

HB

333

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 29, 2004

FURTHER REFERRALS:

Date of Committee Action: 4-15-04

The FINANCE Committee considered:

HB 333

HOUSE BILL NO. 333

PUBLIC SCHOOL ENDOWMENT

"An Act relating to an endowment for public education; and providing for an effective date."

Recommends it be replaced with [] HCS or [] CS for HB 333 (FW)
 For Senate Bills with new title: [] Technical Title [] New Title: HCR _____ [] Same Title [] New Title

- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
(3) DNR		✓		
(1) REV				✓
(1) REV		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DEED	#1	✓		
U of A	#4	✓		

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Meyer			X	
	Hanken				X
	STOLTE			X	
	MOISE			X	
	Chenault			X	
	Foster	✓			
	Williams	X			
Chair:	Williams			X	
Chair:	Williams	X			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB333(FIN)-DNR-CO-04-C
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Endowment for public education RDU Resource Development
Component Commissioner's Office
Sponsor Rep. OGG
Requester (H) FIN Component No. 423

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(353.9)	(805.8)	(401.1)	(249.1)	(318.7)	(219.8)
1005 GF/Program Receipts						
1037 GF/Mental Health						
University Endow./PS trust fund	412.9	887.4	529.5	407.5	509.8	443.6
1153 Land Disposal Income Fund	(59.0)	(81.6)	(128.4)	(158.4)	(191.1)	(223.8)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 333 conveys a 2% undivided interest in state land to the University of Alaska and a 3% undivided interest in state land to the Education Trust. DNR assumes that there is no actual deed required to execute this transfer, hence we have assumed there are no DNR expenditures.

Revenues from all new contracts generated after the effective date of the legislation would be diverted from the general fund and deposited with the University and the public school trust fund.

Revenues generated from state land fluctuate from year to year and are difficult estimate accurately. The revenue numbers are based on projected revenues for FY 2005.

(continued...)

Prepared by: Bob Loeffler, Director Phone 269-8600
Division Mining, Land and Water Date/Time 4/9/04
Approved by: Thomas Irwin, Commissioner Date 4/9/04
Agency Natural Resources

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. CSHB333(FIN)-DNR-CO-04-0

ANALYSIS CONTINUATION

Revenue to the education trusts in FY05 is estimated to be approximately \$412,900. This represents 5% of the General Fund revenue (\$353,900) and Land Disposal Income fund revenue (\$59,000) attributed to new contracts, etc. in FY05. This is broken out by affected division as follows:

Oil and Gas Estimated revenues for FY05:

5% of General Fund - \$352,868

Mining Land and Water Estimated revenues for FY05:

5% of General Fund - \$1,024

5% of Land Disposal Income Fund - \$57,228

Agriculture Estimated revenues for FY05:

5% of Land Disposal Income Fund - \$1,743

Calculations for the general fund portion are based on estimated revenue remaining AFTER the permanent fund distribution of 25%, and school trust fund of 0.05%. As new land sale contracts, oil and gas leases, and mining claims are added each successive year the revenues obtained from these post-legislation sources increase.

Revenues are projected after FY05. Fluctuations are primarily due to the amounts of acreage that will become available for oil and gas leasing in those years. FY06 will see large increases in land availability as old leases expire, thus a large increase in anticipated new leases.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB333(FIN)-DNR-ADSV-0
() Publish Date: _____

Revision Date/Time (Note if correction): 4/9/2004 Dept. Affected: Natural Resources
Title: Endowment for public education RDU: Resource Development
Component: Administrative Services
Sponsor: Rep. OGG
Requester: (H) FIN Component No.: 424

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	17.0	7.0	7.0	7.0	7.0	7.0
Travel						
Contractual	27.0	4.0	4.0	4.0	4.0	4.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	48.0	15.0	15.0	15.0	15.0	15.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	48.0	15.0	15.0	15.0	15.0	15.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
University Endow./PS trust fund						
1153 Land Disposal Income Fund						
TOTAL	48.0	15.0	15.0	15.0	15.0	15.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

HB 333 conveys a 2% interest in state land to the University of Alaska and a 3% interest in state land to the Education Trust.

This bill is estimated to take approximately \$10.0 for an additional staff person in the first year, and an ongoing cost of \$7.0 for staff annually. In addition, we estimate an additional \$8.0 in contractual and supplies costs, including paper, and report printing chargebacks. Accounting for this bill will ultimately result in tripling the size of our current revenue account code structure, requiring the additional staff time for reconciliation and general ledger maintenance. In addition, the first year will require approximately 3 months of programming to revise our Revenue and Billing system. We will contract with the Information Resource Management section for this service.

Prepared by: Nico Bus, Acting Director
Division: Support Services
Approved by: Thomas Irwin, Commissioner
Agency: Natural Resources

Phone: 269-8600
Date/Time: 4/9/04
Date: 4/9/04

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB333(FIN)-DNR-FOR-0
() Publish Date: _____

Revision Date/Time (Note if correction): 4/9/2004 Dept. Affected: Natural Resources
Title: Public School Endowment RDU: Resource Development
Component: Forest Mgt & Development
Sponsor: Rep. Ogg
Requester: (H) FIN Component No.: 435

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES-Educ Endow	21.8	21.8	21.8	21.8	21.8	21.8
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	21.8	21.8	21.8	21.8	21.8	21.8
1005 GF/Program Receipts						
1155 Timber Sale Receipts	(21.8)	(21.8)	(21.8)	(21.8)	(21.8)	(21.8)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 333 conveys a 2% undivided interest in state land to the University of Alaska and a 3% undivided interest in state land to the Education Trust. DNR assumes that this includes receipts generated by the Division of Forestry from timber sales. Based on the average timber sale revenue from FY01-03, approximately \$21.8 of timber sale receipts would be deposited into the new Education Endowment Fund. Since the Division of Forestry's FY05 operating budget is based on expending all the timber sale receipts estimated to be collected, a fund switch to General Fund needs to occur to keep the same level of service. Not funding this results in a decrease in the timber sale program, most likely the personal use permit and sale program in the Interior.

This fiscal note reflects an \$21.8 reduction in the timber sale receipts fund source and an \$21.8 increase in the general fund for Forestry. It also reflects the \$21.8 increase in revenues to the education endowment.

Prepared by: Jeff Jahnke, Director Phone 269-8474
Division: Forestry Date/Time 4/9/04
Approved by: Thomas Irwin, Commissioner Date 4/9/04
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB333(HES)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Public School Endowment RDU AK Permanent Fund Corporation
Component AK Permanent Fund Corporation
Sponsor Representative Ogg
Requester House Finance Committee Component No. 109

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 333 would place a percentage of Alaska's resource revenues into endowments for public education. The bill clearly states that the transfer would take place after 25% of mineral revenues are paid to the Permanent Fund as directed by the Constitution. Therefore, HB 333 will not have any effect on contributions to the Permanent Fund.

Prepared by: Robert D. Storer, Executive Director Phone 465-2047
Division Alaska Permanent Fund Corporation Date/Time 4/13/2004
Approved by: Steve Porter, Deputy Commissioner Date 4/13/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 333(HES)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Public School Endowment RDU Revenue Programs & Services
Component Treasury Management
Sponsor Representative Ogg
Requester House Finance Committee Component No. 121

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	93.0	146.0	193.0	241.0	289.0	333.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Debt Service		0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	93.0	146.0	193.0	241.0	289.0	333.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Public School Trust Fund	93.0	146.0	193.0	241.0	289.0	333.0
TOTAL	93.0	146.0	193.0	241.0	289.0	333.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

For purposes of this fiscal note, additional amounts of forecasted unrestricted revenue (using Fall 2003 Revenue Sources Book) would be deposited in the Public School Trust Fund, and 5% of the year-end balance is calculated to be appropriated (spent). The Public School Trust Fund had \$283.8 million on 12/31/03. In this fiscal note the additional amounts would be:

millions of dollars					
2005	2006	2007	2008	2009	2010
40	73	102	132	162	190

Prepared by: Tom Boutin, Deputy Commissioner Phone 465-3669
Division Treasury Division Date/Time 4/18/04, 2:30 PM

Approved by: Steve Porter, Deputy Commissioner Date 4/18/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 333(HES)

ANALYSIS CONTINUATION

So, for example, the cost of managing \$190 million in 2010 is \$333.0, or 17.5 basis points. This fiscal note only shows the cost side of the situation. Over time, the investment returns that would be realized from the investments associated with these costs would be equivalent to returns of other balanced funds that have significant equity investments. Therefore looking at only the costs gives an incomplete picture.

The Department of Revenue believes that the sponsor intends this bill to apply only to leases and other land income from future development. Modifying the bill in that way might markedly change the amounts deposited in the Public School Trust Fund from what is estimated in this fiscal note.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 333(EDU)
 (H) Publish Date: 3/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
 Title "An Act relating to an endowment for public RDU Education Support Services
education; and providing for an effective date." Component Executive Administration
 Sponsor Representative Ogg
 Requester House Special Committee on Education Component No. 2736

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel	2.6	2.6	2.6	2.6	2.6	2.6
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	2.6	2.6	2.6	2.6	2.6	2.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2.6	2.6	2.6	2.6	2.6	2.6
1005 GF/Program Receipts						
1C37 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	2.6	2.6	2.6	2.6	2.6	2.6

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Cost estimates are based on a one-day meeting in Anchorage per year, with two Anchorage based participants, two Fairbanks based participants and two Juneau based participants. Assumptions used include 21-day advance notice and ticket purchase, off season hotel rates and no meeting room costs.

Prepared by: Eddy Jeans, School Finance Manager
 Division: Education Support Services
 Approved by: _____
 Agency: Education & Early Development

Phone 465-8679
 Date/Time 3/2/04 2:01 PM
 Date 3/2/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 333(ELJ)
(H) Publish Date: 3/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: UA
Title PUBLIC SCHOOL ENDOWMENT BRU _____
Component _____
Sponsor OGG, COGHILL, HOLM, Wilson Component No. _____
Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	0.0	5.0	15.0	30.0	50.0	75.0
TOTAL OPERATING	0.0	5.0	15.0	30.0	50.0	75.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (UA Receipts)	0.0	5.0	15.0	30.0	50.0	75.0
TOTAL	0.0	5.0	15.0	30.0	50.0	75.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

In the short term (6 years) this bill would provide very little operating revenue, due to the fact that the funding resulting from this bill is deposited into UA's Land Grant Trust Fund (LGTF, an endowment that has a payout policy similar to the POMV principles i.e. 5% of the prior five year endowment average), however in the long term, after substantial additions to the LGTF endowment UA can see modest operating revenue. In FY11 (yr7) UA would have \$100,000 of operating revenue and by FY14 (yr10) revenue would be \$175K - these figures are based on the following assumptions: 1) DNR does all the land development and transfers only the resulting funding, 2) DNR returns \$100 Million in eligible revenue, of which 3) UA deposits 0.5% (50% of the 1% for education) into its LGTF. Given assumption (1) above, the land development responsibility resides entirely with DNR, therefore the resulting operating revenue is available for UA priority programs. The spreadsheet in the attached worksheet labeled HB333 comparison and titled "HB333 comparison of version one and version two," shows the annual estimates FY05-FY14.

Prepared by: Pat Pitney
Division: University of Alaska
Approved by: Pat Pitney
Agency: University of Alaska

Phone 474-5889
Date/Time 3/15/04 3:38 PM
Date 3/15/2004

HB333 Comparison of Version One (1%) and Version Two (4%)
 (All Figures x\$1,000)

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
DNR Annual Eligible Land/Resource Earning for Dist.*	100,000.0	100,000.0	100,000.0	100,000.0	100,000.0	100,000.0	100,000.0	100,000.0	100,000.0	100,000.0
UA LGTF Endowment Annual Additional Principle										
@ 1% tenants in common revenue sharing (0.5%)	500.0	500.0	500.0	500.0	500.0	500.0	500.0	500.0	500.0	500.0
@ 4% tenants in common revenue sharing (2.0%)	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0	2,000.0
UA LGTF Endowment Cumulative Increment										
@ 1% tenants in common revenue sharing (0.5%)	500.0	1,000.0	1,500.0	2,000.0	2,500.0	3,000.0	3,500.0	4,000.0	4,500.0	5,000.0
@ 4% tenants in common revenue sharing (2.0%)	2,000.0	4,000.0	6,000.0	8,000.0	10,000.0	12,000.0	14,000.0	16,000.0	18,000.0	20,000.0
UA Annual Operating Revenue (Based on UA LGTF endowment using POMV principles 5% of prior 5 year endowment average)										
@ 1% tenants in common revenue sharing (0.5%)	-	5.0	15.0	30.0	50.0	75.0	100.0	125.0	150.0	175.0
@ 4% tenants in common revenue sharing (2.0%)	-	20.0	60.0	120.0	200.0	300.0	400.0	500.0	600.0	700.0

* The -DNR Annual Eligible Land/Resource Earning for Dist.- amount of \$100M is used for ease of calculation and does not represent an accurate estimate. However, when an accurate estimate becomes available this table facilitates easy extrapolation. For instance if the DNR Annual Eligible Land/Resource Earning for Dist. estimate is \$200M UA's result revenue would double, if the estimate is \$1B UA's revenue would be 10 times higher.

adopted 4/15/04

23-LS0991\G
Bullock
4/14/04

CS FOR HOUSE BILL NO. 333()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES OGG, COGHILL AND HOLM, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an endowment for public education and the University of Alaska;**
2 **relating to university land; and providing for an effective date."**

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

4 *** Section 1.** AS 14.40.170(a) is amended to read:

5 (a) The Board of Regents shall

6 (1) appoint the president of the university by a majority vote of the
7 whole board, and the president may attend meetings of u.e board;

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

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

11 (4) except as provided under AS 14.40.505, have the care, control,
12 and management of

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

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

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

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

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

18 (9) administer, manage, market, and promote a postsecondary
19 education savings program, including the Alaska Higher Education Savings Trust
20 under AS 14.40.802 and the Alaska advance college tuition savings fund under
21 AS 14.40.803 - 14.40.817.

