

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8268 SENATE HEALTH EDUCATION & SOCIAL SERVICES

**SB**

**181**

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SB 181

Revision Date: \_\_\_\_\_  
Title: An Act relating to grants for school construction and providing for an effective date.  
Sponsor: Senate Finance Committee  
Requestor: Senate Finance Committee

Department Affected: Education  
BRU: Executive Administration  
Component: CIP Overhead and Associated Costs

COMPONENT SERIAL NO. \_\_\_\_\_ 156

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	50.0	50.0	50.0	50.0	50.0	50.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	50.0	50.0	50.0	50.0	50.0	50.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

(See Attached)

Prepared by: Gary M. Bader *Gary M. Bader*  
Division: Administrative Services

Phone: 465-2875  
Date: 4/8/93

Approved by Commissioner: \_\_\_\_\_  
Agency: Education

*Jerry Covey*  
Date: 4-8-93

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FISCAL NOTE SB181

"An Act relating to grants for school construction: and providing for an effective date."

This bill would establish a grant review committee for school construction grants. This committee shall consist of the commissioner or appointed designee and five other people selected by the commissioner who have the following qualifications:

1. one person licensed under AS 08.48 as an engineer,
2. one person with a teaching certificate issued by the Department of Education
3. one person licensed as a construction contractor under AS 08.18
4. one person licensed under AS 48.48 as an architect
5. one person with five years of experience in facilities management

Members of the committee are to serve without compensation with the exception of the reimbursement of all related per diem and travel expenses.

The duty of this committee is to review grant applications. The applicants will be evaluated by such factors as emergency requirements; priorities assigned by the districts; new local elementary and secondary programs; existing regional, community and school facilities and their present condition; and alternate education program options.

It is assumed that DOT/PF will provide a standard regional design specification for the construction of schools for the arctic, interior, western and southeastern region of the state. For each school construction project for which a grant is requested under AS 14.11.011., the department shall determine which standard regional school design is applicable.

Contractual:

Contract with a school facilities expert to develop educational specifications and assist the department in conferring with DOT/PF in the development of prototypical school designs.

Total: \$50.0

**SPONSOR STATEMENT  
FOR  
SENATE BILL NO. 181**

The continued development and maintenance of Alaska's educational infrastructure has become an increasingly important issue in Alaska. Several approaches have been suggested to resolve our current problems in constructing and maintaining Alaska's schools, but all of these approaches sacrifice a long term solution in favor of short term spending plans. Senate Bill 181 is part of a three-bill package which proposes a long term solution to constructing and maintaining Alaska's educational infrastructure.

As serious consideration was being given this year to the list of school construction, maintenance, and repair projects assembled by the Department of Education (DOE), several problems with the way this list is assembled became apparent. Priorities were established in the DOE regulations which were not intended in the enabling legislation (HB37). Review of projects were completed by individuals with little or no background in school construction and maintenance. Also there was a great deal of variance in both scope and cost between projects which were intended to solve the same educational infrastructure problem for a similar number of students. This bill attempts to solve several of these observed problems.

Senate Bill 181 requires the Department of Education, in cooperation with the Department of Transportation, to establish standard school designs for the four climatic regions of Alaska. These school designs would be structured so that they could be expanded incrementally to accommodate additional students. A grant review committee is established which will be responsible for selecting the school construction and maintenance projects. This committee will include the Commissioner of DOE, an engineer, a construction contractor, an architect, a facility manager, and a certified educator. Past criteria used to prioritize schools on the DOE list are replaced so that urban and rural school priorities are placed on an even plane.

There are two companion bills to SB 181. Senate Joint Resolution No. 30 proposes the establishment of a constitutional school construction and maintenance fund. Senate Bill No. 180 reestablishes reimbursement of school construction debt for a limited period of time with specific borrowing caps established for Alaskan communities.

FISCAL NOTE

Revision Date:  
Title: School Construction Grants

Department Affected: DOT&PF  
BRU: E&OS

Sponsor: Senate Finance Committee  
Requestor:

Component: Design & Const. Stds.  
Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	25.0	25.9	26.8	27.7	28.7	29.7
CONTRACTUAL	59.1	61.1	63.2	65.3	67.6	69.9
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING:</b>	<b>84.1</b>	<b>87.0</b>	<b>90.0</b>	<b>93.0</b>	<b>96.3</b>	<b>99.6</b>

CAPITAL	32,675.0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	32,759.1	87.0	90.0	93.0	96.3	99.6
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	<b>32,759.1</b>	<b>87.0</b>	<b>90.0</b>	<b>93.0</b>	<b>96.3</b>	<b>99.6</b>

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	**	0	0	0	0	0

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary)

\*\* See page two (Fiscal Note Summary) for comments pertaining to staffing requirements. Monetary amounts shown for FY 95 and beyond have been inflated by 3.5% annually.

See attached summary and three page analysis for details and assumptions.

Prepared by: Roger W. Allington, Director

Phone: 465-2951

Division: Engineering and Operations Standards

Date: April 8, 1993

Approved by Commissioner: B.A. Campbell  
Bruce A. Campbell

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: April 8, 1993

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ANALYSIS (cont. from page 1):

Fiscal Note Analysis for SB 181

**Fiscal Note Summary:**

The proposed legislation is anticipated to have the following impacts.

**Section 4 Impacts - FY 94 and 95** (Capital funds for design criteria, specs and prototypes)

Expenditures: Personal services, contractual and travel costs total \$32.7MM.

Personnel: Depending on the required number of prototypes required and the magnitude of funding provided, additional CIP positions may be required.

**Section 5 Impacts - FY 94 and beyond** (Operating funds for grant review committee activities inflated annually by 3.5%.)

Expenditures: Personal services, contractual and travel costs of \$84,125.

Personnel: No additional personnel are anticipated for these projects.

**Program Description:**

The proposed bill would require the Department of Transportation and Public Facilities (DOT&PF) to consult with the Department of Education (DOE) in the development of standard regional school designs and specifications (per Sec. 4 of the proposed legislation). Additionally, it is anticipated that the department would be extensively involved in the grant review process (per Sec. 5 of the proposed legislation).

**Background Information Relating to the Proposed Legislation:**

Definition of the fundamental school construction (program) needs, appropriate design standards and concerns (criteria), and the minimum acceptable construction specifications together with the development of a series of *prototypical* school designs have long been a desire of many different entities within the State of Alaska. It is believed that -- when created -- these documents could be used to formulate a basis on which school construction grants would be funded.

**Program Implementation and Resulting Fiscal Impacts:**

Despite the fact that the bill contains an effective date, the program would likely "come on line" in somewhat of a staged process. Because sections 3 and 4 are fundamental to the other sections, the requirements of these sections will have to met before the full effect of the legislation will be apparent. Section 4 especially will require an extensive amount of time and effort (by both DOT&PF and the Department of Education) to complete the mandated design criteria, construction specifications and *prototype* designs. As all three elements are intertwined, it should be expected that they will be developed as a package as opposed to piecemeal elements. At a minimum eighteen months to two years should be allocated in the preparation of this component of the legislation. The costs of the developmental aspects associated with this "staged process" appear in the earlier portion (FY 94 and 95) of the fiscal note. Additionally, the anticipated monetary and manpower impacts of section 5, dealing with the "grant

review committee", are included in the FY94 and 95 and are carried into FY 96 and beyond.

### Analysis and Assumptions:

The following detailed analysis, covering the five sections of the bill and focusing on the department's specific areas of program involvement, was developed around the following assumptions.

- *Due to a lack of detail and the overall uncertainty of what is expected, the assumptions and resulting cost calculations are assumed to represent a "worse case" scenario.*
- *It is assumed that due to program differences (five in total), school size differences between communities in a given region (large districts VS. small) and the climatic conditions present in each of the four defined regions, that up to 36 prototype schools may have to be designed.*
- *Schools of less than 100 students are considered "small" schools for the purpose of this analysis.*
- *No departmental costs have been developed for the procurement or administration of the consultant contracts. The analysis recognizes that some costs will occur, but it also assumes that there will be some duplication of design effort amongst the 36 school types resulting in some design costs that can then be used to offset administrative costs.*
- *Costs shown in this report reflect a facility based prototype design cost approach. While not done at this time, some consideration towards a component/matrix design approach or perhaps a review of existing (or proposed) designs should be considered. This would allow for communities to build to a higher level of quality provided that the life cycle costs supported a higher initial capital cost.*

### Proposed Legislation Section 1 (page 1)

No departmental comment as a result of this section.

### Proposed Legislation Section 2 (page 1)

No departmental comment as a result of this section.

### Proposed Legislation Section 3 (page 2)

No departmental comment as a result of this section.

### Proposed Legislation Section 4 (page 2)

As a result of a lengthy discussion with the project manager <sup>1</sup> for the new middle school being constructed in Juneau, several new elements of information were presented. This information has been utilized to formulate a number of the preceding assumptions and in brief consists of the following.

- Bare bones cost for new middle school is \$15.1 MM, or \$166.30 / square foot or \$21,570 / student.
- Programmed (desired) square footage / student at a middle school is 150, actually being provide is 128.

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<sup>1</sup> Comments were provided By Ms. Cathy Fritz, CBJ Architect and project manager for the \$15.1 million middle school (currently under construction) and a future \$40 million high school facility.

- Ratio of design costs to actual construction costs express as a percentage 7.3%
- Junior high and high school construction costs are \$44,444 / student or approximately 2.06 times the cost of elementary and middle school costs.
- Significant program differences exist between special ed., elementary, middle, jr. high and high school programs that it would necessitate the design of prototypes in each of these areas.

Combining this input together with the assumptions presented earlier would yield design costs for the 36 *prototype* schools as follows:

**FOR EACH REGION**

Elementary Schools (1): 600 students = 90,000 sq. ft. yields construction costs of	\$15.0MM
Elementary Schools (1): 100 students = 15,000 sq. ft. yields construction costs of	\$ 3.0MM
Middle Schools (1): 600 students = 90,000 sq. ft. yields construction costs of	\$15.0MM
Middle Schools (1): 100 students = 15,000 sq. ft. yields construction costs of	\$ 3.0MM
Jr. High Schools (1): 600 students = 2.06 times middle school const. costs, or	\$30.9MM
Jr. High Schools (1): 100 students = 2.06 times middle school const. costs, or	\$ 6.2MM
High Schools (1): 600 students = 2.06 times middle school const. costs, or	\$30.9MM
High Schools (1): 100 students = 2.06 times middle school const. costs, or	\$ 6.2MM
Special Ed Schools (1): 50 students = 10,000 sq. ft. yields construction costs of	<u>\$ 1.7MM</u>
Total anticipated <i>prototype</i> construction cost per region yields	\$111.9MM

When this is applied to the four regions described within Section 4 of the bill a total construction costs can be computed \$111.9 (4) yields \$447.6MM

And applying the Design/Construction Cost ratio of 7.3% to this total construction cost number yields the anticipate consultant costs \$32.67MM

**Proposed Legislation Section 5 (page 2)**

Regardless of whether or not DOT&PF personnel are used there will be a cost associated with the grant review process. The review process will require approximately two man months at three quarter time (approximately 275 man hours) of effort in each of the following professional areas:

**Personal Services/Contractual where:**

- "one person licensed under AS 08.48 as an engineer",
- "one person licensed under AS 08.48 as an architect",
- "one person shall have five years of experience in facilities management",

**Costs associated with this phase include:**

An Engineer at \$80/hour times 275 hours yields	\$22,000
An Engineer at \$75/hour times 275 hours yields	\$20,625
A Facility manager at \$60/hour times 275 hours yields	<u>\$16,500</u>
Total anticipated personal service costs are <sup>2</sup>	\$59,125

<sup>2</sup> Caliber of individuals depicted under this section of the analysis are commensurate with a range 22 position for the registered Architect and Engineer and a range 20 position for the Facility Manager.

Travel Expense for the three evaluators where:

• three trips are required for each evaluator to attend meetings directly associated with the ranking process	\$4,500
• a travel allowance to review and assess specific school facilities and to compare them against the individual school district/REAA grant request. Lump Sum	\$7,000
Associated per diem allowance (45 days/person @ \$100/day)	<u>\$13,500</u>
Total anticipated travel costs are	\$25,000

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Total anticipated costs as associated with section 5 requirements \$82,125

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Comparable costs to utilize DOT&PF personnel in lieu of outside consultants would total approximately \$42,000; however, availability of personnel is uncertain.

ARTHUR R JACOBS PE  
7060 Saturn Circle  
Anchorage AK 99504

6 April 1993

APR 8 1993

Senator Loren Leman  
Alaska State Legislature  
State Capitol  
Juneau AK 99801-1182

Subject: Senate Bill 181

Dear Loren:

I am writing to propose an amendment to the referenced Senate bill, which deals with construction grants for schools.

Section 4 of the bill dictates to the Department of Education that it shall develop "standard regional school designs". This procedure has been tried before, by various school districts thruout the State, and has been found to be unacceptable for various reasons. The amendment which I propose addresses the implied concern for over-designed luxurious schools built at State expense without imposing standard cookbook designs:

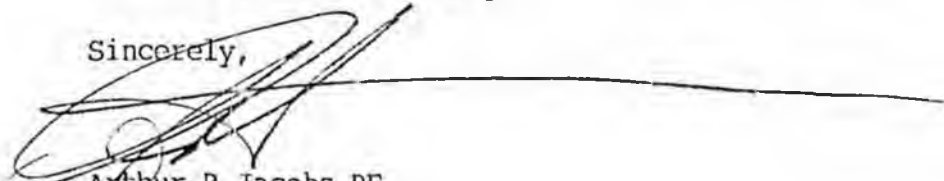
"Sec 4 AS 14.11.013 is amended by adding a new subsection, to read:

(f) The Department shall develop standard educational specifications for elementary, junior high and high schools, and shall, in consultation with the Department of Transportation and Public Facilities, develop standard regional design specifications for the construction of schools thruout the State. For each school construction project for which a grant is requested under AS 14.11.011, the Department shall determine which standard regional specifications are applicable to that project. If the school district involved wishes to exceed the minimum requirements of either the standard educational specifications or the standard regional design specifications it may do so, but such excesses must be funded without the use of State monies."

I believe the above wording is directly to the point of the intent of the legislation, but is less onerous than the existing wording.

In the event you are not a member of one of the assigned committees, please use your contacts with those directly involved to advance the above wording.

Sincerely,



Arthur R Jacobs PE



*Department of Transportation  
and Public Facilities*

# POSITION PAPER

BILL NO: SB 181

APPROVED: B.A. Campbell  
BC

TITLE: School Construction Grants

DATE: 04/08/93

This bill could develop into a reasonable and appropriate response to the need for adequately funding and controlling the costs of school construction within the State of Alaska. Costs associated with school construction -- under the proposed legislation -- are significant, and it is impossible for DOT&PF to take a "Pro" or "Con" position without further direction and information from the sponsoring legislators and the Department of Education. As such the department's associated Fiscal Note is based almost exclusively upon assumptions, some of which may be incorrect. For these reasons, and recognizing the significant impact associated to the department, I would like to reserve the opportunity to provide additional input on this bill as its development progresses.

