

HB

469

9-LS1627F ✓
Chenoweth
3/12/96

CS FOR HOUSE BILL NO. 469()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, Toohey, Kelly, Davies

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the University of Alaska and to assets of the University of
2 Alaska; authorizing the University of Alaska to select additional state public
3 domain land, designating that land as 'university trust land,' and describing the
4 principles applicable to the land's management; and defining the net income from
5 the University of Alaska's endowment trust fund as 'university receipts' subject
6 to prior legislative appropriation."

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

8 * Section 1. FINDINGS AND PURPOSE. The legislature finds that

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

13 (2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45

1 Stat. 1091, the Congress of the United States granted to the Territory of Alaska certain federal
2 land to be held in trust for the benefit of the predecessor of the University of Alaska;

3 (3) the Territory was unable to receive most of the land conveyed by the Act of
4 March 4, 1915, before repeal of that Act by Sec. 6(k) of the Alaska Statehood Act (P.L. 85-508,
5 72 Stat. 339);

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

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

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

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

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

20 (9) renewable resources should be managed on a sustained yield basis, taking
21 into account the total land grant.

22 * Sec. 2. LEGISLATIVE INTENT. It is the intent of the legislature that the University of
23 Alaska encourage the development of in-state value-added industries to the maximum extent
24 feasible when developing land conveyed under AS 14.40.365.

25 * Sec. 3. AS 14.40.170(a) is amended to read:

26 (a) The Board of Regents shall

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

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

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

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

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

2 (B) land ,

3 (i) conveyed to the Board of Regents by the commissioner
4 of natural resources in the settlement of the claim of the University of
5 Alaska to land granted to the state in accordance with the Act of
6 March 4, 1915 (38 Stat. 1214), as amended, and in accordance with the
7 Act of January 21, 1929 (45 Stat. 1091), as amended; and

8 (ii) selected by the University of Alaska and conveyed
9 to it by the commissioner of natural resources under AS 14.40.365,
10 except as provided in AS 14.40.368(a)(2);

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

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

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

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

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

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

29 (B) that were selected by and conveyed to the University of
30 Alaska under AS 14.40.365.

31 * Sec. 4. AS 14.40.190 is amended to read:

32 Sec. 14.40.190. REPORT. (a) The Board of Regents shall prepare a written

1 report at the beginning of each first regular session of the legislature of

2 (1) the condition of [THE] university property;

3 (2) [, OF] all receipts and expenditures, including the administration and
4 disposition of appropriated and restricted funds;

5 (3) the management of university trust land under AS 14.40.366(a)(1)
6 and (2); and

7 (4) [, AND OF] the educational and other work performed during the
8 preceding two fiscal years.

9 (b) The board shall notify the legislature that the report is available.

10 * Sec. 5. AS 14.40.280 is amended to read:

11 Sec. 14.40.280. ENDOWMENTS AND DONATIONS. All monetary gifts,
12 bequests, or endowments that are made to the University of Alaska for the purpose of
13 the separate trust fund created under AS 14.40.400 shall be held by the university. The
14 university [TRANSFERRED TO THE DEPARTMENT OF REVENUE. THE
15 DEPARTMENT OF REVENUE] shall manage that money in accordance with
16 AS 14.40.400. Title to and control or possession of land, personal property, and all
17 money [OTHER THAN] that [TRANSFERRED TO THE DEPARTMENT OF
18 REVENUE, WHICH] is devised, bequeathed, or given to the university for the purpose
19 of the endowment trust fund established by AS 14.40.400(a) shall be taken by the
20 university in its corporate capacity acting by and through the regents or an authorized
21 agent, and shall be entered in the perpetual inventory of the university.

22 * Sec. 6. AS 14.40.291 is amended to read:

23 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA [NOT PUBLIC
24 DOMAIN] LAND SALE CONTRACTS: CONFIDENTIAL INFORMATION. (a)
25 Notwithstanding any other provision of law, university-grant land, state replacement land
26 that becomes university-grant land on conveyance to the university, land selected by
27 and conveyed to the University of Alaska under AS 14.40.365, and any other land
28 owned by the University of Alaska is not and may not be treated as state public domain
29 land.

30 (b) Land conveyed to the University of Alaska under AS 14.40.365 is
31 designated as university trust land.

32 (c) Title to or interest in [TO] land described in (a) of this section may not be

1 acquired by adverse possession, prescription, or in any other manner except by
2 conveyance from the university.

3 (d) The land described in (a) of this section is subject to condemnation for
4 public purpose in accordance with law.

5 * Sec. 7. AS 14.40.291 is amended by adding new subsections to read:

6 (e) If a contract for a sale of land of the university is breached, the president of
7 the university or the president's designee, in addition to other remedies available under
8 the law, may issue a decision to foreclose and terminate the contract at any time 31 days
9 after delivering by certified mail a written notice of the breach to the address of record
10 of the purchaser. The purchaser may cure a breach caused by the failure to make
11 payments required by the contract within 30 days after the notice of the breach has been
12 received by the purchaser by payment of the sum in default together with the larger of
13 a fee of \$50 or five percent of the sum in default. If there are material facts in dispute
14 between the university and the purchaser, the purchaser may submit a written request to
15 the president or the president's designee for the review of the facts within 30 days after
16 the notice of the breach has been received.

17 (f) On a determination that there has been a breach of the contract based on the
18 administrative record, the president of the university or the president's designee shall
19 issue a decision foreclosing the interest of the purchaser and terminating the contract.
20 The obligation to make payments under the contract continues through the date of the
21 decision to foreclose.

22 (g) The president of the university or the president's designee shall deliver the
23 decision to foreclose and terminate, either by personal delivery to the purchaser or by
24 certified mail, return receipt requested, to the address of record of the purchaser. If the
25 breach is a failure to make payments required by the contract, the decision must include
26 a notice to the purchaser that, if within 30 days the purchaser pays to the university the
27 full amount of the unpaid contract price, including all accrued interest and any fees
28 assessed under (e) of this section, the university shall issue to the purchaser a deed to the
29 land. If full payment is not made within 30 days or the breach is for other than failure
30 to make payment, the decision forecloses and terminates all legal and equitable rights the
31 purchaser has in the land.

32 (h) Notwithstanding AS 09.25.100 - 09.25.220, on a determination that it is in

1 the best interest of the university or on the request of the person who has provided the
2 information, the president may keep the following confidential:

3 (1) the names of a person applying for the sale, lease, or other disposal
4 of university land or an interest in university land;

5 (2) before the announced time of opening of an offer to purchase, lease,
6 or obtain a disposal of university land, the names of the participants and the terms of
7 their offers;

8 (3) all geological, geophysical, engineering, architectural, sales, appraisal,
9 gross receipts, net receipts, or other financial information relating to university land or
10 an interest in university land considered for or offered for disposal or currently subject
11 to a contract;

12 (4) cost data and financial information submitted by an applicant in
13 support of applications for bonds, leases, or other information in offerings and ongoing
14 operations relating to management of university land;

15 (5) applications for rights-of-way or easements across university land; and

16 (6) requests for information about or applications by public agencies for
17 university land that is being considered for use for a public purpose.

18 * Sec. 8. AS 14.40 is amended by adding a new section to read:

19 Sec. 14.40.365. SELECTION AND CONVEYANCE OF STATE LAND TO
20 THE UNIVERSITY OF ALASKA. (a) For the purposes of providing support to the
21 state's public higher education system and for the purpose of generating responsible and
22 appropriate development of the state's land and resources, the University of Alaska is
23 authorized to receive the conveyance of 500,000 acres of land that, on the effective date
24 of this section, is owned by the state, or has been tentatively approved or selected by the
25 state under the Alaska Statehood Act.

26 (b) For purposes of making the selection and conveyance of state land to the
27 university under (a) of this section, the director of the division of land, Department of
28 Natural Resources, and the director of the University of Alaska's land management office
29 shall compile and maintain and may revise a list of the land to be conveyed to the
30 university under this section. The list shall be maintained at the Anchorage office of the
31 director of the division of land. The list may not include the valid existing selections of
32 a municipality to which the municipality is entitled under AS 29.65.010 - 29.65.140. If

1 there is a disagreement between the university and the Department of Natural Resources
2 about the land to be placed on the list, the disagreement must be submitted to the
3 governor, who shall make the final decision. The governor, upon the recommendation
4 of the director of the division of land and the director of the university's land
5 management office, shall periodically submit to the legislature, within 30 days of the
6 beginning of a regular legislative session, a list of land proposed to be conveyed by the
7 state to the University of Alaska under this section. Each list must contain not less than
8 25,000 acres of land, or the remaining entitlement under (a) of this section, whichever
9 is less. The legislature may by law approve or disapprove the list and must approve or
10 disapprove the list within 60 days of its submission. A list submitted shall be deemed
11 approved for conveyance to the University of Alaska if the legislature neither approves
12 nor disapproves the list during the period of 60 days after the date on which the list was
13 submitted.

14 (c) Notwithstanding any other provision of law, on land selected by but not yet
15 conveyed by quitclaim deed to the University of Alaska or for which a document of
16 interim conveyance has not been issued to the University of Alaska under this section,

17 (1) the state is authorized to enter into contracts and grant leases,
18 licenses, claims, prospecting sites, sales, permits, rights-of-way, or easements, and any
19 interim conveyance or quitclaim deed shall be subject to the contract, lease, license,
20 claim, prospecting site, sale, permit, right-of-way, or easement, except that the authority
21 granted the state by this subsection

22 (A) is the authority that the state otherwise would have had under
23 existing laws and regulations had the land not been selected by the University of
24 Alaska; and

25 (B) may be exercised only if the University of Alaska has
26 concurred before the action is taken by the state;

27 (2) after approval of a list by the legislature or, when approval of the list
28 is based on the legislature's inaction under (b) of this section, after the 60th day
29 following the date on which the list was submitted to the legislature, and until the land
30 has been conveyed by quitclaim deed or by a document of interim conveyance, 90
31 percent of the proceeds derived from contracts, leases, licenses, claims, prospecting sites,
32 sales, permits, rights-of-way, or easements, or from trespasses, originating after the date

1 of selection by the University of Alaska shall be held by the state; upon the issuance of
2 a document of interim conveyance or a quitclaim deed, the state shall pay to the
3 University of Alaska the proceeds held by the state under this paragraph, and subsequent
4 to the issuance of a document of interim conveyance or a quitclaim deed, the University
5 of Alaska shall receive all of the proceeds derived from the contracts, leases, licenses,
6 claims, prospecting sites, sales, permits, rights-of-way, or easements, or from trespasses;

7 (3) responsibility for management of contracts, leases, licenses, claims,
8 prospecting sites, sales, permits, rights-of-way, or easements, vests with the University
9 of Alaska upon issuance of a quitclaim deed or a document of interim conveyance.

10 (d) When land is conveyed to the University of Alaska under this section, it shall
11 be conveyed in fee simple. The state may convey to the university any tideland or
12 submerged land adjacent to the land conveyed under this section. The University of
13 Alaska takes the land subject to any possessory interest held by another person on the
14 effective date of the conveyance. Except as provided in AS 14.40.368(a)(1), the
15 University of Alaska is entitled to receive the consideration due under that possessory
16 interest for the duration of the possessory interest.

17 (e) In conveying land to the University of Alaska under this section, the
18 commissioner of natural resources shall give public notice under AS 38.05.945(b) and
19 (c) and provide for access under AS 38.05.127, but other provisions of AS 38.04 and
20 AS 38.05 do not apply.

