

HB

115

<TARGET><BILL>HB 115</BILL><SUBJECT>HB
115</SUBJECT><COMM>HRES29</COMM></TARGET>

Alaska State Legislature

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REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE ALASKA STATE HOUSE SPONSOR STATEMENT

House Bill 115: *"An Act relating to the transfer of public land from the federal government to the state and the disposal of that land; and providing for an effective date."*

House Bill 115 enacts the Transfer of Public Lands Act. The bill requires that the United States to transfer title to public lands to Alaska on or before January 1, 2017. This bill would also provide that if the state transfers title to public lands to which it received title from the federal government under the Transfer of Public Lands Act, the state shall retain 50% of the net proceeds received by the state and pay 50% of the net proceeds the state receives to the federal government.

Although there are a number of state and federal constitutional issues regarding the provisions contained within the bill, this bill was introduced since the 25 year deadline from the time Alaska was admitted into the Union as provided within the Statehood Act. PL 85-508 is long past. I believe there is a breach of contract as well as a breach of good faith since the state is still entitled to and awaiting the transfer of the remaining 5.5 million acres. Thus far the state has received patent to about 99.5 million acres.

The state has 10.9 million acres of selections from which to receive its 5.5 million acres of entitlement as well as 10.2 million acres of top-filings that may eventually become selections should applicable withdrawals be lifted. These withdrawals come in numerous varieties of federal action and processes. Two common executive branch actions that create withdrawals are Public Land Orders (PLOs issued by the Department of the Interior and Executive Orders issued by the President.

At this time according to the Department of Natural Resources, there are approximately 222 million acres within Alaska under federal ownership.

This bill is modeled after a Utah house bill, HB 148.

29-LS0587E
Bullard
2/26/15

CS FOR HOUSE BILL NO. 115()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES CHENAULT, Johnson, Olson, Keller, Millett, Talerico

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the sovereignty of the state and the state's right to a credit or setoff**
2 **for amounts or injuries inequitably or unlawfully caused or claimed by the federal**
3 **government; requiring the United States to lift certain land orders and federal**
4 **withdrawals; relating to the transfer of public land or interests in public land from the**
5 **federal government to the state and to the disposal of that land or any interest in land;**
6 **and providing for an effective date."**

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

8 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 **SHORT TITLE.** This Act may be known as the Alaska Sovereignty and Transfer of
11 Federal Public Land to Alaska Act.

12 *** Sec. 2.** AS 44.03 is amended by adding a new section to read:

13 **Sec. 44.03.005. State sovereignty; right to setoffs.** (a) The state solemnly

1 affirms its state sovereignty and fully reserves and asserts all rights and powers
2 directly and indirectly related to those rights and powers under the Ninth and the
3 Tenth Amendments to the Constitution of the United States.

4 (b) The affirmation, reservation, and assertion in (a) of this section include the
5 reservation of the rights of the state to claim a credit or setoff for any amount or injury
6 inequitably or unlawfully caused or claimed by the federal government.

7 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 **TRANSFER OF FEDERAL PUBLIC LAND; RECEIPT BY THE STATE.** (a) Before
10 January 1, 2017, the United States shall, subject to acceptance by the state,

11 (1) relinquish title to public land or an interest in land in the state; and

12 (2) transfer title to public land or an interest in land to the state.

13 (b) Under the authority in AS 38.05.035(a)(11) or as otherwise provided by law, the
14 director of the division of lands in the Department of Natural Resources shall accept the land
15 and interest in land conveyed to the state under (a)(2) of this section on behalf of the state if
16 the director determines that the acceptance is in the best interest of the state.

17 (c) If the land or interest in land the state receives under (a)(2) of this section is sold,
18 leased, or granted, each contract for the sale, lease, or grant of state land or interest in land,
19 and each deed for state land, properties, or an interest in land transferred by the state must
20 include a reservation using the language provided for a reservation in AS 38.05.125(a).

21 (d) In this section, "public land" means federal land in the state except for land

22 (1) to which title is held by a person that is not a governmental entity; or

23 (2) used for military or naval purposes, including a military reservation.

24 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **LIFTING OF PUBLIC LAND ORDERS; PERIOD FOR MINERAL**
27 **EXPLORATION AND RESOURCE EVALUATION.** (a) For land not transferred to the state
28 under sec. 3(a)(2) of this Act, the United States shall lift all public land orders and federal
29 withdrawals subsequent to those public land orders of land in the state so that state land
30 selections that are currently in top-filed status on that land may attach.

31 (b) To allow the state sufficient time to conduct mineral exploration and resource

1 evaluation on the land subject to public land orders and federal withdrawals under (a) of this
2 section, 43 U.S.C. 1635(f) (sec. 906(f), Alaska National Interest Lands Conservation Act, P.L.
3 96-487, 94 Stat. 2371) is suspended until the later of January 1, 2037, 20 years after the date
4 the last public land order is lifted under (a) of this section, or the date the last withdrawal
5 subsequent to those public land orders is lifted.

6 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

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REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE ALASKA STATE HOUSE

DIFFERENCES BETWEEN HOUSE BILL 115 and PROPOSED COMMITTEE SUBSTITUTE (29-LS0587\E)

Title change incorporating new section 2.

New Section 2: Adds a section, AS 44.03.005. This section affirms the state sovereignty in statute under the Ninth and Tenth Amendments of the U.S. Constitution.

Section 3: Adds the line "subject to acceptance by the state". Deletes subsection (b) directing the commissioner of the Department of Natural Resources to deposit net proceeds from the disposal into the general fund or permanent fund as required and removes the payment schedule to the federal government. The definition of "net proceeds" is deleted since it is eliminated with the removal of subsection (b). The definition of public land is changed to include all lands held by the federal government with the exception of land used for military or naval purposes. The other changes found in section 3 are conforming due to the deletion of subsection (b).

Section 4: Adds a new section to uncodified law, Lifting of Public Land Orders; Period for Mineral Exploration and Resource Evaluation. Requires the federal government to lift all public land orders for land not transferred to the state in order for the state to take over state land selections that are currently in top-filed status. Suspends federal statutes and regulations until January 1, 2037, or 20 years after the last public land order is lifted, to allow the state sufficient time to conduct mineral exploration and resource evaluation on those lands.

Most of the changes were suggested by the Department of Natural Resources.

**TRANSFER OF PUBLIC LANDS ACT AND RELATED
STUDY**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Wayne L. Niederhauser

Cosponsors:

Francis D. Gibson

Curtis Oda

Johnny Anderson

Richard A. Greenwood

Patrick Painter

Stewart Barlow

Keith Grover

Lee B. Perry

Roger E. Barrus

Stephen G. Handy

Jeremy A. Peterson

Jim Bird

Wayne A. Harper

Val L. Peterson

Derek E. Brown

Neal B. Hendrickson

Dixon M. Pitcher

Melvin R. Brown

Christopher N. Herrod

Kraig Powell

David G. Butterfield

Gregory H. Hughes

Paul Ray

LaVar Christensen

Eric K. Hutchings

Douglas Sagers

Bradley M. Daw

Don L. Ipson

Stephen E. Sandstrom

Brad L. Dee

Todd E. Kiser

Dean Sanpei

John Dougall

Bradley G. Last

V. Lowry Snow

Jack R. Draxler

Rebecca D. Lockhart

Kenneth W. Sumsion

Susan Duckworth

John G. Mathis

Evan J. Vickers

James A. Dunnigan

Daniel McCay

Christine F. Watkins

Rebecca P. Edwards

Ronda Rudd Menlove

R. Curt Webb

Steve Eliason

Michael T. Morley

Ryan D. Wilcox

Craig A. Frank

Merlynn T. Newbold

Brad R. Wilson

Gage Froerer

Jim Nielson

Bill Wright

Brad J. Galvez

Michael E. Noel

LONG TITLE

29 **General Description:**

30 This bill addresses issues related to public lands, including the transfer of title to public
31 lands to the state and requiring the Constitutional Defense Council to study or draft
32 proposed legislation on certain issues related to public lands.

33 **Highlighted Provisions:**

34 This bill:

- 35 ▶ enacts the Transfer of Public Lands Act;
- 36 ▶ defines terms;
- 37 ▶ requires the United States to extinguish title to public lands and transfer title to
38 those public lands to the state on or before December 31, 2014;
- 39 ▶ provides that if the state transfers title to public lands with respect to which the state
40 receives title to the public lands under the Transfer of Public Lands Act, the state
41 shall retain 5% of the net proceeds the state receives, and pay 95% of the net
42 proceeds the state receives to the United States;
- 43 ▶ provides that the 5% of the net proceeds of those sales of public lands shall be
44 deposited into the permanent State School Fund;
- 45 ▶ provides a severability clause;
- 46 ▶ requires the Constitutional Defense Council to study or draft legislation on certain
47 issues related to the transfer, management, and taxation of public lands, including:
 - 48 • drafting proposed legislation creating a public lands commission; and
 - 49 • establishing actions that shall be taken to secure, preserve, and protect the state's
50 rights and benefits related to the United States' duty to have extinguished title to
51 public lands and transferred title to those public lands to the state; and
- 52 ▶ makes technical and conforming changes.

53 **Money Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 This bill provides an immediate effective date.

