

SB

16

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 4, 1995

FURTHER REFERRALS:

Date of Committee Action: 5/8/95

The FINANCE Committee considered:

CSSB 16(FIN) am

CS FOR SENATE BILL NO. 16(FIN) am

INCREASE LAND GRANT TO UNIV. OF ALASKA

"An Act relating to the University of Alaska and university land, authorizing the University of Alaska to select additional state public domain land, and defining net income from the University of Alaska's endowment trust fund as 'university receipts' subject to prior legislative appropriation."

recommends it be replaced with the following committee substitute

HCS CSSB 16 (FIN)

the same title
 a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) ⁽¹⁾ STATEWIDE BUDGET OF

fiscal note(s) ⁽¹⁾ Fish Game 3/27/95

DNR 3/27/95 (1) STATEWIDE Bud. of

zero fiscal note(s) zero fiscal note(s) ⁽¹⁾ REVENUE 3/27/95

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|------------|----|-----|----|----|
| <i>Richard Foster</i> | FOSTER | | | X | |
| <i>Mark Hanley</i> | Hanley | | | X | |
| <i>Mike Mullen</i> | Mullen | X | | | |
| <i>Paul Parnell</i> | Parnell | | | X | |
| <i>Mike Kohring</i> | Kohring | | | X | |
| <i>Bar Grossardt</i> | Grossardt | | X | | |
| <i>Mike Navarre</i> | Navarre | | X | | |
| <i>Tom Brown</i> | BROWN | | X | | |
| <i>Pat Kelly</i> | Kelly | ✓ | | | |
| <i>Tom Therriault</i> | Therriault | X | | | |

CO-CHAIR'S SIGNATURE

Mark Hanley
Hanley

Richard Foster
Foster

No. 7
 Bill Version: CSSB 116 (Final)
 (S) Publish Date: 3-27-95

FISCAL NOT

BILL NO. CSSB16(CRA)

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: 3-Mar-95 Dept Affected: Natural Resources
 Title: An Act relating to the University of Alaska and BRU: Resource Development
University land, authorizing the University of Alaska to select... Component: Information Resource Management
 Sponsor: Senator(s) Frank, Kelly, Sharp, Feiler Land Development
 Requestor: _____ Component Serial No. 427

| Expenditures/Revenues | Thousands of Dollars | | | | | |
|-------------------------------|----------------------|--------------|--------------|--------------|--------------|--------------|
| | -1996 | -1997 | -1998 | -1999 | -2000 | -2001 |
| OPERATING EXPENDITURES | | | | | | |
| PERSONAL SERVICES | 50.01 | 50.01 | 50.01 | 50.01 | 50.01 | 50.01 |
| TRAVEL | 5.01 | 5.01 | 5.01 | 5.01 | 5.01 | 5.01 |
| CONTRACTUAL | 5.01 | 5.01 | 5.01 | 5.01 | 5.01 | 5.01 |
| SUPPLIES | 5.01 | 5.01 | 5.01 | 5.01 | 5.01 | 5.01 |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 75.01 | 75.01 | 75.01 | 75.01 | 75.01 | 75.01 |
| CAPITAL EXPENDITURES | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 |
| CHANGE IN REVENUES | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 |

| FUND SOURCE | Thousands of Dollars | | | | | |
|--------------------------|----------------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF Program Receipts | | | | | | |
| 1006 GF MHTA | | | | | | |
| Other VA Receipts | 75.01 | 75.01 | 75.01 | 75.01 | 75.01 | 75.01 |
| TOTAL | 75.01 | 75.01 | 75.01 | 75.01 | 75.01 | 75.01 |

Estimate of any current year (FY95) cost: \$ None

| POSITIONS | | | | | | |
|-----------|----|----|----|----|----|----|
| FULL-TIME | 01 | 01 | 01 | 01 | 01 | 01 |
| PART-TIME | 01 | 01 | 01 | 01 | 01 | 01 |
| TEMPORARY | 01 | 01 | 01 | 01 | 01 | 01 |

ANALYSIS: Attach a separate page if necessary

This fiscal note is for the minimum necessary for GNR to process land conveyances to the University of Alaska. All costs for the conveyance work will be paid by the University to GNR using Interagency Receipts. We assume this includes all costs to include selection, conveyance, records notation, deed recordation, survey, litigation, etc.

It is impossible to project the exact amount of revenue these conveyances will generate for the University, and will be lost to the state, without knowing what lands will be transferred. With the inclusion of oil and gas, the revenue lost to the state will be significant.

Prepared by: Ron Swanson, Director Phone: 465-2406
 Division: Division of Land Date: 3-Mar-95
 Approved by Commissioner: _____ Date: 3-6-95
 Agency: Natural Resources

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No. 8

Bill Vers

CSSB 16 Fin

(S) Pr

Date: 3-27-95

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 16 (CRA)

Revision Date: 3/9/95 Dept. Affected: Fish and Game
 Title: University Land Selection BRU: Habitat and Restoration Division
 Component: Habitat
 Sponsor: Senator Frank
 Requester: Senate Resources COMPONENT SERIAL NO. 186

| Expenditures/Revenues | | (Thousands of Dollars) | | | | | |
|-------------------------------|-------------|------------------------|-------------|-------------|-------------|-------------|--|
| | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | |
| OPERATING EXPENDITURES | | | | | | | |
| PERSONAL SERVICES | 31.2 | 31.2 | 31.2 | 31.2 | 31.2 | 31.2 | |
| TRAVEL | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | |
| CONTRACTUAL | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | |
| SUPPLIES | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |
| TOTAL OPERATING | 34.3 | 34.3 | 34.3 | 34.3 | 34.3 | 34.3 | |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |
| CHANGE IN REVENUES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | |

| FUND SOURCE | | (Thousands of Dollars) | | | | | |
|--------------------------|-------------|------------------------|-------------|-------------|-------------|-------------|--|
| 1002 Federal Receipts | | | | | | | |
| 1003 GF Match | | | | | | | |
| 1004 GF | 34.3 | 34.3 | 34.3 | 34.3 | 34.3 | 34.3 | |
| 1005 GF/Program Receipts | | | | | | | |
| 1006 GF/MHTIA | | | | | | | |
| Other | | | | | | | |
| TOTAL | 34.3 | 34.3 | 34.3 | 34.3 | 34.3 | 34.3 | |

