

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672
8754 HOUSE RESOURCES

7. Under current State regulations, do you feel that:

Guide-Outfitters are: (4) under regulated { 3% } (59) about right { 40% }
(81) over regulated { 55% } (3) No Response { 2% }

Transporters are: (116) under regulated { 79% } (15) about right { 10% }
(8) over regulated { 5.5% } (8) No Response { 5.5% }

8. Faced with the challenges ahead in Juneau, which do you feel is the best course of action for APHA to follow?

(24) Scrap all current regulations and start from scratch. { 16.5% }
(112) Keep the current regulations and work to improve them. { 76% }
(11) No Response { 7.5% }

9. How many years have you been either a Master or Registered Guide?

(19) 1 to 3 years { 13% } (30) 4 to 6 years { 20.5% }
(27) 7 to 10 years { 18.5% } (17) 10 to 15 years { 13.5% }
(55) more than 15 years { 37.5% }

10. Approximately how many guided, non-resident hunts do you conduct per year?

(30) 1 to 5 hunts { 20% } (28) 5 to 10 hunts { 19% }
(27) 10 to 15 hunts { 18.5% } (20) 15 to 20 hunts { 13.5% }
(35) More than 20 hunts { 24% } (5%) No Response { 5% }

11. Would you be in favor of a Big Game Commercial Services Board with more guide representation than we had on the former board?

(134) Yes { 91% } (9) No { 6% } (4) No Response { 3% }

Conclusions:

1. According to the Department of Commerce, approximately 2,725 guided hunts are conducted in Alaska each year. Based on the response to question #10, this survey represents Guide-Outfitters conducting a minimum of 1,440 (53%) to a maximum of 2,635 (97%) of those hunts. When averaged, this survey represents the Guide-Outfitters responsible for approximately 75% of the legally guided hunts in Alaska today.

2. Of the guides conducting approximately 75% of the guided hunts in Alaska:

- a) 76% are in favor of maintaining our current guide regulations.
- b) 67% are in favor of the current registration guide area system.
- c) 66.5% have been in business for more than 7 years.

3. The Alaska's Professional Guide-Outfitters are concerned about this issue and urge you to maintain our current regulation package with Dept. of Commerce.

Rep Joe Green
FX 465-4316

Ref SSCR2

Defeat Governors illegal commercial services guide board action.
This mess cannot be taken care of until this is done.

David and Linda Ballard
ACS INC.
6831 Debarr Rd.
Anchorage, Ak. 99504
Ph. 338- 3300

KATMAI GUIDE SERVICE	Fax Cover Sheet
-----------------------------	------------------------

P.O. Box 313
King Salmon, AK 99613-0313

DATE:	February 28, 1996	TIME:	9:02 AM
TO:	Joe Green House of Representatives	PHONE:	907-485-4931
		FAX:	907-485-4316
FROM:	Joe Klutsch Katmai Guide Service	PHONE:	907-246-3030
		FAX:	907-246-3050
RE:	SSCR2		

Number of pages including cover sheet: [3]

Message

This fax did not go through yesterday. Please consider these points before voting on SSCR2. Thank you.

Katmai Guide Service

JOE KLUTSCH, MASTER GUIDE

Page 1

February 28, 1996

State Capital
Juneau, Alaska 99801

Today you will consider a vote which could recommend overturning Governor Knowles executive order 95. The current guide law and associated regulation package are the product of seven years of extremely hard work. A bipartisan task force appointed by Governor Cowper worked for over a year taking extensive input from lawyers, land and resource managers, legislators, members of the guiding industry and the general public to craft a draft guide law in the wake of a state supreme court decision which ruled that the guide area component of the former law was unconstitutional. The legislature labored for two more years to pass a bill. Then the Big Game Commercial Service Board (created by the new state law) worked diligently for three more years to design a regulation package that finally brought order to a beleaguered industry. The issue of regulating guiding in Alaska has been chewed beyond the bone.

The House approved extending the Big Game Commercial Service Board by a 39 yeas vote last session. Two extension bills died in Senate Committee without debate and the Board was sunsetted. You have received a guide industry survey which clearly indicates that the vast majority of operating guides favors retaining the current regulation package and working to improve it. The system is designed to provide accountability and insure that lawful and ethical guiding is the standard in Alaska. Every licensed guide -- new or old is on precisely the same footing with respect to their ability to access the system and conduct business. High quality of experience by the client, reducing the potential for conflicts with other users, and protection of the wildlife resource are the ultimate objectives of this system.

To deregulate guiding to a simple licensing status makes absolutely no sense at this juncture in Alaska's history -- especially in light of the other resource allocation issues that remain unresolved.

FISHING	HUNTING	PHOTOGRAPHY
P.O. BOX 313 • KING SALMON, ALASKA 99613 • PH: (907) 246-3030 • FAX: (907) 246-3050		

Katmai Guide Service

JOE KLUTSCH, MASTER GUIDE

Page 2

Before you vote on this resolution, I urge you to ask yourself these questions:

1. Do those of your constituents who hunt (subsistence or non-subsistence) really think that deregulating guiding is in their best interest?
2. Do those of your constituents who do not hunt think that that would be a good idea -- especially those who enjoy watching wildlife?
3. Do you or your constituents believe it is in the best interest of Alaska's game resources to create a situation where "combat hunting" could occur as is the case with a number of sport and commercial fisheries?

A few peoples' personal agendas can not be allowed to stand in the way of what is right for the future of the guiding industry, for your own hunting and non-hunting constituents, and for the thousands of clients who travel to Alaska and expect a quality experience provided by professional ethical operators, and most of all for the wildlife resource that defines the unique character of Alaska.