**SB**

**195**

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 195**

Revision Date: 4/12/94  
 Title: An Act relating to the licensure of physical therapists and physical therapy assistants.  
 Sponsor: Senators Lemman, Ellis  
 Requestor: Senator Rieger

Department: Commerce and Economic Dev.  
 BRU: Occupational Licensing  
 Component: Operations  
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

CAPITAL EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 General Fund							
1005 GF/Program Receipts							
1008 GF/MHTIA							
Other							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

Estimate of any current year (FY 94) cost: \$ None

POSITIONS							
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0	
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0	
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0	

**ANALYSIS:** (Attach a separate page if necessary)  
 CSSB 195 amends eligibility requirements for licensure as a physical therapist or physical therapy assistant. New funds are not required to implement the amendment.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
 Division: Occupational Licensing Date: 4/12/94  
 Approved by Commissioner: Paul Fuhs Date: \_\_\_\_\_  
 Agency: Commerce and Economic Development

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Mail Stop 3101

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

**MEMORANDUM**

March 29, 1994

**SUBJECT:** Licensing of Physical Therapists and Physical Therapy Assistants  
(Work Order No. 8-LS1873A)

**TO:** Senator Steve Rieger

**FROM:** Terri Lauterbach *TML*  
Legislative Counsel

Enclosed is a bill draft that would amend the physical therapist licensing laws so that a person does not have to graduate from an approved school. I have used language found in AS 08.84.032, which relates to graduates of foreign schools. Therefore, the board should have some experience in interpreting what this language means.

In my opinion, the person you described in your hypothetical is not eligible for licensure without a change in the statutes. AS 08.84.030(a)(1) currently provides that a person must have graduated from an approved school. AS 08.84.060, relating to licensure by credentials, requires that the other state's laws must have been substantially equal to our laws, thereby bringing in the requirement of AS 08.84.030 that the person must have graduated from an approved school.

Please let me know if I can be of further assistance on this matter.

TML:lmb  
94-106.lmb

Enclosure

# Alaska State Senate

SENATOR STEVE RIEGER  
District I

Senate Finance Committee  
Chair, Senate Health, Education  
and Social Services Committee  
Vice Chair, Senate Rules Committee  
Vice Chair, Senate Labor and  
Commerce Committee



State Capitol  
Room 516  
Juneau, Alaska 99801  
(907) 465-3879

## MEMORANDUM

**TO:** Legal Services  
Tam Cook/Director

**FROM:** Senator Steve Rieger  
Michele *MR* Elasco, Legislative Assistant

**RE:** Licensing; Physical Therapists and Occupational Therapists

**DATE:** March 29, 1994

1. A person has been licensed in another state as a physical therapist assistant (in fact has an education superior to that required of a pta in Alaska), has received a temporary permit in Alaska, and has passed the examination for licensure. This person did not graduate from a school approved by the Council on Medical Education and Hospitals of the American Medical Association, or the American Physical Therapy Association. Can she be licensed as a physical therapist assistant in the State of Alaska, according to 08.84.030 and 08.84.060?

2. If, in your opinion, she does not qualify for licensure, please draft an amendment to 08.84.030 or 08.84.060 that would allow such a person to qualify in Alaska, based on parity or quality of credentials.

# SENATE COMMITTEE REPORT

REFERRAL ADDED--FROM RULES TO HESS

DATE: 4/8/94

FURTHER:

DATE TURNED INTO OFFICE: 4/12/94

HESS Committee considered SENATE BILL NO. 195

"An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board; and providing for an effective date."

and recommends:

- replace with \_\_\_\_\_ CS SB195 (HES)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts \_\_\_\_\_ Letter of Intent
- further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
Commerce + Econ Dev	4/12/94	✓	

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
<del>Commerce + Econ Dev</del>	<del>4/12/94</del>	<del>✓</del>	

Appropriation No Fiscal Note

**DO PASS:**

\_\_\_\_\_  
 Mike Miller  
 \_\_\_\_\_  
 J. Eilers  
 \_\_\_\_\_  
 Stephen S. Salo  
 \_\_\_\_\_  
 Karen A. Hume  
 \_\_\_\_\_  
 Bob May

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Chair: Alan R. De Pass  
 Signature and Recommendation

8-LS1023NE  
Lauterbach  
4/7/94

CS FOR SENATE BILL NO. 195( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS LEMAN, Ellis

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the licensure of physical therapists and physical therapy  
2 assistants."

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

4 \* Section 1. AS 08.84.030(a) is amended to read:

5 (a) To be eligible for licensure by the board as a physical therapist or physical  
6 therapy assistant, an applicant, unless a graduate of a foreign school of physical  
7 therapy located outside the United States, shall

8 (1) have graduated from a school of physical therapy approved by the  
9 Council on Medical Education and Hospitals of the American Medical Association [,]  
10 or the American Physical Therapy Association or have completed, to the satisfaction  
11 of the board, a resident course of study and professional instruction equivalent  
12 to that provided by a school approved by the Council on Medical Education and  
13 Hospitals of the American Medical Association or the American Physical Therapy  
14 Association;

1  
2  
3  
4  
5  
6

(2) pass to the satisfaction of the board an examination prepared by a national testing service approved by the board to determine the applicant's fitness for practice as a physical therapist or physical therapy assistant, or be entitled to licensure without examination as provided in AS 08.84.060;

(3) meet qualifications for licensure established in regulations adopted by the board under AS 08.84.010(b).

**SB**

**201**

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Mail Stop 3101

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

### MEMORANDUM

March 2, 1994

**SUBJECT:** Sectional Summary of SB 201

**TO:** Senator Tim Kelly

**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

#### Section 1. Findings.

Section 2. Technical amendment regarding health maintenance organizations.

Section 3. Technical amendment regarding hospital and medical service corporations.

#### Section 4.

Sec. 21.89.100. Requires that an insured who has coverage under two or more insurance plans that provide for coordination of benefits, that the coverage from those plans must be coordinated so that the insured receives the maximum allowable benefit from each plan. Specifies certain provisions that must be included in an insurance plan that provides for coordination of benefits.

Sec. 21.89.110. Requires that certain insurers maintain and use a profile of health care fees used to determine the payment of claims. Requires disclosure of the methods used to determine the amount paid on a claim. Requires disclosure of the methodology used in determining a usual, customary and reasonable fee.

Section 5. Applicability section.

Section 6. Effective date.

MFF:gc  
94-164.glc

Problem Statement/Proposed Solution

LET THE CONSUMER MAKE INFORMED DECISIONS BEFORE THEY BUY HEALTH CARE COVERAGE

PROBLEM: CONSUMERS CANNOT MAKE INFORMED DECISIONS WHEN COMPARING AND PURCHASING HEALTH CARE COVERAGE. MANY PROPOSALS FOR (AND POLICIES OF) INSURANCE TELL YOU THE INSURER WILL PAY X% OF THE USUAL, CUSTOMARY AND REASONABLE FEE FOR A HEALTH CARE SERVICE - THE QUESTION IS: USUAL, CUSTOMARY AND REASONABLE AS COMPARED TO WHAT? CONSUMERS CAN UNDERSTAND THIS ISSUE AND THEY CAN MAKE INFORMED BUYING DECISIONS - BUT ONLY IF THEY ARE GIVEN THE GROUND RULES UP FRONT.

RESOLVE: THE PROPOSED LEGISLATION WOULD ALLOW ANY CONSUMER TO OBJECTIVELY MEASURE THE DIFFERENCE IN U.C.R. REIMBURSEMENT LEVELS BETWEEN COMPETING INSURERS/PROPOSALS AT THE PURCHASE LEVEL - BEFORE THE CLAIM. SOME PEOPLE WILL OPT FOR SMALLER REIMBURSEMENT LEVELS AND CORRESPONDINGLY LOWER PREMIUMS; OTHERS WILL OPT FOR HIGHER REIMBURSEMENT LEVELS. THE PROPOSED LEGISLATION WILL REQUIRE INSURERS TO STATE IN PROPOSALS FOR AND POLICIES OF INSURANCE (A) THE FREQUENCY WITH WHICH THE INSURER DETERMINES THE USUAL, CUSTOMARY, AND REASONABLE FEE; (B) A GENERAL DESCRIPTION OF THE METHODOLOGY USED TO DETERMINE THE USUAL, CUSTOMARY, AND REASONABLE FEE; (C) THE PERCENTILE OF USUAL, CUSTOMARY, AND REASONABLE FEES AT WHICH THE INSURER WILL REIMBURSE THE INSURED, OR THE CONTRACT HEALTH CARE PROVIDER. THE PROPOSED LEGISLATION DOES NOT ASK INSURERS TO CHANGE WHAT THEY ALREADY DO - JUST TO DECLARE IT UP FRONT.

CONTROL CLAIMS COST/SPEED CLAIM PAYMENT WITH COMMON RULES FOR DETERMINING USUAL, CUSTOMARY AND REASONABLE FEES

PROBLEM: ALASKA HAS A MULTITUDE OF INSURANCE COMPANIES, MANY OF WHOM CALCULATE USUAL, CUSTOMARY AND REASONABLE IN A DIFFERENT FASHION. WHEN MULTIPLIED BY HUNDREDS OF THOUSANDS OF ALASKAN HEALTH CARE CLAIMS REQUIRING MULTIPLE INTERACTIONS BETWEEN INSURER, INSURED AND HEALTH CARE PROVIDER TO RESOLVE DIFFERENCES, LACK OF COMMON RULES INCREASES THE "TRANSACTION COST" OF PAYING CLAIMS; THE INSURER HAS AN INCREASE IN OVERHEAD AND PERSONNEL TO RESOLVE THE DISPUTES, CAUSING HIGHER PREMIUMS; THE HEALTH CARE PROVIDER MUST HIRE ADDITIONAL STAFF TO INTERFACE WITH BOTH INSURER AND PATIENT, INCREASING THE COST OF CARE. CONTROLLING TRANSACTION COST IS A KEY ELEMENT IN CONTROLLING SPIRALING HEALTH CARE COSTS.

RESOLVE: COMMON GROUND RULES, WITH BROAD PARAMETERS, THE PROPOSED LEGISLATION WOULD REQUIRE ONLY THOSE INSURANCE COMPANIES PAYING CLAIMS ON A U.C.R. BASIS TO USE THE HEALTH CARE PROVIDER FEES FROM THE GEOGRAPHICAL AREA IN WHICH SERVICE IS DELIVERED; IF THERE ARE NOT A SUFFICIENT NUMBER OF PROVIDERS IN A GIVEN AREA TO DETERMINE A U.C.R. FEE, THE INSURER MAY OBTAIN FEES FROM ANOTHER GEOGRAPHIC AREA, BUT THEM MUST USE THE MEDICAL COST COMPONENT OF THE CONSUMER PRICE INDEX (OR OTHER REASONABLE BASIS STATED IN WRITING AND APPROVED BY THE DIRECTOR OF INSURANCE) TO ADJUST THE U.C.R. PAYMENT TO THE LOCAL ZIP CODE.

CONTROL TRANSACTION COST/SPEED CLAIM PAYMENT WITH COMMON RULES FOR COORDINATING BENEFITS AMONG MULTIPLE INSURERS

COORDINATION (OR REDUCTION) OF BENEFITS ONLY OCCURS WHEN A PRIMARY AND SECONDARY INSURANCE COMPANY INSURE THE SAME PERSON. THE PURPOSE OF COORDINATING (REDUCING) BENEFITS IS TO MAKE SURE THE INSURED OR PATIENT IS NOT UNJUSTLY ENRICHED BY RECEIVING MORE THAN 100% REIMBURSEMENT OF THEIR COST. THE OBJECTIVE IS (OR OUGHT TO BE) TO MAKE SURE THAT THE INSURED/PATIENT RECEIVES AS CLOSE TO 100% REIMBURSEMENT AS POSSIBLE.

PROBLEM: ALASKA HAS A MULTITUDE OF INSURANCE COMPANIES, MANY OF WHOM COORDINATE BENEFITS IN A DIFFERENT FASHION. THIS CAUSES UNREASONABLE DELAYS IN PAYMENT OF CLAIMS, AND GREATLY ADDS TO THE ADMINISTRATIVE/CLAIM TRANSACTION COST, INCREASING INSURANCE PREMIUMS AND INCREASING HEALTH CARE PROVIDER FEES, AND CAUSING PATIENTS TO BE REIMBURSED FOR LESS THAN 100% OF THE HEALTH CARE CLAIM, EVEN THOUGH THEY HAVE PAID A PREMIUM TO BOTH INSURERS FOR THE COVERAGE.

RESOLVE: AGREE UPON A SET OF COMMON GROUND RULES FOR DETERMINING - IN A VARIETY OF CIRCUMSTANCES - WHICH INSURER IS PRIMARY AND WHICH INSURER IS SECONDARY. THIS WILL ALLOW FOR QUICK AND EASY PAYMENT OF CLAIMS AND SHOULD HELP CONTROL SPIRALING INSURANCE PREMIUMS AND PROVIDER FEES.

PUBLICLY STATING THE RULES IN PROPOSAL FOR AND POLICIES OF INSURANCE

IT'S COMMON SENSE THAT INSURERS PROVIDE THE CONSUMER THESE RULES IN PROPOSALS FOR, POLICIES OF, EVIDENCES OF, CERTIFICATES OF INSURANCE, EMPLOYEE BENEFIT BOOKLETS, ETC.

BACKGROUND/CROSS REFERENCES

SIMILAR LEGISLATION WAS INTRODUCED IN SB414 BY SENATOR HOFFMAN, BY REQUEST, 03/04/92. RULES FOR U.C.R. FEE DETERMINATION AND COORDINATION OF BENEFITS ALREADY EXIST IN ALASKA REGULATION. U.C.R. RULES ARE FOUND 3 AAC 26.110 AND .300(11); SEE ALSO BULLETIN NO. 87-6. ILLINOIS WAS THE PIONEER STATE WITH REGARD TO U.C.R. LEGISLATION, ADOPTING SIMILAR LEGISLATION IN 1991; LOUISIANA ENACTED A LAW EXACTLY LIKE THE ILLINOIS LEGISLATION IN 1992; OKLAHOMA ENACTED A SIMILAR LAW IN 1992. C.O.B. RULES ARE FOUND IN BULLETIN NO. 85-3. THE COORDINATION OF BENEFITS RULES GENERALLY FOLLOW THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS MODEL REGULATIONS; MIKE FORD DRAFTED SECTION (B) OF THE PROPOSED C.O.B. LEGISLATION, BASED UPON THE NAIC MODEL.