22 * Sec. 2. AS 14.40.291(a) is amended to read:

23 (a) Notwithstanding any other provision of law, university-grant land, state
24 replacement land that becomes university-grant land on conveyance to the university,
25 land selected by and conveyed to the University of Alaska under AS 14.40.365, and
26 any other land owned by the University of Alaska, except for land transferred under
27 AS 14.40.505, is not and may not be treated as state public domain land. Land
28 conveyed to the University of Alaska under AS 14.40.365 shall be managed under
29 AS 14.40.365 - 14.40.368 and policies of the Board of Regents of the University of
30 Alaska.

31 * Sec. 3. AS 14.40.400(a) is amended to read:

1 (a) The Board of Regents shall establish a separate endowment trust fund in
2 which shall be held in trust in perpetuity all

3 (1) net income derived from the sale or lease of the land granted under
4 the Act of Congress approved January 21, 1929, as amended;

5 (2) net income derived from the sale, lease, or management of the land
6 selected by and conveyed to the University of Alaska under AS 14.40.365; [AND]

7 (3) monetary gifts, bequests, or endowments made to the University of
8 Alaska for the purpose of the fund; and

9 (4) receipts transferred to the fund under AS 14.40.500.

10 * **Sec. 4.** AS 14.40 is amended by adding new sections to read:

11 **Sec. 14.40.495. Use of public school trust fund; percentage of market**
12 **value.** Up to five percent of the market value of that portion of the public school trust
13 fund, as established under AS 37.14.110, that represents the contributions to that fund
14 under AS 14.40.500 may be annually appropriated by the legislature for the support of
15 public elementary and secondary education and the cost of managing that portion of
16 the public school trust fund. The amounts appropriated for public elementary and
17 secondary education shall be divided equally between elementary education and
18 secondary education.

19 **Sec. 14.40.500. Funding from public school trust fund and university**
20 **lands.** By November 15 of each year, the commissioner of revenue shall transfer to
21 the University of Alaska endowment trust fund (AS 14.40.400) and to the public
22 school trust fund (AS 37.14.110) the receipts derived from the management of each
23 interest in land conveyed under AS 14.40.505, including amounts paid to the state as
24 proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, or
25 royalty sale proceeds from the previous fiscal year.

26 **Sec. 14.40.505. Land endowment.** The legislature conveys to the University
27 of Alaska as tenant in common with the state, and subject to the limitations of this
28 section, an undivided two percent interest in land that is managed by the Department
29 of Natural Resources under AS 38, and to the public school trust fund as tenant in
30 common with the state, and subject to the limitations of this section, an undivided
31 three percent interest in state land that is managed by the Department of Natural

1 Resources under AS 38. The conveyance shall be recorded under AS 40.17.020.
2 Notwithstanding another provision of law,

3 (1) the interest in land conveyed to the University of Alaska and the
4 public school trust fund is strictly limited to the right to receive income earned and
5 received by the state as proceeds from royalties, rent, sale, lease, and other disposal of
6 land that is managed by the Department of Natural Resources under AS 38, after
7 deducting contributions to the Alaska permanent fund required by law, contributions
8 to the public school trust fund under AS 37.14.150, and administrative service fees,
9 application fees, filing fees, processing fees, or other similar fees;

10 (2) the interest in land conveyed to the University of Alaska and the
11 public school trust fund does not include a right or interest in possession of land, in the
12 management or disposal of the land, or in a decision-making process relating to the
13 use of the land; except where otherwise provided in law and regulation, the
14 Department of Natural Resources shall be the sole agency to manage or dispose of
15 land subject to this section;

16 (3) the Department of Natural Resources does not owe the University
17 of Alaska or the public school trust fund a fiduciary duty with respect to its
18 management or disposition of the land subject to this section.

19 * Sec. 5. AS 29.45.030(a) is amended to read:

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

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

25 (A) a private leasehold, contract, or other interest in the
26 property is taxable to the extent of the interest; however, an interest created by
27 a nonexclusive use agreement between the Alaska Industrial Development and
28 Export Authority and a user of an integrated transportation and port facility
29 owned by the authority and initially placed in service before January 1, 1999,
30 is taxable only to the extent of, and for the value associated with, those specific
31 improvements used for lodging purposes;

1 (B) notwithstanding any other provision of law, property
2 acquired by an agency, corporation, or other entity of the state through
3 foreclosure or deed in lieu of foreclosure and retained as an investment of a
4 state entity is taxable; this subparagraph does not apply to federal land granted
5 to the University of Alaska under AS 14.40.380 or 14.40.390, to other land
6 granted to the university by the state to replace land that had been granted
7 under AS 14.40.380 or 14.40.390, [OR] to land conveyed by the state to the
8 university under AS 14.40.365, or to an interest in land conveyed by the
9 state to the university or the public school trust fund (AS 37.14.110) under
10 AS 14.40.505;

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

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

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

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

23 (5) money on deposit;

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

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

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

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

4 * Sec. 6. AS 37.14.140 is amended to read:

5 **Sec. 37.14.140. Utilization of income.** The net income of the fund may not
6 be appropriated for a purpose other than the support of the state public school
7 program. The commissioner of revenue shall invest realized net income that has not
8 been appropriated or that has been appropriated but not expended until the income is
9 appropriated and expended. In this section, "net income" does not include
10 contributions to the fund under AS 14.40.500 or income from those contributions,
11 but the commissioner of revenue shall invest those contributions and income in
12 accordance with this section.

13 * Sec. 7. AS 37.14.160 is amended to read:

14 **Sec. 37.14.160. Duties of the commissioner of revenue.** The commissioner
15 of revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

16 (1) in carrying out investment duties under this section, exercise the
17 same powers and duties established for the Alaska State Pension Investment Board in
18 AS 14.25.180(c);

19 (2) deposit the principal and income from investments in separate
20 principal and income accounts for the fund;

21 (3) invest and maintain accounting records that distinguish between the
22 principal and income of the fund;

23 (4) separately account for contributions to the trust fund under
24 AS 14.40.500 and the principal of the fund attributable to those contributions for
25 the purpose of determining the amount that may be appropriated by the
26 legislature under AS 14.40.495; and

27 (5) provide reports to the board established under AS 37.14.120 on the
28 condition and investment performance of the fund.

29 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY.** The rights under AS 14.40.505, as enacted in sec. 4 of this Act, of

1 the University of Alaska and the public school trust fund (AS 37.14.110) to receive income
2 earned and received by the state applies to income received by the state under contracts for
3 royalties, rents, sales, leases, and other disposals of state land entered into on or after the
4 effective date of this Act.

5 * Sec. 9. This Act takes effect July 1, 2004.

ATTN: DMB

adopted 4/15/04

AMENDMENT 1

OFFERED IN HOUSE FINANCE

BY Williams

TO: CSHB 333()
Version 23-LS0991\G

Page 7, line 2 to line 4:

DELETE: [CONTRACTS FOR ROYALTIES, RENTS, SALES, LEASES,
AND OTHER DISPOSALS OF STATE LAND ENTERED INTO
ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.]

Page 7, line 2:

following "under":

ADD: the following entered into on or after the effective date of this Act:

Page 7, line 5:

ADD: (a) oil and gas leases under AS 38.05.180, shallow gas leases under
AS 38.05.177, and exploration licenses under AS 38.05.132 and
otherwise; and
(b) contracts for royalties, rents, sales, leases, and other disposals of
state land.

Re-number accordingly.

Adopted
4.7.04

23-LS099110
Bullock
4/2/04

CS FOR HOUSE BILL NO. 333()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES OGG, COGHILL AND HOLM, Wilson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an endowment for public education and the University of Alaska;
2 relating to university land; and providing for an effective date."

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

4 * Section 1. AS 14.40.170(a) is amended to read:

5 (a) The Board of Regents shall

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

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

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

11 (4) except as provided under AS 14.40.505, have the care, control,
12 and management of

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

14 (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
7 AND CONVEYED TO IT BY THE COMMISSIONER OF
8 NATURAL RESOURCES UNDER AS 14.40.365;]

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) administer, manage, market, and promote a postsecondary
20 education savings program, including the Alaska Higher Education Savings Trust
21 under AS 14.40.802 and the Alaska advance college tuition savings fund under
22 AS 14.40.803 - 14.40.817.

23 * Sec. 2. AS 14.40.291(a) is amended to read:

24 (a) Notwithstanding any other provision of law, university-grant land, state
25 replacement land that becomes university-grant land on conveyance to the university,
26 [LAND SELECTED BY AND CONVEYED TO THE UNIVERSITY OF ALASKA
27 UNDER AS 14.40.365,] and any other land owned by the University of Alaska,
28 except for land transferred under AS 14.40.505, is not and may not be treated as
29 state public domain land. [LAND CONVEYED TO THE UNIVERSITY OF
30 ALASKA UNDER AS 14.40.365 SHALL BE MANAGED UNDER AS 14.40.365 -
31 14.40.368 AND POLICIES OF THE BOARD OF REGENTS OF THE UNIVERSITY

1 OF ALASKA.]

2 * Sec. 3. AS 14.40.400(a) is amended to read:

3 (a) The Board of Regents shall establish a separate endowment trust fund in
4 which shall be held in trust in perpetuity all

5 (1) net income derived from the sale or lease of the land granted under
6 the Act of Congress approved January 21, 1929, as amended;

7 (2) receipts transferred to the fund under AS 14.40.500 [NET
8 INCOME DERIVED FROM THE SALE, LEASE, OR MANAGEMENT OF THE
9 LAND SELECTED BY AND CONVEYED TO THE UNIVERSITY OF ALASKA
10 UNDER AS 14.40.365]; and

11 (3) monetary gifts, bequests, or endowments made to the University of
12 Alaska for the purpose of the fund.

13 * Sec. 4. AS 14.40 is amended by adding new sections to read:

14 Sec. 14.40.495. Use of public school trust fund; percentage of market
15 value. Notwithstanding A '0, up to five percent of the market value of that
16 portion of the public s . fund, as established under AS 37.14.110, that
17 represents the contributions to that fund under AS 14.40.500 may be annually
18 appropriated by the legislature equally for the support of public elementary and
19 secondary education.

20 Sec. 14.40.500. Funding from public school trust fund and university
21 lands. By November 15 of each year, the commissioner of revenue shall transfer to
22 the University of Alaska endowment trust fund (AS 14.40.400) and to the public
23 school trust fund (AS 37.14.110) the receipts derived from the management of each
24 interest in land conveyed under AS 14.40.505, including amounts paid to the state as
25 proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, or
26 royalty sale proceeds from the previous fiscal year.

27 Sec. 14.40.505. Land endowment. The legislature conveys to the University
28 of Alaska as tenant in common with the state, and subject to the limitations of this
29 section, an undivided two percent interest in land that is managed by the Department
30 of Natural Resources under AS 38, and to the public school trust fund as tenant in
31 common with the state, and subject to the limitations of this section, an undivided

1 three percent interest in state land that is managed by the Department of Natural
2 Resources under AS 38. The conveyance shall be recorded under AS 40.17.020.
3 Notwithstanding another provision of law,

4 (1) the interest in land conveyed to the University of Alaska and the
5 public school trust fund is strictly limited to the right to receive income earned and
6 received by the state as proceeds from royalties, rent, sale, lease, and other disposal of
7 land that is managed by the Department of Natural Resources under AS 38, after
8 deducting contributions to the Alaska permanent fund required by law, contributions
9 to the public school trust fund under AS 37.14.150, and administrative service fees,
10 application fees, filing fees, processing fees, or other similar fees;

11 (2) the interest in land conveyed to the University of Alaska and the
12 public school trust fund does not include a right or interest in possession of land, in the
13 management or disposal of the land, or in a decision-making process relating to the
14 use of the land; except where otherwise provided in law and regulation, the
15 Department of Natural Resources shall be the sole agency to manage or dispose of
16 land subject to this section;

17 (3) the Department of Natural Resources does not owe the University
18 of Alaska or the public school trust fund a fiduciary duty with respect to its
19 management or disposition of the land subject to this section.

20 * Sec. 5. AS 29.45.030(a) is amended to read:

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

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

26 (A) a private leasehold, contract, or other interest in the
27 property is taxable to the extent of the interest; however, an interest created by
28 a nonexclusive use agreement between the Alaska Industrial Development and
29 Export Authority and a user of an integrated transportation and port facility
30 owned by the authority and initially placed in service before January 1, 1999,
31 is taxable only to the extent of, and for the value associated with, those specific

1 improvements used for lodging purposes;

2 (B) notwithstanding any other provision of law, property
3 acquired by an agency, corporation, or other entity of the state through
4 foreclosure or deed in lieu of foreclosure and retained as an investment of a
5 state entity is taxable; this subparagraph does not apply to federal land granted
6 to the University of Alaska under AS 14.40.380 or 14.40.390, to other land
7 granted to the university by the state to replace land that had been granted
8 under AS 14.40.380 or 14.40.390, or to an interest in land conveyed by the
9 state to the university and the public school trust fund (AS 37.14.110) under
10 AS 14.40.505 [AS 14.40.365];

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

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

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

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

23 (5) money on deposit;

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

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

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

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

4 * Sec. 6. AS 37.14.160 is amended to read:

5 Sec. 37.14.160. Duties of the commissioner of revenue. The commissioner
6 of revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

7 (1) in carrying out investment duties under this section, exercise the
8 same powers and duties established for the Alaska State Pension Investment Board in
9 AS 14.25.180(c);

10 (2) deposit the principal and income from investments in separate
11 principal and income accounts for the fund;

12 (3) invest and maintain accounting records that distinguish between the
13 principal and income of the fund;

14 (4) separately account for contributions to the trust fund under
15 AS 14.40.500 and the principal of the fund attributable to those contributions for
16 the purpose of determining the amount that may be appropriated by the
17 legislature under AS 14.40.495; and

18 (5) provide reports to the board established under AS 37.14.120 on the
19 condition and investment performance of the fund.

