

**SB**

**217**

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

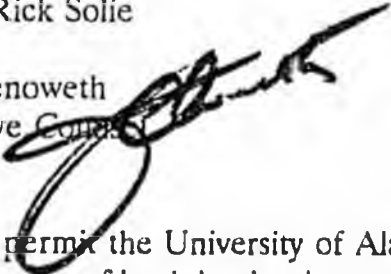
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

January 21, 1994

**SUBJECT:** Senate Bill 217 -- Sectional analysis (Work Order No. 8-LS0468\E)

**TO:** Senator Steve Frank  
ATTN: Rick Solie

**FROM:** Jack Chenoweth  
Legislative Counsel 

The measure proposes (1) to permit the University of Alaska to select and receive the conveyance of one million acres of land that has been selected by the state under the provisions of section 6(b) of the Alaska Statehood Act and (2) to hold the land selected in trust as part of the University endowment.

Specifically--

Bill section 4, proposing a new section, AS 14.40.365, would authorize selection of, and conveyance of, state land by the University: —

-- Subsection (a) sets the total amount of land the University may select and describes the kind of land that is available to the University to complete its selection, tying the description of the kind of land that may be selected to its status on the date the land is selected.

-- Subsection (b) sets aside the effect of AS 38.05.125(a) to allow the state to pass the mineral estate in the land selected to the University.

-- Subsection (c) mandates conveyance of University selections "unless the commissioner [of natural resources] determines under [subsection (d)] that the title should not be conveyed," but places all costs of survey of the land on the University.

-- Subsection (d) precludes the commissioner of natural resources from conveying land if the conveyance of the proposed selection is not in the state's best interests, and identifies six factors that the commissioner is to consider.

-- Subsection (e) authorizes appeals to the courts of a decision by the commissioner under (d) not to convey land.

-- Subsection (f) declares that the University takes land conveyed to it subject to any outstanding possessory interest--any outstanding interest in the party held or asserted by a third party--but gives to the University the right to any consideration otherwise due the state for that possessory interest from date of conveyance to termination of the possessory interest.

-- Subsection (g), applicable to the land conveyances, imposes on the commissioner of natural resources the duty to provide notice and allow access.

-- Subsection (n) subjects the land that is transferred or conveyed to the University to certain laws:

-- section 6(i) of the Statehood Act, reserving to the state--under subsection (b), presumably to the University the mineral estate;

-- article IX of the state constitution, addressing, generally, matters of finance and taxation;

-- AS 19.10.010, a provision relating to the reservation of state land for public highway purposes; and

-- the rights of the state under former 43 U.S.C. 932--more commonly known as RS 2477, rights-of-way over unreserved public land for public highway construction;

but it excludes from selection by and conveyance to the University certain lands obtained by the state under the Alaska Omnibus Act, P.L. 96-70. —

Bill section 2 amends AS 14.40.170(a) to add to the duties of the Board of Regents responsibility for the land selected and conveyed to the University under AS 14.40.365, and requires the Regents to include within their required annual report a discussion of the earnings of that land.

Bill section 3 adds "land selected by and conveyed to the University [of Alaska] under AS 14.40.365" as land that is not to be treated as part of the state public domain land.

Bill section 5: A key provision, this amendment of AS 14.40.400(a) amends the provision that directs the University to establish an endowment trust fund for land conveyed to it under the 1929 grant to the Territory of Alaska for the benefit of the University to require deposit into the trust the land selected by the University and conveyed by the state under AS 14.40.365. The land selections made under bill section 4 would be managed under applicable trust principles.

Senator Steve Frank  
January 21, 1994  
Page 3

Bill section 6: This amendment of AS 29.45.030(a) would extend to the land selected by the University and conveyed to it under AS 14.40.365 the exemption from municipal taxation that is provided to other land granted by the federal or state governments to the University for land grant purposes, by extending to this selected land the exception to an exemption of state land held for purposes of investment.

Bill section 1 incorporates into proposed findings and a statement of purpose a brief statement of the history of University land transactions and a justification for this measure.

JBC:mi  
94-009.mai

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FACSIMILE: (907) 586-2754

January 27, 1994

The Honorable Steve Reiger  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

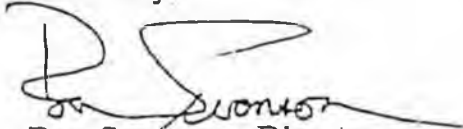
Dear Senator Reiger:

As you requested yesterday, attached is a copy of the testimony I gave on Senate Bill 217.

The amendments that were proposed would alliviate most but not all of our concerns that were expressed in my testimony.

Please feel free to contact me if you have any further questions.

Sincerely,



Ron Swanson, Director  
Division of Land

attachment

cc: Senator Frank w/attachment  
Brian Rodgers w/attachment  
Jerry Gallagher

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 400  
Juneau, Alaska 99801-2105

### MEMORANDUM

January 29, 1994

**SUBJECT:** Draft CSSB 217 ( ) (Work Order No. 8-LS0468)

**TO:** Senator Steve Frank  
ATTN: Rick Solie

**FROM:** Jack Chenoweth  
Legislative Counsel



The enclosed draft is based on the instructions you provided early Friday morning. Let me try to walk you through the bill pointing out how I have handled each item.