5

USUAL, CUSTOMARY AND REASONABLE FEE DETERMINATION

DETERMINATION AND DISCLOSURE OF USUAL, CUSTOMARY, AND REASONABLE FEES. An insurer who pays a claim under a disability policy on the basis of a usual, customary, or reasonable fee shall

- (1) maintain and use a statistically credible profile of fees of health care providers in this state on which to base payment of the claim; the profile must
  - (A) be updated at least once every six months and may not contain fees for services performed more than one year before the date of the most recent profile;
  - (B) contain fees for the geographic area in which a claimant might receive treatment; and
  - (C) shall not include any fees clearly marked "DO NOT PROFILE";

if statistically credible data for a particular health care service in a certain geographic area does not exist, the insurer may include in the profile a sufficient number of fees for that service from another geographic area in order to establish a reliable data base;

however, the final basis for payment must be adjusted to reflect the general cost difference between the geographic area where the service was performed and the other geographic area used in establishing the statistically credible profile; the adjustment may be based upon the Consumer Price Index, the medical care component of the Consumer Price Index, or a reasonable basis stated in writing and determined acceptable by the director;

- (2) respond to the inquirer within 15 working days after receiving a written request from an insured, a health care provider with a valid assignment of payments, or a health care provider engaged to provide services under a professional services contract, with a full written disclosure of the methods employed under (1) of this section that resulted in the difference between the amount paid on a claim for benefits and the actual charges submitted; and
- (3) disclose in a proposal for insurance, a policy of insurance, a certificate of insurance, an employee benefit description or supplemental document, or a professional service contract between an insurer and a health care provider
  - (A) the frequency with which the insurer determines the usual, customary, and reasonable fee;
  - (B) a general description of the methodology used to determine the usual, customary, and reasonable fee;
  - (C) the percentile of usual, customary, and reasonable fees at which the insurer will reimburse the insured, or the contract health care provider.

COORDINATION OF BENEFITS

REQUIRED PROVISIONS REGARDING COORDINATION OF BENEFITS. When an insured has coverage under two or more plans that provide for coordination of benefits, the coverage from those plans must be coordinated so that the patient receives the maximum allowable benefit from each plan. The aggregate benefit should be more than that offered by any of the plans individually, but not such that the insured receives more than the total charges for the health care services received.

A plan that provides for coordination of benefits must contain a provision that-

- (1) discloses that coordination of benefits applies when the insured has health care coverage under more than one plan;
- (2) states what benefits from the plan and other sources are recognized under the coordinating provision and that indicates if one or more plan benefits are exempt from the coordinating provision;
- (3) states what health care expenses are allowable and what expenses are excluded under the coordinating provision;
- (4) states the period to be used in applying the coordinating benefits provision; a claim period may not be less than 12 months, but may exclude a period before coverage starts or after coverage ends;
- (5) indicates the manner in which benefits are reduced by coordination; a reduction in benefits is subject to the following order of benefit provisions;
  - (A) plan benefits applicable to an insured as an employee, member, or subscriber, and also as a dependent, are first determined as benefits applicable to the insured as employee, member, or subscriber;
  - (B) if a minor is eligible for benefits as a dependent of more than one insured, the plan of the insured whose date of birth falls earlier in the year is applied first, unless a different order of application is required by a court;
  - (C) benefits not determined under this paragraph that are applicable under more than one plan, are determined under that plan applicable to the insured for the longer period of time;
  - (D) when one of the plans is a medical plan and the other is a dental plan, and a determination cannot be made in accordance with provisions (A)-(C), the medical plan shall be considered as primary.
  - (E) if under the provisions of (A)-(D) of this paragraph the plan is secondary to another source of benefits, the benefits of the plan may not be reduced unless the sum of benefits payable for allowable expenses and the benefits payable for allowable expenses under the other source exceed the allowable expenses in a claim determination period;
- (6) provides that the insurer has the right to receive and to release information necessary to expedite a claim payment when coordinating benefits;
- (7) allows the insurer to make a payment necessary to repay another insurer for a payment that should have been made under the policy applicable to the insured; and
- (8) gives the insurer the right to recover excess payments from the insured paid or another insurer providing benefits to the insured.

COORDINATION OF BENEFITS

In coordinating benefits from a plan which contractually reduces the fees for services which participating health care providers accept as payment in full, the following rules shall apply:

- (1) when the reduced-fee plan is primary and treatment is provided by a participating health care provider, the reduced fee is that health care provider's full fee. The secondary plan shall pay the lesser of: its allowed benefit or the difference between the primary plan's benefit and the reduced fee;
- (2) when the reduced-fee plan is primary and treatment is provided by a non-participating health care provider, the reduced fee plan shall provide its allowed amount for non-participating health care providers and the secondary plan should pay the lesser of: its allowed benefit for the service or the difference between the primary plan's benefits and the health care provider's full fee.
- (3) when a full-fee plan is primary and a reduced-fee plan is secondary, the full-fee plan should provide its allowed amount for the service and the secondary plan should pay the lesser of: its allowed benefit for the service or the difference between the primary plan's benefits and the health care provider's full fee.

In coordinating benefits between an indemnity and a capitation plan, the following rules shall apply:

- (1) when the capitation plan is primary, the capitation payments to the treating health care provider remain the capitation plan's usual benefits; the indemnity plan shall pay benefits for the patient's surcharges or copayments up to the indemnity plan's allowable benefit.
- (2) when the indemnity plan is primary, and treatment is received from a capitation-participating health care provider, the indemnity plan shall pay its allowable benefits; the capitation payments to the health care provider are the secondary coverage since they constitute benefits up to the capitation plan allowable amount.
- (3) when the indemnity plan or policy is primary, and treatment is received from a non-capitation-participating health care provider, the indemnity plan shall pay its allowable benefits; the capitation plan will pay benefits, in keeping with the capitation plan's allowed amount for treatment by non-participating health care providers.
- (4) no plan should contractually direct a health care provider to charge a secondary carrier for more than the amount which would be charged to the patient absent secondary coverage.

A certificate indicating coverage must contain a summary of the provisions in this section regarding coordination of benefits.

Legislative Intent

The legitimate interests of Alaska's citizens are best served by use of precise, accurate, standardized and publicly announced methodologies for determining payment of the usual, customary and reasonable fees for health care services and coordinating benefits among multiple insurers.

The Insurance Code - Title 21 - Alaska Statutes  
Affected Types Of Health Insurance Policies

Type of Policy	Ins Code Title 21 Chapter #	U.C.R. Provision Applies	C.O.B. Provision Applies
Individual Indemnity Policies (Issued To Individuals)	51	Yes	No
Group/Blanket Indemnity Policies (Employer/Association Sponsored)	54	Yes	Yes
Health Maintenance Corporation (Employer/Association Sponsored)	86	Yes	Yes
Hospital And Medical Service Corp (Blue Cross/Delta Dental/Others)	87	Yes	Yes

The Usual, Customary And Reasonable Proposal Requires An Insurer To

1. Maintain and use a statistically credible profile of fees of health care providers in this state.
2. Respond to inquires within 15 working days with a full written disclosure of the methods the insurer employed which resulted in the difference between the amount paid on a claim for benefits and the actual charges submitted; and
3. Disclose in proposal for, a policy of, a certificate of insurance, or a professional service contract between an insurer and a health care provider the frequency with which the insurer determines the usual, customary, and reasonable fee; a general description of the methodology used to determine the usual, customary, and reasonable fee; the percentile of usual, customary, and reasonable fees at which the insurer will reimburse the insured, or the contract health care provider.

The Coordination Of Benefits Proposal Requires An Insurer To

1. Disclose when the coordination of benefits applies; states what benefits are recognized under the coordinating provision; states what health care expenses are allowable and what expenses are excluded under the coordinating provision; states the period to be used in applying the coordinating benefits provision; indicates the manner in which benefits are reduced by coordination.
2. Provides that the insurer has the right to receive and to release information necessary to expedite a claim payment when coordinating benefits; allows the insurer to make a payment necessary to repay another insurer for a payment that should have been made under the policy applicable to the insured; and gives the insurer the right to recover excess payments from the insured paid or another insurer providing benefits to the insured.
3. Establishes rules to determine primacy and coordinate benefits between traditional indemnity plans (this is what most health care policies are), a plan which contractually reduces the fees such a Preferred Provider Organization, a capitation plan such as a Health Maintenance Corporation.

**SB**

**217**

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

DATE: 5/11/93

FURTHER: RESOURCES  
FINANCE

Date of 5-Day Notice: 1/20/94  
(in accordance with Uniform Rule 23)

DATE TURNED  
INTO OFFICE: 2/3/94

HES Committee considered SB 217

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

and recommends:

replace with \_\_\_\_\_ CS SB 217 (HES)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Natural Resources	1/25/94		1,051.1

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

Scott Simpson  
Loren A. Lehman  
Mike Miller

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Steve King Do Pass  
Chair: Signature and Recommendation

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

### MEMORANDUM

January 29, 1994

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

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

**FROM:** Jack Chenoweth  
Legislative Counsel



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

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

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

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

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

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

Senator Steve Frank  
January 31, 1994  
Page 2

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

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

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

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

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

Is there anything omitted?

JBC:gc  
94-067.glc

Enclosure

8-LS0468J  
Chenoweth  
1/31/94

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

BY

Offered:  
Referred:

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (a) The Board of Regents shall

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

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

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

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

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

28 (B) land

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (3) is not subject to a possessory interest or encumbrance other than

15 (A) a lease other than an oil or gas lease;

16 (B) a timber contract;

17 (C) a mining claim;

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

19 (E) a land use permit or right-of-way issued by the Department

20 of Natural Resources under AS 38.05;

21 (4) is not necessary to carry out the purpose of an interagency land  
22 management agreement; or

23 (5) is not subject to conveyance under a land exchange or land  
24 settlement agreement.

25 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and  
26 management of land from the Department of Natural Resources to the Board of  
27 Regents of the University of Alaska under this section includes the interest of the state  
28 in the oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and  
29 fossils which may be in or on the land.

30 (c) When the University of Alaska selects the land to which it is entitled under  
31 this section, unless the commissioner of natural resources determines under (d) of this

1 section that title to the land should not be conveyed, the commissioner of natural  
2 resources shall convey title to the land selected.

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

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

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

11 (B) the commissioner reasonably believes may be selected by  
12 a municipality under AS 29.65.030, but the commissioner may not withhold  
13 under this subparagraph the conveyance of title to land selected by the  
14 university for more than three years after the date of the municipality's  
15 incorporation;

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

19 (A) the interest of the general public in retention of the land in  
20 state ownership;

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

23 (C) the public benefits achieved by conveyance of the land to  
24 the university;

25 (D) the probable potential for the development of the land and  
26 its resources and the probable income to the university from the conveyance of  
27 the land;

28 (E) benefits to the university from the conveyance of the land  
29 to it; and

30 (F) the efficiency of the management of the land resulting from  
31 the conveyance of the land.

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

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

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

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

14 (1) is subject to

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

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

18 (C) AS 19.10.010; and

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

21 (2) excludes any interest transferred to the state by quit claim deed  
22 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.  
23 141.

24 (i) The university shall bear all costs of selection and survey of the land that  
25 it selects for conveyance under this section and, subject to approval by law, shall  
26 reimburse the Department of Natural Resources for the reasonable costs of expenses  
27 incurred by that department relating to selection of land and its conveyances, not to  
28 exceed \$1,000,000.

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

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

1 the proposed selection

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

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

7 (B) the commissioner reasonably believes the land may be  
8 selected by a municipality under AS 29.65.030, but the commissioner may not  
9 withhold under this subparagraph the conveyance of title to land selected by the  
10 university longer than three years after the date of the municipality's  
11 incorporation;

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

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

19 (A) the interest of the general public in retention of the land in  
20 state ownership;

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

23 (C) the public benefits achieved by conveyance of the land to  
24 the university;

25 (D) the probable potential for the development of the land and  
26 its resources and the probable income to the university from the conveyance of  
27 the land;

28 (E) benefits to the university from the conveyance of the land  
29 to it; and

30 (F) the efficiency of the management of the land resulting from  
31 the conveyance of the land.

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

2           Sec. 14.40.368. DISPOSITION OF INCOME FROM EXISTING  
3 ENCUMBRANCES. The state is entitled to receive the income from land selected by  
4 and conveyed to the University of Alaska under AS 14.40.365 that is subject to a  
5 lease, contract, claim, sale, permit, or right-of-way identified in AS 14.40.365(a)(3) for  
6 the duration of the term of the lease, contract, claim, sale, permit, or right-of-way, and  
7 during any renewal of it that is authorized by the lease, contract, claim, sale, permit,  
8 or right-of-way, or by law. The equitable title to the land selected vests with the  
9 University of Alaska only upon conclusion of the term of the lease, contract, claim,  
10 sale, permit, or right-of-way, and any renewal authorized by law.

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

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

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

19           (e) Subject to legislative appropriation, the [THE] Department of  
20 Administration shall disburse the net income from the trust fund upon vouchers  
21 approved by the president and treasurer of the University of Alaska specifying the  
22 purpose for which the money is to be used and showing it is to be used in conformity  
23 with this section.

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

25           Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In AS 14.40.120  
26 - 14.40.491, "university receipts" includes  
27           (1) student fees, including tuition;  
28           (2) receipts from university auxiliary services;  
29           (3) recovery of indirect costs of university activities;  
30           (4) the net income of the trust fund established in AS 14.40.400 and  
31 receipts from sales and rentals of university property;

- 1 (5) federal receipts;  
2 (5) gifts, grants, and contracts; and  
3 (7) receipts from sales, rentals, and the provision of services of  
4 educational activities.

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

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

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

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

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

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

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

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

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

31 (5) money on deposit;

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

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

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

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

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

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

19 (2) is land that the commissioner of natural resources reasonably believes  
20 should be designated for conveyance or conveyed to the Alaska Mental Health Trust Authority  
21 under sec. 55, ch. 66, SLA 1991, as compensation to that trust for original mental health trust  
22 land not available for return to the corpus of the trust; or

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

29 \* Sec. 12. LEGISLATIVE INTENT. It is the intent of the legislature that, if sec. 11 of  
30 this Act takes effect after the effective date of secs. 1 - 4 and 6 - 10 of this Act, the  
31 commissioner of natural resources reject, as inconsistent with the best interests of the state,

1 selections of land by the University of Alaska under AS 14.40.365, added by sec. 4 of this  
2 Act, of land described in sec. 11 of this Act.

3 \* Sec. 13. Section 5 of this Act takes effect on the effective date of a version of House Bill  
4 199 or Senate Bill 150 of the Eighteenth Alaska Legislature authorizing oil and gas  
5 exploration licensing on state land.

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

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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FAX (907) 465-2029  
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130 Seward Street, Suite 409  
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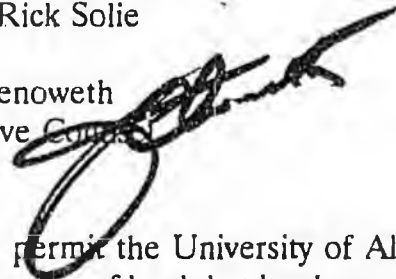
### MEMORANDUM

January 21, 1994

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

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

**FROM:** Jack Chenoweth  
Legislative Council



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

Specifically--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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January 21, 1994  
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Bill section 6: This amendment of AS 29.45.030(a) would extend to the land selected by the University and conveyed to it under AS 14.40.365 the exemption from municipal taxation that is provided to other land granted by the federal or state governments to the University for land grant purposes, by extending to this selected land the exception to an exemption of state land held for purposes of investment.