57 **Utah Code Sections Affected:**

58 ENACTS:

59 **63L-6-101**, Utah Code Annotated 1953

60 **63L-6-102**, Utah Code Annotated 1953

61 **63L-6-103**, Utah Code Annotated 1953

62 **63L-6-104**, Utah Code Annotated 1953

63 **Uncodified Material Affected:**

64 ENACTS UNCODIFIED MATERIAL

65



66 *Be it enacted by the Legislature of the state of Utah:*

67 Section 1. Section **63L-6-101** is enacted to read:

68 **CHAPTER 6. TRANSFER OF PUBLIC LANDS ACT**

69 **63L-6-101. Title.**

70 This chapter is known as the "Transfer of Public Lands Act."

71 Section 2. Section **63L-6-102** is enacted to read:

72 **63L-6-102. Definitions.**

73 As used in this chapter:

74 (1) "Governmental entity" is as defined in Section 59-2-511.

75 (2) "Net proceeds" means the proceeds from the sale of public lands, after subtracting

76 expenses incident to the sale of the public lands.

77 (3) "Public lands" means lands within the exterior boundaries of this state except:

78 (a) lands to which title is held by a person who is not a governmental entity;

79 (b) lands owned or held in trust by this state, a political subdivision of this state, or an

80 independent entity;

81 (c) lands reserved for use by the state system of public education as described in Utah

82 Constitution Article X, Section 2, or a state institution of higher education listed in Section

83 53B-1-102;

84 (d) school and institutional trust lands as defined in Section 53C-1-103;

85 (e) lands within the exterior boundaries as of January 1, 2012, of the following that are
86 designated as national parks:

- 87 (i) Arches National Park;
- 88 (ii) Bryce Canyon National Park;
- 89 (iii) Canyonlands National Park;
- 90 (iv) Capitol Reef National Park; and
- 91 (v) Zion National Park;

92 (f) lands within the exterior boundaries as of January 1, 2012, of the following national
93 monuments managed by the National Park Service as of January 1, 2012:

- 94 (i) Cedar Breaks National Monument;
- 95 (ii) Dinosaur National Monument;
- 96 (iii) Hovenweep National Monument;
- 97 (iv) Natural Bridges National Monument;
- 98 (v) Rainbow Bridge National Monument; and
- 99 (vi) Timpanogos Cave National Monument;

100 (g) lands within the exterior boundaries as of January 1, 2012, of the Golden Spike
101 National Historic Site;

102 (h) lands within the exterior boundaries as of January 1, 2012, of the following
103 wilderness areas located in the state that, as of January 1, 2012, are designated as part of the
104 National Wilderness Preservation System under the Wilderness Act of 1964, 16 U.S.C. 1131
105 et seq.:

- 106 (i) Ashdown Gorge Wilderness;
- 107 (ii) Beartrap Canyon Wilderness;
- 108 (iii) Beaver Dam Mountains Wilderness;
- 109 (iv) Black Ridge Canyons Wilderness;
- 110 (v) Blackridge Wilderness;
- 111 (vi) Box-Death Hollow Wilderness;
- 112 (vii) Canaan Mountain Wilderness;

- 113 (viii) Cedar Mountain Wilderness;
- 114 (ix) Cottonwood Canyon Wilderness;
- 115 (x) Cottonwood Forest Wilderness;
- 116 (xi) Cougar Canyon Wilderness;
- 117 (xii) Dark Canyon Wilderness;
- 118 (xiii) Deep Creek Wilderness;
- 119 (xiv) Deep Creek North Wilderness;
- 120 (xv) Deseret Peak Wilderness;
- 121 (xvi) Doc's Pass Wilderness;
- 122 (xvii) Goose Creek Wilderness;
- 123 (xviii) High Uintas Wilderness;
- 124 (xix) LaVerkin Creek Wilderness;
- 125 (xx) Lone Peak Wilderness;
- 126 (xxi) Mount Naomi Wilderness;
- 127 (xxii) Mount Nebo Wilderness;
- 128 (xxiii) Mount Olympus Wilderness;
- 129 (xxiv) Mount Timpanogos Wilderness;
- 130 (xxv) Paria Canyon-Vermilion Cliffs Wilderness;
- 131 (xxvi) Pine Valley Mountain Wilderness;
- 132 (xxvii) Red Butte Wilderness;
- 133 (xxviii) Red Mountain Wilderness;
- 134 (xxix) Slaughter Creek Wilderness;
- 135 (xxx) Taylor Creek Wilderness;
- 136 (xxxix) Twin Peaks Wilderness;
- 137 (xxxii) Wellsville Mountain Wilderness; and
- 138 (xxxiii) Zion Wilderness;
- 139 (i) lands with respect to which the jurisdiction is ceded to the United States as provided
- 140 in Section 63L-1-201 or 63L-1-203;

141 (j) real property or tangible personal property owned by the United States if the
142 property is within the boundaries of a municipality; or

143 (k) lands, including water rights, belonging to an Indian or Indian tribe, band, or
144 community that is held in trust by the United States or is subject to a restriction against
145 alienation imposed by the United States.

146 Section 3. Section **63L-6-103** is enacted to read:

147 **63L-6-103. Transfer of public lands.**

148 (1) On or before December 31, 2014, the United States shall:

149 (a) extinguish title to public lands; and

150 (b) transfer title to public lands to the state.

151 (2) If the state transfers title to any public lands with respect to which the state receives
152 title under Subsection (1)(b), the state shall:

153 (a) retain 5% of the net proceeds the state receives from the transfer of title; and

154 (b) pay 95% of the net proceeds the state receives from the transfer of title to the
155 United States.

156 (3) In accordance with Utah Constitution Article X, Section 5, the amounts the state
157 retains in accordance with Subsection (2)(a) shall be deposited into the permanent State School
158 Fund.

159 Section 4. Section **63L-6-104** is enacted to read:

160 **63L-6-104. Severability clause.**

161 If any provision of this chapter or the application of any provision to any person or
162 circumstance is held invalid by a final decision of a court of competent jurisdiction, the
163 remainder of this chapter shall be given effect without the invalid provision or application. The
164 provisions of this chapter are severable.

165 Section 5. **Constitutional Defense Council study.**

166 (1) During the 2012 interim, the Constitutional Defense Council created in Section
167 63C-4-101 shall prepare proposed legislation:

168 (a) creating a public lands commission to:

169 (i) administer the transfer of title of public lands to the state; and
170 (ii) address the management of public lands and the management of multiple uses of
171 public lands, including addressing managing open space, access to public lands, local planning,
172 and the sustainable yield of natural resources on public lands;
173 (b) to establish actions that shall be taken to secure, preserve, and protect the state's
174 rights and benefits related to the United States' duty to have extinguished title to public lands,
175 in the event that the United States does not meet the requirements of Title 63L, Chapter 6,
176 Transfer of Public Lands Act;
177 (c) making any necessary modifications to the definition of "public lands" in Section
178 63L-6-102, including any necessary modifications to a list provided in Subsections
179 63L-6-102(3)(e) through (h);
180 (d) making a determination of or a process for determining interests, rights, or uses
181 related to:
182 (i) easements;
183 (ii) geothermal resources;
184 (iii) grazing;
185 (iv) mining;
186 (v) natural gas;
187 (vi) oil;
188 (vii) recreation;
189 (viii) rights of entry;
190 (ix) special uses;
191 (x) timber;
192 (xi) water; or
193 (xii) other natural resources or other resources; and
194 (e) determining what constitutes "expenses incident to the sale of public lands"
195 described in Subsection 63L-6-102(2).
196 (2) During the 2012 interim, the Constitutional Defense Council created in Section

197 63C-4-101 shall study and determine whether to prepare proposed legislation:
198 (a) to administer the process for:
199 (i) the United States to extinguish title to public lands;
200 (ii) the state to receive title to public lands from the United States; or
201 (iii) the state to transfer title to any public lands the state receives in accordance with
202 Title 63L, Chapter 6, Transfer of Public Lands Act;
203 (b) establishing a prioritized list of management actions for the state and the political
204 subdivisions of the state to perform on public lands:
205 (i) before and after the United States extinguishes title to public lands; and
206 (ii) to preserve and promote the state's interest in:
207 (A) protecting public health and safety;
208 (B) preventing catastrophic wild fire and forest insect infestation;
209 (C) preserving watersheds;
210 (D) preserving and enhancing energy and the production of minerals;
211 (E) preserving and improving range conditions; and
212 (F) increasing plant diversity and reducing invasive weeds on range and woodland
213 portions of the public lands;
214 (c) establishing procedures and requirements for subjecting public lands to property
215 taxation;
216 (d) establishing other requirements related to national forests, national recreation areas,
217 or other public lands administered by the United States; and
218 (e) addressing the indemnification of a political subdivision of the state for actions
219 taken in furtherance of Title 63L, Chapter 6, Transfer of Public Lands Act.
220 (3) The Constitutional Defense Council may study any other issue related to public
221 lands as determined by the Constitutional Defense Council.
222 (4) The Constitutional Defense Council shall:
223 (a) make a preliminary report on its study and preparation of proposed legislation to the
224 Natural Resources, Agriculture, and Environment Interim Committee and the Education

225 Interim Committee:

226 (i) on or before the June 2012 interim meeting; and

227 (ii) on or before the September 2012 interim meeting; and

228 (b) report on its findings, recommendations, and proposed legislation to the Natural

229 Resources, Agriculture, and Environment Interim Committee and the Education Interim

230 Committee on or before the November 2012 interim meeting.

231 **Section 6. Effective date.**

232 If approved by two-thirds of all the members elected to each house, this bill takes effect

233 upon approval by the governor, or the day following the constitutional time limit of Utah

234 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

235 the date of veto override.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 115
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB115-DNR-MLW-2-23-15
Title: TRANSFER FEDERAL LAND TO STATE;
DISPOSAL
Sponsor: CHENAULT
Requester: House Resources Committee

Department: Department of Natural Resources
Appropriation: Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N.A

Why this fiscal note differs from previous version:

Not applicable. Initial Version.