21 (f) Land transferred or conveyed to the University of Alaska under this section

22 (1) is subject to

23 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
24 339);

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

26 (C) AS 19.10.010;

27 (D) payment to the Alaska permanent fund of the amounts
28 required by AS 37.13.010(a) and (b); and

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

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

1 (g) The University of Alaska shall bear all costs of selection, platting, surveying,
2 and, except for a cost specified in (i) of this section, conveyance of the land that it
3 selects under this section and, subject to appropriation, shall reimburse the Department
4 of Natural Resources for the reasonable costs incurred by that department relating to that
5 selection, platting, surveying, and conveyance. Under this subsection,

6 (1) if the land has been surveyed,

7 (A) the boundaries of the land conveyed must conform to the
8 public land subdivisions established by the approved survey; and

9 (B) the commissioner shall issue a quitclaim deed to the land
10 within one year of receiving a request for the land's conveyance from the
11 university;

12 (2) if the land is unsurveyed, the commissioner shall

13 (A) survey the exterior boundaries of the land to be conveyed
14 without interior subdivision; and

15 (B) issue a quitclaim deed to the land in terms of the exterior
16 boundary survey within one year of receiving a request for the land's conveyance
17 by the university.

18 (h) For land due the University of Alaska under this section that is unsurveyed,
19 pending the survey of exterior boundaries and issuance of a quitclaim deed, the
20 commissioner of natural resources shall, within one year of request by the university,
21 prepare and provide to the University of Alaska a document of interim conveyance for
22 the land to be conveyed.

23 (i) Except as provided in AS 14.40.368(a)(2), management of land conveyed to
24 the University of Alaska by a quitclaim deed or by a document of interim conveyance
25 vests with the University of Alaska from the date of recording of the quitclaim deed or
26 document of interim conveyance. The state shall pay the cost of recording all quitclaim
27 deeds and documents of interim conveyance.

28 (j) The University of Alaska may not make a land selection under this section
29 after December 31, 2016.

30 * Sec. 9. AS 14.40 is amended by adding new sections to read:

31 Sec. 14.40.366. MANAGEMENT AND DISPOSITION OF UNIVERSITY
32 TRUST LAND. (a) University trust land selected and conveyed under AS 14.40.365

1 shall be conveyed to the Board of Regents and held by the Board of Regents in trust for
2 the University of Alaska. The University of Alaska

3 (1) shall manage university trust land in accordance with applicable trust
4 management principles;

5 (2) shall manage university trust land under provisions of law applicable
6 to other university land; and

7 (3) may exchange other state land for university trust land under the
8 procedures set out in AS 38.50.

9 (b) The University of Alaska shall establish

10 (1) policies to provide for public notice and comment on proposals for
11 develop , exchange, or sale of university trust land conveyed under AS 14.40.365;
12 and

13 (2) procedures for mineral entry or location and mineral leasing on
14 university trust land selections made under AS 14.40.365 that are substantially similar
15 to mineral entry, location, and leasing procedures for state land under AS 38.05.185 -
16 38.05.275.

17 (c) The Board of Regents shall adopt policies that provide that the university
18 shall every second year prepare a plan for management and disposition of university trust
19 land conveyed under AS 14.40.365 and shall, not less than 60 days before scheduled
20 approval by the Board of Regents of the plan,

21 (1) make copies of the plan available at all legislative information offices
22 and at such other locations as the university may designate;

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

26 (3) give notice to all legislators and to local governments with
27 jurisdiction over the land affected by the plan; and

28 (4) seek public comment on the plan prior to action by the Board of
29 Regents approving the plan.

30 Sec. 14.40.368. MANAGEMENT AND DISPOSITION OF INCOME FROM
31 EXISTING ENCUMBRANCES ON UNIVERSITY TRUST LAND. (a) For the land
32 selected by and conveyed to the University of Alaska under AS 14.40.365 that is, as of

1 the effective date of the conveyance, subject to a lease, license, contract, claim,
2 prospecting site, sale, permit, or right-of-way

3 (1) the state is entitled to receive 50 percent of the income obtained from
4 the lease, license, contract, claim, prospecting site, sale, permit, or right-of-way for the
5 duration of the term of the lease, contract, claim, prospecting site, sale, permit, or right-
6 of-way, and during any renewal of it that is authorized by the lease, license, contract,
7 claim, prospecting site, sale, permit, or right-of-way, or by law;

8 (2) the responsibility for the management of the land vests with the
9 University of Alaska only upon conclusion of the term, including any renewals, of the
10 lease, license, contract, claim, prospecting site, sale, permit, or right-of-way that is
11 authorized by law.

12 (b) If the state and the university mutually agree that the responsibility for the
13 management of land may be transferred to the university at a date earlier than the date
14 described in (a)(2) of this section, then, notwithstanding (a)(1) of this section, the
15 university is entitled to receive all income described in (a)(1) of this section on or after
16 the effective date of the transfer of the management responsibility.

17 Sec. 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE
18 CONTINUED. (a) When land selected by the University of Alaska under AS 14.40.365
19 has been conveyed to it, before conveying or disposing of an interest in land to a third
20 party, the University of Alaska shall manage the land in a manner that permits customary
21 and traditional uses of the resources of that land to the maximum extent practicable.

22 (b) The provisions of (a) of this section do not apply to authorize the commercial
23 harvest of timber from the land conveyed to the university.

24 * Sec. 10. AS 14.40 is amended by adding a new section to read:

25 Sec. 14.40.375. TORT IMMUNITY FOR PERSONAL INJURIES, DEATH, OR
26 PROPERTY DAMAGE OCCURRING ON UNIVERSITY LAND. (a) Notwithstanding
27 AS 09.65.200 and except as provided in (b) of this section, the University of Alaska is
28 not liable in tort, except for an affirmative act that constitutes gross negligence or
29 reckless or intentional misconduct, for damages for the injury to or death of a person,
30 or for property damage to the property of a person, who enters onto or remains on land
31 owned by the University of Alaska.

32 (b) The provisions of (a) of this section do not apply to damages for injury to

1 or death of a person, or for property damage to the property of a person, that occurs on
2 land of the University of Alaska that, after receipt of title to the land by the University
3 of Alaska, has been improved and is actively maintained by the University of Alaska.

4 * Sec. 11. AS 14.40.400(a) is amended to read:

5 (a) The University of Alaska [DEPARTMENT OF REVENUE] shall establish
6 a separate endowment trust fund in which all net income derived from the sale or lease
7 of the land granted under the Act of Congress approved January 21, 1929, and the land
8 selected by and conveyed to the University of Alaska under AS 14.40.365 that under
9 AS 14.40.291(b) is designated university trust land, and in which all monetary gifts,
10 bequests, or endowments made to the University of Alaska for the purpose of the fund
11 [,] shall be held in trust.

12 * Sec. 12. AS 14.40.400(b) is amended to read:

13 (b) The president of the University of Alaska [COMMISSIONER OF
14 REVENUE] is the fiduciary of the trust fund and shall account for and invest the fund
15 as set out for the commissioner of revenue in AS 37.14.110(c), 37.14.160, and
16 37.14.170, except that the president of the university [COMMISSIONER] shall report
17 the condition and investment performance of the fund to the Board of Regents and to
18 the legislature.

19 * Sec. 13. AS 14.40.491 is amended to read:

20 Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In AS 14.40.120
21 - 14.40.491, "university receipts" includes
22 (1) student fees, including tuition;
23 (2) receipts from university auxiliary services;
24 (3) recovery of indirect costs of university activities;
25 (4) the net income of the trust fund established in AS 14.40.400 and
26 receipts from sales and rentals of university property;
27 (5) federal receipts;
28 (6) gifts, grants, and contracts; and
29 (7) receipts from sales, rentals, and the provision of services of
30 educational activities.

31 * Sec. 14. AS 29.45.030(a) is amended to read:

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

1 (1) municipal property, including property held by a public corporation
2 of a municipality, [OR] state property, or property of the University of Alaska, except
3 that

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

6 (B) notwithstanding any other provision of law, property acquired
7 by an agency, corporation, or other entity of the state through foreclosure or deed
8 in lieu of foreclosure and retained as an investment of a state entity is taxable;
9 this subparagraph does not apply to federal land granted to the University of
10 Alaska under AS 14.40.380 or 14.40.390, [OR] to other land granted to the
11 university by the state to replace land that had been granted under AS 14.40.380
12 or 14.40.390, or to land conveyed by the state to the University of Alaska
13 under AS 14.40.365;

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

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

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

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

25 (5) money on deposit;

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

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

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

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

4 * Sec. 15. AS 36.30.850(b)(15) is amended to read:

5 (15) a contract that is a delegation, in whole or in part, of investment
6 powers held by the commissioner of revenue under [AS 14.40.400,] AS 14.42.200,
7 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

8 * Sec. 16. AS 14.40.400(e) is repealed.

9 * Sec. 17. UNIVERSITY OF ALASKA ENDOWMENT TRUST FUND: TRANSITION.

10 A contract, right, liability, or obligation in effect on the effective date of this Act remains in
11 effect notwithstanding the amendments to AS 14.40.280 or 14.40.400 made in secs. 5, 11, 12,
12 and 16 of this Act. Assets and liabilities of the University of Alaska endowment trust fund held
13 by the Department of Revenue on the effective date of this Act shall be transferred by the
14 Department of Revenue to the University of Alaska to implement this Act.

15 * Sec. 18. APPLICABILITY OF LAND SALE CONTRACT REMEDY PROVISIONS.

16 AS 14.40.291(e) - (g), added by sec. 7 of this Act, apply to land sale contracts entered into by
17 the University of Alaska on or after the effective date of this Act.

AMENDMENT

*By
Sen. Torgensen*

OFFERED IN THE SENATE

TO: AMENDMENT #2; CSSB 250(FIN)

1 Page 1, line 4:

2 Delete "shall require the primary manufacture of the timber
3 before the timber is exported from the state."

4 Replace with "may regulate, restrict or prohibit the export of
5 unprocessed logs harvested from its lands".

AMENDMENT

#2

OFFERED IN THE SENATE
TO: CSSB 250(FIN)

By Senata Taylor

1 Page 11, following line 5:

2 Insert a new subsection to read:

3 "(c) To the extent consistent with law, in contracts for the harvest or removal
4 of timber from university trust land, the Board of Regents shall require the primary
5 manufacture of the timber before the timber is exported from the state."

AMENDMENT

#3

OFFERED IN THE SENATE
TO: CSSB 250(FIN)

By Sen. Taylor

- 1 Page 12, lines 3 - 15:
- 2 Delete all material.
- 3 Renumber the following bill sections accordingly.
- 4 Page 14, lines 27 - 28:
- 5 Delete "secs. 5, 11, 12, and 16"
- 6 Insert "secs. 5, 10, 11, and 15"

A M E N D M E N T #4

OFFERED IN THE SENATE
TO: CSSB 250(FIN)

By Senator Taylor

- 1 Page 12, following line 30:
2 Insert a new bill section to read:
3 ** Sec. 13. AS 14.40.400(c) is amended to read:
4 (c) The net income from the trust fund shall be used exclusively for the
5 University of Alaska which, under AS 14.40.390, is designated the beneficiary of
6 certain federal land grants previously made to the Agricultural College and School
7 of Mines. However, not less than 25 percent of the income earned by the trust
8 fund from land described in (a) of this section, and from the resources of that
9 land, is reserved for expenditure solely for the benefit of the campus of the
10 University of Alaska, as defined by AS 14.40.150(b), that is nearest to the land
11 or resource activity that generated the amounts deposited under (a) of this
12 section on which that income was earned."
- 13 Renumber the following bill sections accordingly.



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 278-0347

Date: 3/23/96

Control Number: _____

TELECOPY COVER PAGE

TO: Name: Charlie Bolly Fax Number: _____
 Name: Bob Stiles Fax Number: _____
 Name: _____ Fax Number: _____
 Company: _____
 Location: _____

FROM: Name: STEVE BORELL Fax number: (907) 278-7997

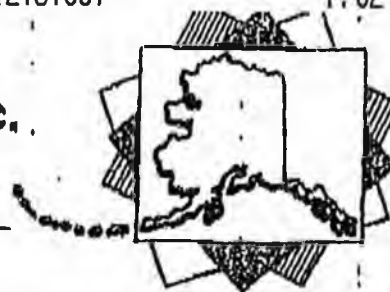
NOTES: _____

RE: SB-250 Unw Lads

PAGES TO FOLLOW 3 (Not including this cover page.)