20 * Sec. 7. AS 14.40.365, 14.40.366, 14.40.368, and 14.40.461 are repealed.

21 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 APPLICABILITY. The rights under AS 14.40.505, as enacted in sec. 4 of this Act, of
24 the University of Alaska and the public school trust fund (AS 37.14.110) to receive income
25 earned and received by the state applies to income received by the state under contracts for
26 royalties, rents, sales, leases, and other disposals of state land entered into on or after the
27 effective date of this Act.

28 * Sec. 9. This Act takes effect July 1, 2004.

4/2/04

- draft - version "O"

CSHB 333(HESS)
Talking Points

University and Education Land Grant Endowment Bill

This bill endows the University of Alaska and the Public School Trust Fund with land grants.

As tenants in common with the state, Public Education will receive a grant of an undivided 3% interest in all state land and the University of Alaska will receive a grant of an undivided 2% interest in all state land, for a total of five (5%) percent. (Sec 14.40.505)

1. Rights and management will be retained by DNR.
2. DNR will not owe a heightened fiduciary duty to either the University or the Public School Trust Fund.
3. Each shall receive receipts annually from their respective interests.
4. All receipts are calculated after deducting contributions to the Permanent Fund; deducting existing receipts of .5% to the Public School Trust; and deducting administrative/service fees, etc.

Receipts do not include existing streams of revenue from state lands on the date of enactment.

Receipts are limited to new receipts from new contracts accruing to each tenant's interest on or after the effective date of the act.

This Bill rescinds Senate Bill 7 (the 250,000 to 260,000 acre) land grant to the University.

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High court backs land grant to UA**NOT AN APPROPRIATION: Lower court must still rule if law is illegal dedicated fund.**

By DAN JOLING

The Associated Press

(Published: January 10, 2004)

The Legislature can grant the University of Alaska a 250,000-acre land endowment, the state Supreme Court ruled Friday.

Justices reversed a Superior Court decision that disallowed the grant, which was approved in a law nearly four years ago. The Superior Court had ruled the land was not an "appropriation."

However, the high court declined to make a ruling on whether the law granting the land was a "dedicated fund" and sent that issue back to the Superior Court.

Under the Alaska Constitution, with some exceptions, "the proceeds of any state tax or license shall not be dedicated to any special purpose."

The decision mostly resolves a bitter fight between a Republican-controlled Legislature and former Gov. Tony Knowles, a Democrat.

The Legislature in 2000 passed the bill, sponsored by then-Sen. Robin Taylor, R-Wrangell, over the objections of Knowles and Alaska environmentalists.

Taylor pushed the bill with the argument that development of the land would give the University of Alaska a stable source of future income. The university at the time had 112,000 acres in its land endowment, the second smallest in the nation among land-grant universities.

Knowles had vetoed similar bills twice before and said they were an inefficient and unsuccessful way to secure reliable funding for the university. Knowles said the bill would complicate state management, contribute to significant land-use conflicts and lead to years of litigation. He followed through by vetoing Taylor's bill.

It took two tries, but lawmakers mustered 40 votes for a two-thirds majority to override the veto. The late Rep. Ramona Barnes, R-Anchorage, who had been home suffering from a bout of asthma, made it to the floor to provide the crucial 40th vote.

Knowles, however, claimed victory. He immediately released an attorney general's opinion that said the bill was an appropriation, which requires a three-fourths vote by the Legislature to override.

The state Alaska Legislative Council, controlled by a Republican majority, sued.

Taylor, now a special assistant in the state Department of Transportation, said he was confident of the outcome.

"We have believed all along we would prevail," he said.

Increasing the land grant for the university has been a 40-year process that is finally coming to

fruitful, he said.

Gov. Frank Murkowski, a former U.S. senator, worked on legislation that would have granted 500,000 federal acres to the university if the state matched it with the quarter-million acre endowment, Taylor said.

"We have now fulfilled our portion of that opportunity," he said.

Murkowski said he was pleased with the decision.

"I've asked the commissioner of Natural Resources to move forward with the process to provide additional land to the University of Alaska," he said. "DNR will work with the university in the months ahead on a process and schedule to implement the land conveyance."

UA spokesman Bob Miller said the university is not looking for immediate riches from the decision. He said the land conveyance process could take as long as 10 years.

"At best it will be 20 to 25 years before modest financial impacts will be generated," Miller said.

Environmental groups, which filed friend-of-the-court briefs in the case, hold out hope that the measure could be stopped by the part of the decision remanded to Superior Court. Randy Virgin, executive director of the Alaska Center for the Environment, said it still must be decided whether the law violates the constitutional prohibition on dedicating funds for one part of state government.

"The Legislature prevailed in round one, but they still have to deal with the Constitution," Virgin said.

Taylor, a lawyer, questioned whether Virgin's group has any standing in the case if the Legislature and the governor agree to settle the matter.

He said if the Supreme Court has determined that the land grant is not an appropriation, it's not likely to determine that it's dedicated revenue.

"I think that's a specious argument," Taylor said.

Virgin said the law was billed as a way of helping the university but was a thinly veiled attempt by Taylor to liquidate public lands and get them into private hands.

He said the university would choose land that can be developed at the expense of environmental concerns and that it had a poor record at land management, citing a logging project near Yakutat.

UA's Miller took issue with that opinion.

"I don't think they understand diddly squat about land management," Miller said.

TO READ the Alaska Supreme Court's decision, visit

www.adn.com/links class="refpq">

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3/29/04

CSHB 333(HSS)
Talking Points

University and Education Land Grant Endowment Bill

This bill endows the University of Alaska and the Public School Trust Fund with land grants.

As tenants in common with the state, each will receive a grant of an undivided 2% interest in all state public domain land, for a total of four percent. (Sec 14.40.507)

1. Rights and management will be retained by DNR.
2. DNR will not owe a heightened fiduciary duty to either the University or the Public School Trust Fund.
3. Each shall receive receipts annually from their respective interests.
4. All receipts are calculated after deducting contributions to the Permanent Fund; and deducting administrative/service fees, etc.

Receipts do not include existing streams of revenue from state lands on the date of enactment.

Receipts are limited to new receipts accruing to each tenant's interest after the effective date of the act.

This Bill rescinds Senate Bill 7 (the 250,000 to 260,000 acre) land grant to the University.

CSHB 333(HSS)
Talking Points – Page Two

The CS passed out of House HESS was amended to divide the proceeds on a 3/5's to Education and 2/5's to University basis. However, the amendment accomplished this after proceeds from both entities had been received.

Rep. Peggy Wilson's, HESS Chair, intent in making the amendment was to increase Education to 3% and leave the University at 2%, thus accomplishing the 3/5's and 2/5's split.

A new draft CS will be offered in the House Finance Committee to reflect this change.

Committee Assignments:

Member:

House Special Committee on Fisheries
House Special Committee on Education
House Transportation Committee
House Judiciary Committee



Dan Ogg
Representative

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SPONSOR STATEMENT

work draft CS for House Bill 333()

Updated: 4/01/04

"An Act relating to an endowment for public education and the University of Alaska; relating to university land; and providing for an effective date."

This bill establishes that the University of Alaska and public education are tenants in common with the state. The University will be conveyed an undivided two percent interest in land and public education will be conveyed an undivided three percent interest in land. The Department of Natural Resources (DNR) manages this land under Title 38.

After deducting the contributions to the Alaska Permanent Fund and the Public School Trust as required by law, and after deducting a variety of other administrative fees, the interest in land conveyed will be strictly limited to the right to receive income earned and received by the state as proceeds from new resource development on or after the effective date of this act.

The rights of management and development of land conveyed under this concept would be retained by DNR. However, the heightened fiduciary duty to the University or public education that is usually owed by a managing tenant in common to other tenants in common will not apply. This bill does not require additional consultation or review by the University or public education of DNR's land management decisions.

For clarification, the "tenants" are the University of Alaska's Endowment Trust Fund and the Public School Trust Fund. By November 15th of each year, the commissioner of DNR would transfer receipts to the principal of each account.

This bill also establishes that up to five percent of the market value (POMV) of the Public School Trust Fund may be annually appropriated by the legislature equally for the support of public elementary and secondary education. The University of Alaska's Endowment Trust Fund already utilizes the POMV method of calculating its payout.

With the exception of four states, all of the university land grants were settled before the end of the 19th century. Alaska is one of those states. The time has come for Alaska to endow its public education system with a grant of its land. Of all the states, Alaska's Land Grant University is 49th in acreage granted by the state or federal government. The only state university that has less of a land grant is Delaware. This is not a situation of unwillingness on the part of the state or federal government, but a situation of circumstances.

In 1634, four years after the establishment of the Massachusetts Colony, the colony's founding fathers gave an island as a land grant to Dorchester, one of the colony's towns. Dorchester dedicated the income from the island to fund the first free school in America. Granting lands for funding education has been the case ever since. The Morrill Act of 1862 entitled each state a grant of federal lands the income from which would provide the financial base of operation for at least one college or university. The University of Alaska at Fairbanks is Alaska's Land Grant University.

During the territorial days, land transferred to the University was minimal since a prerequisite to any transfer was that the land had to be surveyed. Since most of Alaska was not surveyed, only about 112,000 acres were transferred before statehood. When Alaska became a state, the federal government granted Alaska 104 million acres. Many assumed the University's land grant would come out of the state lands. Since statehood four attempts have been made by the legislature to grant lands to the University. Legislation to grant lands was vetoed once by Governor Bill Egan and three times by Governor Tony Knowles. The last land grant was Senate Bill 7 of the 21st Legislature, which granted the University 250,000 acres. The veto by Knowles was subsequently overridden by the legislature with a two-third's vote.

The governor then challenged the validity of the veto asserting that the bill was an "appropriation" and required a three-quarter veto override. The legislature challenged the Knowles decision in court. The Alaska Supreme Court's recent decision ruled in favor of the legislature indicating that they had legally overridden Knowles' veto. Unfortunately, the court remanded the case to the state Superior Court to determine if giving state land to the University created an unconstitutionally dedicated fund.

Should the grant be found by the court to be a constitutional dedication, actual revenues going to the University will be a long time coming. In response to a legislator's question on January 22, 2004 inquiring how long before land is developed under Senate Bill 7, the University responded that under the best of circumstances, the University does not expect to make anything off that land for 10 years and it could well be 20 years.

Passage of this bill will accomplish the recession of Senate Bill 7, thus ending the remaining court battle over unconstitutional dedication. It will give the University and public education a land asset without the headache of land management. It will eliminate the lengthy need for selection and separate development and the costs attached thereto. It will develop an income stream from the endowment as soon as new revenues from new developments and new land sales occur. With this bill, the education endowment could begin now, instead of 10 to 20 years from now.

Consider the size of an endowment if only 1% had been set-aside since statehood for education. In fiscal year 2003 the cumulative total petroleum revenue from just oil over these intervening years is over \$53 billion. After deducting 25% for the mandatory Permanent Fund contributions, one percent of the resulting figure is almost \$400 million. This number doesn't take into account that the revenue would have been compounded yearly adding to the principal of that endowment and the subsequent income stream to the University and K-12 education.

If enacted, this bill will affect only new income from new developed resources or the new sale of state lands. This will not impact existing income streams from resources or land sales. The endowment will build over time, so present and future generations will benefit educationally from our grant land asset.

LEGAL SERVICES

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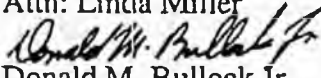
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 29, 2004

SUBJECT: CSHB 333(HES) (Work Order No. 23-LS0991\N)

TO: Representative Peggy Wilson
Attn: Linda Miller

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed with this memorandum is a final version of CSHB 333(HES). This version of the bill is based on CSHB 333(EDU) and includes the two amendments made by your committee. The first amendment allocates the receipts from the land conveyed under AS 14.40.507 so that elementary and secondary education programs receive 60 percent of the receipts and the university receives 40 percent. The second amendment was a conceptual amendment that transmits the receipts for elementary and secondary education into the Public School Trust Fund (AS 37.14.100). Since the Public School Fund Advisory board oversees the Public School Trust Fund, the bill no longer creates a new board.

Please review my memo to you concerning the risks and possible repercussions from contributing a new source of revenue into the Public School Trust Fund. In this version of the bill, I have added a duty for the commissioner of revenue to separately account for the contributions in this bill for the purpose of determining the percentage of market value that may be appropriated for elementary and secondary education.

Also, as I noted in my earlier memo, AS 29.45.030(a)(1)(B) in sec. 5 of the bill should be amended to exclude from taxation the interest in land transferred to the public school trust fund.

If I may be of further assistance, please advise.

DMB:med
04-336.mcd

Enclosure

LEGAL SERVICES

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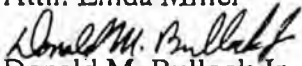
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 24, 2004

SUBJECT: CSHB 333(EDU) and Public School Trust Fund issues
(Work Order No. 23-LS0991VZ)

TO: Representative Peggy Wilson
Attn: Linda Miller

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed with this memorandum is a draft CSHB 333(HES). Although the first amendment you provided me is clear (the allocation of the income between the university and elementary and secondary education) the conceptual amendment has at least two issues that need to be addressed. In addition, I am suggesting one further amendment to be considered, either in committee or on the floor.

The first amendment passed by the committee changed the allocation of the total receipts from equal shares to 60 percent for the education trust fund and 40 percent to the university endowment trust. I changed your three-fifths and two-fifths fractions to percentages as a stylistic change. These changes appear in AS 14.40.505 which would be enacted by sec. 4 of the bill.