Prepared By: Brent Goodrum, Director
Division: Mining, Land & Water
Approved By: Mark Meyers, Commissioner
Agency: Department of Natural Resources

Phone: (907)269-8625
Date: 02/23/2015 05:00 PM
Date: 02/23/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB115

Analysis

This analysis assumes that the bill would be successful at least in part in getting the federal government to convey public lands to the state as stated in Section (a). Section (c) of the bill requires the state to accept title to lands conveyed by the Federal Government. If successful, this bill could more than double state ownership of acreage assets (currently about 100 million acres) and, depending on the kinds of federal lands included in the transfer, potentially increase state acreage even more than that. Receiving the Bureau of Land Management, US Fish and Wildlife Service, and US Forest Service managed federal lands, without considering the submerged land, would increase land owned or managed by the state by approximately 166 million acres.

Once title has been accepted, the state and not the Federal government would assume the costs for managing the conveyed lands. These costs are unknown and could be significant. Considering the existing staff and cost it takes to manage the existing state lands, this significant increase of land ownership could require a correspondingly significant increase of staff and expense to manage the new lands.

In addition, under section (c), it appears that the federal government could convey all of its contaminated sites and the state **would be required to** accept title to the lands by law. If the bill is not amended to allow the state to choose which lands to accept from the federal government, then the state would be required to accept the liabilities and costs of the problems with the land conveyed. This would result in potentially unlimited costs for liability and cleanup on these lands for the state (which has largely been deferred by the federal government to date).

Further, Section (b)(2) requires the state to pay to the federal government various shares of the proceeds the state may receive from the sale or other disposal of interests in the lands conveyed under the bill. Currently the state receives payments for various shares of mineral revenues the federal government receives on these land, (90% of uplands mineral revenues and 27% of revenues from outer continental shelf submerged lands out to 6 miles from mean high water). The state currently does not receive any share of federal revenues from non-mineral disposals. It is unclear what additional revenues that could be gained with the new lands (although in some areas these revenues may be quite significant), and how these revenues, after the federal payments, would compare to the associated management costs.

In addition, the bill may require new revenue sharing with the federal government. The bill proposes to share 50% of all non-mineral leasing revenues and 10% of all mineral leasing revenues of the transferred lands. These provisions of the bill might amount to large payments to the federal government.

Additionally, it seems possible that a small portion of the lands received under section (a)(2) would otherwise be part of the Statehood Entitlement. This could result in revenue-sharing type payments to the federal government revenues from lands that would otherwise be received under Statehood Entitlement. We recommend the bill be modified to ensure that the revenue sharing provisions do not apply to lands that otherwise may be conveyed as part of our statehood land entitlement.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101

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

MEMORANDUM

February 13, 2015

SUBJECT: Constitutionality of a state law requiring the federal government to transfer certain lands to the state (Work Order No. 29-LS0587\A)

TO: Representative Mike Chenault
Speaker of the House
Attn: Donald Bullock

FROM: Alpheus Bullard *AB*
Legislative Counsel

This note accompanies the bill described above. The bill directs the federal government to relinquish certain federal lands on certain terms. The bill is unconstitutional.

The state disclaimed all right and title in property belonging to the United States at the time the state achieved statehood. Article XII, sec. 12, Constitution of the State of Alaska substantially incorporates sec. 4 of the Alaska Statehood Act.¹ Article XII, sec. 12 reads as follows:

Disclaimer and Agreement. The State of Alaska and its people *forever disclaim all right and title in or to any property belonging to the United States or subject to its disposition, and not granted or confirmed to the State or its political subdivisions, by or under the act admitting Alaska to the Union.* The State and its people further disclaim all right or title in or to any property, including fishing rights, the right or title to which may be held by or for any Indian, Eskimo, or Aleut, or community thereof, as that right or title is defined in the act of admission. *The State and its people agree that, unless otherwise provided by Congress, the property, as described in this section, shall remain subject to the absolute disposition of the United States.* They further agree that no taxes will be imposed upon any such property, until otherwise provided by the Congress. This tax exemption shall not apply to property held by individuals in fee without restrictions on alienation.

(Emphasis added.)

¹ *Aquilar v. Kleppe*, 424 F. Supp. 433 (D. Alaska (1976) (48 U.S.C. Prec. Sec. 1 has been substantially incorporated into art. XII, sec. 12, Constitution of the State of Alaska)).

Even if the state had the power to order the federal government to transfer federal public land to the state, the order could not be based on any interest in that land retained by the state after achieving statehood. That interest was disclaimed at statehood. Where ownership or a right-of-way is in dispute, the appropriate remedy would be to pursue a quiet title action. See, for example, *Alaska v. United States*,² where the state filed an action against the federal government to resolve the state's interest in submerged land in Glacier Bay and parts of Southeast Alaska.

Please also note that the substance of the bill you requested is subsumed by the broader provisions of AS 38.05.500 - 38.05.505, the codified provisions of an initiative passed in 1982³ that purports to gain control of federal land in the state on the following findings in AS 38.05.500:

Sec. 38.05.500. Electorate determinations. The people of the State of Alaska determine that:

(1) the intent of the framers of the Constitution of the United States was to guarantee to each of the states sovereignty over all matters within its boundaries except for those powers specifically granted to the United States as agent of the states;

(2) the attempted imposition upon the State of Alaska by the Congress of the United States of a requirement in the Statehood Act that the State of Alaska and its people "disclaim all right and title to any land or other property not granted or confirmed to the state or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States," as a condition precedent to acceptance of Alaska into the Union, was an act beyond the power of the Congress of the United States and is thus void;

(3) the purported right of ownership and control of the public land in the State of Alaska by the United States is without foundation and violates the clear intent of the Constitution of the United States; and

(4) the exercise of that dominion and control of the public land in the State of Alaska by the United States works a severe, continuous and debilitating hardship upon the people of the State of Alaska.

The provisions in AS 38.05.500 - 38.05.505 have never been implemented. In 1983, the Attorney General advised the commissioner of natural resources that the initiative, popularly known as the "Tundra Rebellion", was unconstitutional under art. XII, secs. 12

² 545 U.S. 75, 125 S.Ct 2137, 162 L.Ed.2d 57 (2005).

³ 1982 Initiative Proposal No. 5.

Representative Mike Chenault
February 13, 2015
Page 3

and 13, Constitution of the State of Alaska.⁴ The commissioner followed the advice in the opinion, and the State has not implemented the provisions enacted by initiative.⁵

If you have questions, please do not hesitate to contact me.

TLAB:dla
15-079.dla

Enclosure

⁴ 1983 Att'y Gen. Op. No. 2, 1983 Alas. AG LEXIS 365 (February 18, 1983).

⁵ Although the Attorney General opined that the law enacted by the initiative is unconstitutional, AS 38.05.502 has been cited by some as the codification of the public trust doctrine, a common law principle that the state has the responsibility of a trustee to its citizens as beneficiaries of the state's resources. AS 38.05.502 reads as follows:

Sec. 38.05.502. Property of the people. Subject to valid existing rights of applicants for land, upon February 21, 1983, all land in the state and all minerals not previously appropriated are the exclusive property of the people of the state and the state holds title to the land and minerals in trust for the people of the state.

STATEHOOD ENTITLEMENT

COMPREHENSIVE OVERVIEW AND OUTLOOK BRIEFING – 2/19/2015

Purpose

In the context of the Statehood land entitlement, to provide a summary of the State of Alaska's land entitlement history, processes, and remaining entitlement.

Background – History and Process

Under the 1959 Alaska Statehood Act, the federal government provided Alaska with an approximately 100 million acre land entitlement – lands that would be taken into state ownership to provide a self-sufficient economic base for the State.

The Statehood Act's entitlement provisions were amended through several pieces of subsequent federal legislation that extended, expanded, modified, limited, or otherwise affected the State's entitlement, including:

- The 1971 Alaska Native Claims Settlement Act (ANCSA);
- The 1979 Cook Inlet Region, Inc. (CIRI) Land Exchange;
- The 1980 Alaska National Interest Lands Conservation Act (ANILCA);
- The 2004 Alaska Land Transfer Acceleration Act (ALTAA).

Under these laws, the State's entitlement was finalized at **105.9 million acres** and the State was given until January 3, 1994, to submit their final list of "selected" lands to the U.S. Department of Interior (DOI)'s Bureau of Land Management (BLM).

Lands that are selected may, at the State's request, be adjudicated by BLM for tentative approval for transfer and then patented to the State or directly patented to the State. Once BLM provides tentative approval, management authority vests in the State, but the land still has to be surveyed pursuant to the Statehood Act prior to the issuance of the final patent.¹ While there is cost and administrative work associated with the adjudication, the primary federal expense associated with resolution of the State's entitlement going forward is expected surveying costs.

ANILCA also gave the State the right to make "top-filings" on certain parcels. A top-filing is effectively a contingent selection – where the underlying land is subject to a federal restriction or withdrawal² that prevents the land's adjudication as an entitlement selection – but, in the event the restriction is lifted, a state selection automatically attaches to the land. It is thus a future interest in a selection for the State, but not considered an actual selection until the relevant withdrawal is lifted. The State's ability to make "top-filings" has also closed.³

¹ There are several technical issues raised by these steps – one is that a formally surveyed set of patented parcels typically includes less land than the amount estimated at the tentatively approved stage – because meanderable waters, inholdings, and other small pieces are accounted for and "surveyed out" when preparing the patent. Typically this variation is around 5% - where 100 acres of tentatively approved lands, when surveyed, is found to be 95 acres for purposes of issuing the patents and debiting the State's entitlement. While a very imprecise number, the State could potentially see 1.8 million acres of surveyed-out acreage from the 36 million acres that are currently tentatively approved – 1.8 million acres that will be available to request adjudication of additional selections.