David S. Manzar
President
6381 Tudor Top Circle
Anchorage, Alaska 99507-1631
(907) 583-8882
FAX 583-8883

Alaska Land Status, Inc.



March 22, 1996

Honorable Steve Frank
Alaska State Senate
State Capitol (MS 3100)
Juneau, AK 99801-1182
Fax: 465-4714

Via Telefax

Re: University Lands Bill (SB 250)

Dear Senator Frank:

I am writing you with regards to the University Lands Bill. I would like to preface my remarks by thanking you for your strong and very appreciated support of the mining industry. Due to my respect for your work and gratitude for your support of the mining industry I do not take lightly the remarks I am about to make. However, I must be brutally frank: The University Lands Bill is very, very bad for Alaska's mining industry!

I speak with some knowledge and expertise on lands issues that affect mineral exploration and development. I am a professional landman who looks at land status and public land law title issues for major mining companies, Native regional corporations, law firms and state and local governments. I am fortunate to include among my clients most of the major mining companies working in this State. These include those majors that are currently spending a lot of money and employing a lot of people in the Fairbanks Mining District. I am also a member of the Board of Directors of the Alaska Miners Association and Co-Chair of its State Oversight Committee as well as a member of the Resource Development Council. However, it is as an expert on lands and title issues that affect mining companies and as a small business owner and father who stands to be very negatively impacted from this bill that I appeal to you today.

The University Lands Bill is inherently flawed! It will do away with secure land tenure for mining companies on State lands. It will create both real and perceived uncertainty for mining companies thinking to explore and develop State lands. It will almost certainly be litigated. That threat itself will scare companies away.

Senator Steve Frank

March 22, 1996

Page 2

This bill has many problems and the biggest are simply not fixable. First and foremost, it creates Trust Land. That means say goodbye to 3% net income royalties and \$20/\$40/\$100 claim rentals as called for on State lands under Title 38. Inserting language suggesting that University Lands regulations be substantially similar to Title 38 will not fix it. These are Trust Lands and they must be managed in the best interest of the Trust. Did you know that the Mental Health Trust's new minimum standards call for a 5% net smelter return royalty and triple current State rentals? The minute the University asks for less on their Trust lands they will be sued for not acting in the best fiduciary interest of the Trust. If the economics of a project are not there and uncertain land tenure exists it matters little if the University will come to the permitting table as an ally. You only get to the permitting phase of a project if the economics are there and you can obtain secure land tenure.

Another inherent and unfixable problem with the bill relates to Section 6(J) of the Statehood Act. This bill conveys the State's mineral estate to a Trust, inconsistent with Section 6(I). This will subject these lands to forfeiture to the United States. And if you have been informed that this is not really a problem somebody is sandbagging you. At the very least it will be litigated and no mining company in its right mind will take on the risk of investing in lands that are subject to litigation.

Then there is the huge problem of unlimited selections until the year 2016! There is no limitation on the amount of acreage to be selected! I will present a very likely scenario that this bill will create: A major mining company makes a discovery on State lands and locates mining claims or prospecting sites. The University, being savvy in its search of choice lands to select takes notice of this and selects those lands. One might think that the mining company is protected with their locations but this is not true under this bill. As a practical matter, any major mine on State lands includes the conversion of mining claims or leasehold locations to an upland mining lease. This lease provides the secure tenure necessary to undertake such significant investment risk. However, under SB 250 the University must provide concurrence before any action is taken by the State on University-selected lands. That means in this case that if the major mining company wants to convert their claims to an upland mining lease at 3% net income royalty the University will step forward and say, "Sorry, but we do not provide concurrence for that. However, we'll concur at 5% net smelter return." If the mining company acquired its lands from a prospector or junior mining company, as is the case for much of Fort Knox and True North for example, these other lessors receive royalties too. The project immediately becomes uneconomic, even perhaps without the prospector/junior mining company lessor involved. And, as explained earlier, if the University does not ask for all they can get, they are going to get sued for not acting in the best interest of the Trust.

Now stretch the mining company's uncertainty about which State lands will be selected until the year 2016, with no total acreage limitation on selections, which this bill allows. This is a chilling investment climate!

Senator Steve Frank

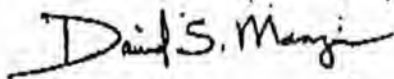
March 22, 1996

Page 3

As you know, and in part due to your support, we have a very vibrant and hopeful mining industry in the State today. This is due to a number of factors: the presence and potential of world-class mineral deposits, the mineral exploration incentive credits bill passed last session, the State's geophysical mapping program, the relative ease with which Port Knox was permitted and the resolution of the Mental Health Trust Lands issue being the most obvious. But believe me, the Mental Health lands issue is not completely resolved. Plaintiff attorneys Gottstein and Walker are to submit a brief to the Supreme Court by April 30. They have identified over 175 issues that may be raised on appeal. There are no Mental Health regulations yet, even in draft form. The Mental Health Trust Land Unit is working diligently towards implementing procedures and policies to allow exploration and development on their lands but it is not an easy, speedy or secure process at this time. This is not the fault of personnel, it is the nature of the beast. And the University Lands Bill will create another such beast just when we are on the verge of taming the last one.

There are many other problems with the University Lands Bill but I have already violated the one page letter rule so I'd better stop now. Again, I thank you for your strong support of our industry. Please however reconsider your position on this bill before it undoes all the positive things the legislature has accomplished to support our industry and encourage its investment and job creation! Please call if you wish to discuss these and other concerns that I and others in our industry have with the University Lands Bill. Thank you for considering my concerns and for your efforts in support of Alaska's mining industry.

Sincerely yours,



David S. Manzer

cc: via telefax

Senator Drue Pearce (465-3872)
Representative Gail Phillips (465-3472)
Representative Gene Therriault (465-3884)
Representative Al Vezey (465-3258)
Representative Brian Porter (465-3834)
Steve Borell (278-7997)

HOUSE CS FOR CS FOR SENATE BILL NO. 16(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/9/95

Referred: Today's Calendar

Sponsor(s): SENATORS FRANK, Kelly, Sharp, Rieger, Miller

REPRESENTATIVES Williams, James

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."

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

6 * **Section 1. FINDINGS AND PURPOSE.** The legislature finds that

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

11 (2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45
12 Stat. 1091, the Congress of the United States granted to the Territory of Alaska certain federal
13 land to be held in trust for the benefit of the predecessor of the University of Alaska;

14 (3) the Territory was unable to receive most of the land conveyed by the Act

1 of March 4, 1915, before repeal of that Act by Sec. 6(k) of the Alaska Statehood Act (P.L.
2 85-508, 72 Stat. 339);

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

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

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

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

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

17 (9) renewable resources should be managed on a sustained yield basis, taking
18 into account the total land grant.

19 * Sec. 2. LEGISLATIVE INTENT. It is the intent of the legislature that the University
20 of Alaska encourage the development of in-state value-added industries to the maximum extent
21 feasible when developing land conveyed under AS 14.40.365.

22 * Sec. 3. AS 14.40.170(a) is amended to read:

23 (a) The Board of Regents shall

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

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

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

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

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

31 (B) land

1 (i) conveyed to the Board of Regents by the
2 commissioner of natural resources in the settlement of the claim of the
3 University of Alaska to land granted to the state in accordance with the
4 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance
5 with the Act of January 21, 1929 (45 Stat. 1091), as amended; and

6 (ii) selected by the University of Alaska and conveyed
7 to it by the commissioner of natural resources under AS 14.40.365,
8 except as provided in AS 14.40.368(2);

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

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

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

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

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

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

29 (B) that were selected by and conveyed to the University of
30 Alaska under AS 14.40.365.

31 * Sec. 4. AS 14.40.280 is amended to read:

1 Sec. 14.40.280. ENDOWMENTS AND DONATIONS. All monetary gifts,
2 bequests, or endowments that are made to the University of Alaska for the purpose of
3 the separate trust fund created under AS 14.40.400 shall be held by the university.
4 The university [TRANSFERRED TO THE DEPARTMENT OF REVENUE. THE
5 DEPARTMENT OF REVENUE] shall manage that money in accordance with
6 AS 14.40.400. Title to and control or possession of land, personal property, and all
7 money [OTHER THAN] that [TRANSFERRED TO THE DEPARTMENT OF
8 REVENUE, WHICH] is devised, bequeathed, or given to the university shall be taken
9 by the university in its corporate capacity acting by and through the regents or an
10 authorized agent, and shall be entered in the perpetual inventory of the university.

11 * Sec. 5. AS 14.40.291 is amended to read:

12 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA NOT PUBLIC
13 DOMAIN LAND. (a) Notwithstanding any other provision of law, university-grant
14 land, state replacement land that becomes university-grant land on conveyance to the
15 university, land selected by and conveyed to the University of Alaska under
16 AS 14.40.365, and any other land owned by the University of Alaska is not and may
17 not be treated as state public domain land. Land conveyed to the University of
18 Alaska under AS 14.40.365 shall be managed under AS 14.40.366 and policies of
19 the Board of Regents of the University.

20 (b) Title to or interest in [TO] land described in (a) of this section may not
21 be acquired by adverse possession, prescription, or in any other manner except by
22 conveyance from the university.

23 (c) The land described in (a) of this section is subject to condemnation for
24 public purpose in accordance with law.

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

26 Sec. 14.40.365. UNIVERSITY LAND FROM STATEHOOD ACT LAND
27 SELECTION CONVEYANCES. (a) The University of Alaska may select and, except
28 as provided in (m) of this section, is entitled to receive the conveyance of 350,000
29 acres of land conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L.
30 85-508, 72 Stat. 339). The Board of Regents of the University of Alaska and the
31 commissioner of natural resources shall periodically and jointly submit to the

1 legislature, within 30 days of the beginning of a regular legislative session, a list of
2 land proposed to be conveyed by the state to the University of Alaska under this
3 section. Each list must contain not less than 25,000 acres of land, or the remaining
4 entitlement under this subsection, whichever is less. The legislature may by law
5 approve or disapprove the list. A list submitted shall be deemed approved for
6 conveyance to the University of Alaska if the legislature neither approves nor
7 disapproves the list during the legislative session during which the list was submitted.
8 Land may be included in the list only if it, on the date of its selection by the
9 university,

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

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

12 (3) is not land

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

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

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

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

19 (B) a timber contract;

20 (C) a mining claim, a prospecting site, or a prospecting permit
21 on tide or submerged land;

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

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

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

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

29 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and
30 management of land from the Department of Natural Resources to the Board of
31 Regents of the University of Alaska under this section includes

1 (1) the interest of the state in the coal, ores, minerals, fissionable
2 materials, geothermal resources, and fossils that may be in or on the land; and

3 (2) the interest of the state in the oil and gas that may be in or on the
4 land, but only as to land that is selected by the University of Alaska under this section
5 on and after the date that is the fifth anniversary of the effective date of this section.

6 (c) When the University of Alaska selects the land to which it is entitled under
7 this section,

8 (1) selections must be made in parcels of 40 acres or larger, unless the
9 commissioner of natural resources finds it is in the best interest of the state to convey
10 less; and

11 (2) unless the commissioner of natural resources determines under (e)
12 of this section that the land should not be included on the list of land submitted to the
13 legislature under (a) of this section, the commissioner of natural resources shall, upon
14 approval of the list submitted to the legislature, or upon failure of the legislature
15 during the legislative session following submission of the list to disapprove the list,
16 convey, subject to divestiture under (m) of this section, a document of interim
17 conveyance under (j) of this section or a patent to land.