Item 1 -- Remove reference to "mineral estate" and substitute specific reference to the elements of the subsurface estate that are conveyed: At the end of proposed AS 14.40.365(b), I substitute the exact language--"fossils" included--of the reserved mineral estate from AS 38.05.125(a). (If you wanted to drive the point home, we could, additionally, amend AS 38.05.125(c) to insert a reference to "AS 14.40.365.")

Item 2 -- the University takes the land as a state agency: I think you are already covered by proposed AS 14.40.365(h)(1).

Item 3 -- oil and gas exploration license land: I address this in the revision of proposed AS 14.40.365(d)(2) contained in the bill's section 5 and, in bill section 13, give the provision a contingent effective date.

Item 4 -- disposition of income: Since the committee adopted Senator Sharp's motion to adopt Brian Rogers amendment, I started with that--you'll see it set out as bill section 6--but adapted the language, and also made an "Except as provided in . . ." insert to the second sentence of proposed AS 14.40.365(f).

Item 5 -- municipal land selection: This is addressed in proposed AS 14.40.365(d)(1)(A) and (B), in both section 4 and section 5. I did not prepare language setting a limitation in the number of years that a municipality was given to select under AS 29.65, nor did I set a limitation on the number of years that the University

Senator Steve Frank  
January 31, 1994  
Page 2

had to select. See if these provisions cover the problems of selections both by the current municipalities and by any newly-incorporated ones.

Item 6 -- the University to cover the costs, probably under reimbursable service agreements, of department handling of selections and conveyances: Is the language of proposed AS 14.40.365(i) sufficient?

I also had a note that reference to "conveyance" in the mental health trust land provision should be expanded to say "designation" and have made that addition in the bill's section 11(1).

You asked me if I couldn't redraft proposed AS 14.40.365(a)(1) to avoid the "is subject to only" language. I have expanded (a)(1) into (a)(1) - (3) and tried to restate the proposition in paragraph (a)(3).

The committee adopted amendments that I prepared at your request, identified as E.1 and E.2, also have been incorporated into the draft.

Is there anything omitted?

JBC:gc  
94-067.glc

Enclosure

STEVE FRANK

119 N. Cushman, Rm. 213  
Fairbanks, Alaska 99701  
(907) 452-3421


# Alaska State Legislature



White in Juneau  
P.O. Box V  
Juneau, Alaska 99801  
(907) 465-3709  
Capitol Rm. 417

## Senate

TO: Senator Mike Miller, Chairman  
Senate Resources Committee

FROM: Senator Steve Frank 

RE: Request for Hearing: CSSB 217(HESS) - Increase Land  
Grant to the University of Alaska

DATE: February 2, 1994

I am writing to request a hearing for SB 217 in the Resources Committee at your earliest convenience.

The legislation, would allow the University of Alaska to select up to one million acres of land from the State of Alaska, and the income produced from those lands would be available for university programs.

Under the Congressional Morrill Act of 1862, each state was entitled to receive a grant for public lands, the income from which would provide the financial base of operation for at least one college or university. The University of Alaska received about 112,000 acres of land, less than any other western public land state and less than the national average entitlement of over 300,000 acres with New Mexico and Oklahoma receiving about one million.

I believe that an additional grant of land would bring Alaska up to the level of other western states and follows through with the original purpose of land grant colleges.

Thank you for your consideration.

## The University of Alaska a "Land Grant" University

The University of Alaska calls itself a "Land Grant University" in the tradition of American land grant universities, providing teaching, research and public service to the people of Alaska. While the university has attempted to mold itself in the land grant tradition, one piece of that tradition is lacking — a sufficient land grant.

In 1915, Congress provided a land grant of approximately 250,000 acres — every section 33 in the Tanana Valley — to support the Territorial agricultural college and school of mines, together with a site for the institution itself. In 1929 Congress granted an additional 100,000 acres of public lands for the exclusive use and benefit of the Agricultural College and School of Mines.

In 1959, the Alaska Statehood Act extinguished the university's right to receive the unsurveyed sections 33 of the Tanana Valley. Congress so acted because its land grant to the state was by far the most generous of all state land grants. Supporters of the extinguishment said the state clearly was receiving enough land that it could provide necessary land to support the university. The State of Alaska has never kept this moral obligation to the University of Alaska.

Forty-nine of the states received land grants to support their universities. In all but one, the universities received more land than the University of Alaska, notwithstanding the fact that Alaska's state land grant is 16 times the size of the average state land grant. In eighteen of the lower 48 states, the entire federal land grants — 100% — went to support the universities. In Alaska, less than one percent — 0.11% — went to the university.

The State of Alaska did not manage what land the university received well. In 1978, following legislative appropriation of the university's most valuable acreage, the university sued, eventually winning a legislative settlement that reconstituted the university land trust. Later litigation brought replacement land for the legislatively-appropriated acreage. Still, nearly one-quarter of the university's original and replacement land grant — 50,000 acres of limited timber cutting rights in the Gulf Coast — remains tied up in litigation.