Estimate of any current year (FY95) cost: 0.0

| POSITIONS | | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|-----------|--|-------|-------|-------|-------|-------|-------|
| FULL-TIME | | 0.51 | 0.51 | 0.51 | 0.51 | 0.51 | 0.51 |
| PART-TIME | | | | | | | |
| TEMPORARY | | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The Department of Fish and Game will require approximately one-half full time equivalent for a Habitat Biologist to review university land selections and advise the Department of Natural Resources on the effects of conveyance to fish and wildlife resources, public uses of fish and wildlife; and potentially for legislatively designated state game refuges, critical habitat areas, and game sanctuaries. Additionally, as university land selections are made, existing state land management and Special Area plans will have to be revised to reflect the changes in land management. This will require approximately one-half full time equivalent of Habitat Biologist participation to advise the Department of Natural Resources on their revised land management plans and to revise the Department of Fish and Game's Special Area plans.

Prepared by: Ellen Forts, Acting Director
 Division: Habitat and Restoration
 Approved by Commissioner: Gordon Brown
 Agency: Alaska Department of Fish and Game

Phone: 465-4105
 Date: 3/8/95
 Date: 3/9/95

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FISCAL NOTE

No. 9
 Bill Version: CSB 16 (Final)
 (S) Publish Date: 3-27-95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: 3/9/95 Dept. Affected: Revenue
 Title: Increase Land Grant to UAA BRU: Revenue Cos
 Component: Oil and Gas Audit
 Sponsor: Frank
 Requester: SIFES COMPONENT SERIAL NO. 115

| Expenditures/Revenues | | (Thousands of Dollars) | | | | | |
|-------------------------------|--|------------------------|-------|-------|-------|-------|-------|
| | | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
| OPERATING EXPENDITURES | | | | | | | |
| PERSONAL SERVICES | | | | | | | |
| TRAVEL | | | | | | | |
| CONTRACTUAL | | | | | | | |
| SUPPLIES | | | | | | | |
| EQUIPMENT | | | | | | | |
| LAND & STRUCTURES | | | | | | | |
| GRANTS, CLAIMS | | | | | | | |
| MISCELLANEOUS | | | | | | | |
| TOTAL OPERATING | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | | | | | | | |
| CHANGE IN REVENUES | | | | | | | |

| FUND SOURCE | | (Thousands of Dollars) | | | | | |
|--------------------------|--|------------------------|-------|-------|-------|-------|-------|
| | | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
| 1002 Federal Receipts | | | | | | | |
| 1003 GF Match | | | | | | | |
| 1004 GF | | | | | | | |
| 1005 GF Program Receipts | | | | | | | |
| 1006 GF MHTIA | | | | | | | |
| Other | | | | | | | |
| TOTAL | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY95) cost: \$ _____

| POSITIONS | | | | | | | |
|-----------|--|--|--|--|--|--|--|
| FULL-TIME | | | | | | | |
| PART-TIME | | | | | | | |
| TEMPORARY | | | | | | | |

There would be no identifiable revenue or cost impacts resulting from the passage of this legislation over the period covered by this fiscal note.

Prepared by: [Signature] Phone: 17-276-1763
 Division: Oil and Gas Audit Date: 3/9/95
 Approved by: _____
 Commissioner: Deoran Voot Date: 3/9/95
 Agency: Revenue

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB16

Revision Date:
Title: Land Grant to the University
Sponsor: Frank
Requestor:

Department Affected: University of Alaska
BRU: Statewide Programs and Services
Component: Statewide Services

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|-------------------|--|--|--|--|--|--|
| REVENUE FD SOURCE | | | | | | |
|-------------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 1002 FEDERAL FUNDS | | | | | | |
| 1003 GF MATCH | | | | | | |
| 1004 GENERAL FUND | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| 1048 University Receipts | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| TOTAL FUNDING | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

| | | | | | | |
|------------|--|--|--|--|--|--|
| POSITIONS: | | | | | | |
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) The costs identified are for a contract with the Department of Natural Resources for land conveyance costs. Costs could exceed those identified if land conveyance can be done more quickly than is currently anticipated. Any additional expenses will be covered from the land grant trust fund, identified as University Receipts. Additional receipt and expenditure authority would be request at that time. Additional land will generate additional revenue. However, without specific identification of land we are unable to quantify the potential for revenue generation.

Prepared by: Wendy Matheny, Budget Analyst
Division: Statewide Budget Office

Phone: 463-3086
Date: 3/6/95

Approved by: Marylou Burton, Director
Agency: Statewide Budget Office

Date: 3/7/95

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

AMENDMENT #2 Adopted

OFFERED IN THE HOUSE

TO: HCS CSSB 16(RES)

1 Page 4, lines 17 - 20:

2 Delete "However, land conveyed to the University of Alaska under AS 14.40.365
3 shall be treated as other public land and shall be managed under AS 14.40.366 and rules
4 or regulations of the Board of Regents of the University."

5 Insert "Land conveyed to the University of Alaska under AS 14.40.365 shall be
6 managed under AS 14.40.366 and rules or regulations of the Board of Regents of the
7 University."

Adopted

9-LS0165M.3✓
Chenoweth
5/6/95

AMENDMENT # 3

OFFERED IN THE HOUSE

TO: HCS CSSB 16(RES)

- 1 Page 4, line 19:
- 2 Delete "rules or regulations"
- 3 Insert "policies"

- 4 Page 10, line 28:
- 5 Delete "rule or regulation"
- 6 Insert "policy"

AMENDMENT #4

OFFERED IN THE HOUSE
TO: HCS CSSB 16(RES)

withdrawn

*replaced with
#4A*

1 Page 5, line 30, through page 6, line 1:

2 Delete:

3 "(1) selections must be made in parcels of 40 acres, or larger whenever
4 practical, whether surveyed or unsurveyed; and

5 (2)"

Withdrawn

Amendment #4a

House CS for CS for Senate Bill 16(RES)

Page 5, line 31

After "unsurveyed"

Insert: "unless the total state acreage in the available parcel and
contiguous available parcels is less than 40 acres"

AHN: Karen
SB16

adopted
as
amended

amended

Amendment #4aa

House CS for CS for Senate Bill 16(RES)