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

JBC:mi  
94-009.mai

# Alaska State Legislature

Legislative Research Agency



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

Phone: (907) 465-3991  
Fax: (907) 463-3351

December 7, 1992

## MEMORANDUM

TO: Senator Steve Frank

FROM: Christine M. Cheff *CWC*  
Legislative Analyst

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

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

Under the Morrill Act of 1862, each state was entitled to receive a grant for public lands, the income from which would provide the financial base of operation for at least one college or university (Attachment A).<sup>1</sup> The purpose of the act was to "promote the liberal and practical education of the industrial classes in the several pursuits and professions in life." We found many sources of historical information concerning the Morrill Act itself, but were unable to find any comprehensive information about the individual state grants.<sup>2</sup> The Bureau of Land Management (BLM) did provide some approximate figures on the amount of land received by each state (Attachment B).<sup>3</sup> Because the results of the initial research were unsatisfactory, we consulted with your staff and agreed to conduct

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

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

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

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December 7, 1992  
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separate state surveys concerning the following geographically representative land grant schools: Colorado State University, Cornell University (New York), the University of Kentucky, Michigan State University, the University of Nevada, South Carolina State College, Washington State University and the University of Wyoming.

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

### The Morrill Act of 1862

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

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

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

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

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

### State Survey Results

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

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

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

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

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

<sup>7</sup>Alaska, Arizona, Hawaii and Oklahoma.

Senator Frank  
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applied and a large amount of timber land was selected. Because of conservative management practices, Michigan still had 50,000 unsold acres as late as 1927.<sup>8</sup>

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

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

Attachments

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

<sup>9</sup>*The Wisconsin Pine Lands of Cornell University*, 242 - 243.

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

## Section III

## Federal Laws and Rulings

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

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

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

## Act of July 2, 1862 (First Morrill Act)

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

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

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

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

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

*Sec. 4 (as amended April 13, 1926, 44 Stat. 1, 217). That all moneys derived from the sale of lands aforesaid by the States to which lands are apportioned and from the sales of land scrip heretofore provided for shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: Provided, That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 5 of this act), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.*

*Sec. 5. And be it further enacted, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, no*

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

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

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

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

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

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

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

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

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

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

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

## Act of 1866 Amending First Morrill Act

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

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

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

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

## Digest of Rulings and Opinions on Act of July 2, 1862

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

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

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

*Division of fund.*—"A State may by appropriate legislation divide the original 1862 land-grant fund into two parts and provide that the interest of each part shall be available to a particular college and vest in such college, as an agency of the State, the duty of investing its particular part of the funds in bonds of the United States or of the State or some other safe bonds, the determination of the safety of which is to rest with the college."—*Ruling of Secretary of the Interior, September 15, 1935.*

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

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

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

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

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

*Default of act of 1862.*—The act of 1890 (26 Stat. 417) with the amendment of 1907 (34 Stat. 1251) is supplementary to the act of 1862; therefore any default of the provisions of the act of 1862 renders the State liable for non-certification for the annual installments of the funds appropriated by the acts of 1890 and 1907.—*Ruling of Secretary of the Interior, May 23, 1916.*

## Act of August 30, 1890 (Second Morrill Act)

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

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

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

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

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

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

<sup>2</sup>Treasurers of the respective colleges, not State treasurers. (Huller Oct. 10, 1917.)

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

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

Approved, August 30, 1890. (20 Stat. 417.)

### Nelson Amendment of March 4, 1907

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

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

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

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

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

Approved, March 4, 1907. (31 Stat. L. 1281.)

ATTACHMENT B  
United States Public Land Grants  
Agricultural Colleges

UNITED STATES PUBLIC LAND GRANTS  
AGRICULTURAL COLLEGES\*

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

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

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

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

## DIVISION OF LEGAL SERVICES

### LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450

FAX (907) 465-2029

Mail Stop 3101

130 Seward Street, Suite 409

Juneau, Alaska 99801-2105

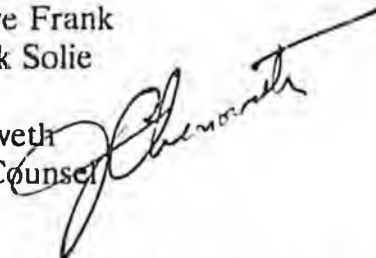
#### MEMORANDUM

September 25, 1992

**SUBJECT:** Federal Acts cited in SB 476

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

**FROM:** Jack Chenoweth  
Legislative Counsel



Per your request, enclosed are copies of each of the following, all of which are cited in SB 476 (17th Legislature):

-- the Act of August 30, 1890, relating to the use of public lands for the support of colleges for the benefit of agriculture;

-- the Act of March 4, 1915, reserving land in the Territory of Alaska for educational purposes; and

-- the Act of January 21, 1929, making an additional grant of land for the Agricultural College and School of Mines in the Territory of Alaska.

The Senate Bill also cites an "Act of March 4, 1906." I drew this reference from existing AS 14.40.380. There is no such federal Act. Instead, I did find reference to an "Act of March 4, 1907"--in fact, there are a slew of Acts of that date. After quickly reviewing them all, I conclude that the reference should be to the one designated "Chap. 2907" and particularly to that portion that mentions "agricultural experiment stations in Alaska," as highlighted.

As you can readily see, the 1915 and 1929 Acts are the critical ones.

JBC:gc  
92-485.glc

Enclosures

infectious or contagious diseases, he may, by proclamation, suspend the importation of all or any class of animals for a limited time, and may change, modify, revoke, or renew such proclamation, as the public good may require; and during the time of such suspension the importation of any such animals shall be unlawful.

SEC. 10. That the Secretary of Agriculture shall cause careful inspection to be made by a suitable officer of all imported animals described in this act, to ascertain whether such animals are infected with contagious diseases or have been exposed to infection so as to be dangerous to other animals, which shall then either be placed in quarantine or dealt with according to the regulations of the Secretary of Agriculture; and all food, litter, manure, clothing, utensils, and other appliances that have been so related to such animals on board ship as to be judged liable to convey infection shall be dealt with according to the regulations of the Secretary of Agriculture; and the Secretary of Agriculture may cause inspection to be made of all animals described in this act intended for exportation, and provide for the disinfection of all vessels engaged in the transportation thereof, and of all barges or other vessels used in the conveyance of such animals intended for export to the ocean steamer or other vessels, and of all attendants and their clothing, and of all head-ropes and other appliances used in such exportation, by such orders and regulations as he may prescribe; and if, upon such inspection, any such animals shall be adjudged, under the regulations of the Secretary of Agriculture, to be infected or to have been exposed to infection so as to be dangerous to other animals, they shall not be allowed to be placed upon any vessel for exportation; the expense of all the inspection and disinfection provided for in this section to be borne by the owners of the vessels on which such animals are exported.

Approved, August 30, 1890

Modifications, etc.  
 Importation, etc., unlawful.  
 Inspection of all imported animals, etc., to be made.  
 Disposal of animals etc., by regulations of Secretary of Agriculture.  
 Inspection of animals intended for export.  
 Disinfection of vessels, etc.  
 Infected or exposed animals not allowed to embark.  
 Cost of inspection and disinfection.

CHAP. 840.—An act to establish a fog-signal at or near the Cuckolds Island, at the entrance to Boothbay Harbor, otherwise known as Townsend Harbor, Maine.

August 30, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to establish a fog-signal at or near Cuckolds Island, at the entrance of Boothbay Harbor, otherwise known as Townsend Harbor, Maine, at a cost not exceeding twenty-five thousand dollars, including the cost of the site.

Cuckolds Island, Boothbay (Townsend) Harbor, Me.  
 Establishing fog-signal at.  
 Cost.

Approved, August 30, 1890.

CHAP. 841.—An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two.

August 30, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, arising from the sales of public lands, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now established, or which may be hereafter established, in accordance with an act of Congress approved July second, eighteen hundred and sixty-two,

Public lands proceeds.  
 Agricultural, etc., colleges.  
 Increased annual appropriations to States and Territories for more complete endowment, etc., of.

Vol. 12, pp. 503-505.

Appropriation for year ending June 30, 1890.

Increasing annual appropriation for ten years.

Annual appropriation thereafter.

Expenditure limited.

*Provisos.*

No distinction of race, etc., in any one college.  
Separate colleges for white and colored students.

Division of funds in certain cases.  
Vol. 12, pp. 503-505.

Legislative proposition and report of equitable, etc., division.

Compliance with law.

Time, manner, etc., of annual payments to State or Territorial treasurer, etc.

Payments to treasurers of colleges or other institutions.  
Annual financial reports to Secretaries of Agriculture and the Interior.

Money grants subject to legislative assent.

*Proviso.*

Certain installments due to be paid on assent of Governor, etc.

Diminution of fund to be made up by State, etc.

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

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

SEC. 3. That if any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied,

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

Limitation upon subsequent payments.

No portion to be applied to buildings.

Annual report of colleges to Secretaries of Agriculture and the Interior.

Exchanges of college reports, mail free.

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

Annual ascertainment and certification of amounts, etc., due to States, etc.

Withheld certificates.

Secretary of Interior to report facts to President, etc.

Appeal from Secretary of Interior to Congress.

Congress failing, amount to be covered in.

Secretary of Interior to administer the law.

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

Annual report to Congress as to disbursement, withholding, etc.

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

Amendment, etc.

Approved, August 30, 1890.

CHAP. 854.—An act granting the use of certain lands to the town of New Haven, Connecticut, for a public park.

September 1, 1890.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That there is hereby granted to the town of New Haven, in the State of Connecticut, the right to occupy, improve, and control, for the purposes of a public park, for the use and benefit of citizens of the United States and for no other purposes whatever, the tract of land owned by the United States which is situated on the east shore of New Haven Harbor, containing thirty acres, more or less, known as the Fort Hale tract, and partly occupied by an abandoned earth-work of that name, said tract being bounded northerly by the north side of the roadway leading to said tract, easterly by lands owned by various private parties, and southerly and westerly by New Haven Harbor, upon the following conditions and provisions:

New Haven, Conn. Grant of Fort Hale tract for public park, to town of.

Limitation of use, etc.

Description of tract.

Boundaries.

Conditions of grant.

Secretary of War to approve plans.

First. That before beginning any use or improvement of said land the said town shall present to the Secretary of War detailed plans of such improvement and shall have received his approval thereof.



dollars for postage, and also including not to exceed ten thousand dollars for all necessary expenses incident to moving into the new buildings of the Department, and for the partial equipment of the same, forty-seven thousand dollars.

OFFICE OF EXPERIMENT STATIONS.

Experiment Stations Office.  
Salaries.

SALARIES, OFFICE OF EXPERIMENT STATIONS: One Director, one thousand five hundred dollars; one chief clerk, one thousand dollars; one clerk and proof reader, one thousand six hundred dollars; four clerks, class two, five thousand six hundred dollars; four clerks, class one, four thousand eight hundred dollars; three clerks, at one thousand dollars each, three thousand dollars; three clerks, at nine hundred dollars each, one thousand eight hundred dollars; four clerks, at eight hundred and forty dollars each, three thousand five hundred and sixty dollars; one clerk or messenger, one thousand and twenty dollars; one messenger, six hundred dollars; one messenger or laborer, four hundred and eighty dollars; one messenger, four hundred and eighty dollars each, nine hundred and sixty dollars; one copyist or laborer, seven hundred and twenty dollars; three laborers or charwomen, at four hundred and eighty dollars each, one thousand four hundred and forty dollars; in all, thirty-one thousand and twenty dollars.

Agricultural experiment stations.  
Vol. 21, p. 410.

AGRICULTURAL EXPERIMENT STATIONS: To carry into effect the provisions of an Act approved March second, eighteen hundred and eighty-seven, entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an Act approved July second, eighteen hundred and sixty-two, and of the Acts supplementary thereto, and to enforce the execution thereof, eight hundred and twenty thousand dollars, thirty thousand dollars of which sum shall be paid upon the order of the Secretary of Agriculture, to enable him to carry out the provisions of section three of said Act of March second, eighteen hundred and eighty-seven, and the Secretary of Agriculture to prescribe the form of the annual financial statement required by section three of said Act of March second, eighteen hundred and eighty-seven, shall ascertain whether the expenditures under the appropriation hereby made are in accordance with the provisions of said Act, and make report thereon to Congress, and to carry out the provisions of section two, four, and five of an Act approved March sixteenth, nineteen hundred and six, entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," and the Secretary of Agriculture is hereby authorized to rent offices and to employ such assistants, clerks, and other persons as he may deem necessary, in the city of Washington and elsewhere, and to incur such other expenses for office fixtures and supplies, stationery, traveling, freight, and express charges, illustration of the Experiment Station Record, bulletins, and reports as he may find essential in carrying out the objects of the above Act, and the sums apportioned to the several States shall be paid quarterly in advance. And the Secretary of Agriculture is hereby authorized to furnish to such institutions or individuals as may care to buy them copies of the card index of agricultural literature prepared by the Office of Experiment Stations, and charge for the same a price covering the additional expense involved in the preparation of these copies; and he is hereby authorized to apply the moneys received toward the expense of the preparation of the index, and this fund shall be available until used; and the Secretary of Agriculture is hereby authorized to expend seventy-two thousand

Vol. 12, p. 503.

Bulletins.  
Vol. 21, p. 411.

Statements, etc.

Expenditures.

Act, p. 64.

Payment to states.  
Card Index.

Stations in Alaska, Hawaii and Porto Rico.

dollars, of which sum to be used in the erection of buildings, the preparation, and distribution of reports, more than twenty-four thousand dollars for the maintenance of such stations. The Secretary of Agriculture is authorized to obtain on the land belonging in Alaska, Hawaii, and Porto Rico from the sale of such products, this fund shall be available to the amount of seven thousand dollars; the sum shall be used by the Secretary of Agriculture upon the organization of agricultural schools in the several States and Territories, and similar organizations in foreign countries, and for the preparation of plans and methods for making the dissemination of the results of the Agriculture and the agricultural methods of agricultural experiment stations in Alaska. His discretion of the Secretary of Agriculture to the Government, be granted in any one year, which cases where such an employment of the Secretary of Agriculture in any one year.

Nutrition Investigations: To incur such expenses as may be necessary to and storing in Washington the property of the Nutrition Investigations, five thousand dollars.

IRRIGATION AND DRAINAGE: To authorize the Secretary of Agriculture to investigate and report on the conditions of Agriculture and Territories as affecting irrigation and of riparian proprietors upon the use of irrigation, and upon suggestions of the best methods in agriculture, and upon plans for water by drainage and upon appliances for irrigation and upon illustration of reports, including employment elsewhere; and all necessary expenses, five thousand dollars.