Alaskans look to the University of Alaska to provide for some of its financial needs by "managing the ranch" — earning income from the federal land grant, yet Alaskans do not realize the paucity of lands managed by the university.

If the University of Alaska received the average percentage of the total federal grant to the state — 42.01% of the State of Alaska grant — the university would be managing 43 million acres, and would probably need no further state support. If the University of Alaska received a proportional share of the total federal grant to universities — 5.09% of the State of Alaska grant — the university would be managing 5.3 million acres. Even bringing the University of Alaska's federal grant up to the average of the smaller states — 340,000 acres — would triple the size of the university's federal grant.

Under existing laws (the Act of 1929 and the Alaska National Interest Lands Conservation Act of 1978), the university has the right to select several thousand additional acres of federal land. Under the state's moral obligation, the university should have the right to select somewhere between several hundred thousand and several million acres of state land. It is time for the State of Alaska to help the University of Alaska to receive its land inheritance.

### State Land Grant Rankings

Ranked by the amount of federal land given to Higher Education	
1 New Mexico	1,346,548
2 Oklahoma	1,050,000
3 New York	880,000
4 Arizona	848,187
5 Pennsylvania	780,000
6 Ohio	688,120
7 Utah	558,141
8 Illinois	528,080
9 Indiana	436,080
10 Montana	388,721
11 Idaho	388,888
12 Alabama	383,785
13 Missouri	378,080
14 South Dakota	388,080
15 Massachusetts	380,000
16 Mississippi	348,240
17 Washington	338,080
18 North Dakota	338,080
19 Wisconsin	332,180
20 Kentucky	330,000
21 Tennessee	300,000
22 Virginia	300,000
23 Iowa	288,080
24 Michigan	288,080
25 Georgia	270,000
26 North Carolina	270,000
27 Louisiana	258,292
28 Minnesota	212,180
29 Maine	210,000
30 Maryland	210,000
31 New Jersey	210,000
32 California	198,080
33 Arkansas	188,080
34 Florida	182,180
35 Connecticut	180,000
36 South Carolina	180,000
37 Texas	180,000
38 Kansas	161,270
39 New Hampshire	150,000
40 Vermont	150,000
41 West Virginia	150,000
42 Colorado	138,040
43 Oregon	138,185
44 Nevada	138,080
45 Nebraska	138,080
46 Wyoming	138,080
47 Rhode Island	120,000
48 Alaska	112,064
49 Delaware	80,000
50 Hawaii	0
<b>TOTAL</b>	<b>16,707,787</b>

Average 334,158

Ranked by the percentage of the state grant given to Higher Education	
1 New York	100.00%
2 Pennsylvania	100.00%
3 Massachusetts	100.00%
4 Tennessee	100.00%
5 Virginia	100.00%
6 Georgia	100.00%
7 North Carolina	100.00%
8 Maine	100.00%
9 Maryland	100.00%
10 New Jersey	100.00%
11 Connecticut	100.00%
12 South Carolina	100.00%
13 Texas	100.00%
14 New Hampshire	100.00%
15 Vermont	100.00%
16 West Virginia	100.00%
17 Rhode Island	100.00%
18 Delaware	100.00%
19 Kentucky	93.08%
20 Oklahoma	33.92%
21 Ohio	25.34%
22 Washington	11.04%
23 Indiana	10.78%
24 South Dakota	10.68%
25 North Dakota	10.62%
26 New Mexico	10.52%
27 Idaho	9.08%
28 Illinois	8.44%
29 Arizona	8.05%
30 Alabama	7.67%
31 Utah	7.41%
32 Montana	6.52%
33 Mississippi	5.71%
34 Missouri	5.07%
35 Nevada	4.98%
36 Nebraska	3.83%
37 Iowa	3.55%
38 Wisconsin	3.28%
39 Wyoming	3.13%
40 Colorado	3.09%
41 Michigan	2.38%
42 Louisiana	2.24%
43 California	2.22%
44 Kansas	1.94%
45 Oregon	1.94%
46 Arkansas	1.84%
47 Minnesota	1.28%
48 Florida	0.78%
49 Alaska	0.11%
50 Hawaii	0.00%
<b>TOTAL</b>	<b>5.08%</b>

Average 42.01%

Ranked by the amount of federal land given to the States	
1 Alaska	104,568,251
2 Florida	24,214,368
3 Minnesota	18,422,051
4 New Mexico	12,784,718
5 Michigan	12,142,848
6 Arkansas	11,838,834
7 Louisiana	11,441,343
8 Arizona	10,543,753
9 Wisconsin	10,178,804
10 California	8,825,508
11 Iowa	8,081,282
12 Kansas	7,784,869
13 Utah	7,501,737
14 Missouri	7,417,022
15 Oregon	7,032,847
16 Illinois	6,234,855
17 Mississippi	6,087,997
18 Montana	5,889,338
19 Alabama	5,008,883
20 Colorado	4,471,804
21 Wyoming	4,342,520
22 Idaho	4,254,448
23 Indiana	4,040,518
24 Nebraska	3,458,711
25 South Dakota	3,435,373
26 North Dakota	3,183,552
27 Oklahoma	3,085,780
28 Washington	3,044,471
29 Ohio	2,758,882
30 Nevada	2,725,228
31 New York	880,000
32 Pennsylvania	780,000
33 Massachusetts	380,000
34 Kentucky	354,807
35 Tennessee	300,000
36 Virginia	300,000
37 Georgia	270,000
38 North Carolina	270,000
39 Maine	210,000
40 Maryland	210,000
41 New Jersey	210,000
42 Connecticut	180,000
43 South Carolina	180,000
44 Texas	180,000
45 New Hampshire	150,000
46 Vermont	150,000
47 West Virginia	130,000
48 Rhode Island	120,000
49 Delaware	90,000
50 Hawaii	0
<b>TOTAL</b>	<b>328,428,538</b>