Page 5, line 31

After "unsurveyed" ^{langu}

Insert: "~~shall be 40 acres~~ ^{or larger}, unless the Commissioner finds it in the best interest of the State to convey less"

NO / OBT

AMENDMENT #5

amended #21 -2
adopted as 5

OFFERED IN THE HOUSE
TO: HCS CSSB 16(RES)

1 Page 4, line 29:

2 Delete "(n)"

3 Insert "(m)"

4 Page 4, line 31:

5 Delete "that,"

6 Insert ". The Board of Regents of the University of Alaska and the commissioner of
7 natural resources shall periodically and jointly submit to the legislature, ^{within 30 days of Feb} ~~at~~ the beginning of ~~begin~~
8 a regular legislative session, a list of land proposed to be conveyed by the state to the
9 University of Alaska under this section. Each list must contain not less than 25,000 acres of
10 land, or the remaining entitlement under this subsection, whichever is less. The legislature
11 may by law approve or disapprove the list. A list submitted shall be deemed approved for
12 conveyance to the University of Alaska if the legislature neither approves nor disapproves the
13 list during the legislative session during which the list was submitted. Land may be included
14 in the list only if it,"

15 Page 6, line 2:

16 Delete "title to the land should not be conveyed,"

17 Insert "the land should not be included on the list of land submitted to the legislature
18 under (a) of this section,"

19 Page 6, line 3:

20 After "shall":

21 Insert ", upon approval of the list submitted ^{to} ~~by~~ the legislature, or upon failure of the
22 legislature during the legislative session following submission of the list to disapprove the

- 1 list,"
- 2 Delete "(n)"
- 3 Insert "(m)"

- 4 Page 6, line 4:
- 5 Delete "(k)"
- 6 Insert "(j)"

- 7 Page 7, line 1:
- 8 Delete "convey title to"
- 9 Insert "include on a list of land submitted to the legislature under (a) of this section"

- 10 Page 8, lines 6 - 10:
- 11 Delete all material.

- 12 Reletter the following subsections accordingly.

- 13 Page 9, line 9:
- 14 Delete "(l)"
- 15 Insert "(k)"

- 16 Page 9, lines 13 - 14:
- 17 Delete "because it has not been disapproved under (e) of this section"

- 18 Page 9, lines 19 - 20:
- 19 Delete "request by the University of Alaska"
- 20 Insert "the later of the effective date of the approval by the legislature of the list
- 21 containing the land or the adjournment of the legislative session during which the list
- 22 containing the land was not disapproved by the legislature"

- 23 Page 9, line 23 - 24:
- 24 Delete "request by the University of Alaska"

1 Insert "the later of the effective date of the approval by the legislature of the list
2 containing the land or the adjournment of the legislative session during which the list
3 containing the land was not disapproved by the legislature"

4 Page 10, line 3:

5 Delete "(k)"

6 Insert "(j)"

NO OBJ

9-LS0165M.6 ✓
Chenoweth
5/6/95

AMENDMENT #4 adopted

OFFERED IN THE HOUSE

TO: HCS CSSB 16(RES)

- 1 Page 11, line 2, after "development":
- 2 Insert ", exchange,"

Failed 2-9

AMENDMENT #7

OFFERED IN THE HOUSE
TO: HCS CSSB 16(RES)

Brown

1 Page 5, lines 20 - 27:

2 Delete all material and insert:

3 "(b) Transfers of ownership and management of land from the Department of
4 Natural Resources to the Board of Regents of the University of Alaska under this
5 section are subject to the state's reservations set out in AS 38.05.125(a)."

6 Page 6, line 14, after "had":

7 Insert "the surface estate of"

8 Page 6, line 18, after "proceeds":

9 Insert "that are attributable to activity involving the surface estate of the land selected
10 by the University of Alaska"

11 Page 6, line 27, after "proceeds":

12 Insert "that are attributable to activity involving the surface estate of the land selected
13 by the University of Alaska"

14 Page 6, line 29, after "management of":

15 Insert "activities affecting the surface estate arising out of the"

16 Page 9, line 1:

17 Delete ";

18 Insert ".

19 Page 9, lines 2 - 7:

- 1 Delete all material.

- 2 Page 9, line 26, after "management of":
3 Insert "the surface estate"

- 4 Page 10, line 28, following "LAND.", through line 31:
5 Delete all material.

- 6 Page 11, line 1:
7 Delete "(b)"
8
- 9 Page 11, line 20, after "income":
10 Insert "that is attributable to activity involving the surface estate"

- 11 Page 11, line 25, after "management":
12 Insert "of activities affecting the surface estate"

ATTN: Karen

2029

SB16

passed
6-5

AMENDMENT #8

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 16(RES)

Page 7, line 21 after "state":

Delete all material through page 8, line 5.

Insert ",."

AMENDMENT #9

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HCS CSSB 16(RES)

Page 10, following line 25:

Insert a new subsection to read:

“(o) The University of Alaska shall require the continuation of customary and traditional uses to the maximum extent practicable in any conveyance or disposal of land to a third party under the provisions of AS 14.40.369.”

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

Attachment #8

5/8/95

(907) 465-3867 or 465-2450
FAX (907) 465-3029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2103

MEMORANDUM

May 8, 1995

SUBJECT: Section 9 of HCS CSSB 16 (Res), amending and expanding AS 14.40.400(a), and the question of the dedicated fund (Work Order No. 9-LS0165\W)

TO: Representative Kay Brown

FROM: Jack Chenoweth
Legislative Counsel

AS 14.40.400 may, in effect, establish a dedicated fund covering the net income of the land obtained by the University of Alaska under a 1929 Act of Congress. The statute comes down from a 1935 territorial enactment, so it is arguably an exception to the rule against dedicated funds set out in article IX, section 7 of the state constitution.

When the request for a draft of the first University land bill (SB 476) hit my desk late in the second regular session of the 17th Legislature, I advised as follows:

AS 14.40.400, the section amended in this version, is a dedicated fund dating from before Statehood. I was concerned, at the time of the initial request, that a substantive amendment to AS 14.40.400 would call into question the applicability of article IX, section 7's prohibition against dedication of funds and the exception made in the last sentence that protects or "grandfathers" dedicated funds existing at the time of Statehood. In a pair of early opinions, 1959 Op. Atty. Gen. 7 and 14, the attorney general has cautioned:

Consequently, the intent of the drafters of the Constitution of the State of Alaska was to permit the continuance of existing dedications at the then existing rates until the legislature saw fit to exercise the only power retained in relation to them: that is, the power to repeal.