The conceptual amendment, passed by the committee, would make two significant changes to the bill. First, the share of the receipts for elementary and secondary education would be deposited into the Public School Trust Fund established in AS 37.14.110. Second, the Public School Trust Fund Advisory Board created in AS 37.14.120 would perform the functions that had been assigned to the Education Trust Fund Board. The latter change is included in this draft of the bill based on our conversation on March 23. However, I need additional guidance from you regarding the deposit of receipts into the Public School Trust Fund.

The conceptual amendment would direct money conveyed to the education trust under AS 14.40.507 into the Public School Trust Fund,¹ rather than to the education trust fund. The net income of the Public School Trust Fund is dedicated to the state public school

¹ Under AS 37.14.150, the Public School Trust Fund receives one half of one percent of the total receipts derived from the management of state land, including amounts paid to the states as proceeds of sale or annual rent of surface rights, mineral lease rental, royalties, royalty sale proceeds, and federal mineral revenue sharing payments or bonuses.

Representative Peggy Wilson

March 24, 2004

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program.² By comparison, AS 14.40.503, which would be enacted in sec. 4 of the bill, would allow the legislature to appropriate "up to five percent of the market value of the education trust fund" for elementary and secondary education. Thus, there is a discrepancy between the appropriation of "net income" and the percentage of market value. How would you like this discrepancy to be resolved?

Perhaps a more significant issue is the legal effect of directing an additional revenue stream into the Public School Trust Fund. Although there is no clear authority on this subject, additional contributions to the Public School Trust Fund would, in my opinion, put the dedication of the fund to public schools at risk.

A brief explanation of the purpose and history of the Public School Trust Fund is helpful in addressing this question. This fund is dedicated to the support of the public school system and is not a violation of the dedicated fund rule because it falls within an exception to the prohibition against dedicated funds. As a general rule, if a dedication is required for participation in a federal program or the fund was in existence before 1959, then the Alaska Constitution does not prohibit dedication of those funds. See Art. IX, sec. 7, Constitution of the State of Alaska.

The Public School Trust Fund (AS 37.14.110) and the required contribution of certain receipts (AS 37.14.150) were established to satisfy trust obligations imposed under federal law before 1959. In 1915 congress granted land to the state to hold in trust for public schools under 48 U.S.C. 353. In 1978, the legislature redesignated the land as general grant land and established the Public School Trust Fund. The legislature also dedicated one half of one percent of the total receipts from the management of state land and federal mineral revenue-sharing payments to the fund under AS 37.14.150.³ Therefore, the present trust fund and the dedication of revenue are intended to satisfy federal trust requirements imposed when the land was originally granted to the state for public schools.

The Attorney General has concluded that a trust obligation exists with respect to the fund and that the dedication of revenues to the fund is constitutional until the amount

² AS 37.14.140 prohibits the appropriation of the net income for a purpose other than the support of the public schools. Revenue that has not been appropriated or appropriated but not expended, remains in the fund until appropriated or expended.

³ Sec. 2, ch. 182, SLA 1978, redesignated school land as general grant land. The land redesignated consisted of, "sections 16 and 36 in each township surveyed before 1959 under the Act of March 4, 1915, 48 U.S.C. 353, and patented to or approved for patent to the state on July 1, 1978 and land designated as school land which was received in exchange for land granted under that federal land grant and land granted to the state as lieu or indemnity land." A township is approximately 6 miles square and contains 36 sections. *Black's Law Dictionary* 1492 (6th ed. 1990). The two sections in each township dedicated to schools represent approximately 5.6% of the land in the surveyed townships.

Representative Peggy Wilson

March 24, 2004

Page 3

deposited equals the fair market value of the school lands. When the amount deposited into the fund exceeds the fair market value of the school lands, the Attorney General has opined that the additional deposits conflict with the dedicated fund provision of the Alaska Constitution. (1988-1 Op. (Inf.) Att'y, Gen 293; 1985-2 (Inf.) Att'y Gen 159; See also 1992 Op. Att'y Gen. No. 1).

It is possible, however, that the current fund and dedication of revenue could be vulnerable to legal challenge. It may be that a court would not agree that the decision to reconstitute the trust in 1978 from land to money, in itself, permits the dedication of revenue to accomplish this. There is no clear legal authority on how the court would treat this issue.

With this background in mind, the authority of the legislature to increase the amount flowing into the principal of the fund, can be examined. As a creation of the legislature, AS 37.14.150 could be amended by the legislature to allow for the contribution of the new receipts identified in CSHB 333(HES) to the existing trust fund. I do not believe any changes to federal law are required. However, it is unclear how this would affect the fund's status as an exception to the dedicated fund prohibition. It is possible that, if any significant changes are made to the present statutory framework of the fund, it would destroy the fund's protected status as an exception to the dedicated fund rule. This is one risk you incur if the amount of money flowing into the principal of the fund is increased by the legislature.

This also raises a related issue. If the legislature increases the amount that annually flows into the fund, the fund may more quickly grow beyond the original fair market value of the lands used to create the original federal trust. This issue certainly exists anyway, as noted by the Attorney General in opinions cited above. In short, any change to the Public School Trust Fund creates a risk that the fund would lose its protected status as a fund that can legally dedicate money to public schools.

*nothing to depend on
fund* *
Please let me know whether you would like a new CS for HB 333 that would direct the new receipts for education into the Public School Trust Fund rather than the Education Fund, and how you would like the difference between the bill's use of percentage of market value and net income in AS 37.14.140 to be resolved.

* As a final point, in my review of the bill for your CS, I noted that AS 29.45.030(a)(1)(B), which would be amended in sec. 5 of the bill, should be amended to also shield the interest in land conveyed to the education trust from taxation.

If I may be of further assistance, please advise.

DMB:mdr
04-114.mdr

Enclosure

Notice: This opinion is subject to correction before publication in the PACIFICREPORTER. Readers are requested to bring errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, phone (907) 264-0608, fax (907) 264-0878, e-mail corrections@appellate.courts.state.ak.us.

THE SUPREME COURT OF THE STATE OF ALASKA

THE ALASKA LEGISLATIVE)	Supreme Court No. S-10344
COUNCIL, on behalf of the Alaska)	
State Legislature,)	Superior Court No.
)	1JU-00-1237 CI
Appellant,)	
)	<u>OPINION</u>
v.)	
)	[No. 5768 - January 9, 2004]
HONORABLE TONY KNOWLES,)	
in his official capacity as Governor)	
of the State of Alaska,)	
)	
Appellee.)	

Appeal from the Superior Court of the State of Alaska, First Judicial District, Juneau, Patricia A. Collins, Judge.

Appearances: James P. Crawford, Division of Legal and Research Services, Legislative Affairs Agency, Juneau, for Appellant. Joanne M. Grace, Assistant Attorney General, Anchorage, and Bruce M. Botelho, Attorney General, Juneau, for Appellee. Thomas S. Waldo, Earthjustice, Juneau, for Amici Curiae Alaska Center for the Environment, Northern Alaska Environmental Center, and Southeast Alaska Conservation Council.

Before: Fabe, Chief Justice, Matthews, Eastaugh, Bryner, and Carpeneti, Justices.

CARPENETI, Justice.

I. INTRODUCTION

The Alaska Legislative Council appeals the superior court's denial of its challenge to former Governor Tony Knowles's veto of, and refusal to implement, Senate Bill 7, which transfers land and the income derived from that land to the University of Alaska. The legislative council argues that the superior court erred in holding that S.B. 7 constitutes an appropriation subject to the governor's enhanced veto power requiring a three-fourths vote by the legislature in order to override the veto under article II, section 16 of the Alaska Constitution. Because the superior court erred in concluding that S.B. 7 is an appropriation to the University of Alaska, we reverse the superior court's grant of summary judgment to the governor.

II. FACTS AND PROCEEDINGS

A. Facts

The Alaska Legislature passed S.B. 7 on March 30, 2000. Senate Bill 7 enacted AS 14.40.365, which entitles the University of Alaska to select between 250,000 and 260,000 acres of state lands.¹ The bill provides that selected land would then be

¹ Under Committee Substitute for Senate Bill (C.S.S.B.) 7, 21st Leg. 2nd Sess. (2000), AS 14.40 is amended by adding AS 14.40.365, which reads in relevant part:

University land from Statehood Act land selection conveyances.

(a) The University of Alaska may select and is entitled to receive the conveyance of not less than 250,000 and not more than 260,000 acres of land conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit a list of selections to the commissioner of natural resources and, if the list of selections contains land within the boundaries of a municipality, the Board of Regents

(continued...)

conveyed to and managed by the university under amendments to AS 14.40.170(a)² and

¹(...continued)

of the University of Alaska shall submit the list to the municipality. The Board of Regents and the commissioner of natural resources shall periodically and jointly submit to the legislature, within 30 days of the beginning of a regular legislative session, a list of the selections of land proposed to be conveyed by the state to the University of Alaska under this section. If the list submitted to the legislature contains land within the boundaries of a municipality, the Board of Regents and the commissioner of natural resources shall provide a copy of the list to the municipality. Each list must contain not more than 25 percent of the total acres of land to which the university is entitled after subtracting previous conveyances under this section, but not less than 25,000 acres or the remaining entitlement under the section, whichever is less. A list of selections submitted shall be considered approved for conveyance to the University of Alaska unless the legislature acts to disapprove the list during the legislative session during which the list was submitted. If the amount of land to be conveyed exceeds the balance due the university under this section, the university shall set out the land to be conveyed in priority order.

²
is new): C.S.S.B. 7 amends AS 14.40.170(a) to read in relevant part (underlined text

(a) The Board of Regents shall

...

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

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

(B) land

(i) conveyed to the Board of Regents by the commissioner of natural resources in the settlement of the claim of the University of Alaska to land granted to the state in accordance with the Act of March 4, 1915 (38 Stat. 1214),

(continued...)

AS 14.40.291.³ Senate Bill 7 also provides that the income from the transferred land will be held in perpetual trust for the benefit of the university.⁴

²(...continued)

as amended, and in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended; and

(ii) selected by the University of Alaska and conveyed to it by the commissioner of natural resources under AS 14.40.365;

³ C.S.S.B. 7 amends AS 14.40.291 to read (underlined text is new; bracketed text is deleted):

(a) Notwithstanding any other provision of law, university-grant land, state replacement land that becomes university-grant land on conveyance to the university, land selected by and conveyed to the University of Alaska under AS 14.40.365, and any other land owned by the University of Alaska is not and may not be treated as state public domain land. Land conveyed to the University of Alaska under AS 14.40.365 shall be managed under AS 14.40.365 - 14.40.368 and policies of the Board of Regents of the University of Alaska.

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

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

⁴ C.S.S.B. 7 amends AS 14.40.400(a) to read (underlined text is new; bracketed text is deleted):

(a) The Board of Regents shall establish a separate endowment trust fund in which shall be held in trust in perpetuity all

(1) [ALL] net income derived from the sale or lease of the land granted under the Act of Congress approved

(continued...)

Governor Knowles vetoed the bill on April 17, 2000, stating that “ ‘earmarking’ state lands for dedicated projects ‘ will complicate state land management, contribute to significant land use conflicts, and likely lead to years of litigation.’ ” On April 21, 2000 the legislature voted to override the veto by a margin of forty-one to nineteen, a margin representing more than two-thirds but less than three-fourths of the legislature voting to override the veto. Governor Knowles rejected the override vote, asserting that the legislature did not reach the three-fourths override vote required to override a veto of an appropriations bill.

B. Proceedings

The legislative council brought suit to force Governor Knowles to implement S.B. 7, asserting that it is not an appropriations bill subject to the governor’s enhanced appropriations veto. The conservation amici⁵ attempted to intervene in that action in order to challenge the constitutionality of S.B. 7, but the superior court denied their motion to intervene because that court decided only the question whether S.B. 7 was an appropriations bill subject to the governor’s enhanced veto. The superior court

⁴(...continued)

January 21, 1929, as amended; [AND]

(2) net income derived from the sale, lease, or management of the land selected by and conveyed to the University of Alaska under AS 14.40.365; and

(3) [All] monetary gifts, bequests, or endowments made to the University of Alaska for the purpose of the fund.

⁵ The Alaska Center for the Environment, the Northern Alaska Environmental Center, and the Southeast Alaska Conservation Council are collectively referred to as the conservation amici.

held that S.B. 7 was an appropriations bill, thereby upholding the governor's veto of S.B. 7. The legislative council appeals.⁶

III. STANDARD OF REVIEW

We review constitutional issues *de novo*, as they present questions of law.⁷ In reviewing such questions we "adopt the rule of law that is most persuasive in light of precedent, reason, and policy."⁸

IV. DISCUSSION

A. Non-Monetary Asset Transfers Are Not Appropriations Subject to the Governor's Enhanced Veto Under Article II of the Alaska Constitution.

This appeal requires us to decide whether S.B. 7 constitutes an appropriation under article II, section 16 of the Alaska Constitution. Under article II, section 15, the governor is empowered to "veto bills passed by the legislature" and "may, by veto, strike or reduce items in appropriation bills."⁹ The legislature's power to override the Governor's veto depends on the type of bill that has been vetoed. Under article II, section 16, "[b]ills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature. Other vetoed bills become law by affirmative vote of two-thirds of the

⁶ Conservation amici seek to intervene if we decide this case on the basis of the constitutional prohibition against dedicated funds. If we decline to reach that issue but determine that S.B. 7 is not an appropriations bill, the conservation amici ask that the case be remanded so that they may renew their motion to intervene.

⁷ *State v. Malloy*, 46 P.3d 949, 951 (Alaska 2002).

⁸ *Guin v. Ha*, 591 P.2d 1281, 1284 n.6 (Alaska 1979).