18 (d) Notwithstanding any other provision of law, on land selected by but not
19 yet patented to the University of Alaska or for which a document of interim
20 conveyance has not been issued to the University of Alaska under this section,

21 (1) the state is authorized to enter into contracts and grant leases,
22 licenses, prospecting sites, claims, permits, rights-of-way, or easements and any interim
23 conveyance or patent shall be subject to the contract, lease, license, prospecting site,
24 claim, permit, right-of-way, or easement, except that the authority granted the state by
25 this subsection

26 (A) is the authority that the state otherwise would have had
27 under existing laws and regulations had the land not been selected by the
28 University of Alaska; and

29 (B) may be exercised only if the University of Alaska has
30 concurred before the action is taken by the state;

31 (2) 90 percent of the proceeds derived from contracts, leases, licenses,

1 prospecting sites, claims, permits, rights-of-way, or easements, or from trespasses,
2 originating after the date of selection by the University of Alaska shall be held by the
3 state until the land has been conveyed by the patent or by a document of interim
4 conveyance; upon the issuance of a document of interim conveyance or a patent, the
5 state shall pay to the University of Alaska the proceeds allocable to the land that were
6 derived from the contracts, leases, licenses, prospecting sites, claims, permits, rights-of-
7 way, or easements, or from trespasses, and subsequent to the issuance of a document
8 of interim conveyance or a patent, the University of Alaska shall receive 100 percent
9 of the proceeds derived from the contracts, leases, licenses, prospecting sites, claims,
10 permits, rights-of-way, or easements, or from trespasses;

11 (3) responsibility for management of contracts, leases, licenses,
12 prospecting sites, claims, permits, rights-of-way, or easements vests with the University
13 of Alaska upon issuance of a patent or a document of interim conveyance

14 (e) The commissioner of natural resources may not include on a list of land
15 submitted to the legislature under (a) of this section a land selection made by the
16 University of Alaska under this section if the commissioner determines that the
17 proposed selection

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

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

23 (B) the commissioner reasonably believes the land may be
24 selected by a municipality under AS 29.65.030, but the commissioner may not
25 withhold under this subparagraph the conveyance of title to land selected by the
26 university longer than three years after the date of the municipality's
27 incorporation;

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

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

30 (B) the commissioner reasonably believes will be made part of,
31 an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the

1 commissioner may not refuse to convey title to land to the University of Alaska
2 under this subparagraph for more than three years after its first selection by the
3 University of Alaska;

4 (3) is not in the best interests of the state.

5 (f) When land is conveyed to the University of Alaska under this section, the
6 University of Alaska takes the land subject to any possessory interest held by another
7 person on the effective date of the conveyance. Except as provided in
8 AS 14.40.368(1), the University of Alaska is entitled to receive the consideration due
9 under that interest for the duration of the interest.

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

14 (h) Land transferred or conveyed to the University of Alaska under this section

15 (1) is subject to

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

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

19 (C) AS 19.10.010;

20 (D) payment to the Alaska permanent fund of the amounts
21 required by AS 37.13.010(a) and (b); and

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

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

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

1 in and on it.

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

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

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

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

23 (k) Except as provided in AS 14.40.368(2), management of land conveyed to
24 the University of Alaska by patent or by a document of interim conveyance vests with
25 the University of Alaska from the date of recording of the patent or document of
26 interim conveyance. The state shall pay the cost of recording all patents and
27 documents of interim conveyance.

28 (l) The University of Alaska may not make a land selection under this section
29 after December 31, 2009.

30 (m) When the commissioner of natural resources issues a document of interim
31 conveyance under (j) of this section or a patent for land selected and held by the

1 University of Alaska, the commissioner of natural resources shall retain the right to
2 reenter the land conveyed and recover title to it. The commissioner of natural
3 resources shall reenter and recover title

4 (1) if, on the 10th anniversary of the execution of the conveyance, the
5 commissioner finds that the University of Alaska is not actively managing the land to
6 provide income for the support of its education programs; however, if at any time
7 during the 10-year period, litigation, including any appeal, has prevented the University
8 of Alaska from actively managing the land to provide income, the date on which the
9 commissioner of natural resources shall make the finding required by this paragraph
10 is extended by a period equal to the period attributable to the litigation during which
11 the University of Alaska was prevented from actively managing the land to provide
12 income; for purposes of this paragraph, "actively managing the land to provide
13 income" means that the University of Alaska is deriving revenue from the land
14 selection, or has in place a development program to derive income from the land
15 selection; or

16 (2) if, before January 1, 2010, any land selected and conveyed to the
17 University of Alaska under this section is conveyed, except in an acre-for-acre land
18 exchange, directly by the University of Alaska or indirectly by third parties, to the
19 United States; the reentry and recovery of title under this paragraph terminates the
20 university's title or ownership interest in all land conveyed to it under this section and
21 the University of Alaska may not thereafter make any other land selections under this
22 section.

23 * Sec. 7. AS 14.40 is amended by adding new sections to read:

24 Sec. 14.40.366. MANAGEMENT AND DISPOSITION OF UNIVERSITY
25 LAND. (a) The Board of Regents shall, by policy, establish procedures for mineral
26 entry or location and mineral leasing on university land selections made under
27 AS 14.40.365 that are substantially similar to mineral entry, location, and leasing
28 procedures for state land under AS 38.05.185 - 38.05.275.

29 (b) Notwithstanding other provisions of law, the University of Alaska shall
30 seek public comment on proposals for development, exchange, or sale of university
31 selections made under AS 14.40.365. The Board of Regents shall adopt policies which

1 provide that the university shall prepare an annual plan for management and
2 disposition of university land under this section and shall, not less than 60 days before
3 scheduled approval by the Board of Regents of the plan

4 (1) make copies of the plan available at all legislative information
5 offices and at such other locations as the university may designate;

6 (2) publish a notice in newspapers of general circulation in the state
7 which provides the public with information on the locations where the plan is available
8 for public inspection;

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

11 (4) seek public comment on the annual plan prior to action by the
12 Board of Regents approving the plan.

13 Sec. 14.40.368. MANAGEMENT AND DISPOSITION OF INCOME FROM
14 EXISTING ENCUMBRANCES. For the land selected by and conveyed to the
15 University of Alaska under AS 14.40.365 that is subject to a lease, contract,
16 prospecting site, claim, sale, permit, or right-of-way identified in AS 14.40.365(a)(4)

17 (1) the state is entitled to receive the income obtained from the lease,
18 contract, prospecting site, claim, sale, permit, or right-of-way for the duration of the
19 term of the lease, contract, prospecting site, claim, sale, permit, or right-of-way, and
20 during any renewal of it that is authorized by the lease, contract, prospecting site,
21 claim, sale, permit, or right-of-way, or by law;

22 (2) the responsibility for the management of the land vests with the
23 University of Alaska only upon conclusion of the term of the lease, contract,
24 prospecting site, claim, sale, permit, or right-of-way, and any renewal authorized by
25 the lease, contract, prospecting site, claim, sale, permit, or right-of-way, by law.

26 Sec. 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE
27 CONTINUED. When land selected by the University of Alaska under AS 14.40.365
28 has been conveyed to it, before conveying or disposing of an interest in land to a third
29 party, the University of Alaska shall manage the land in a manner that permits
30 customary and traditional uses of the resources of that land to the maximum extent
31 practicable.

1 * Sec. 8. AS 14.40 is amended by adding a new section to read:

2 Sec. 14.40.375. TORT IMMUNITY FOR PERSONAL INJURIES, DEATH,
3 OR PROPERTY DAMAGE OCCURRING ON UNIVERSITY LAND. (a)
4 Notwithstanding AS 09.65.200 and except as provided in (b) of this section, the
5 University of Alaska is not liable in tort, except for an affirmative act that constitutes
6 gross negligence or reckless or intentional misconduct, for damages for the injury to
7 or death of a person, or for property damage to the property of a person, who enters
8 onto or remains on land owned by the University of Alaska.

9 (b) The provisions of (a) of this section do not apply to damages for injury to
10 or death of a person, or for property damage to the property of a person, that occurs
11 on land of the University of Alaska that, after receipt of title to the land by the
12 University of Alaska, has been improved and is actively maintained by the University
13 of Alaska.

14 * Sec. 9. AS 14.40.400(a) is amended to read:

15 (a) The University of Alaska [DEPARTMENT OF REVENUE] shall establish
16 a separate endowment trust fund in which all net income derived from the sale or lease
17 of the land granted under the Act of Congress approved January 21, 1929, and the
18 land selected by and conveyed to the University of Alaska under AS 14.40.365, and
19 in which all monetary gifts, bequests, or endowments made to the University of Alaska
20 for the purpose of the fund, shall be held in trust.

21 * Sec. 10. AS 14.40.400(b) is amended to read:

22 (b) The president of the University of Alaska [COMMISSIONER OF
23 REVENUE] is the fiduciary of the trust fund and shall account for and invest the fund
24 as set out for the commissioner of revenue in AS 37.14.110(c), 37.14.160, and
25 37.14.170, except that the president of the university [COMMISSIONER] shall report
26 the condition and investment performance of the fund to the Board of Regents and to
27 the legislature.

28 * Sec. 11. AS 14.40.491 is amended to read:

29 Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In
30 AS 14.40.120 - 14.40.491, "university receipts" includes

31 (1) student fees, including tuition;

- 1 (2) receipts from university auxiliary services;
- 2 (3) recovery of indirect costs of university activities;
- 3 (4) the net income of the trust fund established in AS 14.40.400 and
- 4 receipts from sales and rentals of university property;
- 5 (5) federal receipts;
- 6 (6) gifts, grants, and contracts; and
- 7 (7) receipts from sales, rentals, and the provision of services of
- 8 educational activities.

9 * Sec. 12. AS 29.45.030(a) is amended to read:

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

11 (1) municipal property, including property held by a public corporation

12 of a municipality, [OR] state property, or property of the University of Alaska,

13 except that

14 (A) a private leasehold, contract, or other interest in the

15 property is taxable to the extent of the interest;

16 (B) notwithstanding any other provision of law, property

17 acquired by an agency, corporation, or other entity of the state through

18 foreclosure or deed in lieu of foreclosure and retained as an investment of a

19 state entity is taxable; this subparagraph does not apply to federal land granted

20 to the University of Alaska under AS 14.40.380 or 14.40.390, [OR] to other

21 land granted to the university by the state to replace land that had been granted

22 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the

23 University of Alaska under AS 14.40.365;

24 (C) an ownership interest of a municipality in real property

25 located outside the municipality acquired after December 31, 1990, is taxable

26 by another municipality; however, a borough may not tax an interest in real

27 property located in the borough and owned by a city in that borough;

28 (2) household furniture and personal effects of members of a

29 household;

30 (3) property used exclusively for nonprofit religious, charitable,

31 cemetery, hospital, or educational purposes;

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

5 (5) money on deposit;

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

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

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

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

17 * **Sec. 13.** AS 36.30.850(b)(15) is amended to read:

18 (15) a contract that is a delegation, in whole or in part, of investment
19 powers held by the commissioner of revenue under [AS 14.40.400,] AS 14.42.200,
20 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

21 * **Sec. 14.** AS 14.40.400(e) is repealed.

22 * **Sec. 15.** UNIVERSITY OF ALASKA ENDOWMENT TRUST FUND: TRANSITION.

23 A contract, right, liability, or obligation in effect on the effective date of this Act remains in
24 effect notwithstanding the amendments to AS 14.40.280 or 14.40.400 made in secs. 4, 9, 10,
25 and 14 of this Act. Assets and liabilities of the University of Alaska endowment trust fund
26 held by the Department of Revenue on the effective date of this Act shall be transferred by
27 the Department of Revenue to the University of Alaska to implement this Act.