Average 6,568,531

# FISCAL NOTE

STATE OF ALASKA

BILL NO. SB217

1994 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources  
 Title: "An Act relating to land of the University of Alaska and authorizing the University of Alaska to select additional..." BRU: Resource Development  
 Component: Land Development  
 Sponsor: Senator Frank  
 Requestor: Senator Frank Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	873.6	773.6	754.6	647.4	647.4	647.4
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	92.5	192.5	192.5	192.5	192.5	92.5
SUPPLIES	15.0	15.0	15.0	13.0	13.0	13.0
EQUIPMENT	64.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>1,051.1</b>	<b>987.1</b>	<b>968.1</b>	<b>858.9</b>	<b>858.9</b>	<b>758.9</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ( )	** SEE NOTE IN ANALYSIS BELOW.			
------------------------	--------------------------------	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,051.1	987.1	968.1	858.9	858.9	758.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>1,051.1</b>	<b>987.1</b>	<b>968.1</b>	<b>858.9</b>	<b>858.9</b>	<b>758.9</b>

Estimate of any current year (FY94) cost: \$ None (assume effective date 7/1/94 or later)

POSITIONS

FULL-TIME	16	14	14	12	12	12
PART-TIME	3	4	4	3	3	3
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

\*\* Note: Transferring one million acres of the best revenue-producing land to the University would decrease the general fund by the same amount it increases revenue to the University. It is impossible to project the exact amount without knowing what lands are transferred to the University.

Prepared by: Ron Swanson, Director Phone: 762-2692  
 Division: Land Date: 25-Jan-94  
 Approved by Commissioner: Harry A. Noah Date: 25-Jan-94  
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

## BACKGROUND FOR SB217 FISCAL NOTE

### Assumptions and background

- 6-year project to adjudicate the selections (takes process to the grant of management authority; need for survey and conveyance work will continue for many years)
- Staff consolidated in Anchorage for efficiency
- 640 acres average parcel size for adjudication (1,000,000 acres=166,167 acres/year=260 parcels/year=640 acres/day each year)
- No planning or selection work needed. University selections come from existing state-selected or state-owned land, and are exempt from AS 38.04.
- AS 14.40.365(c) says, "The university shall bear all costs of survey of the land." We assume this means they pay the surveyor's costs, but have included one half-time CSAII for survey instructions and plat review.
- Realty Services will prepare cost projections for title and conveyance work; LRIS will prepare cost projections for LAS, GIS, and other information services.
- Cost projections are level - no inflation is assumed
- State pays for phase 1 environmental audit.

Item	Code	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Project management and adjudication (NRMI, 1 NROI, NRTI/II)	100	263.5	263.5	263.5	263.5	263.5	263.5
Survey support (½CSAII)	100	28.0	28.0	28.0	28.0	28.0	28.0
Realty services (NROII, 3 NROI, 2 NRTI/II, CTIII, DPC) <sup>1</sup>	100	350.1	350.1	350.1	261.9	261.9	261.9
Business Programming (A/PIV) <sup>2</sup>	100	75.0	38.0	19.0	0	0	0
GIS support (A/PIII) <sup>3</sup>	100	65.0	33.0	33.0	33.0	33.0	33.0
Status graphics support (NRMI-1 mo/yr, NROII for year 1 only, NROI)	100	77.0	61.0	61.0	61.0	61.0	61.0
SUBTOTAL	100	858.60	773.6 0	754.60	647.40	647.40	647.40
Travel (Proj. mgr., adjudication, realty)	200	6.0	6.0	6.0	6.0	6.0	6.0
Public notices under AS 38.05.945	300	7.5	7.5	7.5	7.5	7.5	7.5
Realty services - BLM computer runs, etc.	300	10.0	10.0	10.0	10.0	10.0	10.0
Office space - Realty Services	300	75.0	75.0	75.0	75.0	75.0	75.0

<sup>1</sup>Years 1-3 include all listed staff; years 4-6 assume slowdown while surveys are completed, and assume staff = NROII, 2NROI, NRTI/II, CTIII, and DPC only.