⁹ Alaska Const. art. II, § 15.

membership of the legislature.”¹⁰ Accordingly, if S.B. 7 was an appropriation bill, the legislature failed to override the governor’s veto; if it was not an appropriation bill, the affirmative vote of forty-one members of the legislature was sufficient to enact it into law. For the reasons that follow, we hold that S.B. 7 was not an appropriation and that the legislature therefore successfully overrode the governor’s veto.

The governor argues that our previous decisions allowing non-monetary asset transfers to be classified as appropriations under article XI, section 7 of the Alaska Constitution should be extended to govern the scope of an appropriations veto under article II. But these decisions arose in the context of article XI of the Alaska Constitution, which grants Alaska’s citizens the right to “propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.”¹¹ This right is limited, and initiatives and referenda cannot be used to “make or repeal appropriations.”¹² We previously held that “by the term ‘appropriations,’ article XI, section 7 prohibits an initiative whose primary object is to require the outflow of state assets in the form of land as well as money.”¹³ More recently, we expanded the non-monetary definition of “appropriations” under article XI to include initiatives prioritizing the right to harvest salmon¹⁴ and designating University of Alaska land for use by the

¹⁰ Alaska Const. art. II, § 16.

¹¹ Alaska Const. art. XI, § 1.

¹² Alaska Const. art. XI, § 7.

¹³ *Thomas v. Bailey*, 595 P.2d 1, 7 (Alaska 1979) (ballot initiative granting state land to certain Alaska residents was an unconstitutional appropriation by initiative).

¹⁴ *Pullen v. Ulmer*, 923 P.2d 54, 59 (Alaska 1996).

Community College System of Alaska.¹⁵ These decisions struck down non-monetary asset transfers as unconstitutional appropriations under article XI, section 7 of the Alaska Constitution.

In the present case, the superior court held that article II, section 16 of the Alaska Constitution shares article XI, section 7's broad definition of an appropriation, and that "a bill [that] results in removing or dedicating assets from the treasury that would otherwise be available to fund state government" is therefore an appropriations bill.¹⁶ While it is appealing to interpret the Alaska Constitution to have a consistent definition of "appropriations" throughout the document, articles II and XI require different interpretations of "appropriations" because they serve vastly different purposes.¹⁷ Article XI provides citizens with a limited power to enact laws. The limitations concerning appropriations have two parallel purposes — preventing the dissipation of state resources by popular vote and vindicating legislative control over the allocation of state assets. As we stated in *City of Fairbanks v. Fairbanks Convention and Visitors Bureau*:

¹⁵ *McAlpine v. University of Alaska*, 762 P.2d 81, 87-89 (Alaska 1988).

¹⁶ *Legislative Council v. Knowles*, No. 1JU-00-1237 CI (Alaska Super., August 17, 2001).

¹⁷ We have held that even within the context of article XI, section 7, the word "appropriations" may have different meanings depending on whether the challenged initiative seeks to make an appropriation or repeal one. *City of Fairbanks v. Fairbanks Convention and Visitors Bureau*, 818 P.2d 1153, 1156-57 (Alaska 1991). A broad construction is used to prevent the enactment by initiative of state asset give-away programs. *Id.* at 1156. But as this reason does not apply when an initiative merely seeks to repeal an appropriation, a narrow construction is used in repeal cases. In repeal cases the term "appropriations" is construed to refer only to annual spending decisions. *Id.* at 1157.

Our prior cases defining "appropriation" in the context of article XI, section 7 have concentrated on the two parallel purposes for preventing the making of appropriations through the initiative process. First, initiatives should not be "used to enact give-away programs, which have an inherent popular appeal, that would endanger the state treasury." *Thomas v. Bailey*, 595 P.2d 1, 7 (Alaska 1979). This is because "[i]nitiatives for the purpose of requiring appropriations were thought to pose a special danger of 'rash, discriminatory, and irresponsible acts.'" *Id.* (quoting V. Fischer, Alaska's Constitutional Convention 80-81 (1975)). The second "reason for prohibiting appropriations by initiative is to ensure that the legislature, and only the legislature, retains control over the allocation of state assets among competing needs." *McAlpine v. Univ. of Alaska*, 762 P.2d 81, 88 (Alaska 1988).¹⁸

Accordingly, in cases involving making appropriations by initiative, we have carried out the framers' design to prevent popular give-away programs and maintain legislative control over the allocation of state assets by broadly interpreting the scope of "appropriations" under article XI of the Alaska Constitution.

In contrast, article II's definition is not governed by the overriding goal of preventing initiatives from wasting public assets or encroaching on protected legislative powers. Instead, article II, sections 15 and 16 of the Alaska Constitution govern the balance of power between the legislative and executive branches of Alaska's government. Because articles II and XI serve different purposes, we reject the governor's argument that the expansive scope given "appropriations" in article XI as to the making of appropriations should be extended to article II. We determine the scope of "appropriations" as used in article II by examining the minutes of the Constitutional Convention and the Alaska Constitution itself.

¹⁸ 818 P.2d 1153, 1156 (Alaska 1991).

We have previously treated article II appropriations as being limited to monetary appropriations. In *Alaska Legislative Council v. Knowles*,¹⁹ (*Knowles II*) we determined the scope of the governor's power to veto individual items in an appropriations bill under article II, section 15 of the Alaska Constitution.²⁰ We assumed that items in appropriations bills, and therefore bills composed of individual items, can only appropriate monetary assets:

Reducing an item lessens its amount; striking it lessens its amount to nothing. This implies that an 'item' must include a sum of money. Likewise, a passage that does not include a 'sum of money dedicated to a particular purpose' is not an 'item' which the governor can strike or reduce. Therefore, a veto that does not delete or reduce the amount of money appropriated is not a valid exercise of the power article II, section 15 grants.²¹

Though *Knowles II* involved the governor's veto of language restricting a monetary appropriation under the item veto power,²² rather than the veto of a non-monetary appropriation under the general power to veto an entire bill as presented by this case, its understanding of article II appropriations is instructive. We now explicitly adopt

¹⁹ 21 P.3d 367 (Alaska 2001).

²⁰ In addition to providing the governor with the power to veto entire bills, the issue presented by this case, Alaska Constitution article II, § 15 also grants the governor the power to "veto, strike, or reduce items in appropriations bills."

²¹ *Knowles II*, 21 P.3d at 373.

²² *Id.* at 370-71.

Knowles II's exclusively monetary characterization of article II appropriations items and hold that the governor's appropriations veto applies only to monetary appropriations.²³

This conclusion finds ample support in the minutes of the Alaska Constitutional Convention, which demonstrate that the framers of the Alaska Constitution intended the governor's appropriations veto under article II, sections 15 and 16 to apply only to monetary appropriations. The framers repeatedly referred to appropriations in monetary terms during the debates over article II, section 15. Delegate Sundborg understood that the enhanced, three-fourths veto override requirement would apply to "any bill dealing with taxation or any bill affecting payments of money under existing statutes or an item or items in the general appropriations bill."²⁴ Delegate McCutcheon, a member of the committee that drafted that section, understood the section to provide that "a greater number [of votes were] required to override the veto on money matters."²⁵ Delegate V. Rivers stated that this section was "a provision in regard to the appropriation and spending of money which would allow somewhat more power to lie in the strong executive."²⁶ If the delegates had intended the governor's appropriation veto to encompass non-monetary asset transfers, we would expect to see in the minutes and the section proposals some indication of that intention. Instead the minutes indicate

²³ We gave a similarly narrow construction to the use of the term "appropriations" in article XI, section 7 with respect to the prohibition on repealing appropriations by initiative in *City of Fairbanks v. Fairbanks Convention and Visitors Bureau*, 818 P.2d 1153, 1157 (Alaska 1991).

²⁴ 3 PROCEEDINGS OF THE ALASKA CONSTITUTIONAL CONVENTION (PACC) 1739 (January 11, 1956).

²⁵ *Id.* at 1740.

²⁶ *Id.* at 1741.

that the delegates never intended the governor's article II appropriations veto power to apply to anything other than monetary appropriations.

The framers' intention to limit the scope of article II appropriations to money bills is made clear by the entire constitutional framework, as extending the scope of article II appropriations to encompass non-monetary asset transfers would create a host of problems in interpreting other articles of the Alaska Constitution. For example, if non-monetary asset transfers were deemed appropriations, application of article II, section 13 — confining bills for appropriations only to appropriations²⁷ — would become problematic. *Knowles II* adopted a five-part test for determining whether a bill satisfies that section's clause confining appropriations bills only to appropriations, stating that

to satisfy the confinement clause, "the qualifying language must be the minimum necessary to explain the Legislature's intent regarding how the money appropriated is to be spent. It must not administer the program of expenditures. It must not enact law or amend existing law. It must not extend beyond the life of the appropriation. Finally the language must be germane, that is appropriate, to an appropriations bill."²⁸

As evidenced by S.B. 7, which governs both the transfer of land to the university and the management of that land by the university, the separation of bills concerning appropriations and substantive law mandated by article II, section 13 of the Alaska Constitution's confinement clause would be virtually impossible to maintain if non-

²⁷ Alaska Const. art II, § 13 provides in relevant part that "[e]very bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations."

²⁸ *Knowles II*, 21 P.3d at 377 (quoting No. 1JU-80-11 63 CI (Alaska Super., May 25, 1983)).

monetary asset transfers were considered appropriations under article II.²⁹ As difficult as it is for the legislature to maintain the line between making monetary appropriations and creating substantive law, it would be far more difficult for the legislature to make non-monetary asset transfers without straying into substantive law. Adopting an exclusively monetary concept of appropriations under article II of the Alaska Constitution comports with the overall constitutional intent to avoid such confusion.

Article IX of the Alaska Constitution, which governs finance and taxation, also supports limiting the scope of the governor's article II, section 15 appropriations veto power to monetary bills. Article IX requires the governor to submit a budget to the legislature at a fixed time each year; the budget must "set[] forth all proposed expenditures and anticipated income."³⁰ At the same time, the governor must submit a general appropriation bill to authorize the proposed expenditures.³¹ This strictly monetary concept of appropriations suggested by article IX, section 12 of the Alaska Constitution is instructive in this case. If non-monetary asset transfers were deemed to be appropriations, article IX, section 12 would presumably require such asset transfers to be included in the several appropriation bills submitted by the governor.

²⁹ C.S.S.B. 7.

³⁰ Alaska Const. art IX, § 12.

³¹ Alaska Const. art. IX, § 12 provides:

The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Additionally, viewing non-monetary land transfers as appropriations would not comport with article IX, section 16 of the Alaska Constitution,³² which establishes a \$2.5 billion limit on annual legislative appropriations (adjusted for inflation). Treating non-monetary asset transfers as appropriations is not only inconsistent with the language of article IX, section 16, but it poses the further problem of how to calculate the value of such asset transfers to ensure that they fall within the appropriations limits imposed by the Alaska Constitution. In expressing the limit in dollars, article IX, section 16 reflects a constitutional structure that treats "appropriations" as dealing exclusively with money transfers. Because article IX does not include non-monetary asset transfers within the scope of "appropriations," it provides further proof that non-monetary asset transfers are not subject to the governor's appropriations veto under article II of the Alaska Constitution. *

That the governor's appropriations veto under article II is limited to money bills is also suggested by article VIII, which grants broad powers over land to the legislature. A number of sections of article VIII grant the legislature a land-disposal power that is not consistent with the enhanced appropriations veto power claimed by the

³² Alaska Const. art. IX, § 16 provides in relevant part that:

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981.

governor. Article VIII, section 2 establishes the legislature's general power to manage and control Alaska's land, stating that "[t]he legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people."³³ Section 9 establishes the legislature's power to "provide for the sale or grant of state lands, or interests therein, and establish sales procedures."³⁴ Section 12 provides that the legislature can transfer non-monetary state assets by law through the creation of mineral leases and permits.³⁵ These sections of article VIII establish the legislature's power to dispose of and manage state land and the minerals contained within that land. The existence of this power is inconsistent with the governor's argument that the disposal of state lands is subject to the enhanced veto reserved for appropriations. Article VIII in its entirety suggests that the framers intended to provide the legislature with control over state lands subject only to the governor's less restrictive, non-appropriations veto.

Because the minutes of the Constitutional Convention and articles VIII and IX of the Alaska Constitution mandate an exclusively monetary concept of "appropriations," we hold that only monetary asset transfers constitute "appropriations" under article II of the Alaska Constitution. Therefore, S.B. 7's transfer of land to the university is not subject to the governor's enhanced appropriations veto.

³³ Alaska Const. art. VIII, § 2.

³⁴ Alaska Const. art. VIII, § 9.

³⁵ Alaska Const. art. VIII, § 12 provides, in relevant part: Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas . . . may be authorized by law.

B. Senate Bill 7's Provisions Concerning the Income from Transferred Land Do Not Provide the University with a Sufficiently Definite Sum of Money To Constitute an Appropriation.

The legislative council argues that the superior court erred in holding that the portions of S.B. 7 governing income produced by the transferred lands make S.B. 7 an appropriations bill. It contends that S.B. 7 does not contain any of the elements necessary to qualify as an appropriation under articles II and IX of the Alaska Constitution. The legislative council proposes that an appropriation is defined by three essential elements and argues that S.B. 7 meets none of them: It does not authorize a government expenditure, it does not sufficiently state a purpose for the alleged expenditure, and it does not set aside a certain sum of money. The governor responds that S.B. 7 must be considered an appropriation because it restricts the income derived from the transferred land to the university.³⁶ Because we agree with the legislative council that appropriations must set aside a certain sum of money and that S.B. 7 does not specifically appropriate a certain sum of money to the university, we do not consider the other two prongs of this proposed test.