28 * **Sec. 16.** APPLICABILITY OF UNIVERSITY SELECTION RIGHTS UNDER
29 AS 14.40.365 TO CERTAIN LAND. In addition to the land that, under AS 14.40.365(e), the
30 commissioner of natural resources may not convey to the University of Alaska, the
31 commissioner of natural resources may not convey land that, at the time of its selection by

1 the university, is subject to designation for conveyance or conveyance to the Alaska Mental
2 Health Trust Authority under sec. 40, ch. 5, FSSLA 1994, as amended by secs. 4 and 5,
3 ch. 1, SSSLA 1994, and may not convey land that, at the time of its selection by the
4 university, is land obtained under the Alaska Mental Health Enabling Act of 1956, P.L. 84 -
5 830, 70 Stat. 709, redesignated by ch. 181, SLA 1978, as state general grant land, not later
6 disposed of by the state, and not part of the mental health trust as reconstituted by ch. 66,
7 SLA 1991, ch. 5, FSSLA 1994, and ch. 1, SSSLA 1994, until all litigation regarding
C reconstitution of the mental health trust has been concluded.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 250(FIN)

- 1 Page 1, line 4, after "management":
2 Insert "and the development of its resources"
- 3 Page 6, line 30:
4 Delete "500,000 acres"
5 Insert "350,000 acres"
- 6 Page 7, line 1, after "Act":
7 Insert "and that has not been reserved by law from the state public domain land and
8 designated as part of a state park, state forest, state game refuge, state wildlife refuge, state
9 game sanctuary, state recreational area, state recreational river, state wilderness park, state
10 marine park, state special management area, state public use area, critical habitat area, bald
11 eagle preserve, bison range, or moose range"
- 12 Page 10, line 22, following "establish":
13 Insert "(1)"
- 14 Page 10, line 24, following "AS 14.40.365":
15 Delete "."
16 Insert ";
17 (2) procedures for mineral entry or location and mineral leasing on
18 university trust land selections made under AS 14.40.365 that are substantially similar
19 to mineral entry, location, and leasing procedures for state land under AS 38.05.185 -
20 38.05.275.
21 (c)"

1 Page 11, following line 5:

2 Insert a new subsection to read:

3 "(c) The policy set out in AS 44.99.100(b)(5) applies to management of the
4 resources of university trust land. In carrying out this policy, the Board of Regents
5 shall ensure that the provisions of AS 44.99.100(b)(5) apply to the development of the
6 resources of university trust land."

7 Page 11, lines 16 - 20:

8 Delete all material and insert:

9 "(2) the responsibility for the management of the land vests with the
10 University of Alaska only upon conclusion of the term, including any renewals, of the
11 lease, license, contract, claim, prospecting site, sale, permit, or right-of-way that is
12 authorized by law."

13 Page 11, line 30, after "resources":

14 Insert ", including hunting, fishing, and recreational opportunities,"

CS House Bill 469 () Workdraft 9-LS1627\F (3/12/96)
Sectional Analysis

Section 1. FINDINGS AND PURPOSE.

Defines the University of Alaska as a land-grant university. Establishes that under the Acts of March 4, 1915 Congress granted Alaska certain federal lands to be held in trust for the University. Upon Statehood the act was repealed and Congress assumed that the State would devote some of its 102,500,000 acres to the University. These lands were to be income producing lands to provide support to the University and its programs.

Section 2. LEGISLATIVE INTENT.

Establishes that the legislature's intent is that the UofA encourage the development of in-state value-added industries to the maximum extent feasible when developing conveyed land.

Section 3. Amends 14.40.170. DUTIES AND POWERS OF BOARD OF REGENTS.

Establishes guidelines that the board must abide by and amends the duties and powers of the Board of Regents under (4) to say that the Board has the care, control, and management of land selected by the UofA and conveyed to it by the commissioner of DNR under AS 14.40.365, except as provided in AS 14.40.368 (a)(2). Also requires that the board report to the legislature the status of selected and conveyed land.

Section 4. Amends 14.40.190. REPORT TO LEGISLATURE.

Includes the management of university public trust land in Board of Regents written report to legislature.

Section 5. Amends 14.40.280. ENDOWMENTS AND DONATIONS.

States that all monetary gifts, bequests, or endowments made to the UofA shall be held by the University and shall be managed by the University through the regents or an authorized agent. This section transfers the authority for management of the natural resources endowment fund from the Department of Revenue to the University of Alaska. The endowment fund is the fund in which all receipts from university land goes.

Section 6. Amends 14.40.291. LAND OF THE UNIVERSITY OF ALASKA LAND SALE CONTRACTS; CONFIDENTIAL INFORMATION.

Adds land selected by and conveyed to the UofA under AS 14.40.365 as land that may not be treated as state public domain land and designates it as university trust land.

Section 7. Amends AS 14.40.291 by adding a new subsection

Grants the university the right to terminate a breached contract for a sale of land at any time 31 days after delivering notice of breach to the purchaser. The purchaser may make payment of the sum of the amount in default and the larger of a fee of \$50 or 5% within 30 days after receipt of the breach notice or request, in writing, for a review of the facts. If the breach is determined to be caused on the administrative record, the university may terminate the contract and the purchaser is obligated to make payments under the contract through the date of the decision to foreclose. If the university fulfills its notification requirements and the purchaser does not satisfy the breach within 30 days, the decision forecloses and terminates all legal and equitable rights the purchaser has in the land. Provides confidentiality of certain proprietary information by the university.

Section 8. Amends AS 14.40 to add a new section 14.40.365 SELECTION AND CONVEYANCE OF STATE LAND TO THE UNIVERSITY OF ALASKA.

Authorizes the University to select and receive 500,000 acres of land from the state that, on the effective date of this section, is owned by the state, or has been tentatively approved or selected by the state under the AK Statehood Act. The director of the division of lands and the director of land management for the UofA shall compile, maintain and revise a list of lands to be conveyed. The list shall be maintained at the Anchorage office. If there is disagreement between the Univ. and DNR about lands available for conveyance, the disagreement must be submitted to the governor, who shall make the final decision. The Univ. will not be allowed to enter into litigation against DNR regarding the conveyance process. The director shall periodically submit to the legislature, within 30 days of the beginning of a regular session, a list of land proposed to be conveyed by the state to the UofA. Each list must contain not less than 25,000 acres of land or the remaining entitlement, whichever is less. The legislature may, by law, approve or disapprove the list but if no action is taken within 60 days by the legislature the list will be considered approved.

On land selected but not yet conveyed, the state may enter into contracts and grant leases, licenses, claims, prospecting sites, sales, permits, rights-of-way, or easement, except that the authority granted the state is the authority that the state otherwise would have had had the land not been selected and may be exercised only if the UofA concurs before the action is taken by the state. On said contracts, after approval by the legislature, and before the land has been conveyed by a quitclaim deed or by a document of interim conveyance, 90% of the proceeds derived from land after selection shall be held by the state. After the issuance of a document of interim conveyance or a quitclaim deed, the state shall pay to the UofA the proceeds held by the state and thereafter the University shall receive all proceeds.

Upon issuance of a patent or document of interim conveyance, the University is responsible for management of all contracts, leases, licenses, claims, prospecting sites, sales, permits, rights-of-way, or easements.

The University shall take possession of any tideland or submerged land adjacent to the land conveyed and takes the land subject to any possessory interest held by another person on the effective date of the conveyance and is entitled to receive the consideration due under that possessory interest.

Oil and gas development on university lands is subject to all provisions relative to moneys required to be deposited into the permanent fund.

When conveying land to the University, the commissioner of DNR shall give public notice under AS 38.05.945 (b) and (c) and provide access under 38.05.127 but other provisions of AS 38.04 and 38.05 do not apply.

The University shall bear all costs of selection, platting, surveying, and conveyance if the land it selects and, subject to appropriation, shall reimburse the DNR for the reasonable costs incurred by the dept. Patent for the land will be conveyed by the commissioner of DNR within one year of request. If the land is unsurveyed the Commissioner of DNR shall convey the land with exterior boundary survey within one year of request by the University.

The University may not make a land selection after December, 31, 2011.

March 13, 1996

Section 9. AS 14.40 is amended to add a new section AS 14.40.366 MANAGEMENT AND DISPOSITION OF UNIVERSITY LAND.

States that trust land shall be held by the Board of Regents in trust for the UofA. The University shall manage trust land in accordance with applicable trust management principles, under provisions of law applicable to other university land; and may exchange other state land for university trust land under AS 38.50.

Establishes policies to provide for public notice and comment on proposals for development, exchange, or sale of land selected by and conveyed to the university. Regents shall adopt policies which provide that the university shall prepare an annual plan for management and disposition of land not less than 60 days before scheduled approval by the board and provides for ample public notification and comment period.

Requires the University to establish procedures for mineral entry or location and mineral leasing on trust land made under AS 14.40.365 that are substantially similar to mineral entry, location, and leasing procedures for state land under AS 38.05.

Section 14.40.368. MANAGEMENT AND DISPOSITION OF INCOME FROM EXISTING ENCUMBRANCES ON UNIVERSITY PUBLIC TRUST LAND.

On land selected by the University that is, as of the effective date, subject to a lease, license, contract, claim, prospecting site, sale, permit, or right-of-way the state is entitled to receive 50% of moneys due under said encumbrance. The University takes on responsibility for the management of the land only upon conclusion of the term of the contract, including any renewals, unless the state and the University mutually agree to transfer the management of the land at a date earlier, at which time the University is entitled to receive all income from contract.

Section 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE CONTINUED.

States that the University shall manage the land in a manner that permits customary and traditional uses of the resources of that land except for the commercial harvest of timber.

Section 10. AS 14.40 is amended by adding a new section 14.40.375. TORT IMMUNITY FOR PERSONAL INJURIES, DEATH, OR PROPERTY DAMAGE OCCURRING ON UNIVERSITY LAND.

States that the University is not liable in tort for damages for the injury or death of a person, or for property damage to the property of a person on unimproved university land except for an act that constitutes gross negligence or reckless or intentional misconduct.

Section 11. Amends AS 14.40.400(a)

States that the University will set up an endowment trust fund in which all net income derived from the sale or lease of the land granted or land selected or conveyed to the UofA under AS 14.40.365, and in which all other endowments shall be held in trust.

Section 12. Amends AS 14.40.400(b)

Says the President of the University is responsible for the trust and shall account for and invest the fund and report to the Board of Regents and to the legislature.

Section 13. Amends AS 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS.

Amends existing statute to include net income of the trust fund established in AS 14.40.400.

Section 14. Amends AS 29.45.030.

Amends AS 29.45.030 (a) to include land conveyed by the state to the University.

March 13, 1996

Section 15. Amends AS 36.30.850(b)(15).
Takes out reference to AS 14.40.400

Section 16. Repeals AS 14.40.400.

Section 17. UNIVERSITY OF ALASKA ENDOWMENT TRUST FUND: TRANSITION.

States that notwithstanding the amendments made to statutes regarding the transfer of the trust fund management from Dept. of Revenue to the University, the act remains in effect.

Section 18. APPLICABILITY OF LAND SALE CONTRACT REMEDY PROVISIONS.

States that AS 14.40.291 (c)-(g), added by section 7 of this bill apply to land sale contracts entered into by the UofA on or after the effective date of this act.

March 13, 1996

9-LS1627C ✓
Chenoweth
3/8/96

CS FOR HOUSE BILL NO. 469()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THERRIault, Toohey, Kelly, Davies

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the University of Alaska and to assets of the University of
2 Alaska; authorizing the University of Alaska to select additional state public
3 domain land, designating that land as 'university trust land,' and describing the
4 principles applicable to the land's management; and defining the net income from
5 the University of Alaska's endowment trust fund as 'university receipts' subject
6 to prior legislative appropriation."

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

8 * Section 1. FINDINGS AND PURPOSE. The legislature finds that

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

13 (2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45

1 Stat. 1091, the Congress of the United States granted to the Territory of Alaska certain federal
2 land to be held in trust for the benefit of the predecessor of the University of Alaska;

3 (3) the Territory was unable to receive most of the land conveyed by the Act
4 of March 4, 1915, before repeal of that Act by Sec. 6(k) of the Alaska Statehood Act (P.L.
5 85-508, 72 Stat. 339);

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

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

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

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

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

20 (9) renewable resources should be managed on a sustained yield basis, taking
21 into account the total land grant.

22 * Sec. 2. LEGISLATIVE INTENT. It is the intent of the legislature that the University
23 of Alaska encourage the development of in-state value-added industries to the maximum extent
24 feasible when developing land conveyed under AS 14.40.365.