A dedication must be continued, if at all, in exactly the same form. Any attempted alteration short of repeal is a nullity. A dedication encompasses (1) proceeds or part of the proceeds of a tax or license (2) set aside at a certain rate (3) for a particular purpose. [T]here is no power to broaden

Representative Kay Brown
May 8, 1995
Page 2

or reduce the purposes for which an existing dedication is made, for to do so is to alter the dedication itself.

1959 Op. Atty. Gen. 7, at p. 5.

A later case, State v. Alex, 646 P.2d 203 (Alaska 1982), gives article IX, section 7 an expansive reading to embrace state revenues generally.

While there is no decision clearly connecting article IX, section 7 and the dedicated University fund, the expansive reading of the section offered in Alex coupled with the conclusion of the early Attorney General Opinions requires that I caution you that the effort to introduce a substantive amendment to the University fund may be unconstitutional and may jeopardize the continuing status of the University fund as an exception to the dedicated fund section.

A spokesman for the University responded at the time by asserting that my conclusion on the point was wrong. However, I have since been given no reason to change my opinion.

The section was amended, in 1967 and 1976, and the effect of those amendments may be of such a nature that any "dedication" that the endowment trust fund might have carried forward from Statehood was later lost.

I just haven't recently looked at the history of the changes in sufficient detail to be able to ascertain whether the dedication feature has been treated as forfeited by the intervening amendments. Since the fund today is managed by the Department of Revenue, for a quick answer, you might want to check with the commissioner of that department. "

If there is an ongoing dedication, then, in order to preserve the element of dedication, you may want to treat this endowment fund as we do with the cigarette tax. To preserve the pre-Statehood dedication of a part of the cigarette tax, AS 43.50.090, the tax levied at the original rate as carried forward from Statehood, is left unamended and any change in the rate of the cigarette tax occurs in a different section, AS 43.50.190, which is, admittedly, not a dedicated fund. The distinction is made largely in deference to several Opinions of the Attorney General

^v Several years back, when this question was first raised, University officials did not indicate that the fund was in fact a "dedicated fund" subject to the exception of article IX, section 7 of the state constitution. University officials have acknowledged that money in the fund established in AS 14.40.400 is a "university receipt," subject to appropriation under AS 14.40.491 (amended by sec. 11 of the bill) and AS 14.40.170(b)(4), subjecting "university receipts" to the Executive Budget Act.

Representative Kay Brown

May 3, 1995

Page 3

issued in 1959 wherein the Department of Law concluded that existing dedications could only be continued and could not be altered or the dedication element would be forfeited.

JBC:kib

95-343:kib

FISCAL NOTE

No. 6

Bill Version: CS SB16(CRA)

(S) Publish Date: 3/20/95

OF ALASKA

BILL

LEGISLATIVE SESSION

Revision Date: 3-Mar-95 Dept Affected: Natural Resources
 Title: An Act relating to the University of Alaska and BRU: Resource Development
university land, authorizing the University of Alaska to select... Component: Information Resource Management
 Sponsor: Senator(s) Frank, Kelly, Sharo, Feider
 Requestor: _____ Component Serial No. 427

| Expenditures/Revenues | | (Thousands of Dollars) | | | | | |
|-------------------------------|--------------|------------------------|-------------|-------------|-------------|-------------|--|
| | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 | |
| OPERATING EXPENDITURES | | | | | | | |
| PERSONAL SERVICES | 22.01 | | | | | | |
| TRAVEL | | | | | | | |
| CONTRACTUAL | 2.01 | | | | | | |
| SUPPLIES | | | | | | | |
| EQUIPMENT | | | | | | | |
| LAND & STRUCTURES | | | | | | | |
| GRANTS, CLAIMS | | | | | | | |
| MISCELLANEOUS | | | | | | | |
| TOTAL OPERATING | 24.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | |
| CAPITAL EXPENDITURES | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | |
| CHANGE IN REVENUES | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | |

| FUND SOURCE | | (Thousands of Dollars) | | | | | |
|--------------------------|--------------|------------------------|-------------|-------------|-------------|-------------|--|
| | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 | |
| 1002 Federal Receipts | | | | | | | |
| 1003 GF Match | | | | | | | |
| 1004 GF | 24.01 | | | | | | |
| 1005 GF/Program Receipts | | | | | | | |
| 1006 GF/MHTIA | | | | | | | |
| Other | | | | | | | |
| TOTAL | 24.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | |

Estimate of any current year (FY95) cost: \$ None

| POSITIONS | | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 |
|-----------|--|------|------|------|------|------|------|
| FULL-TIME | | 01 | 01 | 01 | 01 | 01 | 01 |
| PART-TIME | | 01 | 01 | 01 | 01 | 01 | 01 |
| TEMPORARY | | 01 | 01 | 01 | 01 | 01 | 01 |

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation involves considerable public records notation work; however, since the University of Alaska is responsible for covering all cost associated with the selection, platting, survey and conveyance, those costs will be identified after we have worked with the University to identify a deliverables and a contract. The Land Records Information Section assumes that the records work associated with each of these steps will be paid by the University based on actual cost.

LRIS will need to set up a tracking system to facilitate the selection and conveyance process. LRIS must develop a new Land Administration System (LAS) casetype for these conveyances, and will establish a tracking subsystem within LAS. A separate tracking mechanism is necessary to comply with Sec. 14.40.365(n), where the commissioner is required to recover title after 10 years if certain conditions are not met. These are not expenses specified to be covered by the University.

Prepared by: Nico Bus, Acting Director Phone: 465-2406
 Division: Support Services Date: 3-Mar-95
 Approved by Commissioner: _____ Date: 3-0-95
 Agency: Natural Resources

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Official Business

Alaska State Senate

Senate Finance Committee

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Sponsor Statement - Senate Bill No. 16

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

House CS for CS SB 16(RES) would allow the University of Alaska to select additional acres of unencumbered land from the State of Alaska.

In this era of declining state funds, endowing the university with additional lands will allow it to develop those lands to produce income 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. Some universities in states with much smaller state land grants, such as New Mexico and Oklahoma, have received up to one million acres.