We have previously defined an "appropriation" as "the setting aside from the public revenue of a certain sum of money for a specified object, in such manner that the executive officers of the government are authorized to use that money, and no more,

³⁶ C.S.S.B. 7 amends AS 14.40.400(a) to read (underlined text is new):

The Board of Regents shall establish a separate endowment trust fund in which shall be held in trust in perpetuity all

....

(2) net income derived from the sale, lease, or management of the land selected by and conveyed to the University of Alaska under AS 14.40.365[.] . . .

for that object, and no other.’ ”³⁷ Subsequently, in *Knowles II* we defined an item in an appropriations bill as “ ‘a sum of money dedicated to a particular purpose.’ ”³⁸ While neither of the above cases specifically dealt with the “sum certain” requirement, they both recognized that an act must authorize the expenditure of an ascertainable sum of money in order to qualify as an appropriation. The governor’s item and general appropriation vetoes apply to items and bills that provide state officials with enough of a description to ascertain the transfer of a specific amount of money at a specific point in time.³⁹ In this case, the income that S.B. 7 seeks to provide for the university is so uncertain, due to its dependance on the university’s selection and management of the land, that it may never materialize or it may take many years to do so. Because the provisions of S.B. 7 concerning income derived from transferred lands are so indefinite, we hold that those portions of S.B. 7 are not appropriations subject to the governor’s enhanced appropriations veto.

C. We Decline To Address Whether S.B. 7 Is an Unconstitutional Dedication Under Article IX, Section 7 of the Alaska Constitution.

³⁷ *Thomas v. Rosen*, 569 P.2d 793, 796 (Alaska 1977) (quoting *State ex rel. Finnegan v. Dammann*, 264 N.W. 622, 624 (Wis. 1936)).

³⁸ 21 P.3d at 373.

³⁹ The requirement that the legislature sufficiently describe monetary asset transfers exists so that the legislature cannot purposefully fail to include a sum certain in order to avoid the governor’s appropriations veto. But the degree of specificity required is only that necessary to allow identification of the monies involved. For example, we have previously treated as an appropriation a bill containing language stating that “an amount equal to the unexpended and unobligated balance on June 30, 1997, of the fiscal year 1997 general fund receipts from the salmon marketing tax (AS 43.76.110), from the seafood marketing assessment (AS 16.51.120), and from the fishery resource landing tax (AS 43.77.011) is appropriated from the general fund to the Alaska Seafood Marketing Institute.” *Id.* at 386, app. A.

The legislative council argues that the superior court determined that S.B. 7 was an unconstitutional dedication under article IX, section 7 of the Alaska Constitution.⁴⁰ While there is language in the superior court's decision that might be interpreted to address S.B. 7's constitutionality,⁴¹ the superior court explicitly declined to address whether S.B. 7 was an unconstitutional dedication because the parties only contested whether S.B. 7 was an appropriation subject to the governor's enhanced veto. The conservation amici now argue that we should "bear in mind the Dedicated Funds Clause and the important policies underlying it." They also claim that they should be allowed to renew their motion to intervene upon remand to represent the position that S.B. 7 is an unconstitutional dedication. We agree. *

We decline to address the question of whether S.B. 7 violates the constitutional prohibition on dedications because the matter was not fully litigated below. The superior court correctly declined to decide the dedication issue because the only question before the court was whether S.B. 7 is an appropriations bill. Because that is the only question presented by this appeal, we decline to address the dedication issue.⁴²

⁴⁰ Alaska Const. art. IX, § 7 states: "The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska."

⁴¹ The superior court stated that S.B. 7 "is not . . . a simple land transfer bill. Rather, the bill explicitly removes land from the public domain and dedicates income from that land exclusively to the University in perpetuity." It further stated that "Senate Bill 7 results in a sum of money, income from the land grant, being dedicated to a particular purpose, funding for the University[.]" *Legislative Council v. Knowles*, No. 1JU-00-1237 CI (Alaska Super., August 17, 2001).

⁴² *Earth Movers of Fairbanks, Inc. v. State, Dep't of Transp. and Pub.*
(continued...)

V. CONCLUSION

Because we hold that S.B. 7 was not an appropriation, we REVERSE the superior court's decision holding that the governor's enhanced appropriations veto applies to S.B. 7. We REMAND for consideration of the issue whether S.B. 7 is an unconstitutional dedication.⁴³

⁴²(...continued)

Facilities, 824 P.2d 715, 718 (Alaska 1992).

⁴³ On remand, the superior court should first rule on the motion of the conservation amici to intervene.

LEGISLATIVE RESEARCH REPORT

MARCH 1, 2004



REPORT NUMBER 04.176

REVENUE PROJECTIONS FROM FUTURE RESOURCE DEVELOPMENT

PREPARED FOR REPRESENTATIVE DAN OGG

BY CHERIE NIENHUIS, LEGISLATIVE ANALYST

You asked about potential revenues from new resource development. Specifically, you wished to know how much revenue the State would receive over the next 20 years from rents, royalties, taxes, and other revenue sharing mechanisms for the projected development of currently undiscovered natural resources. You mentioned a proposal to place one percent of the proceeds into an endowment for public education.

"Undiscovered" resources are those defined as "unspecified bodies of mineral-bearing material surmised to exist on the basis of broad geologic knowledge and theory."¹ Broad geologic knowledge and theory is just that—speculation based on geologic formations and the probability of occurrence of petroleum or other mineral deposits. Because there is no assurance that these deposits exist in commercially viable quantities, estimated amounts of undiscovered petroleum resources are usually expressed in probabilities. For example, volumes of in-place resources are often estimated in terms of three or more different levels: a conservative, or low estimate, for which geologists assign a 95 percent probability of existence; a high estimate (an optimistic one, perhaps), which is assigned a 5 percent probability; and a mean estimate, which is between the high and low volume estimates, and assigned a 50 percent probability.²

These values are further refined to include recoverability factors, such as technical and economic recoverability. Resources are *technically* recoverable when they can be extracted given current technology. Resources are *economically* recoverable when they can be extracted without net loss for producers given the current economic conditions. Both of these factors are moving targets. Although advances in technology are difficult to predict with any accuracy, changes in economic conditions affecting resource recoverability—notably, the market price of oil—are generally included in analyses of undiscovered resource development potential.

¹Howard R. Williams and Charles J. Meyers, *Manual of Oil and Gas Terms*, Eleventh Edition (New York: Matthew Bender & Company, Inc., 2000), p. 1154.

²For example, in-place petroleum resources for a portion of the Arctic National Wildlife Refuge were estimated by the U.S. Geologic Survey to be 15.6 billion barrels of crude oil at the 95th percentile; 42.3 billion barrels at the 5th percentile; and 27.8 billion barrels at the 50th percentile, or the mean level, of probability.

Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 463-3991
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December 7, 1992

MEMORANDUM

TO:

FROM: Christine M. Cheff *CWC*
Legislative Analyst

RE: Land Endowments to United States Land Grant Colleges and Universities
Research Request 93.033

You asked for information about land endowments made to colleges and universities in the United States. Specifically, you wanted to know how much land was given to the institutions by state and federal governments, what restrictions applied to those lands, and the lands selection methods employed by each state.

Under the 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 (Attachment A).¹ The purpose of the act was to "promote the liberal and practical education of the industrial classes in the several pursuits and professions in life." We found many sources of historical information concerning the Morrill Act itself, but were unable to find any comprehensive information about the individual state grants.² The Bureau of Land Management (BLM) did provide some approximate figures on the amount of land received by each state (Attachment B).³ Because the results of the initial research were unsatisfactory, we consulted with your staff and agreed to conduct

¹The Morrill Act did not limit states to the establishment of just one land grant school; however, the "Second Morrill Act" of 1890 specifically authorized states to split original land grant funds so that agricultural schools for "colored students" could be established. Additional federal funds, rather than lands, were provided for those schools.

²We contacted the following: Association of American Colleges, National Agricultural Library, National Association of State Universities and Land Grant Colleges, United States Department of Education and United States Department of Interior.

³The figures are approximate because they are described in a table as grants made to "other schools." June Wrona, BLM public affairs officer in Washington, D.C., believes the figures are principally reflective of university lands granted. They do not include lands for the public or "common schools" of grades K-12.

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separate state surveys concerning the following geographically representative land grant schools: Colorado State University, Cornell University (New York), the University of Kentucky, Michigan State University, the University of Nevada, South Carolina State College, Washington State University and the University of Wyoming.

Brief summaries of the Morrill Act's general provisions and restrictions, and of the state survey results, are provided below.

The Morrill Act of 1862

With passage of the Morrill Act, all of the states were granted the right to select specific amounts of public land within their borders for purposes of establishing university endowments. Individual grants were equal to 30,000 acres for each of a state's congressional representatives and senators. If a state had no available public lands, as was the case in most eastern states, it received government scrip in an amount equivalent to the land entitlement.⁴ The intention was for the states to sell the land or the scrip and to assign the proceeds for the operation of designated "land grant" institutions. Legislative action was required of any state wishing to accept a grant.⁵ Included in that acceptance was an agreement to abide by the following provisions of the Act:

- no mineral lands could be selected or purchased;
- no more than one million total acres of land scrip purchases could be made in any single state;
- all proceeds from the sale of land or scrip were to be invested and the principal "forever remain unimpaired";
- interest on the principal was to be used for the endowment, support and maintenance of a college "where the leading object shall be . . . to teach such branches of learning as are related to agriculture and the mechanic arts . . ."; and
- no portion of the fund or the interest was to be used for the purchase, erection, preservation, or repair of any building or buildings.

⁴The scrip was paper proof of a state's entitlement to a certain number of acres of public land.

⁵Under the original act, state legislatures had two years from the date the Morrill Act was approved by the president to accept its provisions. An 1866 amendment extended that time to three years from the date the act passed, and new states were allowed three years from the date of their admission into the Union.

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Twenty-seven states received scrip instead of land, but most of them quickly sold it. They were primarily motivated by the need to establish support endowments for the new schools. The market was so flooded with scrip that its value dropped from \$1.25 to as low as \$0.42 an acre. Not surprisingly, a few individuals ended up owning the majority of the scrip that had been issued.⁶ Historians seem to agree that, with the exception of New York, states east of the Mississippi did not make enough profit from either the land or the scrip to adequately endow their universities.

State Survey Results

The purpose of this survey was to obtain specific information about the university lands selection process employed in eight states and to determine if the states had made any additional grants of land to their universities. We made telephone calls to the land grant schools and government agencies in Colorado, Kentucky, Michigan, Nevada, New York, South Carolina, Washington and Wyoming. Our contacts included university administrators and librarians, state librarians and archivists, land commissioners, and departments of natural resources staff.

Despite talking with such a wide range of people, we obtained a surprisingly small amount of additional information. With the exception of four states, all of the university land grants were settled before the turn of this century.⁷ Gaining access to that historical information apparently requires considerable research effort. No information about state lands that may have been added to the original federal grants was available from the agencies we contacted.

Books written about the Cornell University and Michigan State University grants indicate that at the time of the Morrill Act the competition for land was strong among the settlers, railroads and speculators. By the time the universities began their selection, most of the prime land was gone. Michigan and New York were able, however, to realize some success from their grants.

In 1863 the Michigan legislature established an agricultural land grant board to control and manage the selection, care and disposal of its 240,000 acre grant. The original plan was to select land based on its agricultural potential, rather than for its timber. The board reasoned that if a forest was destroyed by fire, the value of the land would be depreciated. That logic was not exclusively

⁶Paul Wallace Gates, *The Wisconsin Pine Lands of Cornell University*, (The State Historical Society of Wisconsin, 1943).

⁷Alaska, Arizona, Hawaii and Oklahoma.

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applied and a large amount of timber land was selected. Because of conservative management practices, Michigan still had 50,000 unsold acres as late as 1927.⁸

Two of the states in our survey received their grants in scrip. Kentucky sold its 330,000 scrip acres at a loss, for \$0.50 an acre. On the other hand, all of New York's 989,920 acres of scrip was purchased by one man, Ezra Cornell. He had secured the charter for Cornell University and was determined to secure its future as well. With the scrip, he bought available public lands in Wisconsin, Kansas and Minnesota. Those lands eventually produced five million dollars in profit for the university's endowment.⁹

I hope this information will be useful. Please call if we can be of further assistance on this or any other matter.

Attachments

⁸Herbert Andrew Berg, *The State of Michigan and The Morrill Land Grant College Act of 1862*, Michigan State University, 1965.

⁹*The Wisconsin Pine Lands of Cornell University*, 242 - 243.

ATTACHMENT A
The Morrill Act of July 2, 1862
Land-Grant Colleges and Universities, 1862-1962

Section III

Federal Laws and Rulings

Federal Laws and Rulings Relating to Federal Funds for Instruction for Land-Grant Colleges and Universities

FROM THE passage of the Morrill Act in 1862 to July 1, 1939, Federal funds for instruction in the land-grant colleges and universities were administered by the Department of the Interior.

From July 1, 1939 to April 11, 1953, these funds were administered through the Federal Security Agency. Under provisions of the act approved April 1, 1953 (67 Stat., 5 U.S.C. 623), known as the Reorganization Plan I of 1953, the Federal Security Agency was abolished and the Department of Health, Education, and Welfare was created. All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare, and all components of the Agency to the new department. Hence, the legal authority for the administration of the Morrill Act of 1862 and its several amendments and supplements appropriating funds for instruction in the land-grant colleges rests with the Secretary of Health, Education, and Welfare. Apart from the certification of grants, the Secretary exercises this authority through the U.S. Commissioner of Education and the Assistant Commissioner for Higher Education.

Act of July 2, 1862 (First Morrill Act)

[Providing for the Endowment, Support and Maintenance of Colleges of Agriculture and Mechanic Arts]

[AN ACT Donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts]

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there be granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860; Provided, That no mineral lands shall be selected or purchased under the provisions of this act.