25 * Sec. 3. AS 14.40.170(a) is amended to read:

26 (a) The Board of Regents shall

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

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

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

- 1 (4) have the care, control, and management of
2 (A) all the real and personal property of the university; and
3 (B) land
4 (i) conveyed to the Board of Regents by the
5 commissioner of natural resources in the settlement of the claim of the
6 University of Alaska to land granted to the state in accordance with the
7 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance
8 with the Act of January 21, 1929 (45 Stat. 1091), as amended; and
9 (ii) selected by the University of Alaska and conveyed
10 to it by the commissioner of natural resources under AS 14.40.365,
11 except as provided in AS 14.40.368(a)(2);
12 (5) keep a correct and easily understood record of the minutes of every
13 meeting and all acts done by it in pursuance of its duties;
14 (6) under procedures to be established by the commissioner of
15 administration, and in accordance with existing procedures for other state agencies,
16 have the care, control, and management of all money of the university and keep a
17 complete record of all money received and disbursed;
18 (7) adopt reasonable rules for the prudent trust management and the
19 long-term financial benefit to the university of the land of the university;
20 (8) provide public notice of sales, leases, exchanges, and transfers of
21 the land of the university or of interests in land of the university;
22 (9) report each year within the first 10 days of the convening of a
23 regular session of the legislature on the expenditures made during the preceding fiscal
24 year from the funds of the University of Alaska that are derived from sales, leases,
25 exchanges, or transfers of the land of the university or of interests in land of the
26 university
27 (A) that were conveyed to the University of Alaska in
28 settlement of the claim of the University of Alaska to land granted to the state
29 in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended, and
30 in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended;
31 and

1 land owned by the University of Alaska is not and may not be treated as state public
2 domain land.

3 (b) Land conveyed to the University of Alaska under AS 14.40.365 is
4 designated as university trust land.

5 (c) Title to or interest in [TO] land described in (a) of this section may not
6 be acquired by adverse possession, prescription, or in any other manner except by
7 conveyance from the university.

8 (d) The land described in (a) of this section is subject to condemnation for
9 public purpose in accordance with law.

10 * Sec. 7. AS 14.40.291 is amended by adding new subsections to read:

11 (e) If a contract for a sale of land of the university is breached, the president
12 of the university or the president's designee, in addition to other remedies available
13 under the law, may issue a decision to foreclose and terminate the contract at any time
14 31 days after delivering by certified mail a written notice of the breach to the address
15 of record of the purchaser. The purchaser may cure a breach caused by the failure to
16 make payments required by the contract within 30 days after the notice of the breach
17 has been received by the purchaser by payment of the sum in default together with the
18 larger of a fee of \$50 or five percent of the sum in default. If there are material facts
19 in dispute between the university and the purchaser, the purchaser may submit a
20 written request to the president or the president's designee for the review of the facts
21 within 30 days after the notice of the breach has been received.

22 (f) On a determination that there has been a breach of the contract based on
23 the administrative record, the president of the university or the president's designee
24 shall issue a decision foreclosing the interest of the purchaser and terminating the
25 contract. The obligation to make payments under the contract continues through the
26 date of the decision to foreclose.

27 (g) The president of the university or the president's designee shall deliver the
28 decision to foreclose and terminate, either by personal delivery to the purchaser or by
29 certified mail, return receipt requested, to the address of record of the purchaser. If
30 the breach is a failure to make payments required by the contract, the decision must
31 include a notice to the purchaser that, if within 30 days the purchaser pays to the

1 university the full amount of the unpaid contract price, including all accrued interest
 2 and any fees assessed under (e) of this section, the university shall issue to the
 3 purchaser a deed to the land. If full payment is not made within 30 days or the breach
 4 is for other than failure to make payment, the decision forecloses and terminates all
 5 legal and equitable rights the purchaser has in the land.

6 (h) Notwithstanding AS 09.25.100 - 09.25.220, on a determination that it is
 7 in the best interest of the university or on the request of the person who has provided
 8 the information, the president may keep the following confidential:

9 (1) the names of a person applying for the sale, lease, or other disposal
 10 of university land or an interest in university land;

11 (2) before the announced time of opening of an offer to purchase, lease,
 12 or obtain a disposal of university land, the names of the participants and the terms of
 13 their offers;

14 (3) all geological, geophysical, engineering, architectural, sales,
 15 appraisal, gross receipts, net receipts, or other financial information relating to
 16 university land or an interest in university land considered for or offered for disposal
 17 or currently subject to a contract;

18 (4) cost data and financial information submitted by an applicant in
 19 support of applications for bonds, leases, or other information in offerings and ongoing
 20 operations relating to management of university land;

21 (5) applications for rights-of-way or easements across university land;
 22 and

23 (6) requests for information about or applications by public agencies
 24 for university land that is being considered for use for a public purpose.

25 * Sec. 8. AS 14.40 is amended by adding a new section to read:

26 Sec. 14.40.365. SELECTION AND CONVEYANCE OF STATE LAND TO
 27 THE UNIVERSITY OF ALASKA. (a) For the purposes of providing support to the
 28 state's public higher education system and for the purpose of generating responsible
 29 and appropriate development of the state's land and resources, the University of Alaska
 30 is authorized to receive the conveyance of 500,000 acres of land that, on the effective
 31 date of this section, is owned by the state, or has been tentatively approved or selected

1 by the state under the Alaska Statehood Act.

2 (b) For purposes of making the selection and conveyance of state land to the
3 university under (a) of this section, the director of the division of land, Department of
4 Natural Resources, and the director of the University of Alaska's land management
5 office shall compile and maintain and may revise a list of the land to be conveyed to
6 the university under this section. The list shall be maintained at the Anchorage office
7 of the director of the division of land. The director of the division of land and the
8 director of the university's land management office shall periodically jointly submit
9 to the legislature, within 30 days of the beginning of a regular legislative session, a list
10 of land proposed to be conveyed by the state to the University of Alaska under this
11 section. Each list must contain not less than 25,000 acres of land, or the remaining
12 entitlement under (a) of this section, whichever is less. The legislature may by law
13 approve or disapprove the list and must approve or disapprove the list within 60 days
14 of its submission. A list submitted shall be deemed approved for conveyance to the
15 University of Alaska if the legislature neither approves nor disapproves the list during
16 the period of 60 days after the date on which the list was submitted.

17 (c) Notwithstanding any other provision of law, on land selected by but not
18 yet patented to the University of Alaska or for which a document of interim
19 conveyance has not been issued to the University of Alaska under this section,

20 (1) the state is authorized to enter into contracts and grant leases,
21 licenses, claims, prospecting sites, sales, permits, rights-of-way, or easements, and any
22 interim conveyance or patent shall be subject to the contract, lease, license, claim,
23 prospecting site, sale, permit, right-of-way, or easement, except that the authority
24 granted the state by this subsection

25 (A) is the authority that the state otherwise would have had
26 under existing laws and regulations had the land not been selected by the
27 University of Alaska; and

28 (B) may be exercised only if the University of Alaska has
29 concurred before the action is taken by the state;

30 (2) until the land has been conveyed by patent or by a document of
31 interim conveyance, 90 percent of the proceeds derived from contracts, leases, licenses,

1 claims, prospecting sites, sales, permits, rights-of-way, or easements, or from
2 trespasses, originating after the date of selection by the University of Alaska shall be
3 held by the state; upon the issuance of a document of interim conveyance or a patent,
4 the state shall pay to the University of Alaska the proceeds held by the state under this
5 paragraph, and subsequent to the issuance of a document of interim conveyance or a
6 patent, the University of Alaska shall receive all of the proceeds derived from the
7 contracts, leases, licenses, claims, prospecting sites, sales, permits, rights-of-way, or
8 easements, or from trespasses;

9 (3) responsibility for management of contracts, leases, licenses, claims,
10 prospecting sites, sales, permits, rights-of-way, or easements, vests with the University
11 of Alaska upon issuance of a patent or a document of interim conveyance.

12 (d) When land is conveyed to the University of Alaska under this section, it
13 shall be conveyed in fee simple. The state shall convey to the university any tideland
14 or submerged land adjacent to the land conveyed under this section. The University
15 of Alaska takes the land subject to any possessory interest held by another person on
16 the effective date of the conveyance. Except as provided in AS 14.40.368(a)(1), the
17 University of Alaska is entitled to receive the consideration due under that possessory
18 interest for the duration of the possessory interest.

19 (e) In conveying land to the University of Alaska under this section, the
20 commissioner of natural resources shall give public notice under AS 38.05.945(b) and
21 (c) and provide for access under AS 38.05.127, but other provisions of AS 38.04 and
22 AS 38.05 do not apply.

23 (f) Land transferred or conveyed to the University of Alaska under this section

24 (1) is subject to

25 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
26 339);

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

28 (C) AS 19.10.010;

29 (D) payment to the Alaska permanent fund of the amounts
30 required by AS 37.13.010(a) and (b); and

31 (E) the rights of the state under former 43 U.S.C. 932 (sec. 8,

1 Act of July 26, 1866, 14 Stat. 253);

2 (2) excludes any interest transferred to the state by quit claim deed
3 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.
4 141.

5 (g) The University of Alaska shall bear all costs of selection, platting,
6 surveying, and, except for a cost specified in (i) of this section, conveyance of the land
7 that it selects under this section and, subject to appropriation, shall reimburse the
8 Department of Natural Resources for the reasonable costs incurred by that department
9 relating to that selection, platting, surveying, and conveyance. Under this subsection,

10 (1) if the land has been surveyed,

11 (A) the boundaries of the land conveyed must conform to the
12 public land subdivisions established by the approved survey; and

13 (B) the commissioner shall issue a patent to the land within one
14 year of receiving a request for the land's conveyance from the university;

15 (2) if the land is unsurveyed, the commissioner shall

16 (A) survey the exterior boundaries of the land to be conveyed
17 without interior subdivision; and

18 (B) issue a patent to the land in terms of the exterior boundary
19 survey within one year of receiving a request for the land's conveyance by the
20 university.

21 (h) For land due the University of Alaska under this section that is unsurveyed,
22 pending the survey of exterior boundaries and issuance of patent, the commissioner of
23 natural resources shall, within one year of request by the university, prepare and
24 provide to the University of Alaska a document of interim conveyance for the land to
25 be conveyed.

26 (i) Except as provided in AS 14.40.368(a)(2), management of land conveyed
27 to the University of Alaska by patent or by a document of interim conveyance vests
28 with the University of Alaska from the date of recording of the patent or document of
29 interim conveyance. The state shall pay the cost of recording all patents and
30 documents of interim conveyance.

31 (j) The University of Alaska may not make a land selection under this section

1 after December 31, 2011.

2 * Sec. 9. AS 14.40 is amended by adding new sections to read:

3 Sec. 14.40.366. MANAGEMENT AND DISPOSITION OF UNIVERSITY
4 TRUST LAND. (a) University trust land selected and conveyed under AS 14.40.365
5 shall be conveyed to the Board of Regents and held by the Board of Regents in trust
6 for the University of Alaska. The University of Alaska

7 (1) shall manage university trust land in accordance with applicable
8 trust management principles;

9 (2) shall manage university trust land under provisions of law
10 applicable to other university land; and

11 (3) may exchange other state land for university trust land under the
12 procedures set out in AS 38.50.

13 (b) The University of Alaska shall establish

14 (1) policies to provide for public notice and comment on proposals for
15 development, exchange, or sale of university trust land; and

16 (2) procedures for mineral entry or location and mineral leasing on
17 university trust land selections made under AS 14.40.365 that are substantially similar
18 to mineral entry, location, and leasing procedures for state land under AS 38.05.185 -
19 38.05.275.