Total for Office of Experiment Stations, two thousand and two hundred and twenty dollars.

OFFICE

SALARIES, OFFICE OF PLANT INDUSTRY: One scientist and have charge of the office, one thousand seven hundred and fifty dollars; one clerk, one thousand six hundred dollars; two clerks, one thousand dollars; three clerks, at one thousand dollars each, three thousand dollars; two clerks, at seven hundred and forty dollars each, one thousand four hundred and eighty dollars; in all, five thousand and ninety dollars.

dollars, of which sum to establish and maintain agricultural experiment stations in Alaska, Hawaii, and Porto Rico, including the erection of buildings, the printing (in Hawaii and Porto Rico), illustration, and distribution of reports and bulletins; *Provided*, That not more than twenty-four thousand dollars shall be expended for the maintenance of such stations in any one of said Territories; and the Secretary of Agriculture is authorized to sell such products as are obtained on the land belonging to the agricultural experiment stations in Alaska, Hawaii, and Porto Rico and to apply the money received from the sale of such products to the maintenance of said stations, and this fund shall be available until used; in all, eight hundred and twenty-seven thousand dollars; *Provided*, That five thousand dollars of this sum shall be used by the Secretary of Agriculture to investigate and report upon the organization and progress of farmers' institutes and agricultural schools in the several States and Territories, and upon similar organizations in foreign countries, with special suggestions of plans and methods for making such organizations more effective for the dissemination of the results of the work of the Department of Agriculture and the agricultural experiment stations and of improved methods of agricultural practice. And the employees of the experiment stations in Alaska, Hawaii, and Porto Rico may hereafter, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leave of absence not to exceed fifteen days in any one year, which leave may, in exceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agriculture, not to exceed fifteen days additional in any one year.

**Nutrition Investigations:** To enable the Secretary of Agriculture to incur such expenses as may be necessary for the packing, transporting to and storing in Washington, District of Columbia, of all apparatus now the property of the Government and used in the nutrition investigations, five thousand dollars, or so much thereof as may be necessary.

**IRRIGATION AND DRAINAGE INVESTIGATIONS:** To enable the Secretary of Agriculture to investigate and report upon the laws of the States and Territories as affecting irrigation and the rights of appropriators and of riparian proprietors and institutions relating to irrigation and upon the use of irrigation waters, at home and abroad, with especial suggestions of the best methods for the utilization of irrigation waters in agriculture, and upon plans for the removal of seepage and surplus waters by drainage and upon the use of different kinds of power and appliances for irrigation and drainage, and for the preparation, printing, and illustration of reports and bulletins on irrigation and drainage, including employment of labor in the city of Washington or elsewhere; and all necessary expenses, one hundred and fifty thousand dollars.

Total for Office of Experiment Stations, one million and thirteen thousand two hundred and twenty dollars.

**OFFICE OF PUBLIC ROADS.**

**SALARIES, OFFICE OF PUBLIC ROADS:** One Director, who shall be a scientist and have charge of all scientific and technical work, two thousand seven hundred and fifty dollars; one chief of records, one thousand six hundred dollars; one editorial clerk, one thousand two hundred dollars; two clerks, class one, two thousand four hundred dollars; three clerks, at one thousand dollars each, three thousand dollars; two clerks, at seven hundred and twenty dollars each, one thousand four hundred and forty dollars; in all, twelve thousand three hundred and ninety dollars.

*Provision  
limit, etc.*

Report on farmers' institutes.

Leaves of absence.

Nutrition investigation.  
Storage, etc., of apparatus.

Irrigation and drainage investigations.

Reports.

Public Roads Office.

Salaries.

southwest quarter, in section thirty-six, four hundred and thirty-seven and seventy-one one-hundredths acres.

In township thirty-four south, range two east, Salt Lake meridian: The northeast quarter of the southeast quarter, the northwest quarter of the southeast quarter, the southeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, the northwest quarter of the southwest quarter, the southeast quarter of the southwest quarter, the southwest quarter of the southwest quarter, in section sixteen, three hundred and twenty acres.

In township thirty-four south, range three east, Salt Lake meridian: The northeast quarter of the northeast quarter, the northwest quarter of the northeast quarter, the southeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, the northwest quarter of the southwest quarter, the southeast quarter of the southwest quarter, and the southwest quarter of the southwest quarter, in section sixteen, three hundred and twenty acres.

Together with forty-three and fifty-one one-hundredths acres of loss due to fractional condition of township three north, range fifteen east, Salt Lake meridian.

In township twenty-three south, range four west, Salt Lake meridian: The west half and southwest quarter of the northeast quarter of section thirty-six, three hundred and sixty acres;

In township twenty-three south, range four west: The southeast quarter section thirty-six, one hundred and sixty acres;

In township twenty-three south, range four and one-half west: Section two, six hundred and forty acres; the west half of the southeast quarter and the southeast quarter of the southeast quarter section sixteen, one hundred and twenty acres; section thirty-six, six hundred and forty acres;

In township twenty-four south, range four and one-half west: Northwest quarter of northeast quarter and southeast quarter of northeast quarter section two, eighty acres;

In township twenty-three south, range five west: West half of northwest quarter and south half of southeast quarter section thirty-six, one hundred and sixty acres; together with thirty-six and nine one-hundredths acres of loss due to fractional condition of township five north, range four west, Salt Lake meridian; a total of forty-one hundred and ninety-eight and thirty-one one-hundredths acres, more or less.

*Provided*, That said patent shall not issue until the State of Utah shall have filed an unconditional relinquishment of all the lands covered by Utah segregation list numbered two, as well as a proper release of any interest or claim which the State of Utah may have or assert in or to the lands offered in exchange for those herein proposed to be patented.

Approved, March 4, 1915.

*Proviso.*  
Subject to relinquishment of lands from State.

March 4, 1915.  
[S. 7313.]  
[Public, No. 330.]

Alaska.  
Public lands reserved for common schools when surveyed.

For agricultural college and school of mines.

**CHAP. 181.**—An Act To reserve lands to the Territory of Alaska for educational uses, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when the public lands of the Territory of Alaska are surveyed, under direction of the Government of the United States, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved from sale or settlement for the support of common schools in the Territory of Alaska; and section thirty-three in each township in the Tanana Valley between parallels sixty-four and

sixty-five north and the one hundred and one (meridian of Greenwich) from sale or settlement college and school Alaska upon the That where set made upon any thereof in the wise appropriate or are wanting nated and reserved Act of Congress ninety-one (Two one): *Provided*, vide for leasing person, associate any one time: any part thereof acceptance of be effective or the United States section thirty-three in before described proceeds or in appropriated a Territorial expended only of Alaska or of tively, in such

SEC. 2. That south of the Fairbanks numbered one one west of the ship numbered bered two west thirty-six, in the and range number same are hereby condition that site for an agricultural nothing in the claim of any homestead or prior to the the said land as an agricultural such purpose of the United

Approved,

**CHAP. 182.**  
tion projects of

*Be it enacted States of An made homes hundred and*

sixty-five north latitude and between the one hundred and forty-fifth and the one hundred and fifty-second degrees of west longitude (meridian of Greenwich) shall be, and the same is hereby, reserved from sale or settlement for the support of a Territorial agricultural college and school of mines when established by the Legislature of Alaska upon the tract granted in section two of this Act: *Provided*, That where settlement with a view to homestead entry has been made upon any part of the sections reserved hereby before the survey thereof in the field, or where the same may have been sold or otherwise appropriated by or under the authority of any Act of Congress, or are wanting or fractional in quantity, other lands may be designated and reserved in lieu thereof in the manner provided by the Act of Congress of February twenty-eighth, eighteen hundred and ninety-one (Twenty-sixth Statutes, page seven hundred and ninety-one): *Provided further*, That the Territory may, by general law, provide for leasing said land in area not to exceed one section to any one person, association, or corporation for not longer than ten years at any one time: *And provided further*, That if any of said sections, or any part thereof, shall be of known mineral character at the date of acceptance of survey thereof, the reservation herein made shall not be effective or applicable, but the entire proceeds or income derived by the United States from such sections sixteen and thirty-six and such section thirty-three in each township in the Tanana Valley area hereinbefore described, and the minerals therein, together with the entire proceeds or income derived from said reserved lands, are hereby appropriated and set apart as separate and permanent funds in the Territorial treasury, to be invested and the income from which shall be expended only for the exclusive use and benefit of the public schools of Alaska or of the agricultural college and school of mines, respectively, in such manner as the Legislature of Alaska may by law direct.

Sec. 2. That section numbered six, in township numbered one south of the Fairbanks base line and range numbered one west of the Fairbanks meridian; section numbered thirty-one, in township numbered one north of the Fairbanks base line and range numbered one west of the Fairbanks meridian; section numbered one, in township numbered one south of the Fairbanks base line and range numbered two west of the Fairbanks meridian; and section numbered thirty-six, in township numbered one north of the Fairbanks base line and range numbered two west of the Fairbanks meridian, be, and the same are hereby, granted to the Territory of Alaska, but with the express condition that they shall be forever reserved and dedicated to use as a site for an agricultural college and school of mines: *Provided*, That nothing in this Act shall be held to interfere with or destroy any legal claim of any person or corporation to any part of said lands under the homestead or other law for the disposal of the public lands acquired prior to the approval of this Act: *Provided further*, That so much of the said land as is now used by the Government of the United States as an agricultural experiment station may continue to be used for such purpose until abandoned for that use by an order of the President of the United States or by Act of Congress.

Approved, March 4, 1915.

CHAP. 182.—An Act For the relief of homestead entrymen under the reclamation projects of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has made homestead entry under the Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes at Large, page three hun-

*Proviso.*  
Lieu selections allowed.

Vol. 36, p. 791.

Leases by Territory permitted.

Mineral lands.  
Use of proceeds for benefit of schools.

Agricultural college and school of mines.  
Sections reserved for site of.

*Proviso.*  
Prior legal claims.

Government agricultural experiment station continued.

March 4, 1915.  
[H. R. 19061.]

[Public, No. 331.]

Reclamation Act.  
Relinquishment of homestead entries under, if land not irrigable.  
Vol. 32, p. 358.

**CHAP. 87.**—An Act To provide for the acquisition by Parker I-See-O Post Numbered 12, All American Indian Legion, Lawton, Oklahoma, of the east half northeast quarter northeast quarter northwest quarter of section 20, township 2 north, range 11 west, Indian meridian, in Comanche County, Oklahoma.

January 19, 1929.  
[H. R. 13711.]  
[Public, No. 677.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to cause a patent to issue to Edward Clark, Charles Apekaum, Calvin Atchavit, Frank Methvin, and William Tracypokendooah as trustees of Parker I-See-O Post Numbered 12, of the All American Indian Legion, Lawton, Oklahoma, and to their successors, for the east half northeast quarter northeast quarter northwest quarter of section 20, township 2 north, range 11 west of the Indian meridian, situate in Comanche County, Oklahoma: *Provided, however,* That said patent shall be issued upon the express condition that Parker I-See-O Post Numbered 12, All American Indian Legion, Lawton, Oklahoma, shall erect a post building upon said tract within five years after the approval of this Act: *Provided further,* That whenever said tract shall no longer be used as the site for a post building for said Parker I-See-O Post that title shall revert to the United States.

Public lands  
Granted for post  
building to Parker  
I-See-O Post, All Amer-  
ican Indian Legion,  
Lawton, Okla.

*Proviso.*  
Building must be  
built in five years.

Forfeiture for non-  
user.

Approved, January 19, 1929.

**CHAP. 91.**—An Act Providing for a grant of land to the county of San Juan, in the State of Washington, for recreational and public-park purposes.

January 21, 1929.  
[H. R. 12775.]  
[Public, No. 678.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the title and fee to lot 2 of section 2 in township 35 north, range 2 west, Willamette meridian, in San Juan County, in the State of Washington, being situated within an abandoned military reservation on Lopez Island in said county, said lot containing twenty-two acres, be, and the same is hereby, granted, on the payment to the United States of \$1.25 per acre subject to the condition and reversion hereinafter provided for, to the said county for recreational and public-park purposes in addition to and enlargement of the park granted to said county of San Juan, State of Washington, by the Act of Congress of April 17, 1926: *Provided,* That if said lands shall not be used for the purposes hereinabove mentioned, the same or such part thereof not used shall revert to the United States: *Provided further,* That said land shall be subject to the right of way for county roads granted to the county authorities of San Juan County, State of Washington, by the Act of Congress of February 21, 1925 (Forty-third Statutes, page 957): *Provided further,* That there shall be reserved to the United States all gas, oil, coal, or other mineral deposits found at any time in the said lands and the right to prospect for, mine, and remove the same.

Lopez Island, Wash.  
Land on, granted to  
San Juan County, for  
park purposes.

Payment required.

Additional to former  
grant.  
Vol. 44, p. 298.

*Proviso.*  
Reversion for non-  
user.  
Subject to county  
roads right of way.  
Vol. 43, p. 957.

Mineral deposits re-  
served.

Approved, January 21, 1929.

**CHAP. 92.**—An Act Making an additional grant of lands for the support and maintenance of the Agricultural College and School of Mines of the Territory of Alaska, and for other purposes.

January 21, 1929.  
[H. R. 10157.]  
[Public, No. 679.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in addition to the provision made by the Act of Congress approved March 4, 1915 (Thirty-eighth Statutes at Large, page 1214), for the use and benefit of the Agricultural College and School of Mines, there is hereby granted to the Territory of Alaska, for the exclusive use and benefit of the Agricultural College and School of Mines, one hundred thousand acres of vacant nonmineral surveyed unreserved public

Alaska.  
Agricultural College  
and School of Mines.

Additional public  
lands granted to.  
Vol. 34, p. 1214.

lands in the Territory of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the Territory, and subject to the following conditions and limitations:

Territory to have exclusive control.

SEC. 2. That the college and school provided for in this Act shall forever remain under the exclusive control of the said Territory, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any sectarian or denominational college or school.

Lands, and proceeds thereof to be held in trust and disposed of only as herein provided.

SEC. 3. That it is hereby declared that all lands hereby granted to said Territory are hereby expressly transferred and confirmed to the said Territory and shall be by the said Territory held in trust, to be disposed of, in whole or in part, only in the manner herein provided and for the objects specified in the granting provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same. Disposition of any of said lands or of any money or thing of value directly or indirectly derived therefrom for any object other than that for which such particular lands or the lands from which such money or thing of value shall have been derived or granted or in any manner contrary to the provisions of this Act shall be deemed a breach of trust.

Any other disposition a breach of trust.

Mortgages, etc., not valid.