Sec. 2. And be it further enacted, That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and wherever there are public lands in a State, subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands, within the limits of such State; and the Secretary of the Interior is hereby directed to issue to each of the States, in which there is not the quantity of public lands subject to sale at private entry, at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States, and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other purpose whatsoever: Provided, That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any territory of the United States; but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry, at one dollar and twenty-five cents, or less, an acre: And provided further, That not more than one million acres shall be located by such assignees in any one of the States: And provided further, That no such location shall be made before one year from the passage of this act.

Sec. 3. And be it further enacted, That all the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes hereinafter mentioned.

Sec. 4 (as amended April 13, 1920, 44 Stat. L. 247). That all moneys derived from the sale of lands aforesaid by the States to which lands are apportioned and from the sales of land scrip hereinbefore provided for shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: Provided, That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 5 of this act), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

Sec. 5. And be it further enacted, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as

well as to the provisions heretofore contained, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States;

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings;

Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as prescribed in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid;

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their costs and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and also one copy to the Secretary of the Interior;

Fifth. When lands shall be selected from those which have been raised to double the minimum price in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished;

Sixth. No State, while in a condition of rebellion or insurrection against the Government of the United States, shall be entitled to the benefit of this act;

Seventh. No State shall be entitled to the benefits of this act unless it shall express its acceptance thereof by its legislature within two years from the date of its approval by the President.

SEC. 6. *And be it further enacted,* That land scrip issued under the provisions of this act shall not be subject to location until after the first day of January, 1863.

SEC. 7. *And be it further enacted,* That land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws: *Provided,* That maximum compensation shall not be thereby increased.

SEC. 8. *And be it further enacted,* That the governors of the several States to which scrip shall be issued under this act shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

Approved, July 2, 1862 (12 Stat. 507)

Act of 1866 Amending First Morrill Act

[Providing for the Extension of Time Within Which States May Accept Provisions of First Morrill Act]

AN ACT To amend the fifth section of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time in which the several States may comply with the provisions of the act of July second, eighteen hundred and sixty-two, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," is hereby extended so that the acceptance of the benefits of the said act may be expressed within three years from the passage of this act, and the colleges required by the said act may be provided within five years from the date of the filing of such acceptance with the Commissioner of the General Land Office: *Provided,* That when any Territory shall become a State and be admitted into the Union such new States shall be entitled to the benefits of the said act of July second, eighteen hundred and sixty-two, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act: *Provided further,* That any State which has heretofore expressed its acceptance of the act herein referred to shall have the period of five years within which to provide at least one college as described in the fourth section of said act, after the time for providing said college, according to the act of July second, eighteen hundred and sixty-two, shall have expired.

Approved, July 23, 1866. (14 Stat. 208.)

Digest of Rulings and Opinion* on Act of July 2, 1862

Accounting and reports.—"Accounts should be kept by the proper officers" of all the States having grants "showing all the facts relating to the sale and leasing of lands granted for agricultural colleges, and the receipt, investment, and disposition of the proceeds arising from such sales and leases; and such officers should, when called on to do so, timely report such facts to the Secretary of the Interior or permit an ascertainment of such facts through inspection and examination of their records by some officer of the Government or other person designated by the Secretary of the Interior for that purpose."

The representatives of the Office of Education or some other officer designated by the Secretary of the Interior should, through reports from the officers of each of the States, or otherwise, from time to time as the occasion may require, ascertain all facts and conditions tending to show the manner in which the funds arising from the lands granted for agricultural colleges are being handled, invested, and disposed of; or furnish a full statement thereof to the Secretary of the Interior.—*Rulings approved by the Secretary of the Interior, October 11, 1923.*

In order that the Department of the Interior through the Commissioner of Education may be able to ascertain whether or not the States are complying with the provisions of the act of 1862, the institutions receiving the benefit of that act are required to submit a statement of the disbursements of the annual income received by them under said act.—*Ruling of Secretary of the Interior, July 11, 1930.*

Division of fund.—"A State may by appropriate legislation divide the original" 1862 land-grant "fund into two parts and provide that the interest of each part shall be available to a particular college and vest in such college, as an agency of the State, the duty of investing its particular part of the funds in bonds of the United States or of the State or some other safe bonds, the determination of the safety of which is to rest with the college."—*Ruling of Secretary of the Interior, September 13, 1935.*

Income and its use.—"The income" from the 1862 land-grant endowment "is not a fiscal year or limited fund. It must remain forever at the disposal of the institution entitled to the benefit of the fund. Nor may it ever be covered into the general State funds or used for general State purposes. There can be no default to the State by the institution."

"Proceeds from rentals, sale of timber rights, water rights, and other privileges, and interest on deferred payments of purchase money partake of the same character as the income from invested funds, and must be devoted, without diminution, to the purposes" of the act.

"The only restriction placed by the act of Congress of July 2, 1862, upon the expenditures of the income derived from the sale of public lands granted for the endowment of colleges of agriculture and the mechanic arts and the investment of the purchase money is that no part of such income may be expended for the purchase, erection, preservation, or repair of any building or buildings, nor may this income be used for the purchase of land."—*Rulings of Secretary of the Interior, May 23, 1916.*

Instruction for women students.—Instruction in the industries for women is included in instruction in agriculture and mechanic arts.—*Ruling of Secretary of the Interior, May 23, 1916.*

Military tactics.—An agricultural college which offers a proper, substantial course in military tactics complies sufficiently with the requirements as to military tactics in the act of July 2, 1862, and the other acts, even though the students at that institution are not compelled to take that course.—*Opinion of Attorney General, June 30, 1930.*

Default of act of 1862.—The act of 1860 (20 Stat. 417) with the amendment of 1907 (34 Stat. 1281) is supplementary to the act of 1862; therefore any default of the provisions of the act of 1862 renders the State liable for non-certification for the annual installments of the funds appropriated by the acts of 1860 and 1907.—*Ruling of Secretary of the Interior, May 23, 1916.*

Act of August 30, 1890 (Second Morrill Act)

[Providing for the Further Endowment and Support of Colleges of Agriculture and Mechanic Arts]

[AN ACT To apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, arising from the sale of public lands, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now established, or which may be hereafter established, in accordance with an act of Congress approved July second, eighteen hundred and sixty-two, the sum of fifteen thousand dollars for the year ending June thirtieth, eighteen hundred and ninety, and an annual increase of the amount of such appropriation hereafter for ten years by an additional sum of one thousand dollars over the preceding year, and the annual amount of be paid thereafter to each State and Territory shall be twenty-five thousand dollars to be applied only to instruction in agriculture, the mechanic arts, the English language and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life, and to the facilities for such instruction; *Provided*, That no money shall be paid out under this act to any State or Territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided*, That in any State in which there has been one college established in pursuance of the act of July second, eighteen hundred and sixty-two, and also in which an educational institution of like character has been established, or may be hereafter established, and is now aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money heretofore under the act to which this act is an amendment, the legislature of such a State may propose and report to the Secretary of the Interior a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act and subject to its provisions, as much as it would have been if it had been included under the act of eighteen hundred and sixty-two, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

Sec. 2. That the sums hereby appropriated to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of July of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of the Interior, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture and to the Secretary of the Interior, on or before the first day of September of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this act are made subject to the legislative assent of the several States and Territories to the purpose of said grants: *Provided*, That payments of such installments of the appropriation herein made as shall become due to any State before the adjournment of the regular session of legislative meeting next after the passage of this act shall be made upon the assent of the governor thereof, duly certified to the Secretary of the Treasury.

Sec. 3. That if any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, as well as to the Secretary of the Interior, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their costs and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this act.

Sec. 4. That on or before the first day of July in each year, after the passage of this act, the Secretary of the Interior shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this act, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of the Interior shall withhold a certificate from any State or Territory of its appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of the Interior. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. And the Secretary of the Interior is hereby charged with the proper administration of this law.

¹ Treasurers of the respective colleges, not State treasurers. (Rolling Oct. 19, 1817.)

Sec. 5. That the Secretary of the Interior shall annually report to Congress the disbursements which have been made in all the States and Territories, and also whether the appropriation of any State or Territory has been withheld, and if so, the reasons therefor.

Sec. 6. Congress may at any time amend, suspend, or repeal any or all of the provisions of this act.

Approved, August 30, 1890. (26 Stat. 417.)

Nelson Amendment of March 4, 1907

[Providing for the More Complete Endowment and Maintenance of Land-Grant Colleges]

[Extract from an act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and elab]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of agricultural colleges now established, or which may hereafter be established, in accordance with the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety, the sum of five thousand dollars, in addition to the sums named in said act for the fiscal year ending June thirtieth, nineteen hundred and eight, and an annual increase of the amount of such appropriation thereafter for four years by an additional sum of five thousand dollars over the preceding year, and the annual sum to be paid thereafter to each State and Territory shall be fifty thousand dollars, to be applied only for the purposes of the agricultural colleges as defined and limited in the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety.

That the sum hereby appropriated to the States and Territories for the further endowment and support of the colleges shall be paid by, to, and in the manner prescribed by the act of Congress approved August thirtieth, eighteen hundred and ninety, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of the act of Congress approved July second, eighteen hundred and sixty-two," and the expenditure of the said money shall be governed in all respects by the provisions of the said act of Congress approved July second, eighteen hundred and sixty-two, and the said act of Congress approved August thirtieth, eighteen hundred and ninety: *Provided*, That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of agriculture and the mechanic arts.

Approved, March 4, 1907. (34 Stat. L. 1281.)

ATTACHMENT B
United States Public Land Grants
Agricultural Colleges

**UNITED STATES PUBLIC LAND GRANTS
AGRICULTURAL COLLEGES***

Alabama	383,785	Maine	210,000	Oklahoma	1,050,000
Alaska	112,084	Maryland	210,000	Oregon	136,165
Arizona	849,197	Massachusetts	360,000	Pennsylvania	780,000
Arkansas	196,080	Michigan	286,080	Rhode Island	120,000
California	196,080	Minnesota	212,160	South Carolina	180,000
Colorado	138,040	Mississippi	348,240	South Dakota	366,080
Connecticut	180,000	Missouri	376,080	Tennessee	300,000
Delaware	90,000	Montana	388,721	Texas	180,000
Florida	182,160	Nebraska	136,080	Utah	556,141
Georgia	270,000	Nevada	136,080	Vermont	150,000
Idaho	386,686	New Hampshire	150,000	Virginia	300,000
Illinois	526,080	New Jersey	210,000	Washington	336,080
Indiana	436,080	New Mexico	1,346,540	West Virginia	150,000
Iowa	286,080	New York	990,000	Wisconsin	332,160
Kansas	151,270	North Carolina	270,000	Wyoming	136,800
Kentucky	330,000	North Dakota	336,080		
Louisiana	256,292	Ohio	699,120		

* The figures are approximate. They were obtained from the Bureau of Land Management, Public Affairs, Washington, D.C. (Public Land Statistics, Table 4 "Other Schools," U.S. Department of Interior, 1985).

We are unable to account for the fact that the amounts of land received by some western states are significantly disproportionate to entitlements allotted under the Morrill Act formula.

Prepared by the Legislative Research Agency, December 1992 (93.033).

Fairbanks Daily News-Miner

Bill would create land grant for education

By TOM MORAN

Sunday, March 28, 2004 - News-Miner Juneau Bureau

JUNEAU--Both K-12 and university education could eventually receive millions in funding from a land endowment through a bill moving through the state House of Representatives.

Sponsored by Rep. Dan Ogg, R-Kodiak; House Majority Leader John Coghill, R-North Pole; and Rep. Jim Holm R-Fairbanks, House Bill 333 would give the University of Alaska and the state public education system a total of 4 percent of state land--1.6 percent for the university and 2.4 percent for schools.

Unlike previous land grant proposals, however, this one wouldn't allow for the selection of any specific land parcels, but only give K-12 and university trust funds percentage ownership of the state's 102 million acres of land. Ogg said the bill is partly aimed at avoiding the thorny process of choosing specific parcels.

"In essence, you accomplish the land grant, and you get a stream of revenue flowing into the land grant trust fund at the university, which is the purpose of the land grant," Ogg said. "The nice thing about this one is that it also recognizes the K-12 education system and also gives them a land grant, an increased endowment."

The University of Alaska has received a total of about 112,000 acres in land grants, a tiny amount compared with many other land-grant institutions, but several attempts by the state to award more land to the university have failed.

Most recently, the Legislature voted to award 250,000 acres to the university, but was vetoed by then-Gov. Tony Knowles. The Legislature overrode the veto, but a legal challenge was mounted to the override and the issue remains in court. That bill would be repealed as part of Ogg's proposal.

Ogg said in addition to those legal difficulties, land grants in general create problems because user groups object to the selection of specific parcels.

"Whenever you do that, you gore somebody's ox, so you have some group that comes and opposes it," he said.

The bill would get around that issue by not granting any specific lands to K-12 or the university, instead awarding the trust funds a percentage of the money earned by the overall use of state land, including sales, leases and mineral royalties.

Though they wouldn't possess specific parcels or have any land management rights, Ogg argued the arrangement would still foster involvement by the institutions in land development.

"You don't get that if you're just handed money," he said.

Coghill said he likes the concept of using land to support education because of both the ends and the means.

"Having a percentage for education certainly puts our priority on education," he said. "And then secondly, it encourages us to put that land to some kind of use."

K-12 education and the university already both have trust funds:

The university uses 5 percent a year of its roughly \$80 million endowment to fund programs, while K-12 education is supported through use of the earnings of the roughly \$275 million public school endowment, about \$12 million this year.

The K-12 endowment has been generated from half a percent share of state land income that already flows into it. The 2.4 percent given through the new bill would be awarded in addition to that.

Only money from new uses of land, such as wells that have yet to be drilled, would be awarded through Ogg's proposal, so the endowments would grow slowly for some time.