20 (c) The Board of Regents shall adopt policies that provide that the university
21 shall every second year prepare a plan for management and disposition of university
22 trust land under this section and shall, not less than 60 days before scheduled approval
23 by the Board of Regents of the plan,

24 (1) make copies of the plan available at all legislative information
25 offices and at such other locations as the university may designate;

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

29 (3) give notice to all legislators and to local governments with
30 jurisdiction over the land affected by the plan; and

31 (4) seek public comment on the plan prior to action by the Board of

1 Regents approving the plan.

2 Sec. 14.40.368. MANAGEMENT AND DISPOSITION OF INCOME FROM
3 EXISTING ENCUMBRANCES ON UNIVERSITY TRUST LAND. (a) For the land
4 selected by and conveyed to the University of Alaska under AS 14.40.365 that is, as
5 of the effective date of the conveyance, subject to a lease, license, contract, claim,
6 prospecting site, sale, permit, or right-of-way

7 (1) the state is entitled to receive 50 percent of the income obtained
8 from the lease, license, contract, claim, prospecting site, sale, permit, or right-of-way
9 for the duration of the term of the lease, contract, claim, prospecting site, sale, permit,
10 or right-of-way, and during any renewal of it that is authorized by the lease, license,
11 contract, claim, prospecting site, sale, permit, or right-of-way, or by law;

12 (2) the responsibility for the management of the land vests with the
13 University of Alaska only upon conclusion of the term, including any renewals, of the
14 lease, license, contract, claim, prospecting site, sale, permit, or right-of-way that is
15 authorized by law.

16 (b) If the state and the university mutually agree that the responsibility for the
17 management of land may be transferred to the university at a date earlier than the date
18 described in (a)(2) of this section, then, notwithstanding (a)(1) of this section, the
19 university is entitled to receive all income described in (a)(1) of this section on or after
20 the effective date of the transfer of the management responsibility.

21 Sec. 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE
22 CONTINUED. (a) When land selected by the University of Alaska under
23 AS 14.40.365 has been conveyed to it, before conveying or disposing of an interest in
24 land to a third party, the University of Alaska shall manage the land in a manner that
25 permits customary and traditional uses of the resources of that land to the maximum
26 extent practicable.

27 (b) The provisions of (a) of this section do not apply to authorize the
28 commercial harvest of timber from the land conveyed to the university.

29 * Sec. 10. AS 14.40 is amended by adding a new section to read:

30 Sec. 14.40.375. TORT IMMUNITY FOR PERSONAL INJURIES, DEATH,
31 OR PROPERTY DAMAGE OCCURRING ON UNIVERSITY LAND. (a)

1 Notwithstanding AS 09.65.200 and except as provided in (b) of this section, the
2 University of Alaska is not liable in tort, except for an affirmative act that constitutes
3 gross negligence or reckless or intentional misconduct, for damages for the injury to
4 or death of a person, or for property damage to the property of a person, who enters
5 onto or remains on land owned by the University of Alaska.

6 (b) The provisions of (a) of this section do not apply to damages for injury to
7 or death of a person, or for property damage to the property of a person, that occurs
8 on land of the University of Alaska that, after receipt of title to the land by the
9 University of Alaska, has been improved and is actively maintained by the University
10 of Alaska.

11 * Sec. 11. AS 14.40.400(a) is amended to read:

12 (a) The University of Alaska [DEPARTMENT OF REVENUE] shall establish
13 a separate endowment trust fund in which all net income derived from the sale or lease
14 of the land granted under the Act of Congress approved January 21, 1929, and the
15 land selected by and conveyed to the University of Alaska under AS 14.40.365 that
16 under AS 14.40.291(b) is designated university trust land, and in which all
17 monetary gifts, bequests, or endowments made to the University of Alaska for the
18 purpose of the fund [,] shall be held in trust.

19 * Sec. 12. AS 14.40.400(b) is amended to read:

20 (b) The president of the University of Alaska [COMMISSIONER OF
21 REVENUE] is the fiduciary of the trust fund and shall account for and invest the fund
22 as set out for the commissioner of revenue in AS 37.14.110(c), 37.14.160, and
23 37.14.170, except that the president of the university [COMMISSIONER] shall report
24 the condition and investment performance of the fund to the Board of Regents and to
25 the legislature.

26 * Sec. 13. AS 14.40.491 is amended to read:

27 Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In
28 AS 14.40.120 - 14.40.491, "university receipts" includes

- 29 (1) student fees, including tuition;
30 (2) receipts from university auxiliary services;
31 (3) recovery of indirect costs of university activities;

- 1 (4) the net income of the trust fund established in AS 14.40.400 and
2 receipts from sales and rentals of university property;
3 (5) federal receipts;
4 (6) gifts, grants, and contracts; and
5 (7) receipts from sales, rentals, and the provision of services of
6 educational activities.

7 * Sec. 14. AS 29.45.030(a) is amended to read:

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

9 (1) municipal property, including property held by a public corporation
10 of a municipality, [OR] state property, or property of the University of Alaska,
11 except that

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

14 (B) notwithstanding any other provision of law, property
15 acquired by an agency, corporation, or other entity of the state through
16 foreclosure or deed in lieu of foreclosure and retained as an investment of a
17 state entity is taxable; this subparagraph does not apply to federal land granted
18 to the University of Alaska under AS 14.40.380 or 14.40.390, [OR] to other
19 land granted to the university by the state to replace land that had been granted
20 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
21 University of Alaska under AS 14.40.365;

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

26 (2) household furniture and personal effects of members of a
27 household;

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

30 (4) property of a nonbusiness organization composed entirely of persons
31 with 90 days or more of active service in the armed forces of the United States whose

1 conditions of service and separation were other than dishonorable, or the property of
2 an auxiliary of that organization;

3 (5) money on deposit;

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

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

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

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

15 * Sec. 15. AS 36.30.850(b)(15) is amended to read:

16 (15) a contract that is a delegation, in whole or in part, of investment
17 powers held by the commissioner of revenue under [AS 14.40.400,] AS 14.42.200,
18 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

19 * Sec. 16. AS 14.40.400(e) is repealed.

20 * Sec. 17. UNIVERSITY OF ALASKA ENDOWMENT TRUST FUND: TRANSITION.

21 A contract, right, liability, or obligation in effect on the effective date of this Act remains in
22 effect notwithstanding the amendments to AS 14.40.280 or 14.40.400 made in secs. 5, 11,
23 12, and 16 of this Act. Assets and liabilities of the University of Alaska endowment trust
24 fund held by the Department of Revenue on the effective date of this Act shall be transferred
25 by the Department of Revenue to the University of Alaska to implement this Act.

26 * Sec. 18. APPLICABILITY OF LAND SALE CONTRACT REMEDY PROVISIONS.
27 AS 14.40.291(e) - (g), added by sec. 7 of this Act, apply to land sale contracts entered into
28 by the University of Alaska on or after the effective date of this Act.

Alaska State Legislature

REPRESENTATIVE
GENE THERRIALT
P O Box 55326
North Pole, Alaska 99705
(907) 488-0862


While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797

House District 33

House Of Representatives

MEMORANDUM

TO: Representative Joe Green, Co-Chair
Representative Bill Williams, Co-Chair
House Resources Committee

FROM: Representative Gene Therriault 

DATE: February 29, 1996

SUBJECT: Scheduling of HB 469

I respectfully request House Bill 469, "An Act relating to the University of Alaska and to assets of the University of Alaska; authorizing the University of Alaska to select additional state public domain land, designating that land as 'university trust land', and describing the principles applicable to the land's management; and defining the net income from the University of Alaska's endowment trust fund as 'university receipts' subject to prior legislative appropriation" be scheduled for a hearing in the House Resources Committee.

House Bill 469 would allow the University of Alaska to select 500,000 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. HB 469 is the companion bill to SB 250.

On February 28th, HB 469 was waived out of the Health Education and Social Services committee. Similar legislation passed both houses last year and was subsequently vetoed by the Governor. Changes have been made in HB 469 and SB 250 to address the administration's concerns.

The sponsor statement and sectional analysis are attached. I appreciate your consideration of my request.

attachments (2)

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT
P.O. Box 55326
North Pole, Alaska 99705
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Juneau, Alaska
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House District 33

House Of Representatives

HB 469 "An Act relating to the University of Alaska and to assets of the University of Alaska; authorizing the University of Alaska to select additional state public domain land, designating that land as 'university trust land', and describing the principles applicable to the land's management; and defining the net income from the University of Alaska's endowment trust fund as 'university receipts' subject to prior legislative appropriation."

Sponsor: Representative Gene Therriault

House Bill 469 would allow the University of Alaska to select 500,000 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. HB 469 is the companion bill to SB 250.

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.

Similar legislation passed both houses last year and was subsequently vetoed by the Governor. Changes have been made in HB 469 and SB 250 to address the administration's concerns.

UNIVERSITY LAND GRANT BILL
SECTIONAL ANALYSIS
9-LS1394\K
1-31-96

Section 1. FINDINGS AND PURPOSE.

Defines the University of Alaska as a land-grant university. Establishes that under the Acts of March 4, 1915 Congress granted Alaska certain federal lands to be held in trust for the University. Upon Statehood the act was repealed and Congress assumed that the State would devote some of its 102,500,000 acres to the University. These lands were to be income producing lands to provide support to the University and its programs.

Section 2. LEGISLATIVE INTENT.

Establishes that the legislature's intent is that the UofA encourage the development of in-state value-added industries to the maximum extent feasible when developing conveyed land.

Section 3. Amends 14.40.170. DUTIES AND POWERS OF BOARD OF REGENTS.

Establishes guidelines that the board must abide by and amends the duties and powers of the Board of Regents under (4) to say that the Board has the care, control, and management of land selected by the UofA and conveyed to it by the commissioner of DNR under AS 14.40.365, except as provided in AS 14.40.368 (a)(2). Also requires that the board report to the legislature the status of selected and conveyed land.

Section 4. Amends 14.40.190. REPORT TO LEGISLATURE.

Includes the management of university public trust land in Board of Regents written report to legislature.

Section 5. Amends 14.40.280. ENDOWMENTS AND DONATIONS.

States that all monetary gifts, bequests, or endowments made to the UofA shall be held by the University and shall be managed by the University through the regents or an authorized agent. This section transfers the authority for management of the natural resources endowment fund from the Department of Revenue to the University of Alaska. The endowment fund is the fund in which all receipts from university land goes.

Section 6. Amends 14.40.291. LAND OF THE UNIVERSITY OF ALASKA LAND SALE CONTRACTS; CONFIDENTIAL INFORMATION.

Adds land selected by and conveyed to the UofA under AS 14.40.365 as land that may not be treated as state public domain land and designates it as university trust land.

Section 7. Amends AS 14.40.291 by adding a new subsection

Grants the university the right to terminate a breached contract for a sale of land at any time 31 days after delivering notice of breach to the purchaser. The purchaser may make payment of the sum of the amount in default and the larger of a fee of \$50 or 5% within 30 days after receipt of the breach notice or request, in writing, for a review of the facts. If the breach is determined to be caused on the administrative record, the university may

terminate the contract and the purchaser is obligated to make payments under the contract through the date of the decision to foreclose. If the university fulfills its notification requirements and the purchaser does not satisfy the breach within 30 days, the decision forecloses and terminates all legal and equitable rights the purchaser has in the land. Provides confidentiality of certain proprietary information by the university.

Section 8. Amends AS 14.40 to add a new section 14.40.365 SELECTION AND CONVEYANCE OF STATE LAND TO THE UNIVERSITY OF ALASKA.

Authorizes the University to select and receive 500,000 acres of land from the state that, on the effective date of this section, is owned by the state, or has been tentatively approved or selected by the state under the AK Statehood Act. The director of the division of lands and the director of land management for the UofA shall compile, maintain and revise a list of lands to be conveyed. The list shall be maintained at the Anchorage office. The director shall periodically submit to the legislature, within 30 days of the beginning of a regular session, a list of land proposed to be conveyed by the state to the UofA. Each list must contain not less than 25,000 acres of land or the remaining entitlement, whichever is less. The legislature may, by law, approve or disapprove the list but if no action is taken within 60 days by the legislature the list will be considered approved.