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.

OFFERED IN THE SENATE

BY: SEN. ZHAROFF

TO: CS SB 16 (FIN)

LETTER OF INTENT
FOR
CS SB 16 (FIN)

It is the intent of the legislature the University of Alaska require the continuation of customary and traditional uses to the maximum extent practicable in any conveyance or disposal of land to a third party under the provisions of AS 14.40.369.

4/10/95:Adopted by the Senate

Amendment

House CS for CS for Senate Bill 16 (RES)

Page 4, Line 17

Delete "However,"

Page 4, Line 18

Delete "shall be treated as other public land and"

PURPOSE OF AMENDMENT:

The section is confusing since UA land-grant land is specifically defined as "...not...state pulic domain land" in one sentence and than referred to as "public land" in the next. The purpose of the section is to subject the development plan for conveyed land to the new public hearing process outlined in AS 14.40.366 (Sec. 7. Page 11, Lines 1-15). This amendment retains the intent and eliminates the confusing language.

Amendment

House CS for CS for Senate Bill 16 (RES)

Page 5, Line 31

After "unsurveyed"

Insert: "unless the total state acreage in the parcel and contiguous parcels is less than 40 acres."

PURPOSE OF AMENDMENT:

The state may have small parcels of land that are available for development potential that the existing language would preclude from UA selection.

Amendment

House CS for CS for Senate Bill 16 (RES)

Page 4, Line 29

Delete: 350,000

Insert: 500,000

Amendment

House CS for CS for Senate Bill 16 (RES)

Page 4, Line 19

Delete: "rules or regulations"
Insert: "policies"

Page 10, Line 10

Delete: "rule or regulation"
Insert: "policy"

PURPOSE OF AMENDMENT:

The Board of Regents have neither rules or regulations -- only policies.

Amendment

House CS for CS for Senate Bill 16 (RES)

Page 4, Line 28

Delete Lines 28 through 31 and replace with:

SELECTION CONVEYANCES (a) The University of Alaska may select and, except as provided in (n) of this section, is entitled to receive the conveyance of 350,000 acres of land conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). The Board of Regents of the University of Alaska and the commissioner of natural resources shall periodically and jointly submit to the legislature at the beginning of a regular legislative session, a list of land proposed to be conveyed under this section. Each list shall contain not less than 25,000 acres per submittal, or the remaining entitlement under this section, whichever is less. The legislature may by law approve or disapprove the list. A list submitted shall be deemed approved for conveyance to the University of Alaska if no final action is taken during the first legislative session following submission of the list. Land may be included in the list only if on the date of its selection by the university,

Page 6, Line 1

Delete subsection (2) and replace with:

(2) unless the commissioner of natural resources determines under (e) of this section that the land should not be included on the list of land submitted to the legislature under (a) of this section, the commissioner of natural resources shall, upon approval by the legislature, or upon failure of the legislature during the first legislative session following submission of the list to disapprove the list containing the land, convey, subject to divestiture under (n) of this section, a document of interim conveyance under (k) of this section or a patent to land.

Page 7, Line 1

Delete: "convey title to"

Insert: "include on a list of land submitted to the legislature under (a) of this section"

Page 8, Line 7

Delete: "convey to the University of Alaska lands selected by it"

Insert: "include on a list of land submitted to the legislature under (a) of this section land selected by the University of Alaska"

Page 9, Line 14

Delete: "under (e) of this section"

Insert: "by the legislature during the first legislative session following submission of the list containing the land"

Page 9, Line 19

Delete: "of request by the University of Alaska"

Insert: "of approval by the legislature or failure of the legislature to disapprove during a regular legislative session the list containing the land"

Page 9, Line 23

Delete: "request by the University of Alaska"

Insert: "approval by the legislature or upon failure of the legislature to disapprove during a regular legislative session the list containing the land"

PURPOSE OF AMENDMENT:

Provides additional opportunity for public review of land to be transferred to the University and substitutes legislative review and appropriation of land for third party litigation over land transfers.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

SB 16 UNIVERSITY LAND GRANT

- This bill does not endow the University - it turns the University into an aggressive land developer, which is a separate and improper mission for them.
- The University of Alaska's land grant obligation is fulfilled, and they have **no higher right to State resources** than any other agency. This special grant of resources may create a constitutional problem by creating what could be considered a dedicated fund.
- All Alaskans currently have a say in land disposals and development of public lands. Putting 350,000 acres of land into the "private" ownership of the University preempts equal access.
- The public and adjacent communities will have no voice in the disposition and management of University lands. University lands are considered private and thus exempt from the land management provisions of Title 38.04 and 38.05, including those which provide for public process.
- "Customary and traditional use" of the land is only protected until the University's development plans conflict with it.

5/5/95

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KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KOKI CANOES AND KAYAKERS
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FACT SHEET

House CS for CS for SB 16 (Res) - Enhancing UA Land Grant

1. Does not take effect until final settlement of the mental health land dispute;
2. Gives priority to Municipal land selections;
3. Provides that land transfers are subject to:
 - * 6(i) of Alaska Statehood Act
 - * Permanent Fund requirements for oil, gas and mineral royalties and bonuses
 - * Other rights of the state
4. Allows UA to select 350,000 acres including lands:
 - * Not conveyed by the state
 - * Not reserved from public domain
 - * Not included in 5-year oil & gas leasing program
 - * Not necessary for interagency agreement
 - * Not subject to land exchange
 - * Not subject to a possessory interest or encumbrance other than:
 - Leases (other than oil and gas)
 - Timber contracts
 - Mining claims
 - Materials sales
5. Department of Natural Resources can refuse to convey land if the Commissioner considers the retention of land in state ownership to be in the best interests of the state;
6. The University can appeal the Commissioner's decision to the Governor, but is prohibited from entering into litigation;
7. The University pays the costs of land conveyance and surveying;
8. The University and DNR will allow leases, licenses, permits, rights-of-way, or easements prior to final conveyance, with 90% of proceeds held in escrow pending final conveyance;
9. Existing leases and encumbrances will be honored throughout the term, including any provisions for lease extensions;
10. Income from existing encumbrances (leases, mining claims, timber contracts, etc.) go to state until term of existing agreement is completed.
11. Mineral entry or location and mineral leasing on UA land will be substantially similar to provisions currently provided on state lands;
12. Customary and traditional uses of resources on UA land, including hunting and fishing, will be permitted to the maximum extent practicable;
13. Provides additional requirement for UA regarding public notification and comment on land plans.