<sup>2</sup>Full-time in year 1, half-time in year 2, one-quarter time in year 3

<sup>3</sup>Full-time in year 1, half-time in years 2-6

01/25/94 17:00 59077822529 ANCH DLRH 444 JUNEAU FIA 2501 4/20/004

Phase 1 environmental audit/hazardous materials survey <sup>4</sup>	300	0	100.0	100.0	100.0	100.0	0
<b>SUBTOTAL</b>		<b>92.50</b>	<b>192.50</b>	<b>192.50</b>	<b>192.50</b>	<b>192.50</b>	<b>92.50</b>
Supplies - Adjudication and project management	400	4.0	4.0	4.0	4.0	4.0	4.0
Supplies - Realty Services	400	8.0	8.0	8.0	6.0	6.0	6.0
Supplies - LRIS	400	3.0	3.0	3.0	3.0	3.0	3.0
<b>SUBTOTAL</b>		<b>15.00</b>	<b>15.00</b>	<b>15.00</b>	<b>13.00</b>	<b>13.00</b>	<b>13.00</b>
Computers for adjudicators and tech	500	16.0	0	0	0	0	0
Computers for realty services	500	48.0	0	0	0	0	0
<b>SUBTOTAL</b>		<b>64.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>TOTAL</b>		<b>1,036.10</b>	<b>987.10</b>	<b>968.10</b>	<b>858.90</b>	<b>858.90</b>	<b>758.90</b>

<sup>4</sup>Assumes university selections would be identified in years 1-4 and surveyed for environmental hazards in years 2-5. Based on costs of environmental audit for mental health lands. Process would use primarily air photos and existing data to screen sites, with site-specific follow-up only as needed.

## SENATE BILL 217

An Act relating to the University of Alaska and authorizing them to select additional state public domain land.

We support in principal the University having more land to support its various educational programs. We are concerned about short term availability of suitable land. We also have some concerns serious concerns on timing.

Presently we are under a court order to reconstitute the Mental Health Trust Lands. Guidance on how do that is contained in Chapter 66, SLA 1991. This statute requires us to complete that task by December 1994. Presently we are evaluating the 500,000 - 600,000 acres of land that the Mental Health plaintiffs believe is suitable replacement land.

Also during the next year we have an obligation to certify entitlements for 4 municipalities and begin the process to convey at least 580,000 acres of land to 19 communities throughout the state.

Creating another obligation and more conflicts on top of these obligations that we already have will have a major impact on the departments already serious backlog. There is also the possibility of more extended litigation like we are already experiencing with Mental Health land.

We are finding from our work on re-constituting the Mental Health Trust and fulfilling municipal entitlements that the state has minimal suitable land available that can generate short term revenues. For example, we have only been able to identify 142,895 acres of surface values (residential, commercial, industrial) and 20,636 acres of forestry values for a combined worth of \$220.2 million. Identifying land for possible long term (50 - 100 years) potential is easier but no guaranteed.

Another concern is by splitting up what is available we are adding to overhead management costs and creating further conflicts between land owners. An example of this is Yakataga where the potential for four land owners exists (Mental Health, University, Municipal and State). The result is that the formula for figuring sustained yield for timber sales is lowered to a point so that no one can harvest timber in an economical manner. If there was only one land owner, however, timber could be cut, the money put in the general fund, and allocated by the legislature to appropriate programs including university and mental health.

In the same light, general fund revenues will decrease by the same amount university revenues would increase if a million acres of high-value land are conveyed to the university. For example, I would expect the University to select all the land where we have existing leases and contracts. These contracts have a net worth to the state of between \$25 to \$30 million depending on pay off dates. No accurate cost projection can be made, however, for additional land they may select without knowing the

location of the land to be conveyed.

Lastly, the bill exempts the conveyance process from utilizing AS 38.04 and 38.05 process although it does require the department to make a "best interest finding." As we are experiencing with Mental Health, every action we take proves to be very controversial which leads to numerous administrative and judicial appeals.

#### AMENDMENTS PROPOSED

Establish a selection deadline thus eliminating an open ended situation for land use planning and conflicts with other disposal programs. Specify at what point management changes, allowing DNR to issue quit-claim deeds, or interim conveyances prior to land surveys being completed but allowing adequate public protection so title conflicts, wild deeds and third-party conflicts do not result.

It would be beneficial for the legislature to define what types of land they want us to convey by classification type. For example, is the intent to include oil and gas and coal in the definition of mineral. The University has always sought the conveyance of land valuable for oil and gas - a position we have always refuted. If the legislature wants us to include more than minerals it should change the wording in Section 4 to state "including mineral, oil, gas and coal."

It should also be noted that the bill conveys "mineral estates", which could cause legal problems under Section 6(i) of the Statehood Act. The University often states that is a public agency, not private. On the other hand they have also argued with DNR that under the Forest Practices Act they should be considered a private land owner and not a state owner. This problem could be easily fixed by stating that any land obtained by the University under this Act shall be considered as state land and that Section 6 (i) applies.

8-LS0468R  
Chenoweth  
2/15/94

CS FOR SENATE BILL NO. 217( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS FRANK, Kerttula, Miller, Rieger, Taylor, Sharp

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the University of Alaska and university land, authorizing the  
2 University of Alaska to select additional state public domain land, and defining  
3 net income from the University of Alaska's endowment trust fund as 'university  
4 receipts' subject to prior legislative appropriation; and providing for an effective  
5 date."