SEC. 4. That no mortgage or other encumbrance of said lands shall be valid in favor of any person for any purpose or under any circumstances whatsoever. Said lands shall not be sold nor leased, in whole or in part, except to the highest bidder at public auction, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with full description of the lands to be offered, published once each week for not less than ten successive weeks in a newspaper of general circulation published regularly at the capital and in a newspaper of like circulation which shall then be regularly published nearest to the location of the lands so offered; nor shall any sale or contract for the sale of any timber or other natural product of such lands be made, save at the place, in the manner, and after the notice thus provided for sales and leases of the lands themselves: *Provided*, That nothing herein contained shall prevent said Territory from leasing any of said lands referred to in this section for a term of five years or less without such advertisement herein required.

Sales or leases, except to highest bidder after specified publication, forbidden.

Sales of timber, etc., subject to same provisions.

*Proviso.* Leases on terms for five years, without advertisement, allowed.

Appraisal at true value, and no disposal at less than as so ascertained.

SEC. 5. That all lands, leasehold, timber, and other products of the land before being offered shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained, nor, in case of the sale of the land, less than a minimum price of \$5 per acre; nor upon credit unless accompanied by ample security, and the legal title shall not be deemed to have passed until the consideration shall have been paid.

Minimum price for the land.

Fund established and proceeds to be deposited in Territorial treasury.

SEC. 6. That a fund shall be established in the Territorial treasury to carry out the purposes of this Act, and whenever any money shall be in any manner derived from any of the land granted same shall be deposited in the Territorial treasury in the fund. The Territorial treasurer shall keep all such money invested in safe interest-bearing securities, which securities shall be approved by the governor and the secretary of state of the Territory, and shall at all times be under a good and sufficient bond or bonds conditioned for the faithful performance of his duties in regard thereto, as defined by this Act and the laws of the Territory not in conflict herewith. The income from said fund may and shall be used exclusively for the purposes of such Agricultural College and School of Mines: *Provided*, That no portion of said income shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

Investment in interest-bearing securities.

Bond required.

Income exclusively for the college.

*Proviso.* Application thereof for salaries, etc., forbidden.

SEC. 7. That concerning any of the thereof of the in conformity with. It shall be the duty to prosecute in the proceedings at the necessary and appropriate application and thereof and the. Approved, Jan

CHAP. 96.—At Lawrence and Rain a bridge across the

*Be it enacted* United States of Congress is Lawrence, State bridge and app suitable to the Arkansas, in an Act to regulate approved March 2. The expressly reset Approved, J

CHAP. 97.—At Lawrence and Rain a bridge across the

*Be it enacted* United States of Congress is dolph, State bridge and app suitable to the in accordance regulate the on March 23, 1909. Sec. 2. The expressly reset Approved,

CHAP. 98.—the construction Louisiana.

*Be it enacted* United States commencing the Mississippi to be built by its successor 20, 1925, on February 2. Sec. 2. The expressly reset Approved

SEC. 7. That every sale, lease, conveyance, or contract of or concerning any of the lands hereby granted or confirmed or the use thereof of the natural products thereof, not made in substantial conformity with the provisions of this Act, shall be null and void. It shall be the duty of the Attorney General of the United States to prosecute in the name of the United States and in its courts such proceedings at law or in equity as may from time to time be necessary and appropriate to enforce the provisions hereof relative to the application and disposition of the said lands and the products thereof and the funds derived therefrom.

Sales, etc., not in conformity herewith null and void.

Attorney General to enforce in Federal courts necessary proceedings relative to application of lands, etc.

Approved, January 21, 1929.

CHAP. 96.—An Act Granting the consent of Congress to the counties of Lawrence and Randolph, State of Arkansas, to construct, maintain, and operate a bridge across the Spring River at or near the town of Black Rock, Arkansas.

January 23, 1929.  
[S. 4976.]  
[Public, No. 680.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the consent of Congress is hereby granted to the counties of Randolph and Lawrence, State of Arkansas, to construct, maintain, and operate a bridge and approaches thereto across the Spring River, at a point suitable to the interests of navigation, at or near Black Rock, Arkansas, in accordance with the provisions of an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Spring River, Randolph and Lawrence Counties, Ark., may bridge, at Black Rock.

Construction.  
Vol. 24, p. 61.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, January 25, 1929.

CHAP. 97.—An Act Granting the consent of Congress to the Counties of Lawrence and Randolph, State of Arkansas, to construct, maintain, and operate a bridge across the Spring River at or near Imboden, Arkansas.

January 25, 1929.  
[S. 4977.]  
[Public, No. 681.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the consent of Congress is hereby granted to the counties of Lawrence and Randolph, State of Arkansas, to construct, maintain, and operate a bridge and approaches thereto across the Spring River, at a point suitable to the interests of navigation, at or near Imboden, Arkansas, in accordance with the provisions of an Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Spring River, Lawrence and Randolph Counties, Ark., may bridge, at Imboden.

Construction.  
Vol. 24, p. 54.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, January 25, 1929.

CHAP. 98.—An Act To extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Baton Rouge, Louisiana.

January 25, 1929.  
[S. 5038.]  
[Public, No. 682.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the times for commencing and completing the construction of the bridge across the Mississippi River at or near Baton Rouge, Louisiana, authorized to be built by the Baton Rouge-Mississippi River Bridge Company, its successors and assigns, by the Act of Congress approved February 20, 1923, are hereby extended one and three years, respectively, from February 20, 1929.

Mississippi River, Time extended for bridging, at Baton Rouge, La.

Act, p. 130.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, January 25, 1929.

# **A Land Grant College Without the Land:**

**A History of the University of Alaska's  
Federal Land Grant**



**A Report to the University of Alaska  
Statewide Office of Land Management**

**by Terrence M. Cole, Ph.D.**

**Chair, Department of History  
University of Alaska Fairbanks**

**November 1993**

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## I. EXECUTIVE SUMMARY

The University of Alaska is a land-grant college without the land. In 1915, Congress reserved for Alaska's land-grant institution potentially more than a quarter-of-a-million acres in the Tanana Valley, proceeds from the sale and development of which would help finance the operation of the school. Under the terms of the measure, written by Delegate James Wickersham, the college was to receive every surveyed and unclaimed Section 33 in an area of about 14,000 square miles between Fairbanks in the north and the foothills of the Alaska Range in the south, in addition to the main campus of about 2,250 acres four miles from Fairbanks.

However, this large Tanana Valley land-grant never materialized. For decades, almost all of the land in the Tanana Valley (like the rest of Alaska) remained unsurveyed and therefore unavailable. As late as the 1950s, only 0.6 percent of Alaska had been properly surveyed under the standard rectangular system, and a territorial report concluded that at the speed Alaska was being surveyed, it could take as long as 43,510 years to complete the job. (Chipperfield 1954: 4) Due primarily to this incredibly slow pace of federal land surveys, Alaska's landgrant institution received only a fraction of the land Congress reserved for it in 1915; in addition to its 2,250 acre campus, the University of Alaska received less than 9,000 acres out of a reservation created for it totalling approximately 268,800 acres.

To partially remedy the situation, Congress granted an additional 100,000 acres to Alaska's land-grant college in 1929, but even with this additional grant, the total was less than half of the original acreage authorized in 1915.

Further efforts to increase the size of Alaska's higher education federal land-grant were made from the 1930s through the 1950s. Several bills were submitted to Congress that would have reserved up to 10 million acres for Alaska's land-grant college, but strong opposition, primarily from the Department of Interior, doomed the effort.

With the passage of the Alaska statehood bill in 1958, the university's legal rights to further land under the 1915 reservation were extinguished. The statehood act repealed the 1915 reservation because Congress apparently believed the enormous statehood entitlement of more than 103 million acres—far larger than that of any other state in American history—would provide sufficient resources so that the 49th state could adequately support its university. Alaska Delegate E.L. "Bob" Bartlett agreed with the majority of Congress that by not targeting specific amounts of land for specific purposes, such as had traditionally been done for the support of higher education elsewhere, the new state would have greater flexibility and more control of its own affairs.

Bartlett claimed in 1958 that in exchange for giving up the "in-place" grants—such as the Tanana Valley Section 33 reservation—the state of Alaska had received not only a far greater percentage of the public domain than other western states, but also greater freedom to choose land wherever it wished "without any reference at all to the traditional section-by-section formula." This freedom, as Bartlett predicted, helped the state immeasurably, for instance, when the state selected land at Prudhoe Bay, which turned out to be the richest oil field in North American history. But the cost of this greater freedom in land choice was a vastly smaller educational land grant for Alaska.

Traditionally, the size of land grants were most often determined by a state's population not by its area. Nevertheless, some of the last western states were given generous grants despite their sparse populations. For instance, Oklahoma and New Mexico each received about one million acres to support higher education. But, Alaskan higher education never shared in this federal bounty. Alaska received less land specifically dedicated for the support of higher education than any other western public land state, and less educational land or script than all but one of the contiguous states. Among the 48 states which had received federal land or land scrip to establish land-grant colleges, mining schools, teachers' colleges, and state

universities, only Delaware received fewer acres than Alaska. Thus, after statehood, Alaska in 1959 was in an anomalous position. While the state had received more land and a greater percentage of land from the federal government than any other western state, it ranked next to the bottom of the list in the amount of federal land it had received for higher education.

Since the statehood act had invalidated the university's 1915 Tanana Valley reservation, many Alaskans supported efforts to specifically designate a portion of the 103 million acre statehood entitlement for the support of the University of Alaska. In the spring of 1959, the first state legislature passed a measure authorizing the state to reserve to the UA one million acres "for the purpose of replacing grants of certain Sections 33 in the Tanana Valley previously allowed under federal law and now superseded" by the statehood act.

To the dismay of the University of Alaska and its supporters, Governor William A. Egan vetoed the one million acre university on the grounds that it would complicate the enormous task of the Division of Lands in selecting the statehood entitlement, and would furthermore violate the Alaska constitution's prohibition against dedicated funds. University of Alaska President Ernest Patty, shocked at Egan's veto, believed that the governor did not understand the century-long tradition of American land-grant colleges. President Patty did not share Egan's view that increasing the size of the university's land grant would violate the state constitution.

William R. Wood, Patty's successor as UA President, remembers that both state and federal officials agreed that the university had been short-changed in the statehood act, but that state officials believed additional lands should come from authorities in Washington, D.C., while federal officials told the university to look to Juneau for redress. Governor Egan's steadfast opposition to granting or reserving state land to the university essentially killed any chance of addressing the issue on the state level until Walter J. Hickel became governor in 1966. But shortly after Hickel's election, he was greeted by Secretary of Interior Stewart Udall's land freeze halting all transfers of federal lands until the issue of Alaska Native land claims could be settled.

Over the next 15 years, controversies regarding Alaska land matters continued to boil, as the public domain in Alaska was carved up for the first time. In 1971, Congress passed the Alaska Native Claims Settlement Act, reserving 44 million acres for Alaska Natives and opening the way for the construction of the Trans-Alaska Pipeline. The pipeline marked the start of a national conservation battle in the 1970s over the future of Alaska's lands, which culminated in 1980 with the passage of the Alaska National Interest Lands Conservation Act, a measure which added 104 million acres to the state's conservation systems.

Now, with many of the major Alaska land issues of the 1970s and 1980s settled, supporters of the University of Alaska have encouraged the state to re-examine the question of the university's land grant and consider granting the school additional lands in order for it to "achieve parity" with higher educational systems in other states.

This report is a brief historical review of the land-grant issue as it pertains to the University of Alaska, a land-grant college without the land.

## II. ACRES FOR EDUCATION: THE TRADITION OF FEDERAL LAND GRANTS

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The U.S. government helped finance America's educational system, from kindergarten to college, not with money, but with land. The practice of trading acres for education is one of the oldest traditions in American history, even pre-dating the United States Constitution. Dedicating land from the public domain to finance schools in the various states and territories was born of necessity, since the national government had a shortage of dollars and a surplus of acres. According to a 1939 Department of Interior tabulation, the total educational land grants to Alaska and the 48 states amounted to more than 200 million acres, an area bigger than the state of Texas.

The Ordinance of 1785 established the rectangular survey of New England as the basis on which all land west of the Ohio would be subdivided; land was surveyed into townships composed of 36 sections of 640 acres or one square mile each. The 1785 law also established the principle of federal land endowments for education by reserving Section 16 of every township "for the maintenance of public schools, within said township." (Taylor 1969: 131) After the admission of Ohio in 1803, Section 16 of every township in every new territory or state was typically reserved for schools; any Section 16 which had somehow been preempted was replaced by another section "in lieu thereof." (Hibbard 1939: 310) Over the 19th century, as the need for the expansion of education grew, so did the size of the federal land endowment for schools. With the admission of Oregon in 1859, the usual common school section grant doubled from one section to two (Sections 16 and 36). Utah, New Mexico, and Arizona, three of the last four states admitted before Alaska, each received four sections for school lands (Sections 2, 16, 32 and 36).

Common school grants were by far the largest in terms of acreage; however, higher education also received varying amounts of land. Different states received federal land grants for seminaries, teachers' colleges, mining schools, military schools and universities totaling millions of acres. Most notable among the land grants for higher education were the land-grant agricultural colleges created by the Morrill Act of 1862.

#### MORRILL ACT OF 1862

The Morrill Act, which has been called "perhaps the most important single act for education ever passed by Congress," revolutionized higher education in America. (Taylor 1969: 111) Previously attending a college or university had been the privilege of an elite upper class, but supplied with government land grants totalling more than 11 million acres, the nation created new kinds of colleges in every state and territory that would stress the teaching of "agriculture and the mechanic arts" to the "industrial classes." Thanks to the creation of the system of land-grant colleges and universities, which eventually spread to all 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands, the doors of higher education swung open for the first time to millions of working class men and women. "Democracy's College" is the apt title of the classic history of the land-grant college movement.

#### INEQUITIES OF THE LAND GRANTS

Despite the laudable goals of the Morrill Act, serious problems with the legislation emerged. The acreage of each state's land grant was based on population as measured by the size of its congressional delegation; for each senator and representative a state sent to Congress, it received 30,000 acres. Therefore, the law favored the heavily populated, industrialized eastern states over the more sparsely settled and primarily agricultural western states. For instance, Rhode Island, the smallest state in the union, received 120,000 acres in scrip, a larger land grant than that of either Oregon, Nebraska, Kansas, Nevada, or Colorado, all of which received the minimum of 90,000 acres. Similarly, Connecticut (180,000 acres) received more than California (150,000 acres), and New Jersey (210,000 acres) more than Montana (140,000 acres).

Besides the glaring inequities between eastern and western states, except in a few instances, the land grants never created the financial endowments for the agricultural colleges which Congress had intended. As one historian has noted, the disposal record of the various states' agricultural college land grants "is clouded by scandal, fraud, and poor management. Many states realized less than one dollar an acre for their land, and some were even swindled out of the proceeds of the sales altogether." (Madsen 1976: 34) The poorest performance was that of Brown University in Rhode Island, which received only 42 cents an acre for its land.