² There is an immense variety of federal actions and process that may create what is termed a "withdrawal." Two common executive branch actions that create withdrawals are Public Land Orders (PLOs) issued by the Department of the Interior (DOI) and Executive Orders (EOs) issued by the President.

³ No additional lands may be added to those selected or top-filed. The existing claims may only be adjudicated and transferred to the State, or relinquished by the State.

Background – Current Status

As of January of 2015, the vast majority of the State's entitlement has been transferred into State control. Of the 105.9 million acre total entitlement, the State has received ~ 100.5 million acres (with ~35.6 million acres tentatively approved and ~64.9 million acres finally surveyed and patented). This leaves **~5.4 million** acres of remaining entitlement that has not yet been fulfilled by the federal government.

The State currently has ~10.9 million acres of selections from which to receive these ~5.4 million acres of entitlement, as well as ~10.2 million acres of top-filings that may eventually become selections in the future should the applicable withdrawals be lifted.

Theoretically all of these top-filings can convert to state selections and be eligible for transfer. Thus the total scope of lands the State is evaluating for potential adjudication and transfer include both the ~10.9 million acres that currently are under a valid state selection and the ~10.2 million acres subject to the "top-filings," for a total of ~21.1 million acres.⁴

⁴ Subject to the possible increases from survey acreage changes as detailed in note 1. While a very imprecise number, the State could potentially see 1.8 million acres of surveyed-out acreage from the 36 million acres that are currently tentatively approved – 1.8 million acres that will be available to request adjudication of additional selections.

Sec. 38.05.125. Reservation.

(a) Each contract for the sale, lease, or grant of state land, and each deed to state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120, 38.05.321, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50 except as provided in AS 38.50.050 is subject to the following reservations: "The party of the first part, Alaska, hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, and which may be in or upon said land above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said land, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other land and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said land or any part thereof for the foregoing purposes and to occupy as much of said land as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved."

(b) The provisions of (a) of this section do not apply to a quitclaim of land or a transfer of an interest in land made under AS 38.05.035(b)(9).

(c) Notwithstanding (a) of this section, the transfer of ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska under ch. 22, SLA 1983 includes the mineral estate of the state in the land.

History -

(Sec. 1 art VII ch 169 SLA 1959; am Sec. 14 ch 61 SLA 1960; am Sec. 1 ch 42 SLA 1966; am Sec. 3 ch 240 SLA 1976; am Sec. 2 ch 175 SLA 1980; am Sec. 36 ch 152 SLA 1984; am Sec. 1 ch 95 SLA 1995)

Decisions -

Chapter 19, SLA 1977 held not invalid. - Chapter 19, SLA 1976, authorizing a three-way exchange of land between the state of Alaska, the United States government and a regional corporation of Alaska Natives, was not invalid on the ground that it waived the provisions of this section restricting the state's right to alienate minerals and former AS 38.95.060 authorizing exchanges of land with native corporations on the basis of equal value. *State v. Lewis*, 559 P.2d 630 (Alaska 1977), appeal dismissed and cert. denied, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1976).

Staking of claims. - Staking of claims is covered by this section and the activity is subject to the requirements of AS 38.05.130. *Hayes v. A.J. Assocs.*, 960 P.2d 556 (Alaska 1998).

Surface interest conveyed to third party. - The state's mineral interest in lands on which the surface estate has been conveyed to a third party is "state land" subject to the location of state mining claims in the same manner as on lands owned entirely by the state. *Hayes v. A.J. Assocs.*, 960 P.2d 556 (Alaska 1998).



LEGISLATIVE RESEARCH SERVICES

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Research Brief

TO: Representative Mike Chenault
FROM: Chuck Burnham, Legislative Analyst
DATE: February 19, 2015
RE: Federal Lands in Alaska and Land Transfers under the Statehood Act
LRS Report 15.257

You asked how much federal land exists within Alaska that is not part of a national park, monument, or historic site, military installation, or municipality. You also wished to know how much land the State was granted for selection under the Alaska Statehood Act, how much of that land has been transferred by the federal government, and how the land claims of Alaska Natives impact State land selections.¹

According to the Alaska Department of Natural Resources (DNR), Division of Mining, Land, and Water, there are currently approximately 222 million acres of land within Alaska under federal ownership as follows:

Bureau of Land Management	74.7 million acres
Wildlife Refuges	69.4 million acres
National Parks	53.8 million acres
National Forest	21.9 million acres
Department of Defense	2.2 million acres

To answer the first part of your question directly, based on the above categories of land, there appear to be roughly **96.6 million acres of federal land** in Alaska outside of national wildlife refuges, parks, historic sites, and military facilities.² These acres represent the land currently under the control of the Bureau of Land Management (BLM) and within national forests.

Under the Alaska Statehood Act (P.L. 85-508), the federal government granted to Alaska 28 percent of total land area within its borders, with additional land grants for schools, universities, and the Mental Health Trust. All land grants combined provided the new state the authority to select approximately 105 million acres. According to DNR, the state has received patent to about 99.5 million acres of that total amount and awaits transfer of the remaining 5.5 million acres.³

Should the BLM and national forest land referenced above become available, the question of how Native land claims would impact land conveyance to the state is a complicated one. Presumably, the federal legislation that would convey the land would include provisions to clarify that question.⁴ According to DNR and our reading of existing federal law, valid Native claims are generally given priority over those of the state. For a legal opinion on this issue, and the various other legal intricacies that are likely to be posed by further federal land transfers, we recommend you contact Legislative Legal Services.

We hope this is helpful. If you have questions or need additional information, please let us know.

¹ In the interest of brevity, we answer your questions with little background or detail on the complexities of land ownership in Alaska. Historical information on the Alaska Statehood Act, the Native Claims Settlement Act, and associated legislation is available by searching our public archives at <http://w3.legis.state.ak.us/laa/research/public.cgi>.

² Personal communication from Courtney Sanborn, Special Assistant to the Commissioner II, DNR, 907-269-8431.

³ "Land Ownership in Alaska," DNR Fact Sheet (http://dnr.alaska.gov/mlw/factsht/land_fs/land_own.pdf), as partially updated in personal communication with Ms. Sanborn. To put all of these figures into the broader context, the Fact Sheet indicates Alaska is comprised of approximately 375 million acres in total.

⁴ For example, 43 USC § 1635(e) appears to indicate that future state selections of federal lands that were not available at the time of implementation of the Statehood Act are subject to "Native selection rights under the Alaska Native Claims Settlement Act."

Public Law 85-508

AN ACT

To provide for the admission of the State of Alaska into the Union.

July 7, 1958
[H. R. 7999]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 8 (c) of this Act, the State of Alaska is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Alaska entitled, "An Act to provide for the holding of a constitutional convention to prepare a constitution for the State of Alaska; to submit the constitution to the people for adoption or rejection; to prepare for the admission of Alaska as a State; to make an appropriation; and setting an effective date", approved March 19, 1955 (Chapter 46, Session Laws of Alaska, 1955), and adopted by a vote of the people of Alaska in the election held on April 24, 1956, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

Alaska, state-
hood.

SEC. 2. The State of Alaska shall consist of all the territory, together with the territorial waters appurtenant thereto, now included in the Territory of Alaska.

Territory.

SEC. 3. The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

Constitution.

SEC. 4. As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property, belonging to the United States or which may belong to said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation: *Provided*, That nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by the laws of the United States applicable thereto; and nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any law applicable thereto authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act: *And provided further*, That no taxes shall be imposed by said State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation.

Compact with
U.S.

Title to property. SEC. 5. The State of Alaska and its political subdivisions, respectively, shall have and retain title to all property, real and personal, title to which is in the Territory of Alaska or any of the subdivisions. Except as provided in section 6 hereof, the United States shall retain title to all property, real and personal, to which it has title, including public lands.

Selection from public lands. SEC. 6. (a) For the purposes of furthering the development of and expansion of communities, the State of Alaska is hereby granted and shall be entitled to select, within twenty-five years after the date of the admission of the State of Alaska into the Union, from lands within national forests in Alaska which are vacant and unappropriated at the time of their selection not to exceed four hundred thousand acres of land, and from the other public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection not to exceed another four hundred thousand acres of land, all of which shall be adjacent to established communities or suitable for prospective community centers and recreational areas. Such lands shall be selected by the State of Alaska with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other public lands: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.

(b) The State of Alaska, in addition to any other grants made in this section, is hereby granted and shall be entitled to select, within twenty-five years after the admission of Alaska into the Union, not to exceed one hundred and two million five hundred and fifty thousand acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the lands so occupied: *And provided further*, That no selection hereunder shall be made in the area north and west of the line described in section 10 without approval of the President or his designated representative.

(c) Block 32, and the structures and improvements thereon, in the city of Juneau are granted to the State of Alaska for any or all of the following purposes or a combination thereof: A residence for the Governor, a State museum, or park and recreational use.

(d) Block 19, and the structures and improvements thereon, and the interests of the United States in blocks C and 7, and the structures and improvements thereon, in the city of Juneau, are hereby granted to the State of Alaska.

Fish and wildlife resources.