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 \* Section 1. FINDINGS AND PURPOSE. The legislature finds that

8 (1) as the beneficiary under the provisions of the Acts of August 30, 1890, and  
9 March 4, 1907, designating the Alaska Agricultural College and School of Mines as  
10 beneficiary, and of March 4, 1915, 38 Stat. 1214, transferring certain land for its location and  
11 support, the University of Alaska is a land grant university;

12 (2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45  
13 Stat. 1091, the Congress of the United States granted to the Territory of Alaska certain federal

1 land to be held in trust for the benefit of the predecessor of the University of Alaska;

2 (3) the Territory was unable to receive most of the land conveyed by the Act  
3 of March 4, 1915, before repeal of that Act by sec. 6(k) of the Alaska Statehood Act (P.L. 85-  
4 508, 72 Stat. 339);

5 (4) the Congress of the United States granted the State of Alaska the right to  
6 select 102,500,000 acres of federal land under sec. 6(b) of the Alaska Statehood Act;

7 (5) the land selection rights embodied in the Alaska Statehood Act reflect in  
8 part congressional recognition that the state would need the land to support its government and  
9 programs, and the Congress assumed that the State of Alaska would in turn devote some of  
10 the land or the income from it for the use and benefit of the University of Alaska;

11 (6) most land grant colleges in the western United States have obtained a larger  
12 land grant from the federal government than the University of Alaska has received;

13 (7) an academically strong and financially secure state university system is a  
14 cornerstone to the long-term development of a stable population and to a healthy, diverse  
15 economy in the state; and

16 (8) it is in the best interests of the state and the University of Alaska that the  
17 university take ownership of a significant and substantial portfolio of income producing land  
18 in order to provide income for the support of public higher education in the state.

19 \* Sec. 2. AS 14.40.170(a) is amended to read:

20 (a) The Board of Regents shall

21 (1) appoint the president of the university by a majority vote of the  
22 whole board, and the president may attend meetings of the board;

23 (2) fix the compensation of the president of the university, all heads of  
24 departments, professors, teachers, instructors, and other officers;

25 (3) confer such appropriate degrees as it may determine and prescribe;

26 (4) have the care, control, and management of

27 (A) all the real and personal property of the university; and

28 (B) land

29 (i) conveyed to the Board of Regents by the  
30 commissioner of natural resources in the settlement of the claim of the  
31 University of Alaska to land granted to the state in accordance with the

1 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance  
2 with the Act of January 21, 1929 (45 Stat. 1091), as amended; and

3 (ii) selected by the university and conveyed to it by  
4 the commissioner of natural resources under AS 14.40.365;

5 (5) keep a correct and easily understood record of the minutes of every  
6 meeting and all acts done by it in pursuance of its duties;

7 (6) under procedures to be established by the commissioner of  
8 administration, and in accordance with existing procedures for other state agencies,  
9 have the care, control, and management of all money of the university and keep a  
10 complete record of all money received and disbursed;

11 (7) adopt reasonable rules for the prudent trust management and the  
12 long-term financial benefit to the university of the land of the university;

13 (8) provide public notice of sales, leases, exchanges, and transfers of  
14 the land of the university or of interests in land of the university;

15 (9) report each year within the first 10 days of the convening of a  
16 regular session of the legislature on the expenditures made during the preceding fiscal  
17 year from the funds of the University of Alaska that are derived from sales, leases,  
18 exchanges, or transfers of the land of the university or of interests in land of the  
19 university

20 (A) that were conveyed to the University of Alaska in  
21 settlement of the claim of the University of Alaska to land granted to the state  
22 in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended, and  
23 in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended;  
24 and

25 (B) that were selected by and conveyed to the university  
26 under AS 14.40.365.

27 \* Sec. 3. AS 14.40.291 is amended to read:

28 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA NOT PUBLIC  
29 DOMAIN LAND. Notwithstanding any other provision of law, university-grant land,  
30 state replacement land that becomes university-grant land on conveyance to the  
31 university, land selected by and conveyed to the university under AS 14.40.365, and

1 any other land owned by the University of Alaska is not and may not be treated as  
2 state public domain land. Title to or interest in [TO] land described in this section  
3 may not be acquired by adverse possession, prescription, or in any other manner except  
4 by conveyance from the university. The land is subject to condemnation for public  
5 purpose in accordance with law.

6 \* Sec. 4. AS 14.40 is amended by adding a new section to read:

7 Sec. 14.40.365. UNIVERSITY LAND FROM STATEHOOD ACT LAND  
8 SELECTION CONVEYANCES. (a) The University of Alaska may select and is  
9 entitled to receive the conveyance of 1,000,000 acres of land conveyed to the state  
10 under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) that, on the  
11 date of its selection by the university,

12 (1) has not been conveyed by the state;

13 (2) has not been reserved by law from the public domain;

14 (3) is not land

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

17 (B) leased under, or for which a lease application is pending  
18 under, AS 38.05.180(d);

19 (4) is not subject to a possessory interest or encumbrance other than

20 (A) a lease that is not an oil or gas lease;

21 (B) a timber contract;

22 (C) a mining claim;

23 (D) a sale of materials under AS 38.05.110 - 38.05.120;

24 (E) a land use permit or right-of-way issued by the Department  
25 of Natural Resources under AS 38.05;

26 (5) is not necessary to carry out the purpose of an interagency land  
27 management agreement; or

28 (6) is not subject to conveyance under a land exchange or land  
29 settlement agreement.