One of the few states to earn a significant income from its land grant was New York, which received the largest grant of nearly one million acres (in scrip). Ezra Cornell, founder of New York's land-grant college, Cornell University, invested the scrip in 500,000 acres of the pinelands of northern Wisconsin to amass a nest egg of

### III. ALASKA' EDUCATIONAL LAND GRANTS

#### TANANA VALLEY AGRICULTURAL COLLEGE RESERVE

#### ABSENCE OF SURVEYS NEGATE 1915 GRANT

\$5 million for the school. Historian Paul Wallace Gates noted in his 1943 study of Cornell's land grant that the university's investment in Wisconsin was "one of the largest and ultimately most successful land speculations in American history." (Gates 1943: 49) But Cornell University was the exception. "None of the states received, through the Agricultural-College Act, sufficient funds to place their agricultural colleges on a sound financial basis at the outset," Gates wrote, "and with the exception of New York, no state east of the Mississippi River ever obtained from land or scrip what might be regarded as an adequate endowment." (Gates 1943: 245)

The man who ensured that the federal government would provide land for the support of schools and colleges in Alaska, as it did elsewhere, was Alaska Delegate James Wickersham. In 1915, Wickersham pushed a measure through Congress which reserved lands for both a common school system throughout the Territory and an agricultural land-grant college in the Tanana Valley near his hometown of Fairbanks.

Wickersham's 1915 school lands' bill appeared to be the first giant step in the disposition of the public domain in Alaska, reserving potentially about 20 million acres for education in the Territory. Despite earmarking this large reservation of federal land specifically for education, however, federal officials did little to ensure that schools and colleges in Alaska would actually receive any of the land which had been reserved for them. The high cost and slow speed of Alaskan development, due in part to bureaucratic inertia and the lack of federal land surveys, invalidated the generous terms of the 1915 act, so that Alaska ultimately received only a tiny fraction of the approximately 20 million acres of land Congress reserved for education in the Territory in 1915.

Delegate Wickersham's 1915 school lands' bill followed the precedents in other states and territories by reserving specific sections of federal land for the purposes of education. His legislation reserved every surveyed Section 16 and 36 throughout the territory for the support of the "common schools" of Alaska. This total reservation—of potentially more than 20 million acres—was the largest public school grant (on paper at least) in American history.

Besides the enormous common school grant, Wickersham's bill also set aside potentially more than a quarter-of-a-million acres in the Tanana Valley for the support of an agricultural college and school of mines. Four sections around the Fairbanks Agricultural Experiment Station outside of Fairbanks were designated as the campus, while every Section 33 in the Tanana Valley between 64 and 65 degrees north (approximately from the foothills of the Alaska Range to Fairbanks) and 145 and 152 degrees west (from near modern-day Delta Junction in the east to the mouth of the Tanana River in the west) were reserved to provide an endowment for the support of the college. Wickersham's bill also followed the established procedure set in other states and territories by promising the territory "in lieu of" lands, if any of the reserved sections would be preempted before survey by homesteaders or otherwise disposed of by Congress.

In 1917, the Alaska Territorial Legislature formally incorporated the Alaska Agricultural College and School of Mines (renamed the University of Alaska in 1935) as Alaska's land-grant institution. However, the land which Congress had reserved in 1915 to provide an endowment for the school was never transferred from federal ownership due to the same problem that effectively negated nearly every Congressional land measure in Alaska: the absence of surveys.

At the time Wickersham introduced his measure in 1915 to reserve lands for a land-grant college, no one in Congress was even certain about how much Tanana Valley revenue land they were actually reserving for the agricultural college. For instance, before the bill's passage, the report from the Committee on Public Lands stated that the agricultural college reserve in the Tanana Valley was "a very small one" of 134,400

acres, "which is a smaller number of acres than is usually given an agricultural college or school of mines." (U.S. House 1915: 5) Wickersham himself said on the floor of the House that the Alaska Agricultural College would receive only a total of 80 sections (51,200 acres). Another congressman claimed the reserve would be about 180,000 acres, while another claimed "it would be even more than that." (Congressional Record, 24 February 1915: 4544-4545) Still later the Dept. of Interior estimated that the Section 33 grant totaled 336,000 acres. (U.S. Dept. of Interior, 1939: 3)

Confusion stemmed mostly from the fact that virtually none of the land under consideration had yet been surveyed, so no one could have known exactly how many sections were potentially included in the reserve. (According to calculations made years later by University of Alaska administrators, the total Section 33 land reserved for Alaska's land-grant college under the 1915 measure comprised 420 sections or 268,800 acres. (Patty to Egan, 8 February 1960, Pres. Papers, 60/61, Box 14, File 204)

The lack of surveys not only caused confusion about the size of the Alaska Agricultural College's reservation, it also effectively cancelled the value of the reservation itself. The land set aside in 1915 was clearly predicated on surveys; obviously, the specific sections reserved for education could not be reserved until after they had been delineated. The first line in the 1915 law stated in part that the educational lands could be reserved only "when the public lands of the Territory of Alaska are surveyed, under direction of the Government of the United States..." Considering the pace at which the federal government was completing the rectangular survey of Alaska, the college could have literally waited until the next ice age, or longer, to receive all of its land. In 1915, the General Land Office had hardly even begun the task of surveying the Territory. Even four decades later, in 1952, only about 0.6 percent of Alaska's estimated area of 375 million acres had been surveyed. One politician predicted in the early 1950s that at the going rate of land surveys, it would take between 12,000 and 17,000 years to finish the job, while a less optimistic report from the Territorial Division of Lands estimated it might take as long 43,510 years! (U.S. House, Statehood For Alaska, 1957: 321; Chipperfield 1954: 4) Not until after statehood in the 1960s did the U.S. government finally begin to survey sizeable portions of the public domain in Alaska. (Ducker 1992)

Without surveys, the 1915 congressional school land reservations in Alaska for both public schools and the land-grant college remained empty promises. Out of the estimated 20 million acres that the 1915 grant reserved for the public schools of Alaska, the Territory of Alaska ultimately received only about 106,000 acres, or 0.5 percent of the original reservation. (Chipperfield 1954: 2; Stein 1987: 7)

The land-grant college's expected Tanana Valley land grant never materialized either. In 1958, the university reported that only 19 Section 33s—out of a possible total of 420 Section 33s in the Tanana Valley—had been surveyed. "At present rate of survey," the university's land manager reported in 1958, "one might expect completion of survey in from 200 to 1,000 years." (Land Manager Report, 20 May 1958, Pres. Papers, 1958/59, Box 6, File 88) According to figures from the State Division of Lands, out of the 1915 reservation, Alaska's land-grant institution ultimately received only 11,211 acres, of which about 2,250 acres were the campus site reserved for educational purposes, leaving only 8,961 acres for revenue purposes. Thus, the University of Alaska was granted less than 3.3 percent of the 268,800 acre Tanana Valley reservation Congress created for its financial support in 1915. (Stein 1987: 167)

#### LACK OF LAND INCOME

The lack of land was clearly seen in the university's balance sheet. During the University of Alaska's first three decades, from 1917 to 1946, the total revenue to its permanent fund from land sales, rentals, and leases was only \$227.50. During that time, the university's land income never amounted to more than \$30 a year. Other years were even worse. From 1926-1928, Alaska's alleged land-grant college earned only 75 cents from its land grant. Nearly every third year, until the late 1940s, the UA

earned absolutely no income from its land whatsoever. (UA Permanent Fund Statement, 1917-1971, Pres Papers, 1971/72, Box "Higher Ed...", File, Land—July-Dec)

#### 1929 LAND GRANT

Congress recognized the inadequacies of the 1915 Tanana Valley agricultural college reservation when it passed a measure 14 years later to grant an additional 100,000 acres for the "exclusive use and benefit" of the Alaska Agricultural College and School of Mines. Under the 1915 act, the educational lands were merely reserved, with title vested in the Federal government, but the 1929 act was an outright grant of 100,000 acres to the Territory for the support of the college.

The 1929 law required the granted land to be surveyed before selection. However, unlike the 1915 in-place reservation which specified particular sections, the 1929 legislation was an actual quantity grant; under its provisions, the Territory of Alaska could select 100,000 acres of "vacant, nonmineral, surveyed, unreserved public lands" anywhere in Alaska for the financial support of the college. (U.S. Senate 1929)

The 1929 quantity grant became the major land grant of the University of Alaska. By the 1960s, virtually all 100,000 acres had been selected and patented, forming the bulk of UA's total land-grant trust of approximately 111,000 acres.

#### 10 MILLION ACRES MORE

Charles E. Bunnell, the first president of the University of Alaska, and Delegate Anthony J. Dimond never ceased their efforts to increase the size of the UA's land grant and reserve. During the seven years from 1936 to 1943, Dimond introduced at least five nearly identical bills in the 74th, 75th, 76th, 77th and 78th Congresses, to extend the 1915 Section 33 reservation in the Tanana Valley to the entire territory. Dimond's legislation proposed amending the 1915 act, stating:

*...Section 33 in each township in said Territory shall be, and the same is hereby, reserved from sale or settlement for the support of the University of Alaska...*

Reserving each Section 33 throughout the entire Territory of Alaska, not simply those in the Tanana Valley, would have increased the university land reserve to approximately 10 million acres. This would have been, by far, the largest higher education land grant in history, nearly equal by itself to all of the land and script given to all of the land-grant colleges and universities in the United States.

Dimond saw this 10 million acre land bank as the university's endowment for the future. He explained in a 1937 telegram that the land he proposed reserving was at present "of little if any value but eventually by increased value may be of substantial aid in maintaining university." (Dimond to Shatuck, 14 July 1937)

Opposition to the 10 million acre university reserve came principally from the Department of Interior. Year-after-year, the Secretary of Interior recommended against expansion of the Section 33 reserve on the grounds that the university already had more land than it needed. As evidence, Interior officials pointed out that the UA had taken no steps to select any of the 100,000 acres made available to it by Congress in 1929. "It appears," Acting Secretary of the Interior Charles West wrote in 1937, "that no selections have yet been made by the Territory of Alaska under said grant." (West to DeRouen, 3 April 1937)

No matter how it looked in Washington, D.C., the failure to file any selections was more a factor of Bunnell's short-handed administration than a lack of interest in acquiring additional land. Struggling to survive from one fiscal year to the next, the UA lacked the staff in the 1930s and 1940s to tackle the massive job of land selection that the 1929 act required. Officially, Bunnell was both president and comptroller, and any issue of substance that concerned the university crossed his desk, from buying library books to selecting land.

Dimond asked Bunnell to explain in writing why the University genuinely needed the reservation of additional lands. However, Dimond realized Bunnell's

difficult position. The university had numerous dealings with Interior Department officials and Bunnell could not afford to alienate them. "If you are disinclined to write a letter that I can use before the Committee," Dimond wrote Bunnell, "will you not at least with your superior knowledge of the entire subject, write me a memorandum which I may adopt in whole or part as my own without bringing your name into the controversy." (Dimond to Bunnell, 6 April 1937) If Bunnell ever wrote the memo which Dimond requested, it has not yet come to light.

In 1938, the university selected 1,927 acres near Fairbanks for its first quantity grant under the 1929 law. (Stein 1987: 7) Nevertheless, the Interior Department continued to thwart Dimond's and Bunnell's efforts to reserve additional land for the university. "The Department of the Interior is still vigorously opposed to having set aside for the University of Alaska any more of the public lands in the Territory...." Dimond wrote to Bunnell in February 1941. (Dimond to Bunnell, 11 February 1941)

A month later Dimond further explained: "The Department's argument against the bill seems to be based upon the theory that plenty of land has already been reserved for the University of Alaska and no more is needed. Specific reference was made to the fact that the grant of 100,000 acres made to the Territory of Alaska for the benefit of the University...has not yet been selected except for approximately 2000 acres..." (Dimond to Bunnell, 12 March 1941)

By the time Dimond introduced his 10 million acre bill for the fifth and last time in 1943, he had apparently resigned himself to the Interior Department's unwavering opposition. As Dimond expected, the Interior Department responded once again with a negative recommendation. Acting Secretary Abe Fortas wrote in July 1943 that Delegate Dimond's proposed 10 million acre reserve, added to the more than 20 million acres previously reserved in 1915 for common schools and higher education in Alaska, would create a gigantic educational reserve of more than 30 million acres which Alaska did not need.

"Such an amount would be greatly in excess of the grants of public land made to any of the States," Fortas wrote, "and, considering the comparatively small population of the Territory of Alaska, approximately 60,000, an additional reservation of the amount proposed for educational purposes, would seem unwarranted and greatly out of proportion to the present or contemplated need of the Territory." (Fortas to Peterson, 19 July 1943)

In 1944, E. L. "Bob" Bartlett replaced Dimond as Alaska's Delegate to Congress. Bartlett told Bunnell he would resubmit Dimond's 10 million acre reservation proposal, but claimed it would be futile as the Interior Department would continue to thwart the measure. "I have no doubt that if I introduce a bill seeking the same objective a similar report will be made," Bartlett wrote, "but I am perfectly willing to do so in any event if such is your desire." (Bartlett to Bunnell, 30 December 1944)

Apparently Bartlett did not reintroduce Dimond's university land measure, as by that time a new force had arisen which would drastically alter Alaska's political landscape and the land question: the Alaska statehood movement.

#### IV. THE STATEHOOD MOVEMENT

In 1916, one year after Congress reserved more than a quarter of a million acres in the Tanana Valley to finance a land-grant college in Fairbanks, James Wickersham submitted the first bill requesting statehood for Alaska. Wickersham introduced his statehood bill, a symbolic gesture with no real hope of passage, on the 49th anniversary of the signing of the Alaska Purchase Treaty. He patterned his measure after the statehood act of Oklahoma, supposing the generous grants of money and land for education would find favor with Democrats, traditional supporters of state's rights, who at the time controlled both Congress and the White House. (Atwood 1979: 306)

FIRST STATEHOOD ACT PROPOSES  
11.3 MILLION ACRES FOR HIGHER  
EDUCATION IN ALASKA

Wickersham's 1916 bill called for Congress to grant Alaska approximately 11.3 million acres specifically for the support of higher education and approximately 20 million acres for public schools. If enacted, the proposals would have been the most generous public education and higher education grants in the history of the United States. Among its other provisions, Wickersham's measure-anticipating Delegate Anthony Dimond's campaign in the 1930s and 1940s to increase the University of Alaska's land grant—proposed granting one section in each township throughout the territory for higher education. Delegate Wickersham recommended granting every Section 13 (about 10 million acres) for the equal benefit of Alaska's future universities, teachers' colleges, agricultural colleges, and schools of mines. Furthermore, instead of certain traditional land grants for internal improvements, and other swamp land grants which were not applicable to Alaska, the bill would have granted an additional 1.3 million acres for higher education dedicated as follows:

*400,000 acres for universities*

*400,000 acres for agricultural colleges and schools of mines*

*300,000 acres for teachers' colleges*

*200,000 acres for schools of forestry*

*(Daily Alaska Dispatch, 31 March 1916; Naske 1972: 3)*

THE 1940s REVIVAL OF THE  
STATEHOOD CAMPAIGN

Delegate Wickersham's 1916 statehood bill died without receiving a hearing, and it was not until more than a quarter of a century later that the question of Alaska statehood again surfaced in Congress. In 1943, bills were introduced in both houses calling for the admission of Alaska as a state, requesting extraordinarily generous land provisions. The bills would have given Alaska all of the unappropriated public land in the Territory, except for those lands actively used by the federal government. Furthermore, Delegate Anthony Dimond's bill in the House also included his long standing proposal to grant the University of Alaska an additional 10 million acres by reserving for it every Section 33 in the Territory. (Naske 1972: 3)

When Congress seriously began to address the Alaska statehood issue following World War II, debate centered on the amount of land the proposed 49th state would receive. Initially, most Alaskans assumed that the new state of Alaska would be given all the public land in the territory. Delegate Bob Bartlett's 1947 statehood bill, like his predecessor Anthony Dimond's bill four years earlier, recommended that the United States government convey to the state of Alaska all of the vacant public domain; and, in addition, reserve 20 million acres or two sections in each township (Sections 16 and 36) for public schools, and 10 million acres or one section in each township (Section 33) for the support of the University of Alaska. (U.S. House 1947: 2)

The Interior Department supported the concept of Alaska statehood, but fiercely opposed granting the future state government all of Alaska's public domain. Acting Secretary Warner Gardner wrote the department's official report on April 14, 1947 claiming most of Alaska should be held in trust for all of the people of the United States.