(e) All real and personal property of the United States situated in the Territory of Alaska which is specifically used for the sole purpose of conservation and protection of the fisheries and wildlife of Alaska, under the provisions of the Alaska game law of July 1, 1943 (57 Stat. 301; 48 U. S. C., secs. 192-211), as amended, and under the provisions of the Alaska commercial fisheries laws of June 26, 1906 (34 Stat. 478; 48 U. S. C., secs. 230-239 and 241-242), and June 6, 1924 (43 Stat. 465; 48 U. S. C., secs. 221-228), as supplemented and amended, shall be transferred and conveyed to the State of Alaska by the appropriate Federal agency: *Provided*, That the administration and management of the fish and wildlife resources of Alaska shall be retained by the Federal Government under existing laws until the

first day of the first calendar year following the expiration of ninety legislative days after the Secretary of the Interior certifies to the Congress that the Alaska State Legislature has made adequate provision for the administration, management, and conservation of said resources in the broad national interest: *Provided*, That such transfer shall not include lands withdrawn or otherwise set apart as refuges or reservations for the protection of wildlife nor facilities utilized in connection therewith, or in connection with general research activities relating to fisheries or wildlife. Sums of money that are available for apportionment or which the Secretary of the Interior shall have apportioned, as of the date the State of Alaska shall be deemed to be admitted into the Union, for wildlife restoration in the Territory of Alaska, pursuant to section 8 (a) of the Act of September 2, 1937, as amended (16 U. S. C., sec. 669g-1), and for fish restoration and management in the Territory of Alaska, pursuant to section 12 of the Act of August 9, 1950 (16 U. S. C., sec. 777k), shall continue to be available for the period, and under the terms and conditions in effect at the time, the apportionments are made. Commencing with the year during which Alaska is admitted into the Union, the Secretary of the Treasury, at the close of each fiscal year, shall pay to the State of Alaska 70 per centum of the net proceeds, as determined by the Secretary of the Interior, derived during such fiscal year from all sales of sealskins or sea-otter skins made in accordance with the provisions of the Act of February 26, 1944 (58 Stat. 100; 16 U. S. C., secs. 631a-631q), as supplemented and amended. In arriving at the net proceeds, there shall be deducted from the receipts from all sales all costs to the United States in carrying out the provisions of the Act of February 26, 1944, as supplemented and amended, including, but not limited to, the costs of handling and dressing the skins, the costs of making the sales, and all expenses incurred in the administration of the Pribilof Islands. Nothing in this Act shall be construed as affecting the rights of the United States under the provisions of the Act of February 26, 1944, as supplemented and amended, and the Act of June 28, 1937 (50 Stat. 325), as amended (16 U. S. C., sec. 772 et seq.).

55 Stat. 632.

64 Stat. 434.

(f) Five per centum of the proceeds of sale of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to such sales, shall be paid to said State to be used for the support of the public schools within said State.

Public school
support.

(g) Except as provided in subsection (a), all lands granted in quantity to and authorized to be selected by the State of Alaska by this Act shall be selected in such manner as the laws of the State may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least five thousand seven hundred and sixty acres unless isolated from other tracts open to selection. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the State. Upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, if subsequent to the admission of Alaska into the Union, during which period the State of Alaska shall have a preferred right of selection, subject to the requirements of this Act, except as against prior existing valid rights or as against equitable claims subject to allowance and confirmation. Such preferred right of selection shall have precedence over the preferred right of application created by section 4 of the Act of September

27, 1944 (58 Stat. 748; 43 U. S. C., sec. 282), as now or hereafter amended, but not over other preference rights now conferred by law. Where any lands desired by the State are unsurveyed at the time of their selection, the Secretary of the Interior shall survey the exterior boundaries of the area requested without any interior subdivision thereof and shall issue a patent for such selected area in terms of the exterior boundary survey; where any lands desired by the State are surveyed at the time of their selection, the boundaries of the area requested shall conform to the public land subdivisions established by the approval of the survey. All lands duly selected by the State of Alaska pursuant to this Act shall be patented to the State by the Secretary of the Interior. Following the selection of lands by the State and the tentative approval of such selection by the Secretary of the Interior or his designee, but prior to the issuance of final patent, the State is hereby authorized to execute conditional leases and to make conditional sales of such selected lands. As used in this subsection, the words "equitable claims subject to allowance and confirmation" include, without limitation, claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands.

Mineral leases,
permits, etc.

48 USC 432,
passim.

(h) Any lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U. S. C., sec. 181 and following), as amended, or under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741; 30 U. S. C., sec. 432 and following), as amended, shall have the effect of withdrawing the lands subject thereto from selection by the State of Alaska under this Act, unless such lease, permit, license, or contract is in effect on the date of approval of this Act, and unless an application to select such lands is filed with the Secretary of the Interior within a period of five years after the date of the admission of Alaska into the Union. Such selections shall be made only from lands that are otherwise open to selection under this Act, and shall include the entire area that is subject to each lease, permit, license, or contract involved in the selections. Any patent for lands so selected shall vest in the State of Alaska all right, title, and interest of the United States in and to any such lease, permit, license, or contract that remains outstanding on the effective date of the patent, including the right to all rentals, royalties, and other payments accruing after that date under such lease, permit, license, or contract, and including any authority that may have been retained by the United States to modify the terms and conditions of such lease, permit, license, or contract: *Provided*, That nothing herein contained shall affect the continued validity of any such lease, permit, license, or contract or any rights arising thereunder.

Mineral land
grants.

(i) All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express condition that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all of the minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct: *Provided*, That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska.

Schools and col-
leges.

(j) The schools and colleges provided for in this Act shall forever remain under the exclusive control of the State, or its governmental

subdivisions, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

(k) Grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission. Effective upon the admission of the State of Alaska into the Union, section 1 of the Act of March 4, 1915 (38 Stat. 1214; 48 U. S. C., sec. 353), as amended, and the last sentence of section 35 of the Act of February 25, 1920 (41 Stat. 450; 30 U. S. C., sec. 191), as amended, are repealed and all lands therein reserved under the provisions of section 1 as of the date of this Act shall, upon the admission of said State into the Union, be granted to said State for the purposes for which they were reserved; but such repeal shall not affect any outstanding lease, permit, license, or contract issued under said section 1, as amended, or any rights or powers with respect to such lease, permit, license, or contract, and shall not affect the disposition of the proceeds or income derived prior to such repeal from any lands reserved under said section 1, as amended, or derived thereafter from any disposition of the reserved lands or an interest therein made prior to such repeal.

(l) The grants provided for in this Act shall be in lieu of the grant of land for purposes of internal improvements made to new States by section 8 of the Act of September 4, 1841 (5 Stat. 455), and sections 2378 and 2379 of the Revised Statutes (43 U. S. C., sec. 857), and in lieu of the swamp land grant made by the Act of September 28, 1850 (9 Stat. 520), and section 2479 of the Revised Statutes (43 U. S. C., sec. 982), and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress made by the Act of July 2, 1862, as amended (12 Stat. 503; 7 U. S. C., secs. 301-308), which grants are hereby declared not to extend to the State of Alaska.

(m) The Submerged Lands Act of 1953 (Public Law 31, Eighty-third Congress, first session; 67 Stat. 29) shall be applicable to the State of Alaska and the said State shall have the same rights as do existing States thereunder.

SEC. 7. Upon enactment of this Act, it shall be the duty of the President of the United States, not later than July 3, 1958, to certify such fact to the Governor of Alaska. Thereupon the Governor, on or after July 3, 1958, and not later than August 1, 1958, shall issue his proclamation for the elections, as hereinafter provided, for officers of all elective offices and in the manner provided for by the constitution of the proposed State of Alaska, but the officers so elected shall in any event include two Senators and one Representative in Congress.

SEC. 8. (a) The proclamation of the Governor of Alaska required by section 7 shall provide for holding of a primary election and a general election on dates to be fixed by the Governor of Alaska: *Provided*, That the general election shall not be held later than December 1, 1958, and at such elections the officers required to be elected as provided in section 7 shall be, and officers for other elective offices provided for in the constitution of the proposed State of Alaska may be, chosen by the people. Such elections shall be held, and the qualifications of voters thereat shall be, as prescribed by the constitution of the proposed State of Alaska for the election of members of the proposed State legislature. The returns thereof shall be made and certified in such manner as the constitution of the proposed State of Alaska may prescribe. The Governor of Alaska shall certify the results of said elections to the President of the United States.

(b) At an election designated by proclamation of the Governor of Alaska, which may be the general election held pursuant to subsection (a) of this section, or a Territorial general election, or a special

Confirmation of grants.

Repeals.

Internal improvements.

Submerged lands.
43 U.S.C. 1301
note.

Certification by President.

Election of officers; date, etc.

election, there shall be submitted to the electors qualified to vote in said election, for adoption or rejection, by separate ballot on each, the following propositions:

“(1) Shall Alaska immediately be admitted into the Union as a State?”

“(2) The boundaries of the State of Alaska shall be as prescribed in the Act of Congress approved _____ and all claims of this State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

“(3) All provisions of the Act of Congress approved _____ reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Alaska, are consented to fully by said State and its people.”

In the event each of the foregoing propositions is adopted at said election by a majority of the legal votes cast on said submission, the proposed constitution of the proposed State of Alaska, ratified by the people at the election held on April 24, 1956, shall be deemed amended accordingly. In the event any one of the foregoing propositions is not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this Act shall thereupon cease to be effective.

Certification of voting results by Governor.

The Governor of Alaska is hereby authorized and directed to take such action as may be necessary or appropriate to insure the submission of said propositions to the people. The return of the votes cast on said propositions shall be made by the election officers directly to the Secretary of Alaska, who shall certify the results of the submission to the Governor. The Governor shall certify the results of said submission, as so ascertained, to the President of the United States.