30 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and  
31 management of land from the Department of Natural Resources to the Board of

1 Regents of the University of Alaska under this section includes the interest of the state  
2 in the oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and  
3 fossils which may be in or on the land.

4 (c) When the University of Alaska selects the land to which it is entitled under  
5 this section, unless the commissioner of natural resources determines under (d) of this  
6 section that title to the land should not be conveyed, the commissioner of natural  
7 resources shall convey title to the land selected.

8 (d) The commissioner of natural resources may not convey title to any land  
9 selection made by the university under this section if the commissioner determines that  
10 the proposed selection

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

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

16 (B) the commissioner reasonably believes may be selected by  
17 a municipality under AS 29.65.030, but the commissioner may not withhold  
18 under this subparagraph the conveyance of title to land selected by the  
19 university for more than three years after the date of the municipality's  
20 incorporation;

21 (2) is not in the best interests of the state; in making a determination  
22 under this paragraph as to whether a selection by the university is in the best interests  
23 of the state, the commissioner shall consider

24 (A) the interest of the general public in retention of the land in  
25 state ownership;

26 (B) ensuring an appropriate diversity in the character of land  
27 owned by the state and by the university;

28 (C) the public benefits achieved by conveyance of the land to  
29 the university;

30 (D) the probable potential for the development of the land and  
31 its resources and the probable income to the university from the conveyance of

1 the land;

2 (E) benefits to the university from the conveyance of the land  
3 to it; and

4 (F) the efficiency of the management of the land resulting from  
5 the conveyance of the land.

6 (e) The Board of Regents may appeal to the superior court a decision of the  
7 commissioner of natural resources not to convey to the university land selected by it  
8 under this section.

9 (f) When land is conveyed to the university under this section, the university  
10 takes the land subject to any possessory interest held by another person on the  
11 effective date of the conveyance. Except as provided in AS 14.40.368, the university  
12 is entitled to receive the consideration due under that interest for the duration of the  
13 interest.

14 (g) In conveying land to the university under this section, the commissioner  
15 of natural resources shall give public notice under AS 38.05.945(b) and (c) and provide  
16 for access under AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not  
17 apply.

18 (h) Land transferred or conveyed to the university under this section

19 (1) is subject to

20 (A) section 6(i) of the Alaska Statehood Act (P.L. 85-508, 72  
21 Stat. 339);

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

23 (C) AS 19.10.010; and

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

26 (2) excludes any interest transferred to the state by quit claim deed  
27 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.  
28 141.

29 (i) The university shall bear all costs of selection and conveyance of the land  
30 that it selects under this section and, subject to appropriation, shall reimburse the  
31 Department of Natural Resources for the reasonable costs of expenses incurred by that

1 department relating to that selection and conveyance. If land selected by the university  
2 is unsurveyed at the time of conveyance, the commissioner shall survey, or may  
3 approve the university's survey of, the exterior boundaries of an approved selection  
4 without interior subdivision, and shall issue patent in terms of the exterior boundary  
5 survey. If land selected by the university has been surveyed at the time of  
6 conveyance, the boundaries must conform to the public land subdivisions established  
7 by the approved survey.

8 \* Sec. 5. AS 14.40.365(d) is repealed and reenacted to read:

9 (d) The commissioner of natural resources may not convey title to any land  
10 selection made by the university under this section if the commissioner determines that  
11 the proposed selection

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

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

17 (B) the commissioner reasonably believes the land may be  
18 selected by a municipality under AS 29.65.030, but the commissioner may not  
19 withhold under this subparagraph the conveyance of title to land selected by the  
20 university longer than three years after the date of the municipality's  
21 incorporation;

22 (2) includes land that, at the time of its selection under this section, is  
23 subject to an oil and gas exploration license, or that the commissioner reasonably  
24 believes will be made part of, an oil and gas exploration license issued under  
25 AS 38.05.131 - 38.05.134;

26 (3) is not in the best interests of the state; in making a determination  
27 under this paragraph as to whether a selection by the university is in the best interests  
28 of the state, the commissioner shall consider

29 (A) the interest of the general public in retention of the land in  
30 state ownership;

31 (B) ensuring an appropriate diversity in the character of land

1 owned by the state and by the university;

2 (C) the public benefits achieved by conveyance of the land to  
3 the university;

4 (D) the probable potential for the development of the land and  
5 its resources and the probable income to the university from the conveyance of  
6 the land;

7 (E) benefits to the university from the conveyance of the land  
8 to it; and

9 (F) the efficiency of the management of the land resulting from  
10 the conveyance of the land.