*The custom has been for the federal government to grant to the new states lands for schools and for internal improvements, but to retain the bulk of the public lands under federal ownership. I strongly recommend that there be no change in this practice in the case of Alaska.*

Gardner suggested several changes in Bartlett's bill, which the secretary claimed would permit

*Alaska to enter into the Union on a basis similar to that on which the western continental States were admitted. While retaining the greater part of the public lands for national management, the federal government has made grants to the new states for school purposes and internal improvements. Similar grants should be made in the case of Alaska. (U.S. House 1947: 12)*

In particular, Gardner's suggested amendments would reduce the state's land entitlement to about 20 million acres for public schools (every Section 16 and 36),

500,000 acres for miscellaneous internal improvements, and approximately 438,000 acres for the support of the University of Alaska. (Under Gardner's proposal, the university's total acreage would consist of the 2,250 acre campus, the 1915 Tanana Valley Section 33 reservation—erroneously calculated by Interior to be about 336,000 acres—and the 1929 land grant of 100,000 acres.) (U.S. House 1947: 14)

In the spring of 1948, Delegate Bartlett and the Interior Department compromised on the size of the statehood land-grant proposal; both agreed to support a grant of four sections in each township (Sections 2, 16, 32 and 36) totaling about 40 million acres, and to reassert the University of Alaska's rights to the entire 1915 Tanana Valley Section 33 grant, i.e. about 268,000 acres, and the 1929 grant of 100,000 acres. (U.S. House 1949: 2) Bartlett and other strong statehood supporters admitted that they would have preferred to ask for more land, but that political reality at the time dictated that four sections per township, plus Section 33 in the Tanana Valley, was the best deal Alaska could hope to receive. As retired Delegate Dimond told a Senate committee in 1950, "...we have to take this or we do not get anything." (U.S. Senate 1950: 75)

Nevertheless, others still maintained that unless Alaska received more land, it could never become economically viable as a state. Two statehood bills introduced in 1949 again repeated the original Dimond-Bartlett position: all public land not needed by the federal government, in addition to about 20 million acres for public schools (every Section 16 and 36) and about 10 million acres for the support of the University of Alaska (every Section 33). (H.R. 25 and H.R. 2300, 81st Congress, 1st Session)

#### FROM IN-PLACE TO QUANTITY GRANTS

Congress moved towards a revolutionary solution to the Alaska state land question in 1950, when it rejected traditional in-place grants of specific sections, and endorsed the concept of quantity grants of larger blocks of open acreage. Ironically, the most eloquent case for changing the manner in which Alaska's land would be granted, and for also granting Alaska additional land, probably originated with statehood's most vocal opponent, Winton C. Arnold, chief lobbyist and publicist for the Alaskan canned salmon industry. (Naske 1972)

At numerous congressional statehood hearings, Arnold showed charts and graphs illustrating that at the rate the rectangular survey was being extended to Alaska, it would literally take thousands of years to complete the task. (As noted previously, estimates in the 1950s were that it might take anywhere from 12,000 to 43,510 years to survey all of Alaska.) For instance, Arnold tabulated the history of land surveys in the last ten states admitted into the union, from North Dakota (1889) to Arizona (1912). On the date of admission, the percentage of surveyed land in the new states ranged from a minimum of 20 percent in Idaho, to a maximum of 100 percent in Oklahoma. By contrast, Arnold noted that only 0.672 percent of Alaska had been surveyed by 1950. (U.S. Senate 1950: 414) Since Alaska could not receive title to a specific section of land until it had been surveyed, the state would virtually have to wait forever to receive all of its land, and Arnold maintained that therefore statehood was not a practical option for Alaska.

Instead of ruling out statehood, however, the slow pace of surveys merely convinced the Senate Committee on Interior and Insular Affairs, as Bob Bartlett wrote, to adopt a "bold and precedent shattering way in determining how land should be transferred to the new state." (Naske 1972: 8) In 1957, the year before Congress finally voted to admit Alaska into the Union, Bob Bartlett recalled that during its deliberations in 1950, the Senate committee

*evolved an entirely new principle in respect to land grants. Its decision was that the historic manner of passing on to the new state numbered sections after the survey should be discarded. Substituted, therefore, was the provision which has remained in every statehood bill since, namely the extraordinarily liberal and, I believe for Alaska, advantageous principle that the state should be allowed to select what land it desired from the*

*public domain not already appropriated or reserved. Recognizing the fact that surveys were so far behind, the Senate Committee inserted language which would permit the state to select this land 25 years after admission. Transfer was to have been made after the exterior boundaries were surveyed by the Secretary of the Interior. This is intended to speed up the whole process of land selection so that title may pass swiftly to the state instead of the state having to wait for years and years—perhaps as many as 15,000!—before receiving its land patrimony. (Bartlett to Franklin, 19 January 1957, RG 223, Box 132, HR 50)*

The committee abandoned the practice of in-place grants and substituted quantity grants of blocks of land ranging in size from slightly more than 5,000 to as much as 50,000 acres, surveyed on exterior lines only. Giving the state selection rights would enable it to choose the most valuable tracts of land and avoid the traditional checkerboard pattern of land ownership which would only further increase the cost and retard the pace of Alaskan economic development. Carefully selecting land, the new state could theoretically create a consistent strategy of land planning and resource development.

#### 103 MILLION ACRES

Besides replacing in-place grants with quantity grants, in the early 1950s Congress also broke with historical precedent by recommending Alaska receive far more acreage than any state in the history of the United States. This was necessary, a Senate report stated in 1954, because the laws for the disposal of the public domain in Alaska "have been and are vitiated to a large degree by the Federal policies of the last half century..." To alter Alaska's "distorted landownership pattern"—99 percent of the land was still under federal control—the Senate recommended in 1953 that the new state be given 103 million acres or nearly 30 percent of the area of Alaska: almost three times the percentage of land given to any other western state. (Later proposals would run as high as 182 million acres or about 50 percent of Alaska, though the final figure approved by Congress in 1958 was a total of 103,350,000 acres.) Even with such an enormous statehood entitlement, however, more than two-thirds of Alaska would continue to be federal land. "From one point of view, therefore," the Senate reported in 1954, "a grant of 103,350,000 acres may be unprecedented. From the other point of view, a grant of any smaller amount would still leave the federal government in a position of overwhelming dominance over the land and resources of the new state and its people." (U.S. Senate 1954: 2)

#### INTERNAL IMPROVEMENT LAND SPECIFIED FOR HIGHER EDUCATION

Most of the statehood bills submitted in the 1950s continued to recognize that higher education in general, and the University of Alaska in particular, should be given a specific amount of acreage. The basic formula for the 103,350,000 acre proposal, repeated in numerous bills submitted between 1953 and 1957, divided the state's total acreage into three categories: an unrestricted general-use grant, community development grants, and internal improvement grants. (See Table No. 1 on page 11)

The bulk of the land consisted of an unrestricted "general open grant" of 100 million acres; revenues from the disposition of this land could be "used for the running expenses and the development of the new State, as its people, through their elected representatives, may direct." (U.S. Senate 1954: 30) A second category of land was the community development grant of 800,000 acres, half of which would be selected from the public domain and half from the national forests. These lands were designated for "the development and expansion of communities." (Stein 1987: 13)

The third and final category of land, comprising the remaining 2,550,000 acres, was for specific internal improvements, including penitentiaries, reform schools, public buildings, pioneers' homes, teachers' colleges, and the University of Alaska. Virtually every piece of statehood legislation Congress considered until 1957 specified that higher education would directly receive at least one million acres of the

103,350,000 acre proposed statehood entitlement, consisting of 500,000 acres for the University of Alaska and 500,000 acres for the support of teachers' colleges or normal schools. (See Table No. 1)

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**TABLE NO. 1**

**Typical Calculation of Acreage in proposed Alaska Statehood Bills, 1953-1957**

1. 100 million acres—General open grant, no restrictions.
2. 800,000 acres—Community Development Grants—to be used for expansion of communities. Half of acreage would come from the public domain, half from national forest land.
3. 2,550,000 acres—for various specified state functions and internal improvements enumerated as follows:
  - 500,000 acres—University of Alaska
  - 500,000 acres—teachers' colleges
  - 500,000 acres—public buildings
  - 200,000—schools and asylums  
for the deaf, dumb and blind
  - 200,000 acres—penitentiaries
  - 200,000 acres—mental institutions
  - 200,000 acres—charitable, penal and reformatory institutions
  - 250,000 acres—pioneer homes

(U.S. House 1953: 17)

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**PROPOSED ELIMINATION OF 1915  
RESERVE**

By the early 1950s, it seemed likely that if and when Alaska achieved statehood, the University of Alaska would receive its long-delayed increase in the size of its land grant. Invariably, all of the statehood bills before Congress addressed the need to give the university additional land. But impending statehood also raised fears in the Territory of cancellation of the 1915 public school and university land reservation. Given that Congress had rejected the concept of in-place grants in favor of quantity grants, it seemed reasonable to many lawmakers, including Delegate Bob Bartlett, that Congress should revoke the 1915 reservations and substitute a larger quantity grant.

The Territorial Department of Land warned in a December 1954 report that Alaska was in danger of potentially losing the millions of acres which the United States had reserved for Alaska education almost three decades earlier. The statehood bill then under consideration (See Table No. 1) would repeal the 1915 school land reservation, and though it would provide up to one million acres specifically for the support of higher education (500,000 acres for the University of Alaska and 500,000 acres for teachers' colleges), it would not provide specific acreage to support the school system, traditionally the prime justification for granting land to states. The report recommended that some means be found to guarantee that land be granted to support Alaska schools, just as was being done for higher education with internal improvement land under the proposed statehood bill.

*There may be no objection to the repeal of the school reservation act providing some other provision is made to grant the school system 20,101,488 acres, an amount equal to the amount it would have received under that act. The original and chief purpose of making grants of land to states was for benefiting the public schools. The proposed legislation... provides grants for many other state institutions and purposes for which grants are generally made but the most important grant for the public schools is not provided for. In fact, the school system would lose the reservations that have been previously granted. (Chippewa 1954: 13-14)*

In March 1955, Territorial Land Commissioner W.A. Chipperfield drafted a bill which he believed would protect the land rights of Alaska's schools and the University of Alaska, by immediately granting to the Territory all surveyed reserved school and university sections, with funds from the sale or other use of such lands earmarked for the schools and the University of Alaska. (Chipperfield to Heintzleman, 7 March 1955, E.L. Bartlett Collection, Legislative Bill File, Box 2, Folder 19)

In response to the concerns of Commissioner Chipperfield and others, Delegate Bartlett argued that dedicated school lands were not in Alaska's best interest. Bartlett claimed Chipperfield's proposal seemed to run "directly counter to the existing concept which has been expressed in the various statehood bills for the last few years, namely, that Alaska shall have the privilege of choosing its lands rather than having to accept them by reason of established sections..." (Bartlett to Heintzleman, 26 March 1955, Bartlett Collection, Legislative Bill File, Box 2, Folder 19)

Alaska's Commissioner of Education Don Dafoe voiced similar concerns about the lack of "specific land grants for schools." Dafoe wrote Bartlett that receipts from school lands should be added to the "permanent school fund with a view toward building it up to where it would be a good endowment in 50 to 100 years from now..." (Dafoe to Bartlett, 16 April 1957) Dafoe argued that the long-term interests of Alaskan education required careful management of the school lands.

*Whether or not Alaska has a good solid permanent school fund 50 years from now will depend upon how carefully school land matters are handled at this time. There is a school of thought which believes in giving away these lands for little or nothing and which believes that the monies received should be subject to immediate use in total, rather than going into the permanent school fund. (Dafoe to Bartlett, 5 April 1957, Bartlett Collection, Legislative Bill File, Box 2, Folder 20)*

Bartlett responded that he was philosophically opposed to dedicating lands or funds for specific purposes.

*...personally I have a very strong feeling that some of the fiscal woes of our government in all of its subdivision today are brought about by income segregations for stated purposes. Such income may be too much or too little for the objectives sought. All money for government use must come from the taxpayers, and I, for one, feel that the legislative bodies should not be shackled in appropriating according to the needs of the times. (Bartlett to Dafoe, 19 April 1957, Bartlett Collection, Legislative Bill File, Box 3, Folder 28)*

#### DIRECT GRANTS OF SCHOOL AND UNIV. LAND

Despite Bartlett's opposition to dedicated lands and funds, he did introduce a measure in May 1955 calling for the U.S. government to grant all reserved (i.e. surveyed) public school and University of Alaska lands to the Territory of Alaska. Under Bartlett's bill, the Territorial Legislature would have the authority to dispose of the lands as they wished, however, all "proceeds or income are to be expended solely for the exclusive use and benefit of the public schools of Alaska and of the University of Alaska..." (H.R. 6242, 84th Congress, 1st Session)

The Interior Department supported Bartlett's proposal. Since the only reserved school lands were those which had been surveyed, the total acreage to be granted would have been relatively small (one estimate was about 160,000 acres). The bill provided, however, that as more sections were surveyed and therefore reserved each year, more acreage would be granted. "In all respects, the school sections should be treated as if statehood had already been conferred on Alaska," Assistant Secretary Fred Aandahl wrote. However, the Secretary wished Congress to consider both the public school land and the university land as one whole, rather than two separate pots of money. As Aandahl wrote,

*At the present time, Sections 16 and 36 throughout the Territory are set aside for the support of the common schools, while the sections numbered 33 in part of the Tanana Valley are set aside for the support of the University. We*