Proclamation by President.

(c) If the President shall find that the propositions set forth in the preceding subsection have been duly adopted by the people of Alaska, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 7 of this Act, shall thereupon issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation by the President, the State of Alaska shall be deemed admitted into the Union as provided in section 1 of this Act.

Until the said State is so admitted into the Union, all of the officers of said Territory, including the Delegate in Congress from said Territory, shall continue to discharge the duties of their respective offices. Upon the issuance of said proclamation by the President of the United States and the admission of the State of Alaska into the Union, the officers elected at said election, and qualified under the provisions of the constitution and laws of said State, shall proceed to exercise all the functions pertaining to their offices in or under or by authority of the government of said State, and officers not required to be elected at said initial election shall be selected or continued in office as provided by the constitution and laws of said State. The Governor of said State shall certify the election of the Senators and Representative in the manner required by law, and the said Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

Laws in effect.

(d) Upon admission of the State of Alaska into the Union as herein provided, all of the Territorial laws then in force in the Territory of Alaska shall be and continue in full force and effect throughout said State except as modified or changed by this Act, or by the constitution

of the State, or as thereafter modified or changed by the legislature of the State. All of the laws of the United States shall have the same force and effect within said State as elsewhere within the United States. As used in this paragraph, the term "Territorial laws" includes (in addition to laws enacted by the Territorial Legislature of Alaska) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Alaska prior to the admission of the State of Alaska into the Union, and the term "laws of the United States" includes all laws or parts thereof enacted by the Congress that (1) apply to or within Alaska at the time of the admission of the State of Alaska into the Union, (2) are not "Territorial laws" as defined in this paragraph, and (3) are not in conflict with any other provisions of this Act.

Definitions.

SEC. 9. The State of Alaska upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law: *Provided*, That such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13) nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U. S. C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

House of Representatives, membership.

SEC. 10. (a) The President of the United States is hereby authorized to establish, by Executive order or proclamation, one or more special national defense withdrawals within the exterior boundaries of Alaska, which withdrawal or withdrawals may thereafter be terminated in whole or in part by the President.

National defense withdrawals.

(b) Special national defense withdrawals established under subsection (a) of this section shall be confined to those portions of Alaska that are situated to the north or west of the following line: Beginning at the point where the Porcupine River crosses the international boundary between Alaska and Canada; thence along a line parallel to, and five miles from, the right bank of the main channel of the Porcupine River to its confluence with the Yukon River; thence along a line parallel to, and five miles from, the right bank of the main channel of the Yukon River to its most southerly point of intersection with the meridian of longitude 160 degrees west of Greenwich; thence south to the intersection of said meridian with the Kuskokwim River; thence along a line parallel to, and five miles from the right bank of the Kuskokwim River to the mouth of said river; thence along the shoreline of Kuskokwim Bay to its intersection with the meridian of longitude 162 degrees 30 minutes west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 57 degrees 30 minutes north; thence east to the intersection of said parallel with the meridian of longitude 156 degrees west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 50 degrees north.

(c) Effective upon the issuance of such Executive order or proclamation, exclusive jurisdiction over all special national defense withdrawals established under this section is hereby reserved to the United States, which shall have sole legislative, judicial, and executive power within such withdrawals, except as provided hereinafter. The exclusive jurisdiction so established shall extend to all lands within the exterior boundaries of each such withdrawal, and shall remain in effect with respect to any particular tract or parcel of land only so long as such tract or parcel remains within the exterior boundaries of such a

Jurisdiction.

withdrawal. The laws of the State of Alaska shall not apply to areas within any special national defense withdrawal established under this section while such areas remain subject to the exclusive jurisdiction hereby authorized: *Provided, however,* That such exclusive jurisdiction shall not prevent the execution of any process, civil or criminal, of the State of Alaska, upon any person found within said withdrawals: *And provided further,* That such exclusive jurisdiction shall not prohibit the State of Alaska from enacting and enforcing all laws necessary to establish voting districts, and the qualification and procedures for voting in all elections.

(d) During the continuance in effect of any special national defense withdrawal established under this section, or until the Congress otherwise provides, such exclusive jurisdiction shall be exercised within each such withdrawal in accordance with the following provisions of law:

(1) All laws enacted by the Congress that are of general application to areas under the exclusive jurisdiction of the United States, including, but without limiting the generality of the foregoing, those provisions of title 18, United States Code, that are applicable within the special maritime and territorial jurisdiction of the United States as defined in section 7 of said title, shall apply to all areas within such withdrawals.

62 Stat. 683.

(2) In addition, any areas within the withdrawals that are reserved by Act of Congress or by Executive action for a particular military or civilian use of the United States shall be subject to all laws enacted by the Congress that have application to lands withdrawn for that particular use, and any other areas within the withdrawals shall be subject to all laws enacted by the Congress that are of general application to lands withdrawn for defense purposes of the United States.

(3) To the extent consistent with the laws described in paragraphs (1) and (2) of this subsection and with regulations made or other actions taken under their authority, all laws in force within such withdrawals immediately prior to the creation thereof by Executive order or proclamation shall apply within the withdrawals and, for this purpose, are adopted as laws of the United States: *Provided, however,* That the laws of the State or Territory relating to the organization or powers of municipalities or local political subdivisions, and the laws or ordinances of such municipalities or political subdivisions shall not be adopted as laws of the United States.

(4) All functions vested in the United States commissioners by the laws described in this subsection shall continue to be performed within the withdrawals by such commissioners.

(5) All functions vested in any municipal corporation, school district, or other local political subdivision by the laws described in this subsection shall continue to be performed within the withdrawals by such corporation, district, or other subdivision, and the laws of the State or the laws or ordinances of such municipalities or local political subdivision shall remain in full force and effect notwithstanding any withdrawal made under this section.

(6) All other functions vested in the government of Alaska or in any officer or agency thereof, except judicial functions over which the United States District Court for the District of Alaska is given jurisdiction by this Act or other provisions of law, shall be performed within the withdrawals by such civilian individuals or civilian agencies and in such manner as the President shall from time to time, by Executive order, direct or authorize.

(7) The United States District Court for the District of Alaska shall have original jurisdiction, without regard to the sum or value of any matter in controversy, over all civil actions arising within such withdrawals under the laws made applicable thereto by this subsection, as well as over all offenses committed within the withdrawals.

(e) Nothing contained in subsection (d) of this section shall be construed as limiting the exclusive jurisdiction established in the United States by subsection (c) of this section or the authority of the Congress to implement such exclusive jurisdiction by appropriate legislation, or as denying to persons now or hereafter residing within any portion of the areas described in subsection (b) of this section the right to vote at all elections held within the political subdivisions as prescribed by the State of Alaska where they respectively reside, or as limiting the jurisdiction conferred on the United States District Court for the District of Alaska by any other provision of law, or as continuing in effect laws relating to the Legislature of the Territory of Alaska. Nothing contained in this section shall be construed as limiting any authority otherwise vested in the Congress or the President.

SEC. 11. (a) Nothing in this Act shall affect the establishment, or the right, ownership, and authority of the United States in Mount McKinley National Park, as now or hereafter constituted; but exclusive jurisdiction, in all cases, shall be exercised by the United States for the national park, as now or hereafter constituted; saving, however, to the State of Alaska the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State, but outside of said park; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said park; and saving also to the persons residing now or hereafter in such area the right to vote at all elections held within the respective political subdivisions of their residence in which the park is situated.

Mount McKinley
National Park.

(b) Notwithstanding the admission of the State of Alaska into the Union, authority is reserved in the United States, subject to the proviso hereinafter set forth, for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of said State, are owned by the United States and held for military, naval, Air Force, or Coast Guard purposes, including naval petroleum reserve numbered 4, whether such lands were acquired by cession and transfer to the United States by Russia and set aside by Act of Congress or by Executive order or proclamation of the President or the Governor of Alaska for the use of the United States, or were acquired by the United States by purchase, condemnation, donation, exchange, or otherwise: *Provided*,

Military, naval,
etc., lands.

USC prec. Title 1.

(i) That the State of Alaska shall always have the right to serve civil or criminal process within the said tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the said State but outside of the said tracts or parcels of land; (ii) that the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Alaska, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority; and (iii) that such power of exclusive legislation shall rest and remain in the United States only so long as the particular tract or parcel of land involved is owned by the United States and used for military, naval, Air Force, or Coast Guard purposes. The provisions of this subsection shall not apply to lands within such special national defense with-

Civil and criminal
jurisdiction.

drawal or withdrawals as may be established pursuant to section 10 of this Act until such lands cease to be subject to the exclusive jurisdiction reserved to the United States by that section.

Judicial and
criminal provi-
sions.

SEC. 12. Effective upon the admission of Alaska into the Union—

(a) The analysis of chapter 5 of title 28, United States Code, immediately preceding section 81 of such title, is amended by inserting immediately after and underneath item 81 of such analysis, a new item to be designated as item 81A and to read as follows:

“81A. Alaska”;

(b) Title 28, United States Code, is amended by inserting immediately after section 81 thereof a new section, to be designated as section 81A, and to read as follows:

“§ 81A. Alaska

“Alaska constitutes one judicial district.