11 \* Sec. 6. AS 14.40 is amended by adding a new section to read:

12 Sec. 14.40.368. DISPOSITION OF INCOME FROM EXISTING  
13 ENCUMBRANCES. The state is entitled to receive the income from land selected by  
14 and conveyed to the University of Alaska under AS 14.40.365 that is subject to a  
15 lease, contract, claim, sale, permit, or right-of-way identified in AS 14.40.365(a)(4) for  
16 the duration of the term of the lease, contract, claim, sale, permit, or right-of-way, and  
17 during any renewal of it that is authorized by the lease, contract, claim, sale, permit,  
18 or right-of-way, or by law. The equitable title to and responsibility for the  
19 management of the land selected vests with the University of Alaska only upon  
20 conclusion of the term of the lease, contract, claim, sale, permit, or right-of-way, and  
21 any renewal authorized by law.

22 \* Sec. 7. AS 14.40.400(a) is amended to read:

23 (a) The Department of Revenue shall establish a separate endowment trust  
24 fund in which all net income derived from the sale or lease of the land granted under  
25 the Act of Congress approved January 21, 1929, and the land selected by and  
26 conveyed to the university under AS 14.40.365, and in which all monetary gifts,  
27 bequests, or endowments made to the University of Alaska for the purpose of the fund,  
28 shall be held in trust.

29 \* Sec. 8. AS 14.40.400(e) is amended to read:

30 (e) Subject to legislative appropriation, the [THE] Department of  
31 Administration shall disburse the net income from the trust fund upon vouchers

1 approved by the president and treasurer of the University of Alaska specifying the  
2 purpose for which the money is to be used and showing it is to be used in conformity  
3 with this section.

4 \* Sec. 9. AS 14.40.491 is amended to read:

5 Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In AS 14.40.120

6 - 14.40.491, "university receipts" includes

- 7 (1) student fees, including tuition;
- 8 (2) receipts from university auxiliary services;
- 9 (3) recovery of indirect costs of university activities;
- 10 (4) the net income of the trust fund established in AS 14.40.400 and  
11 receipts from sales and rentals of university property;
- 12 (5) federal receipts;
- 13 (6) gifts, grants, and contracts; and
- 14 (7) receipts from sales, rentals, and the provision of services of  
15 educational activities.

16 \* Sec. 10. AS 29.45.030(a) is amended to read:

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

18 (1) municipal property, including property held by a public corporation  
19 of a municipality, or state property, except that

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

22 (B) notwithstanding any other provision of law, property  
23 acquired by an agency, corporation, or other entity of the state through  
24 foreclosure or deed in lieu of foreclosure and retained as an investment of a  
25 state entity is taxable; this subparagraph does not apply to federal land granted  
26 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land  
27 granted to the university by the state to replace land that had been granted  
28 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the  
29 university under AS 14.40.365;

30 (C) an ownership interest of a municipality in real property  
31 located outside the municipality acquired after December 31, 1990, is taxable

1 by another municipality; however, a borough may not tax an interest in real  
2 property located in the borough and owned by a city in that borough;

3 (2) household furniture and personal effects of members of a  
4 household;

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

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

11 (5) money on deposit;

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

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

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

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

23 \* Sec. 11. APPLICABILITY OF UNIVERSITY SELECTION RIGHTS UNDER  
24 AS 14.40.365 TO LAND. In addition to the land that, under AS 14.40.365(d), the  
25 commissioner of natural resources may not convey to the University of Alaska, the  
26 commissioner of natural resources may not convey land that, at the time of its selection by  
27 the university,

28 (1) is subject to designation for conveyance or conveyance to the Alaska  
29 Mental Health Trust Authority under sec. 54, ch. 66, SLA 1991;

30 (2) is land that the commissioner of natural resources reasonably believes  
31 should be designated for conveyance or conveyed to the Alaska Mental Health Trust Authority

1 under sec. 55, ch. 66, SLA 1991, as compensation to that trust for original mental health trust  
2 land not available for return to the corpus of the trust; or

3 (3) is land described in sec. 56, ch. 66, SLA 1991, as listed in "Lands  
4 Hypothecated to the Mental Health Trust, May 1991" located in the office of the director of  
5 the division of lands, Department of Natural Resources, in Anchorage, Alaska, that has been  
6 hypothecated to secure reconstitution of the mental health trust; however, as the reconstitution  
7 of the mental health trust is accomplished and the hypothecated land is released on a pro rata  
8 basis, the University of Alaska may select the land and the commissioner may convey it.

9 \* Sec. 12. LEGISLATIVE INTENT. It is the intent of the legislature that, if sec. 11 of  
10 this Act has not taken effect on or before the effective date of secs. 1 - 4 and 6 - 10 of this  
11 Act, the commissioner of natural resources reject, as inconsistent with the best interests of the  
12 state, selections of land by the University of Alaska under AS 14.40.365, added by sec. 4 of  
13 this Act, of land described in sec. 11 of this Act.

14 \* Sec. 13. Section 5 of this Act takes effect on the effective date of a version of House Bill  
15 199 or Senate Bill 150 of the Eighteenth Alaska State Legislature authorizing oil and gas  
16 exploration licensing on state land that is passed by the Eighteenth Alaska State Legislature.

17 \* Sec. 14. Section 11 of this Act takes effect on the effective date of ch. 66, SLA 1991.