On land selected but not yet conveyed, the state may enter into contracts and grant leases, licenses, claims, prospecting sites, sales, permits, rights-of-way, or easement, except that the authority granted the state is the authority that the state otherwise would have had had the land not been selected and may be exercised only if the UofA concurs before the action is taken by the state. On said contracts, before the land has been conveyed by patent or by a document of interim conveyance, 90% of the proceeds derived from land after selection shall be held by the state. After the issuance of a document of interim conveyance or a patent, the state shall pay to the UofA the proceeds held by the state and thereafter the University shall receive all proceeds.

Upon issuance of a patent or document of interim conveyance, the University is responsible for management of all contracts, leases, licenses, claims, prospecting sites, sales, permits, rights-of-way, or easements.

The University shall take possession of any tideland or submerged land adjacent to the land conveyed and takes the land subject to any possessory interest held by another person on the effective date of the conveyance and is entitled to receive the consideration due under that possessory interest.

Oil and gas development on university lands is subject to all provisions relative to moneys required to be deposited into the permanent fund.

When conveying land to the University, the commissioner of DNR shall give public notice under AS 38.05.945 (b) and (c) and provide access under 38.05.127 but other provisions of AS 38.04 and 38.05 do not apply.

The University shall bear all costs of selection, platting, surveying, and conveyance if the land it selects and, subject to appropriation, shall reimburse the DNR for the reasonable costs incurred by the dept. Patent for the land will be conveyed by the commissioner of DNR within one year of request. If the

land is unsurveyed the Commissioner of DNR shall convey the land with exterior boundary survey within one year of request by the University.

The University may not make a land selection after December, 31, 2011.

Section 9. AS 14.40 is amended to add a new section AS 14. 40.366 MANAGEMENT AND DISPOSITION OF UNIVERSITY LAND.

States that trust land shall be held by the Board of Regents in trust for the UofA. The University shall manage trust land in accordance with applicable trust management principles, under provisions of law applicable to other university land; and may exchange other state land for university trust land under AS 38.50.

Establishes policies to provide for public notice and comment on proposals for development, exchange, or sale of land selected by and conveyed to the university. Regents shall adopt policies which provide that the university shall prepare an annual plan for management and disposition of land not less than 60 days before scheduled approval by the board and provides for ample public notification and comment period.

Section 14.40.368. MANAGEMENT AND DISPOSITION OF INCOME FROM EXISTING ENCUMBRANCES ON UNIVERSITY PUBLIC TRUST LAND.

On land selected by the University that is, as of the effective date, subject to a lease, license, contract, claim, prospecting site, sale, permit, or right-of-way the state is entitled to receive 50% of moneys due under said encumbrance. The University takes on responsibility for the management of the land only upon conclusion of the term of the contract unless the state and the University mutually agree to transfer the management of the land at a date earlier, at which time the University is entitled to receive all income from contract.

Section 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE CONTINUED.

States that the University shall manage the land in a manner that permits customary and traditional uses of the resources of that land except for the commercial harvest of timber.

Section 10. AS 14.40 is amended by adding a new section 14.40.375. TORT IMMUNITY FOR PERSONAL INJURIES, DEATH, OR PROPERTY DAMAGE OCCURRING ON UNIVERSITY LAND.

States that the University is not liable in tort for damages for the injury or death of a person, or for property damage to the property of a person on unimproved university land except for an act that constitutes gross negligence or reckless or intentional misconduct.

Section 11. Amends AS 14.40.400(a)

States that the University will set up an endowment trust fund in which all net income derived from the sale or lease of the land granted or land selected or conveyed to the UofA under AS 14.40.365, and in which all other endowments shall be held in trust.

Section 12. Amends AS 14.40.400(b)

Says the President of the University is responsible for the trust and shall account for and invest the fund and report to the Board of Regents and to the legislature.

Section 13. Amends AS 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS.
Amends existing statute to include net income of the trust fund established in AS 14.40.400.

Section 14. Amends AS 29.45.030.
Amends AS 29.45.030 (a) to include land conveyed by the state to the University.

Section 15. Amends AS 36.30.850(b)(15).
Takes out reference to AS 14.40.400

Section 16. Repeals AS 14.40.400.

Section 17. UNIVERSITY OF ALASKA ENDOWMENT TRUST FUND: TRANSITION.
States that notwithstanding the amendments made to statutes regarding the transfer of the trust fund management from Dept. of Revenue to the University, the act remains in effect.

Section 18. APPLICABILITY OF LAND SALE CONTRACT REMEDY PROVISIONS.
States that AS 14.40.291 (e)-(g), added by section 7 of this bill apply to land sale contracts entered into by the UofA on or after the effective date of this act.

HICKEY & ASSOCIATES

Planning • Management • Lobbying

211 Fourth Street, Suite 108, Juneau, Alaska 99801
Telephone 907-586-2263, Fax 907-586-1097

FAX TRANSMITTAL MEMO

DATE: 3/19/96

TO: JEFF LOGAN

FROM: MARK S. HICKEY

SUBJECT: AMENDMENT FOR HB 469

COMMENTS: PER OUR DISCUSSION - I SET

IT UP AS A NEW SUBSECTION.

IT'S THE SAME LANGUAGE AS

CONTAINED IN OLD SB 16 EXCEPT

LAST PHRASE IN (C)(2), WHICH

COVERS MY BOROUGH'S SITUATION. LAKE

TOTAL PAGES (INCLUDING THIS SHEET): 2 + PENINSULA
BOROUGH RECEIVED.ITS ENTITLEMENT IN 1994, WITH
INCORPORATION OCCURRING IN 1989.PLEASE CALL OR FAX THE TELEPHONE NUMBERS ABOVE IF ANY
PROBLEMS ARISE WITH THIS TRANSMISSION.

CALL IF WE NEED TO TALK

THANKS.

586-2263

Proposed Amendment to HB 469 (University Lands Bill)

On page 7, line 17, insert the following as a new subsection (c) and renumber remaining subsections accordingly:

- "(c) The list to be prepared under (b) of this section may not include a land selection made by the University of Alaska under this section if the commissioner of natural resources determines the proposed selection includes lands for which, at the time of its selection under this section,
- (1) a municipality has made a selection under AS 29.65, unless the land selection is, at a later date, rejected by the commissioner of natural resources or relinquished by the municipality; or
 - (2) the commissioner of natural resources reasonably believes the land may be selected by a municipality under AS 29.65.030, but the commissioner may not withhold under this subparagraph the conveyance of title to land proposed for selection by the university longer than three years after the date of the municipality's incorporation or creation of the municipality's land entitlement, whichever is later."

FACT SHEET

CSHB 469 (RES) - Enhancing UA Land Grant

HB 469 is similar to SB 16 that passed the Alaska Legislature in the first session of the Nineteenth Alaska Legislature and was subsequently vetoed by Governor Knowles. The bill is intended to grant 500,000 acres of state land to the University of Alaska to provide income to support the research, instructional and public service programs of the state's public land grant university. The current University of Alaska land grant is 112,000 acres; only Delaware, with 90,000 acres, has a smaller university land grant than Alaska.

In 1915, the University was granted 250,000 acres to support the programs of the university. This land grant, which had not been conveyed pending survey, was extinguished at the time of statehood with the assumption that the state would fulfill the commitment from the conveyance of over 100 million acres in undesignated federal lands. The First Alaska Legislature appropriated 1 million acres to establish the University of Alaska land grant. Governor Bill Egan vetoed that appropriation because he believed that the state's lands could, and should, be managed by the Department of Natural Resources for the benefit of all Alaskans. In keeping with this philosophy, the Department of Natural Resources retained the management of the 100,000 acres of existing University lands for the next 30 years. While Governor Egan's rationale may have made sense in the optimistic dawn of statehood, the fact is that DNR has never had the resources necessary to manage the vast inventory of state lands. During the 30 years that DNR managed the University lands, \$590,000 in income was generated. In 1986, the University successfully sued the state to regain the management of its lands and in the ensuing eight years has generated over \$30 million in revenue. These funds have gone into a Land Grant Trust Fund, established in statute, to provide a perpetual fund to support public post-secondary programs for the people of Alaska.

HB 469 will provide that:

1. 500,000 acres of state land will be conveyed to the University of Alaska by the year 2016. [Page 6, Sec. 8, Sec. 14.40.365 (a)]
2. the Department of Natural Resources will determine what lands are available for conveyance based on their determination of what is in the best interests of the state. [Page 7, Sec. 8, Sec. 14.40.365(b)]
3. the University will not be allowed to sue the state over disagreements relating to conveyance; all disputes will be resolved by the Governor. [Page 7, Sec. 8, Sec. 14.40.365(b)]
4. municipal land selections will have priority. [Page 7, Sec. 8, Sec. 14.40.365 (b)]
5. land transfers are subject to:
 - * Forest Practices Act
 - * 6(l) of Alaska Statehood Act
 - * Permanent Fund requirements for oil, gas and mineral royalties and bonuses
 - * Other rights of the state [Page 8, Sec. 8, Sec. 14.40.365(f)]
6. the University pays the costs of land conveyance and surveying. [Page 9, Sec. 8, Sec.14.40.365(g)]
7. existing leases and encumbrances will be honored throughout the term, including any provisions for lease extensions. [Page 11, Sec. 9, Sec. 14.40.368]

8. the legislature approve final selections in lists of not less than 25,000 acres. [Page 7, Sec. 8, Sec. 14.40.365(b)]
9. mineral entry or location and mineral leasing on UA land will be substantially similar to provisions currently provided on state lands. [Page 10, Sec. 9, Sec. 14.40.366(b)(2)]
10. customary and traditional uses of resources on UA land, including hunting and fishing, will be permitted to the maximum extent practicable. [Page 11, Sec. 9, Sec. 14.40.369]
11. additional requirement for UA regarding public notification and comment on land management plans. [Page 10, Sec. 9, Sec. 14.40.366(a), (b) & (c)]
12. the responsibility for the management of the UA Land Grant Trust Fund be transferred from the Department of Revenue to the University of Alaska. [Page 2, Sec.3; Page 4, Sec. 5; and Page 12, Sec. 11 & Sec.12]
13. net income from University trust lands will be designated as "university receipts" and appropriated by the Legislature. [Page 12, Sec.13, Sec. 14.40.491(4)]
14. proceeds made on land, originating after selection, but prior to final conveyance, from land leases, license, contracts, claims, sales, permits, prospecting sites, or rights of way will be held in escrow. Upon final conveyance, 90% of the proceeds will be distributed to the University. [Page 8, Sec. 8, Sec. 14.40.365(c)(2)]
15. proceeds on land selected and conveyed that is subject to a possessory interest at the time of conveyance, shall be split evenly between the state and the University until the conclusion of the interest, including all available renewals. [Page 11, Sec. 9, Sec. 14.40.368(a)]
16. proprietary information provided by private companies is protected. [Page 6, Sec. 7, Sec. 14.40.291(h),]
17. process for foreclosure if a contract for a sale of land, or interest in land is breached. [Page 5, Sec. 7, Sec. 14.40.291(e), (f) & (g)]

During the First Session of the Nineteenth Legislature, SB 16 had six substantive hearings in the House and Senate. During this, the Second Session, the companion bill to HB 469 has had one hearing in Senate Finance. The substantive changes to the bill include:

Senate Finance Committee

- * provides that no lands can be conveyed that have been selected by municipalities under the Municipal Entitlement Act.
- * provides that all disagreements between the University and DNR regarding the selection of lands for conveyance will be made by the Governor.

Changes proposed in House Resources Committee Substitute:

- * provides that no lands can be conveyed that have been selected by municipalities under the Municipal Entitlement Act.
- * provides that all disagreements between the University and DNR regarding the selection of lands for conveyance will be made by the Governor.
- * provides that mineral entry or location and mineral leasing on UA land will be substantially similar to provisions currently provided on state lands.

University of Alaska

Statewide System

HB 469 EXPANDING UNIVERSITY OF ALASKA LAND GRANT

By Representatives Therriault, Toohey, Kelly, Davies

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:

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Position Paper

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	112,054
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	6,234,655
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