 provided in AS 37.14.650(b), for the land selected by the board under AS 37.14.650  
9 that is subject to a lease, license, contract, prospecting site, claim, sale, permit, right-  
10 of-way, or easement, or to trespass,

11 (1) if the lease, license, contract, prospecting site, claim, sale, permit,  
12 right-of-way, easement, or trespass

13 (A) existed before the selection of the land by the board, the  
14 general fund or permanent fund, as appropriate, the state is entitled to receive  
15 the income obtained from the lease, license, contract, prospecting site, claim,  
16 sale, permit, right-of-way, easement, or trespass for the duration of the term of  
17 the lease, license, contract, prospecting site, claim, sale, permit, right-of-way,  
18 or easement, or of the trespass, and during any renewal of it that is authorized  
19 by the lease, license, contract, prospecting site, claim, sale permit, right-of-way,  
20 or easement, or by law;

21 (B) did not exist before the selection of the land by the board,

22 (i) the general fund or permanent fund, as appropriate,  
23 is entitled to receive the income obtained from the lease, license,  
24 contract, prospecting site, claim, sale, permit, right-of-way, or easement,  
25 or from trespass before the recording of the conveyance to the fund by  
26 the issuance of a document of interim conveyance or a patent;

27 (ii) the fund is entitled to receive the income obtained  
28 from the lease, license, contract, prospecting site, claim, sale, permit,  
29 right-of-way, or easement, or from trespass on the date of and after the  
30 recording of the conveyance to the fund by the issuance of a document  
31 of interim conveyance or a patent;

1                   (2) the responsibility for the management of the land vests with the  
 2 fund only upon conclusion of the term of the lease, license, contract, prospecting site,  
 3 claim, sale, permit, right-of-way, or easement, and any renewal authorized by the lease,  
 4 license, contract, prospecting site, claim, sale, permit, right-of-way, or easement, or by  
 5 law, if the lease, license, contract, prospecting site, claim, sale, permit, right-of-way,  
 6 or easement existed before the land's being selected by the board; if the lease, license,  
 7 contract, prospecting site, claim, sale, permit, right-of-way, or easement was entered  
 8 into after selection, then the responsibility for management vests with the fund on the  
 9 date of recording of the conveyance of the land to the fund by a document of interim  
 10 conveyance or patent.

11                   **Sec. 37.14.690. Customary and traditional uses to be continued.** When land  
 12 selected by the fund under AS 37.14.650 has been conveyed to it, before conveying  
 13 or disposing of an interest in land to a third party, the fund shall manage the land in  
 14 a manner that permits customary and traditional uses of the resources of that land to  
 15 the maximum extent practicable.

16                   **Sec. 37.14.699. Definitions.** In AS 37.14.600 - 37.14.699,

17                   (1) "board" means the Education Fund Board;

18                   (2) "fund" means the education fund established in art. IX, sec. 18,  
 19 Constitution of the State of Alaska.

20 \* **Sec. 3.** AS 29.45.030(a) is amended to read:

21                   (a) The following property is exempt from general taxation:

22                   (1) municipal property, including property held by a public corporation  
 23 of a municipality, [OR] state property, **property of the education fund**, or land that  
 24 is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-  
 25 830, 70 Stat. 709, except that

26                   (A) a private leasehold, contract, or other interest in the  
 27 property is taxable to the extent of the interest;

28                   (B) notwithstanding any other provision of law, property  
 29 acquired by an agency, corporation, or other entity of the state through  
 30 foreclosure or deed in lieu of foreclosure and retained as an investment of a  
 31 state entity is taxable; this subparagraph does not apply to federal land granted

1 to the University of Alaska under AS 14.40.380 or 14.40.390, [OR] to other  
2 land granted to the university by the state to replace land that had been granted  
3 under AS 14.40.380 or 14.40.390, **or to land conveyed by the state to the**  
4 **education fund under AS 37.14.650;**

5 (C) an ownership interest of a municipality in real property  
6 located outside the municipality acquired after December 31, 1990, is taxable  
7 by another municipality; however, a borough may not tax an interest in real  
8 property located in the borough and owned by a city in that borough;

9 (2) household furniture and personal effects of members of a  
10 household;

11 (3) property used exclusively for nonprofit religious, charitable,  
12 cemetery, hospital, or educational purposes;

13 (4) property of a nonbusiness organization composed entirely of persons  
14 with 90 days or more of active service in the armed forces of the United States whose  
15 conditions of service and separation were other than dishonorable, or the property of  
16 an auxiliary of that organization;

17 (5) money on deposit;

18 (6) the real property of certain residents of the state to the extent and  
19 subject to the conditions provided in (e) of this section;

20 (7) real property or an interest in real property that is exempt from  
21 taxation under 43 U.S.C. 1620(d), as amended;

22 (8) property of a political subdivision, agency, corporation, or other  
23 entity of the United States to the extent required by federal law; except that a private  
24 leasehold, contract, or other interest in the property is taxable to the extent of that  
25 interest;

26 (9) natural resources in place including coal, ore bodies, mineral  
27 deposits, and other proven and unproven deposits of valuable materials laid down by  
28 natural processes, unharvested aquatic plants and animals, and timber.