“Court shall be held at Anchorage, Fairbanks, Juneau, and Nome.”;

(c) Section 133 of title 28, United States Code, is amended by inserting in the table of districts and judges in such section immediately above the item: “Arizona * * * 2”, a new item as follows: “Alaska * * * 1”;

(d) The first paragraph of section 373 of title 28, United States Code, as heretofore amended, is further amended by striking out the words: “the District Court for the Territory of Alaska,”: *Provided*, That the amendment made by this subsection shall not affect the rights of any judge who may have retired before it takes effect;

(e) The words “the District Court for the Territory of Alaska,” are stricken out wherever they appear in sections 333, 460, 610, 753, 1252, 1291, 1292, and 1346 of title 28, United States Code;

(f) The first paragraph of section 1252 of title 28, United States Code, is further amended by striking out the word “Alaska,” from the clause relating to courts of record;

(g) Subsection (2) of section 1294 of title 28, United States Code, is repealed and the later subsections of such section are renumbered accordingly;

(h) Subsection (a) of section 2410 of title 28, United States Code, is amended by striking out the words: “including the District Court for the Territory of Alaska,”;

(i) Section 3241 of title 18, United States Code, is amended by striking out the words: “District Court for the Territory of Alaska, the”;

(j) Subsection (e) of section 3401 of title 18, United States Code, is amended by striking out the words: “for Alaska or”;

(k) Section 3771 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: “the Territory of Alaska,”;

(l) Section 3772 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: “the Territory of Alaska,”;

(m) Section 2072 of title 28, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words: “and of the District Court for the Territory of Alaska”;

(n) Subsection (q) of section 376 of title 28, United States Code, is amended by striking out the words: “the District Court for the Territory of Alaska,”: *Provided*, That the amendment made by this subsection shall not affect the rights under such section 376 of any present or former judge of the District Court for the Territory of Alaska or his survivors;

(o) The last paragraph of section 1963 of title 28, United States Code, is repealed;

(p) Section 2201 of title 28, United States Code, is amended by striking out the words: "and the District Court for the Territory of Alaska"; and

(q) Section 4 of the Act of July 28, 1950 (64 Stat. 380; 5 U. S. C., sec. 341b) is amended by striking out the word: "Alaska,".

SEC. 13. No writ, action, indictment, cause, or proceeding pending in the District Court for the Territory of Alaska on the date when said Territory shall become a State, and no case pending in an appellate court upon appeal from the District Court for the Territory of Alaska at the time said Territory shall become a State, shall abate by the admission of the State of Alaska into the Union, but the same shall be transferred and proceeded with as hereinafter provided.

Continuation of
suits.

All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said State, but as to which no suit, action, or prosecution shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Alaska in like manner, to the same extent, and with like right of appellate review, as if said State had been created and said courts had been established prior to the accrual of said causes of action or the commission of such offenses; and such of said criminal offenses as shall have been committed against the laws of the Territory shall be tried and punished by the appropriate courts of said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Alaska.

SEC. 14. All appeals taken from the District Court for the Territory of Alaska to the Supreme Court of the United States or the United States Court of Appeals for the Ninth Circuit, previous to the admission of Alaska as a State, shall be prosecuted to final determination as though this Act had not been passed. All cases in which final judgment has been rendered in such district court, and in which appeals might be had except for the admission of such State, may still be sued out, taken, and prosecuted to the Supreme Court of the United States or the United States Court of Appeals for the Ninth Circuit under the provisions of then existing law, and there held and determined in like manner; and in either case, the Supreme Court of the United States, or the United States Court of Appeals, in the event of reversal, shall remand the said cause to either the State supreme court or other final appellate court of said State, or the United States district court for said district, as the case may require: *Provided*, That the time allowed by existing law for appeals from the district court for said Territory shall not be enlarged thereby.

Appeals.

SEC. 15. All causes pending or determined in the District Court for the Territory of Alaska at the time of the admission of Alaska as a State which are of such nature as to be within the jurisdiction of a district court of the United States shall be transferred to the United States District Court for the District of Alaska for final disposition and enforcement in the same manner as is now provided by law with reference to the judgments and decrees in existing United States district courts. All other causes pending or determined in the District Court for the Territory of Alaska at the time of the admission of Alaska as a State shall be transferred to the appropriate State court of Alaska. All final judgments and decrees rendered upon such transferred cases in the United States District Court for the District of Alaska may be reviewed by the Supreme Court of the United States or by the United States Court of Appeals for the Ninth Circuit in

Transfer of
cases.

the same manner as is now provided by law with reference to the judgments and decrees in existing United States district courts.

Succession of
courts.

SEC. 16. Jurisdiction of all cases pending or determined in the District Court for the Territory of Alaska not transferred to the United States District Court for the District of Alaska shall devolve upon and be exercised by the courts of original jurisdiction created by said State, which shall be deemed to be the successor of the District Court for the Territory of Alaska with respect to cases not so transferred and, as such, shall take and retain custody of all records, dockets, journals, and files of such court pertaining to such cases. The files and papers in all cases so transferred to the United States district court, together with a transcript of all book entries to complete the record in such particular cases so transferred, shall be in like manner transferred to said district court.

SEC. 17. All cases pending in the District Court for the Territory of Alaska at the time said Territory becomes a State not transferred to the United States District Court for the District of Alaska shall be proceeded with and determined by the courts created by said State with the right to prosecute appeals to the appellate courts created by said State, and also with the same right to prosecute appeals or writs of certiorari from the final determination in said causes made by the court of last resort created by such State to the Supreme Court of the United States, as now provided by law for appeals and writs of certiorari from the court of last resort of a State to the Supreme Court of the United States.

Jurisdiction of
District Court.
Termination
date.

SEC. 18. The provisions of the preceding sections with respect to the termination of the jurisdiction of the District Court for the Territory of Alaska, the continuation of suits, the succession of courts, and the satisfaction of rights of litigants in suits before such courts, shall not be effective until three years after the effective date of this Act, unless the President, by Executive order, shall sooner proclaim that the United States District Court for the District of Alaska, established in accordance with the provisions of this Act, is prepared to assume the functions imposed upon it. During such period of three years or until such Executive order is issued, the United States District Court for the Territory of Alaska shall continue to function as heretofore. The tenure of the judges, the United States attorneys, marshals, and other officers of the United States District Court for the Territory of Alaska shall terminate at such time as that court shall cease to function as provided in this section.

Federal Reserve
System.

SEC. 19. The first paragraph of section 2 of the Federal Reserve Act (38 Stat. 251) is amended by striking out the last sentence thereof and inserting in lieu of such sentence the following: "When the State of Alaska is hereafter admitted to the Union the Federal Reserve districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this Act and shall thereupon be an insured bank under the Federal Deposit Insurance Act, and failure to do so shall subject such bank to the penalty provided by the sixth paragraph of this section."

48 Stat. 168.
64 Stat. 873.
12 USC 1811
note.

SEC. 20. Section 2 of the Act of October 20, 1914 (38 Stat. 742; 48 U. S. C., sec. 433), is hereby repealed.

Repeal.

SEC. 21. Nothing contained in this Act shall operate to confer United States nationality, nor to terminate nationality heretofore lawfully acquired, nor restore nationality heretofore lost under any law of the United States or under any treaty to which the United States may have been a party.

Immigration and nationality.

SEC. 22. Section 101 (a) (36) of the Immigration and Nationality Act (66 Stat. 170, 8 U. S. C., sec. 1101 (a) (36)) is amended by deleting the word "Alaska,".

SEC. 23. The first sentence of section 212 (d) (7) of the Immigration and Nationality Act (66 Stat. 188, 8 U. S. C., sec. 1182 (d) (7)) is amended by deleting the word "Alaska,".

SEC. 24. Nothing contained in this Act shall be held to repeal, amend, or modify the provisions of section 304 of the Immigration and Nationality Act (66 Stat. 237, 8 U. S. C., sec. 1404).

SEC. 25. The first sentence of section 310 (a) of the Immigration and Nationality Act (66 Stat. 239, 8 U. S. C., sec. 1421 (a)) is amended by deleting the words "District Courts of the United States for the Territories of Hawaii and Alaska" and substituting therefor the words "District Court of the United States for the Territory of Hawaii".

SEC. 26. Section 344 (d) of the Immigration and Nationality Act (66 Stat. 265, 8 U. S. C., sec. 1455 (d)) is amended by deleting the words "in Alaska and".

SEC. 27. (a) The third proviso in section 27 of the Merchant Marine Act, 1920, as amended (46 U. S. C., sec. 883), is further amended by striking out the word "excluding" and inserting in lieu thereof the word "including".

Transportation by water.
41 Stat. 999.

(b) Nothing contained in this or any other Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Alaska and other ports in the United States, its Territories or possessions, or as conferring upon the Interstate Commerce Commission jurisdiction over transportation by water between any such ports.

SEC. 28. (a) The last sentence of section 9 of the Act entitled "An Act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes", approved October 20, 1914 (48 U. S. C. 439), is hereby amended to read as follows: "All net profits from operation of Government mines, and all bonuses, royalties, and rentals under leases as herein provided and all other payments received under this Act shall be distributed as follows as soon as practicable after December 31 and June 30 of each year: (1) 90 per centum thereof shall be paid by the Secretary of the Treasury to the State of Alaska for disposition by the legislature thereof; and (2) 10 per centum shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts."

Mines and mining.

38 Stat. 744.

(b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920, as amended (30 U. S. C. 191), is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ", and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof".

41 Stat. 450.

Separability
clause.

SEC. 29. If any provision of this Act, or any section, subsection, sentence, clause, phrase, or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase, or individual word to other persons and circumstances shall not be affected thereby.

Repeals.

SEC. 30. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the legislature of said Territory or by Congress, are hereby repealed.

Approved July 7, 1958.