House CS for CS for SB 16 has had four substantive hearings that have resulted in additional amendments. The changes and clarification's that have been made in response to concerns and questions raised by legislators and members of the public include:

Senate Community & Regional Affairs Committee

- * Provides tort immunity for personal injuries, death, or property damage occurring on UA land because of continuation of customary and traditional use;
- * Clarifies that UA oil and gas development is subject to Permanent Fund royalties and bonus provisions;

Senate Resources Committee:

- * No amendments were made in Resources Committee;

Senate Finance Committee:

- * Adds language that allows UA and DNR to approve entry on land following selection but prior to conveyance. 90% of proceeds are to be held in escrow pending final conveyance; the state retains 10% of proceeds;

House Community & Regional Affairs Committee: Bill waived to Resources

House Resources Committee

- * Reduces land conveyance from 1,000,000 to 350,000 acres;
- * Adds language that protects original and reconstituted Mental Health lands until final conclusion of all litigation;
- * Adds language from HB 240 transferring investment authority for the Natural Resources Endowment from Department of Revenue to the University of Alaska;
- * Adds intent that the University encourage development of in-state value-added industries to the maximum extent feasible when developing lands;
- * Clarifies definition of "active management" to include land that is included in a development program designed to derive income;
- * Limits selections to parcels of minimum size of 40 acres;
- * Prohibits, except in an acre-for acre land exchange, conveyance of land, directly by the University, or indirectly by third parties, to the United States;
- * Adds language in "findings and purpose" directing that renewable resources be managed on a sustained yield basis;

University of Alaska

Statewide System

SB 16 EXPANDING UNIVERSITY OF ALASKA LAND GRANT

By Senators FRANK, Kelly, Sharp

The University of Alaska is called 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 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, leaving the University with 100,000 acres. 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. The University's total land grant holdings today total 140,000 acres. Still, nearly 50,000 acres of limited timber cutting rights west of Icy Bay remains tied up in litigation.

Alaskans look to the University of Alaska to provide for some of its financial needs by 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 -- would triple the size of the University's federal grant.

Passage of this legislation will allow expansion of the University of Alaska land grant, and allow the University to generate additional revenue in support of its programs. The lands would be responsibly managed to generate income. The University is currently involved in a wide range of projects including commercial leasing, development and sale of residential and remote subdivisions, oil and gas lease sales, timber and gravel sales and mineral leasing.

contact:

Wendy Redman
University Relations
463-3086/474-7582

State Land Grant Rankings

| Ranked by the amount of federal land given to Higher Education | |
|--|-------------------|
| 1 New Mexico | 1,346,546 |
| 2 Oklahoma | 1,050,000 |
| 3 New York | 990,000 |
| 4 Arizona | 849,197 |
| 5 Pennsylvania | 780,000 |
| 6 Ohio | 699,120 |
| 7 Utah | 556,141 |
| 8 Illinois | 526,080 |
| 9 Indiana | 436,080 |
| 10 Montana | 388,721 |
| 11 Idaho | 386,686 |
| 12 Alabama | 383,785 |
| 13 Missouri | 376,080 |
| 14 South Dakota | 366,080 |
| 15 Massachusetts | 360,000 |
| 16 Mississippi | 348,240 |
| 17 Washington | 336,080 |
| 18 North Dakota | 336,080 |
| 19 Wisconsin | 332,160 |
| 20 Kentucky | 330,000 |
| 21 Tennessee | 300,000 |
| 22 Virginia | 300,000 |
| 23 Iowa | 286,080 |
| 24 Michigan | 286,080 |
| 25 Georgia | 270,000 |
| 26 North Carolina | 270,000 |
| 27 Louisiana | 256,292 |
| 28 Minnesota | 212,160 |
| 29 Maine | 210,000 |
| 30 Maryland | 210,000 |
| 31 New Jersey | 210,000 |
| 32 California | 196,080 |
| 33 Arkansas | 196,080 |
| 34 Florida | 182,160 |
| 35 Connecticut | 180,000 |
| 36 South Carolina | 180,000 |
| 37 Texas | 180,000 |
| 38 Kansas | 151,270 |
| 39 New Hampshire | 150,000 |
| 40 Vermont | 150,000 |
| 41 West Virginia | 150,000 |
| 42 Colorado | 138,040 |
| 43 Oregon | 136,165 |
| 44 Nevada | 136,080 |
| 45 Nebraska | 136,080 |
| 46 Wyoming | 136,080 |
| 47 Rhode Island | 120,000 |
| 48 Alaska | 112,064 |
| 49 Delaware | 90,000 |
| 50 Hawaii | 0 |
| TOTAL | 16,707,787 |

Average 334,156

| 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 | 93.06% |
| 20 Oklahoma | 33.92% |
| 21 Ohio | 25.34% |
| 22 Washington | 11.04% |
| 23 Indiana | 10.79% |
| 24 South Dakota | 10.66% |
| 25 North Dakota | 10.62% |
| 26 New Mexico | 10.52% |
| 27 Idaho | 9.09% |
| 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 | 4.99% |
| 36 Nebraska | 3.93% |
| 37 Iowa | 3.55% |
| 38 Wisconsin | 3.26% |
| 39 Wyoming | 3.13% |
| 40 Colorado | 3.09% |
| 41 Michigan | 2.36% |
| 42 Louisiana | 2.24% |
| 43 California | 2.22% |
| 44 Kansas | 1.94% |
| 45 Oregon | 1.94% |
| 46 Arkansas | 1.64% |
| 47 Minnesota | 1.29% |
| 48 Florida | 0.75% |
| 49 Alaska | 0.11% |
| 50 Hawaii | 0.00% |
| TOTAL | 5.09% |