The Department of Revenue estimates that by 2015 the bill could add \$63.5 million to the K-12 endowment and \$42.3 million to the university. These numbers would grow to a total of \$384 million added to the K-12 endowment and \$256 million added to the university endowment through the bill by 2030.

The bill has moved through a pair of House committees, and faces a final stop in the House Finance Committee before it could go to a floor vote. Ogg said the bill has "broad support," but doesn't know whether it might make it through the Legislature this

year.

"We'll just keep working on it," he said.

Though the state is in the midst of ardent budget-trimming, Coghill said he doesn't think that should affect the reception of the bill in the House.

"I think this is really outside of the budget questions of the day, it's a longer look at education, university funding," he said. "It is the potential for growth that's probably its biggest selling point."

Reporter Tom Moran can be reached at tmoran@newsminer.com or (907)463-4893.

HB 333

CS HB 333 - Work Draft Version 0 ← Adopted 4.7.04

FN #	Agency	Value	Pub. Date	Notes
# 1	EED/Exec Admin.	<u>2736</u>	3.22.04	N/A
# 2	DNR/Title Acquis.	<u>2459</u>	3.22.04	
# 3	DOR/Treasury	<u>121</u>	3.22.04	
# 4	UA/	<u>?</u>	3.22.04	

Ø or \$ DNR/Comm 423 4.6.04

* Change w/ CS
HOLD for new FN

\$	DNR/Admin Svcs.	<u>424</u>	4.6.04
\$	DNR/Forest mgmt.	<u>435</u>	4.6.04

expect
new fiscal
notes from
DNR for
version 0
according to
Nico Bus

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 333(EDU)
(H) Publish Date: 3/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Endowment for public education RDU: Resource Development
Component: Title Acquisition & Defense
Sponsor: Rep. OGG
Requester: (H) RES Component No.: 2459

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	327.0	327.0	152.5	152.5	152.5	152.5
Travel	34.5	34.5	10.0	10.0	10.0	10.0
Contractual	58.8	58.8	20.0	20.0	20.0	20.0
Supplies	27.5	27.5	10.0	10.0	10.0	10.0
Equipment	12.0	12.0	5.0	5.0	5.0	5.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	459.8	459.8	197.5	197.5	197.5	197.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(unknown)	(unknown)	(unknown)	(unknown)	(unknown)	(unknown)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	459.8	459.8	197.5	197.5	197.5	197.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	459.8	459.8	197.5	197.5	197.5	197.5

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	5	5	2	2	2	2
Part-time	1	1	2	2	2	2
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is the minimum necessary for DNR to identify and convey land to the University of Alaska and State of Alaska. Costs could be higher depending on what lands are selected and the level of controversy relating to individual parcels. Most costs for the conveyance work must come from state funds.

HB 333 appears to be intended as a revenue bill but is in fact it is a lands bill as written. Should the bill be amended to eliminate the conveyance requirement and implement strictly the fiscal intent then the expenditures identified on this fiscal note will revert to zero(0).

It is impossible at this point to determine the negative revenue impact to the state's general fund. It could range from the state's entire revenue base (if all of Prudhoe Bay oil fields were conveyed) to nearly zero (if only lands in the Kuskokwim Flats area were conveyed).

Prepared by: Bob Loeffler, Director Phone: 269-8600
Division: Mining, Land and Water Date/Time: 3/2/04
Approved by: Thomas Irwin, Commissioner Date: 3/2/04
Agency: Natural Resources

FISCAL NOTE #2

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 333(EDU)

ANALYSIS CONTINUATION

As written, this legislation requires the department to convey to itself and to the University of Alaska, as tenants in common, one (1) percent of all land conveyed to the state under the Alaska Statehood Act. These lands would include general grant lands, Community Grant Lands and National Forest Service Grant lands. To date 88.6 million acres out of the original 102.5 million acre entitlement have been conveyed to the state, one percent of these lands would be about 886,000 acres. Future conveyances to the state under the statehood act would also be subject to this requirement. Under the provisions of the bill the department would maintain the responsibility of managing the lands.

The bill requires that all the earnings derived from the management of these lands be annually deposited into a new Education Fund, for the benefit of the university.

The bill does not designate which lands are to be conveyed nor does it include a method or establish standards by which the department and the university would select these lands.

It is impossible to project how much revenue these conveyances will generate for the University, and will be lost to the state, without knowing exactly what lands will be transferred. However, it can be assumed the University will desire to select the most valuable parcels it can find. The effect is to divert a significant revenue stream out of the general fund, where it would have been available for those public purposes the Legislature deemed most important in a given year, into the newly established Education Fund for strictly university purposes. Also, by removing the most valuable parcels from the state's asset base, the bill reduces one of the most important incentives for local government to incorporate: the opportunity to select top-quality commercial, residential, and industrial land for municipal ownership under AS 29.65.

In developing this fiscal note certain assumptions were made concerning the methods by which this legislation would be implemented;

- DNR would be required to work with the university to determine which lands would be selected. This would include selections from the state's unencumbered current holdings and ongoing conveyances over the next 5 to 50 years as lands are acquired from the federal government.
- Any lands that may be conveyed would need to undergo title review to identify encumbrances and conflicts, develop legal descriptions and prepare conveyance documents.
- No additional survey work would be required as long as lands are conveyed by existing surveys, or aliquot part descriptions, or in their entirety as received by DNR.
- Land records systems would have to be modified and records updated to note ownership change and to track transactions and management of the land.
- All land management decisions would be reviewed through the University's lands department under a model similar to that employed in the interim Mental Health Trust Settlement management scheme.

Cost for Section AS 14.40.507 The new program requires selection and conveyance of a large amount of acreage initially with annual management of all properties and additional conveyances of future lands ongoing as the statehood entitlement is completed.

DNR estimates that the initial identification and conveyance portion of the program will require the following staff for two years:

- 1 NRM I - @\$66.0 = \$66.0
- 1 NRS II - @\$58.0 = 58.0
- 1 NRS I - @\$52.0 = \$52.0
- 1/2 Land Survey Assistant II - @\$58.0/year = \$29.0
- 1 Cartographer II - @\$56.0 = \$56.0
- 1 Analyst programmer - @ \$66.0 = \$66.0

This additional staff would require \$6,000 per position or \$36,000 for office space, \$3,000 per person or \$18,000 for space set up costs. These new positions would also require \$4,800 for phone services and \$12,000 for computer equipment, approximately \$34.5 for travel to the field and liaison work with UA land staff within the state, and \$27.5 is estimated annually for supplies.

Ongoing management of Education Fund lands and management of future conveyance efforts will require the following staff:

- 1 NRM I - @\$65.6 = \$66.0
- 1 NRS II - @\$58.0 = \$58.0
- 1/4 Land Survey Assistant II - @\$58.0 = \$14.5
- 1/4 Cartographer II - @\$56.0 = \$56.0 = \$14.0

FISCAL NOTE #2

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 333(EDU)

ANALYSIS CONTINUATION

This staff is required to be maintained in addition to existing staff because DNR must consult with and receive concurrence from UA for all land authorizations and also must continue to convey a one percent portion of all new lands conveyed by the feds under 6(a) and (b) of the Statehood Act.

Support costs would include expenses for travel, contractual supply and equipment expenses.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB333(HES)-DNR-FOR-
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Public School Endowment RDU Resource Development
Component Forest Mgt & Development
Sponsor Rep. Ogg
Requester (H) FIN Component No. 435

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES-Educ Endow	18.0	18.0	18.0	18.0	18.0	18.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	18.0	18.0	18.0	18.0	18.0	18.0
1005 GF/Program Receipts						
1155 Timber Sale Receipts	(18.0)	(18.0)	(18.0)	(18.0)	(18.0)	(18.0)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 333 conveys a 2% interest in state land to the University of Alaska and a 2% interest in state land to the Education Trust. DNR assumes that this includes receipts generated by the Division of Forestry from timber sales. Based on the average timber sale revenue from FY01-03, approximately \$18.0 of timber sale receipts would be deposited into the new Education Endowment fund. Since the Division of Forestry's FY05 operating budget is based on expending all the timber sale receipts estimated to be collected, a fund switch to General Fund needs to occur to keep the same level of service. Not funding this results in a decrease in the timber sale program, most likely the personal use permit and sale program in the Interior.

This fiscal note reflects an \$18.0 reduction in the timber sale receipts fund source and an \$18.0 increase in the general fund for Forestry. It also reflects the \$18.0 increase in revenues to the education endowment.

Prepared by: Jeff Jahnke, Director Phone 269-8474
Division: Forestry Date/Time 4/6/04
Approved by: Thomas Irwin, Commissioner Date 4/6/04
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB333(HES)-DNR-CO-04-
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Endowment for public education RDU: Resource Development
 Component: Commissioner's Office
 Sponsor: Rep. OGG
 Requester: (H) FIN Component No.: 423

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(36,204.0)	(36,204.0)	(36,204.0)	(36,204.0)	(36,204.0)	(36,204.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
University Endow./PS trust fund	36,327.0	36,327.0	36,327.0	36,327.0	36,327.0	36,327.0
1153 Land Disposal Income Fund	(123.0)	(123.0)	(123.0)	(123.0)	(123.0)	(123.0)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 333 conveys a 2% interest in state land to the University of Alaska and a 2% interest in state land to the Education Trust. DNR assumes that there is no actual deed required to execute this transfer, hence we have assumed there are no DNR expenditures.

Revenues generated from the undivided interest in the land would be diverted from the general fund and deposited with the University and the public school trust fund.

Revenues generated from state land fluctuate from year to year and would be difficult estimate accurately. The revenue numbers are based on actual revenues recieved in FY 2003.

continued...

Prepared by: Bob Loeffler, Director
 Division: Mining, Land and Water
 Approved by: Thomas Irwin, Commissioner
 Agency: Natural Resources

Phone 269-8600
 Date/Time 4/6/04
 Date 4/6/04

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. CSHB333(HES)-DNR-CO-04-

ANALYSIS CONTINUATION

Reductions to state revenues as a result of directing 4% to the university and public school trust fund in FY05 are estimated to be approximately \$36,327,000, of which \$36,204,000 is out of general revenue and \$123,000 is out of the Land Disposal Income fund. This is broken out by affected division as follows:

Oil and Gas Estimated revenues for FY05 (assumes total revenue of \$1.6 billion):

General Fund - \$36,000,000

Mining Land and Water Estimated revenues for FY05:

General Fund - \$204,000

Land Disposal Income Fund - \$85,000

Agriculture Estimated revenues for FY05:

Land Disposal Income Fund - \$38,000

Calculations for the general fund portion as based on estimated revenue left AFTER the permanent fund distribution of 25%.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB333(HES)-DNR-ADSV-I
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Endowment for public education RDU: Resource Development
 Component: Administrative Services
 Sponsor: Rep. OGG
 Requester: (H) FIN Component No. 424

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	17.0	7.0	7.0	7.0	7.0	7.0
Travel						
Contractual	4.0	4.0	4.0	4.0	4.0	4.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	25.0	15.0	15.0	15.0	15.0	15.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	25.0	15.0	15.0	15.0	15.0	15.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	25.0	15.0	15.0	15.0	15.0	15.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
University Endow./PS trust fund						
1153 Land Disposal Income Fund						
TOTAL	25.0	15.0	15.0	15.0	15.0	15.0

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 333 conveys a 2% interest in state land to the University of Alaska and a 2% interest in state land to the Education Trust.

This bill is estimated to take approximately \$10.0 for an additional staff person in the first year and an ongoing cost of \$7.0 for staff annually. In addition, we estimate an additional \$8.0 in contractual and supplies costs, including paper, and report printing chargebacks. Accounting for this bill will ultimately result in tripling the size of our current revenue account code structure, requiring the additional staff time for reconciliation and general ledger maintenance.

Continued...

Prepared by: Nico Bus, Acting Director Phone 269-8600
 Division: Support Services Date/Time 4/6/04
 Approved by: Thomas Irwin, Commissioner Date 4/6/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB333(HES)-DNR-ADSV-(

ANALYSIS CONTINUATION

Accounting Issues:

This bill appears to imply that we will base the 2% distributions on the amount left after deducting the portion that goes to the Permanent Fund (and other administrative fees etc.). That makes the accounting very difficult, for example, a \$100 receipt would distribute 25% or \$25 to the Permanent Fund. Then we would base the 2% distributions on the remaining \$75. This in essence results in only 1.5% distributions. In addition, 0.5% of revenue is currently distributed to the School Fund, which would make the final distributions to the new endowment slightly less than the 1.5%.

FISCAL NOTE

No

replaced

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 333(EDU)
(H) Publish Date: 3/22/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Public School Endowment RDU Revenue Programs & Services
Component Treasury Management
Sponsor Representative Ogg
Requester House Education Component No. 121

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	45.0	90.0	135.0	180.0	225.0	270.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Debt Service		0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	45.0	90.0	135.0	180.0	225.0	270.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF	45.0	90.0	135.0	180.0	225.0	270.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	45.0	90.0	135.0	180.0	225.0	270.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

For purposes of this fiscal note the endowment fund established with CSHB333 is assumed to accumulate \$10 million per year net of any appropriations. The cost of managing that amount is 45 basis points as shown above. The cost for amounts over \$10 million would drop to 16 basis points. The bill provides for separate principal and income accounts; the assumption is that this would not be necessary. The bill does not provide for money management fees; the assumption is that they would be provided from the fund. The bill provides for unspecified education fund board costs; the assumption is that those would come from DEED.

Our understanding is that fund income will become better defined as more about the bill becomes known.

Prepared by: Tom Boutin, Deputy Commissioner Phone 465-3750
Division Treasury Division Date/Time 3/01/04, 4 PM
Approved by: Landa Baily, Special Assistant Date 3/1/2004
Agency Department of Revenue