Public Law 85-509

AN ACT

July 11, 1958
[S. 2007]

To amend the United States Grain Standards Act, 1916, as amended, to permit the Secretary of Agriculture to charge and collect for certain services performed, and for other purposes.

United States
Grain Standards
Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the United States Grain Standards Act (39 Stat. 484; 7 U. S. C. 78) is hereby amended to read as follows:

"SEC. 6. Whenever standards shall have been fixed and established under this Act for any grain and any quantity of such grain sold, offered for sale, or consigned for sale, or which has been shipped, or delivered for shipment in interstate or foreign commerce shall have been inspected and a dispute arises as to whether the grade as determined by such inspection of any such grain in fact conforms to the standard of the specified grade, any interested party may, either with or without reinspection, appeal the question to the Secretary of Agriculture, and the Secretary of Agriculture is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine the true grade: *Provided*, That any appeal from such inspection and grading to the Secretary of Agriculture shall be taken before the grain leaves the place where the inspection appealed from was made and before the identity of the grain has been lost, under such rules and regulations as the Secretary of Agriculture shall prescribe. Whenever an appeal shall be taken or a dispute referred to the Secretary of Agriculture under this Act, he shall charge and assess, and cause to be collected, a reasonable fee, in amount to be fixed by him. The fee, in case of an appeal, shall be refunded if the appeal is sustained. All such fees, not so refunded, shall be deposited and covered into the Treasury as miscellaneous receipts. The Secretary of Agriculture is authorized to pay employees assigned to perform appeal inspections for all overtime, night, or holiday work at such rates as he may determine and to accept from persons, Government agencies and departments, and Government corporations for whom such work is performed reimbursement for any sums paid for such work. The findings of the Secretary of Agriculture as to grade, signed by him or by such officer or officers, agent or agents, of the Department of Agriculture as he may designate, made after the parties in interest have had opportunity to be heard, shall be accepted in the courts of the United States as prima facie evidence of the true grade of the grain determined by him at the time and place specified in the findings."

Approved July 11, 1958.

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A HOUSE RESOLUTION

TO EXPRESS SUPPORT TO THE WESTERN STATES OF THE UNITED STATES OF AMERICA AND THE FEDERAL TRANSFER OF PUBLIC LANDS TO THE WESTERN STATES, AND TO URGE THE UNITED STATES CONGRESS TO ENGAGE IN GOOD FAITH COMMUNICATION AND COOPERATION TO COORDINATE THE TRANSFER OF TITLE TO THE WESTERN STATES.

Whereas, under Article IV, Section 3, of the United States Constitution, "The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States"; and

Whereas, the Constitutional Convention intended this provision of the Constitution to maintain the status quo that had been established to transfer federal territorial lands only to create new states with the same rights of sovereignty, freedom, and independence as the original states; and

Whereas, under these express terms of trust, over time the states claiming federal territorial land ceded their western land to the confederated Union to allow the confederated government to dispose of the lands only to create new states and apply the net proceeds of any sales of the lands only to pay down the public debt; and

Whereas, the United States Constitution contains no expression of intent to authorize the federal government to indefinitely exercise control over western public lands beyond the duty to manage the lands pending the disposal of the lands to create new states, and therefore the lands should be returned to the western states; and

1 Whereas, in order to promote legitimate federal interests the western
2 states should upon transfer of the public lands directly to the state
3 where the public land is located agree to affirmatively cede lands
4 for the national park system, the national wilderness preservation
5 system, and lands reserved for federal military use, military parks,
6 and military reservations to the federal government under Article I,
7 Section 8, Clause 17, of the United States Constitution, on condition
8 that the lands permanently remain national park lands, and that they
9 not be sold, transferred, left in substantial disrepair, or conveyed to
10 any party other than to the state where the land is located; and

11

12 Whereas, limiting the ability of western states to access and utilize
13 the public lands' natural resources within their borders is having a
14 negative impact upon the economy of the western states and
15 therefore the economy of the entire United States; and

16

17 Whereas, in order to provide a fair, just, and equitable remedy for
18 the federal government's past and continuing breaches of its solemn
19 promises to the western states, the South Carolina House of
20 Representatives:

21 (1) calls on the federal government to transfer title to all federal
22 public lands within the western states to the state where the land is
23 located;

24 (2) urges the United States Congress to engage in good faith
25 communication, cooperation, and consultation with the western
26 states to coordinate the transfer of the public lands, and supports the
27 western states in these efforts;

28 (3) calls upon the western states to agree, upon transfer of the
29 public lands, to affirmatively cede to the federal government all
30 lands currently designated as part of the National Park System under
31 16 U.S.C. Section 1a-1, the National Wilderness Preservation
32 System under 16 U.S.C. Section 1131, or for military use, military
33 parks, or military reservations;

34 (4) urges that if any public land in the western states be sold to
35 private owners, the net proceeds be paid to the Bureau of the Public
36 Debt to pay down the federal debt; and

37 (5) calls on all other states of the United States to pass a similar
38 resolution in support of the transfer of the federal public lands to the
39 western states. Now, therefore,

40

41 Be it resolved by the House of Representatives:

42

1 That the members of the House of Representatives of the State of
2 South Carolina, by this resolution, express support to the western
3 states of the United States of America and the federal transfer of
4 public lands to the western states, and urges the United States
5 Congress to engage in good faith communication and cooperation
6 to coordinate the transfer of title to the western states.

7

8 Be it further resolved that upon its adoption copies of this resolution
9 be forwarded to the United States Department of the Interior, the
10 Majority Leader of the United States Senate, the Speaker of the
11 United States House of Representatives, the members of the South
12 Carolina Congressional Delegation, and the Governors, Senate
13 Presidents, and Speakers of the House of Representatives of the 49
14 other states.

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Alaska Dispatch News

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[Home](#) > State asks feds for transfer of 19,322 disputed acres on North Slope

[Dermot Cole](#) ^[1]

October 20, 2014

Main Image:

[Property dispute](#) ^[2]

When President Dwight D. Eisenhower inked the declaration under which the 49th state joined the union, no one thought that 55 years later, the state and federal governments would still be arguing about the map of Alaska.

A key part of the Alaska Statehood Act allowed the new state to select a land entitlement of about 104 million acres, with a goal of using that land as the basis for its future economy.

One of the earliest statehood selections for land on the North Slope later turned out to contain the largest oil field ever found in North America, a bonanza that has fueled the economy for nearly 40 years.

But completing the land selections, a real estate transaction that exceeds the size of California, has proven to be more difficult than anyone predicted.

Decades of delay followed because Congress didn't settle Native land rights until 1971, and a growing national environmental movement led to a [landmark 1980 law](#) ^[3] putting 100 million acres of Alaska into parks and other conservation units.

To date, the federal government has transferred almost 100 million acres, with 5 million acres yet to be settled upon.

But disputes continue over tracts of land that either are or are not eligible for state land selection.

On Friday, the [state sent a letter](#) ^[4] to the Bureau of Land Management asking for a "priority conveyance" of 19,322 acres that the state contends are west of the Arctic National Wildlife Refuge rather than in the refuge. The property is not far from the Point Thomson oil field and the state wants to offer it for oil and gas leasing.

For nearly a half-century, the state has periodically made claims to the property, while the federal government has argued that it rightly remains in federal hands.

The Parnell administration contends that the U.S. Fish & Wildlife Service has erroneous maps and doesn't know where its property ends. The state argues that land between the Canning River and the Staines River is not part of the refuge. It cites a proposed map published in 1957 that showed the western boundary at the Canning River.

But the status of the land is not that clear-cut.

For instance, the ANWR map on the state website [5] shows the Staines River as the boundary.

"The maps show the boundaries [6] of the conservation system units created or expanded by ANILCA, as of December 2, 1980," the state says. "The photographs of the maps were taken by state personnel within several days of the December 2, 1980 passage of ANILCA."

As part of the 1980 Alaska National Interest Lands Conservation Act, the Fish and Wildlife Service published a map showing the western boundary of the refuge extending past the Canning River to the Staines River.

Both river names originated with Sir John Franklin in 1828, one named for British Foreign Minister George Canning and the other for Sir Thomas Staines, a Royal Navy officer.

The federal government has long maintained that there is nothing wrong with its maps and that the land is part of the refuge. The Staines River is a distributary of the Canning River, which is the opposite of a tributary.

The Staines and Canning rivers flow from the same source and divide into two streams on the Arctic coastal plain, which is one reason why the Alaska Department of Fish and Game has long referred to the Staines as the "Staines River Branch of the Canning River."

But the state says its investigation shows that the Staines is "neither the west bank of the Canning, nor the extreme west bank of the Canning."

Natural Resources Commissioner Joe Balash said that a 1983 legal description by the Fish & Wildlife Service helps bolster its argument. The legal description uses the name Canning River, but the coordinates shown are for a spot several miles to the west on the Staines River.

This means that the legal description is either a "geographic impossibility," as the state says, or it is a possibility, based on the belief that the Staines is the west bank of the Canning.

The west bank property dispute is under review by the BLM land transfer office.

Source URL: <http://www.adn.com/article/20141020/state-asks-feds-transfer-19322-disputed-acres-north-slope>

Links:

[1] <http://www.adn.com/author/dermot-cole>

[2] <http://www.adn.com/image/property-dispute>

[3] <http://dnr.alaska.gov/commis/opmp/nilca/more.htm>

[4] http://dnr.alaska.gov/commis/priorities/ANWR_boundary.pdf

[5] http://dnr.alaska.gov/mlw/title/nilca/Arctic_NWR.pdf

[6] <http://dnr.alaska.gov/mlw/title/nilca/index.cfm>