Average 42.01%

| Ranked by the amount of federal land given to the States | |
|--|--------------------|
| 1 Alaska | 104,569,251 |
| 2 Florida | 24,214,366 |
| 3 Minnesota | 16,422,051 |
| 4 New Mexico | 12,794,718 |
| 5 Michigan | 12,142,846 |
| 6 Arkansas | 11,936,834 |
| 7 Louisiana | 11,441,343 |
| 8 Arizona | 10,543,753 |
| 9 Wisconsin | 10,179,804 |
| 10 California | 8,825,508 |
| 11 Iowa | 8,061,262 |
| 12 Kansas | 7,794,669 |
| 13 Utah | 7,501,737 |
| 14 Missouri | 7,417,022 |
| 15 Oregon | 7,032,847 |
| 16 Illinois | 6,334,655 |
| 17 Mississippi | 6,097,997 |
| 18 Montana | 5,963,338 |
| 19 Alabama | 5,006,883 |
| 20 Colorado | 4,471,604 |
| 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 | 3,163,552 |
| 27 Oklahoma | 3,095,760 |
| 28 Washington | 3,044,471 |
| 29 Ohio | 2,758,862 |
| 30 Nevada | 2,725,226 |
| 31 New York | 990,000 |
| 32 Pennsylvania | 780,000 |
| 33 Massachusetts | 360,000 |
| 34 Kentucky | 354,607 |
| 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 | 150,000 |
| 48 Rhode Island | 120,000 |
| 49 Delaware | 90,000 |
| 50 Hawaii | 0 |
| TOTAL | 328,426,536 |

Average 6,568,531

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Juneau, Alaska 99801-2105

MEMORANDUM

May 5, 1995

SUBJECT: House CS for CSSB 16(RES), relating to the University of Alaska --
sectional analysis (Work Order No. 9-LS0165/M)

TO: Senator Steve Frank

FROM: Jack Chenoweth
Legislative Counsel

The measure proposes (1) to permit the University of Alaska to select and receive the conveyance of 350,000 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 6, 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 or subsurface estate in the land selected to the University. However, the state's oil and gas interest in land that the University may select passes only as to land that the University selects after the fifth anniversary date of the Act's effective date.

-- Subsection (c) requires selections in parcels of at least 40 acres and mandates conveyance of University selections "unless the commissioner [of natural resources] determines under [subsection (e)] that the title should not be conveyed." Conveyances are subject to later divestiture.

-- Subsection (d) prescribes the authority of the respective parties, the state and the University, for land that the University has selected but as to which it has not received title, and sets out the circumstances under which the respective parties have a claim on the earnings

or proceeds of the land selected before and after issuance of a document of interim conveyance or a patent.

-- Subsection (e) precludes the commissioner of natural resources from conveying land if the conveyance of the proposed selection conflicts with a municipal land selection, is subject to an oil and gas exploration license, or is not in the state's best interests, and identifies factors that the commissioner is to consider.

-- If there is a difference of opinion between the Board of Regents and the commissioner of natural resources as to a land selection, subsection (f) directs the governor to make a final decision with respect to the conflict over the selection.

-- Subsection (g) 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, except as specifically provided for income due the state from existing encumbrances, 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 (h), applicable to the land conveyances, imposes on the commissioner of natural resources the duty to provide notice and allow access.

-- Subsection (i) subjects the land that is transferred or conveyed to the University to certain other 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;
- payment of all amounts due the Alaska Permanent Fund; and
- the rights of the state under former 43 U.S.C. 932--more commonly known as RS 2477--relating to 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. 86-70. In addition, under paragraph (3) of the subsection, for land selections made by the University within five years of the taking effect of the Act, the state shall reserve to itself in perpetuity any oil and gas interests on that land.

-- Subsection (j) requires the University to bear the costs of selection, platting, surveying, and conveyance of its selections and sets limits on the nature of the survey requirements that attach to land selections. This subsection also sets a time limit of one year on the conveyance of selected land that is unsurveyed.

Senator Steve Frank

May 5, 1995

Page 3

-- Subsection (k) permits use of documents of interim conveyance. This subsection also sets a time limit of one year on the issuance of a document of interim conveyance.

-- Subsection (l) declares that, with the exception specifically noted, management of land conveyed by a final or an interim conveyance document vests with the University from the date of the document's recording. The state is to bear the costs of recording the conveyance documents.

-- Subsection (m) sets a final land selection limitation date of December 31, 2009.

-- Subsection (n) establishes a divestiture mechanism under which the land may be reconveyed to the state if, within 10 years of the date of conveyance, the University is neither actively managing the land to provide income nor managing the land under an appropriate development plan.

The remainder of the bill includes a series of collateral provisions --

Bill section 3 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 expenditures made based on the earnings of that land.

Bill section 5 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. The section further directs that the land conveyed is to be treated as other public land and that it is to be managed by the University as provided by law and in accordance with management rules established by the Board of Regents.

Bill section 7 adds a series of new related bill sections. Proposed AS 14.40.366 directs the University to establish rules for mineral entry, location, or leasing on the land selections, and to develop an annual plan for the management and disposition of land and describes a framework under which the public has the opportunity to comment on the Regents' plan. Proposed AS 14.40.368 addresses the manner of the management and disposition of income from encumbrances on land selected by and conveyed to the University. That responsibility shifts from the state to the University only after conclusion of the term of an existing encumbrance and the term of any renewal that may be authorized by the language of the existing encumbrance. Proposed AS 14.40.369 declares that the University's management of land conveyed to and held by it must permit continued "customary and traditional uses of the resources of that land to the maximum extent possible."

Bill section 8 adds a tort immunity provision to protect the University against claims for personal injury, death, or property damage on its land that is unimproved or not actively maintained. Under this bill section, the University does not enjoy tort immunity as to that

land when injury or damage is due to its gross negligence or its reckless or intentional misconduct.

Bill section 9: The second amendment set out in AS 14.40.400(a) alters 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 6 would be managed under applicable trust principles.

Bill section 11 amends the definition of "university receipts" to incorporate reference to the net income of the University trust fund.

Bill section 12: 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 16 sets aside land that may be used to satisfy the obligation to reconstitute the mental health trust as other land that may not be conveyed to the University under the Act.

*

In addition to the land selection and conveyance provisions, the bill makes several significant changes with respect to the placement and management of the existing University of Alaska endowment, AS 14.40.400, having the effect of moving all responsibility for the endowment from state agencies to the University itself.

Bill section 4, amending AS 14.40.291, shifts responsibility for the management of the donations and endowment from the Department of Revenue to the University of Alaska.

The first amendment to AS 14.40.400(a) made by **bill section 9** also serves to confirm the shift of the endowment trust fund from the Department of Revenue to the University of Alaska.

Bill section 10 substitutes the president of the University for the commissioner of revenue as the trust fund's fiduciary.

Bill section 13 makes a related change, deleting from the reference in the Procurement Code what, under the change made in bill section 10, would become an obsolete reference to a power of the commissioner of revenue.

Senator Steve Frank

May 5, 1995

Page 5

With the shift of responsibility for management of the endowment trust fund from the commissioner of revenue to the University, bill section 14 repeals reference to the responsibility of the commissioner of administration for the disbursement of the trust fund's net income.

Bill section 15 incorporates transitional language covering the transfer of the endowment trust fund from the Department of Revenue to the University of Alaska.

*

Finally, bill section 1 incorporates into proposed findings and a statement of purpose a brief history of University land transactions and a justification for this measure, and bill section 2 adds a statement of legislative intent.

JBC:klb

95-338.klb



Alaska State Legislature

HOUSE RESOURCES COMMITTEE

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3715

May 3, 1995

Sharon Gagnon, President
University of Alaska
Board of Regents
7001 Treetop Circle
Anchorage, AK 99516

Dear Ms. Gagnon:

During deliberations on Senate Bill 16, "An Act relating to the University of Alaska and university land ...", considerable debate centered on the amount of land transferred by the Federal government to the University as a land grant college.

While initial consideration by the Federal government was given to transferring 350,000 acres to the University, only 112,064 acres were actually transferred. Transfers of federal land to land grant colleges are made by the Federal government.

The State of Alaska has considerable concern over the ability of the University of Alaska to generate significant revenue from such a small land grant. Congress had expressed similar concern during the statehood debates for the State's own ability to generate sufficient revenues.

The Legislature believes that the University of Alaska Board of Regents should pursue Congressional action to transfer additional federal land in Alaska to the University and should call the fact that the State of Alaska has transferred considerable acreage of its own to help support the University to the attention of Congress.

Joe Green
Co-Chair

Sincerely,

Bill Williams
Co-Chair

- Attached to file per request of
HOUSE RESOURCES COMMITTEE -



Northern Alaska Environmental Center

218 DRIVEWAY
FAIRBANKS, ALASKA 99701
(907) 452-5021

To: House Community & Regional Affairs
From: Northern Alaska Environmental Center
Re: SB 16 -- Disposal of Land to the University

The Northern Alaska Environmental Center opposes SB 16

While the Northern Center is a strong supporter of the University, we do not believe that SB 16 is the proper mechanism for funding the University. If the State is truly committed to the University there should be no problem funding it through the normal appropriations process.

SB 16 transfers public lands out of public ownership -- this means that Alaskans will lose their voice on the decisions that affect the management of a million unspecified acres. The University will select the best and most valuable land leaving the poorer land to the public. This type of "highgrading" without the opportunity for public comment is not responsible land management.

The land will no longer be managed for multiple public uses, the protection of wildlife habitat will be limited, water quality may be affected.

SB 16 exempts the land transferred from virtually all of the public participation and resource protection requirements of the Alaska Lands Act (AS 38.04 and 38.05).

The "abuse it or lose it" clause forces the University to rush into hasty, ill-conceived and especially destructive development; large-scale clearcutting for export may be one of the few ways that revenue can be generated within the specified timeframe.

SB 16 is not good for Alaska, it is not the answer to University funding and it is not responsible resource management.

Thank You,

Dan Ritzman
Boreal Forest Coordinator



HC60 Box 306T
Copper Center, AK 99573
April 25, 1995

House Committee on Community & Regional Affairs
c/o Representative Ivan Ivan, Co-Chair
State Capitol
Juneau, AK 99801

Re: SB 16 (University Land Grant)

For the Record

Dear Committee Members:

I strongly urge your providing increased financial support for the University of Alaska, but not through the means proposed in SB 16.

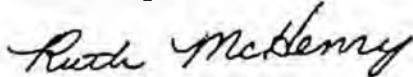
As a UAF graduate, I am grateful for and appreciative of the special role that the university plays in our state. It is disturbing to hear that maintenance has been deferred, that students wear parkas in some classrooms because of aging heating systems, and that a nearly-completed natural science building sits unused for lack of funds. Clearly, these conditions must be corrected, and state funding should be part of the solution.

The land grant system of funding the university would create more problems than it would solve. The cash-strapped university would be forced to sell, lease or develop lands in ways and at times that often would not be in the best interests of the state as a whole. Our state lands belong to all of us, and all of us should have a say in how and when they are used. This important public process would not be available if these lands were granted to the university.

As an alternative, I would be willing to pay a state income tax or sales tax to help bridge the "budget gap" and help the university continue to meet the needs of Alaska and Alaskans.

Again, I urge you to vote "no" on SB 16.

Sincerely,



Ruth McHenry

by FAX to (907)465-4589



Charlie Boddy
Vice President Of Governmental Relations

April 11, 1995

The Honorable Steve Frank
Alaska State Legislature
Juneau, Alaska

Subject: CSSB16 - University Of Alaska Lands Bill

Senator Frank:

The Alaska Coal Association (ACA) has asked me to contact you regarding the above mentioned legislation. The question or concern of the ACA membership is regarding language contained in section 14.40.365 (a)(4)(A). If we are reading this section correctly, all current state coal leases would be available for transfer to the University if selected for conveyance. Is our understanding correct?

Certain leased coal properties, that were original mental health trust lands, were not included in the final reconstituted trust land package. These lands are however still the subject of legal challenges, and their former trust status yet to be determined by the Supreme Court Of Alaska. This pending court decision, unless pressed for by the State under an expedited review, could be years away. The prospect of having any of these coal lands also subject to claim under another state selection process (CSSB-16), would certainly tend to exacerbate the problem, if action were taken prior to a final Supreme Court resolution of mental health land status.

If you could assist us in determining our "lease status" in relation to the selection process envisioned by your legislation, we would be most thankful. If there are questions you have of the ACA members, I can assist in facilitating those discussions. As in the past, thank you for your prompt attention to all matters which impact our business, and to this piece of legislation in particular. With best regards, I remain,
Sincerely,



Charlie Boddy

cc: Joseph E. Usibelli Jr.
Robert B. Stiles
V. Kent Dawson
Senator Bert Sharp
ACA Membership

sf041195