If there is not a willingness on the part of key individuals to maintain the current system through legislation, then I urge you to let the Executive order stand. A washed out substitute will not be anyone's interest. Your careful consideration of these points is greatly appreciated.

Sincerely,

Joe Klutsch

FACSIMILE COVER PAGE

To: RepresentativeJoe GREEN

Time: 12:12:34

From :

Date: 02/28/96

Subject: Microsoft Word

Pages (including cover): 3

Dear Representative Green;

Attached is a review of guide-outfitter survey conducted by the Alaska Professional Hunters Association. Because of problems with survey construction and compilation errors the validity of the survey is certainly in question.

Thank you for your time and efforts regarding this issue.

Respectfully

Joe Want

To: Gary 'Butch' King, Jr.
President APHA

February 27, 1996

From: Joe Want
907-457-4736

Subject: Guide Survey Contained in APHA Newsletter Dated December 1995 and Results Thereof.

The Alaska Professional Hunters Association (APHA) should be commended for their effort to evaluate the attitudes of the guiding industry regarding various issues. Because surveys have the potential of influencing attitudes and actions it is imperative they be conducted in an unbiased manner and the results be interpreted and presented objectively.

If unbiased responses are the objective, then those statements having the potential of influencing the responses must be excluded. The questions for the survey were located on page three. Page 2, opposite the questionnaire, contained the following statements that specify an attitude or position directly related to questions on the questionnaire.

They are:

- a) question #1: "... do you support the current registration guide area system as a means to distribute hunting pressure by guide-outfitters?"
statement: "Further, most APHA members believe that without a Guide Use Area System to spread out hunting pressure by guide-outfitters, the Board of Game would employ more restrictive seasons and bag limits..."
- b) question #4: "... do you feel that the requirement for a written test is necessary to qualify an assistant guide-outfitter applicant for licensing?"
statement: "Deleting the requirement for a written assistant guide test, ... would be a good place to start..."
- c) question #7: (second part) "Transporters are:" (respondents asked to evaluate whether transporters are under or over regulated etc.)
statement: "... tightening the regulations dealing with transporters... would be a good place to start,..."
- d) question #8: "... which do you feel is the best course of action for APHA to follow?"
 Scrap all current regulations and start from scratch
 Keep the current regulations and work to improve them
statement: "Most APHA members support keeping the current regulation package, but also believe that some changes need to be made."
- e) question #11: "Would you be in favor of a Big Game Commercial Services Board with more guide representation than we had on the former board?"
statement: "... a Board with more representation by Guide-Outfitters would be a good place to start,..."

A cursory review of the reported survey results would indicate the following miscalculations:

question #4: reported percentages -	36%	62%	2%		
<u>actual percentage</u> -	35%	59%	5%		
question #9: reported percentages -	13%	18.5%	37.5%	20.5%	13.5%
<u>actual percentage</u> -	13%	18.5%	37.5%	20.5%	<u>11%</u>
2 - 'c' of conclusions: reported:	66.5%				
<u>actual ?</u>	<u>69.5%</u>				

Under the report's heading of 'Conclusions:' the information presented in # 1 is based on question #10. This question requests that respondents indicate which category represents the number of non-resident guided hunts they conduct per year. The categories presented are: 1-5, 5-10, 10-15, 15-20, more than 20 hunts. The obvious problem with this definition of the categories is that respondents guiding for 5, 10 or 15 clients may choose between two categories. EXAMPLE: the individual that conducts five hunts each year must choose either the 1-5 or 5-10 category. Either would be correct. Unless there was additional information referencing the number of hunts conducted, it would be impossible to determine the if the numbers 5, 10, or 15 should be considered maximums or minimums.

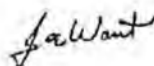
BECAUSE THE CATEGORIES OVERLAP IN QUESTION #10, IT IS IMPOSSIBLE TO ACCURATELY MAKE THE COMPUTATIONS PRESENTED IN #1 OF THE 'CONCLUSIONS' SECTION.

"Conclusions:

1. According to the Department of Commerce, approximately 2,725 guided hunts are, conducted in Alaska each year. Based on the response to question #10, this survey represents Guide-Outfitters conducting a minimum of 1,440 (53%) to a maximum of 2,635 (97%) off those hunts. When averaged, this survey represents the Guide-Outfitters for approximately 75% of the legally guided hunts in Alaska today."

Mr. King, as we strive to resolve these important issues that so impact the guiding industry, I'm certain you share my concern that the information provided to various entities be accurate. For these reasons I hope you will make every effort to correct the discrepancies then redistribute the results of your organization's survey.

Thank you



Joe Want

Fax Cover Note

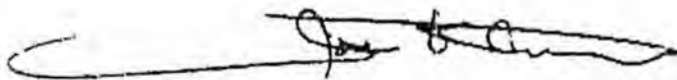
Joe Klutsch
Katmai Guide Service
PO Box 313, King Salmon, AK 99613
Ph: (907) 246-3030 Fax: (907) 246-3050

TO: ~~STAFF~~ STAFF EXTENSION: _____
PHONE #: _____ FAX #: 907-465-4316
COMPANY: Rep Green DATE: _____

Message:

Please distribute copies to all members of the Joint Resources Committees before they deliberate on Executive Order 95 this morning!

Thanks



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH 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

February 19, 1996

SUBJECT: Procedure for Disapproving an Executive Order

TO: Senator Drue Pearce

FROM: Tamara Brandt Cook
Director *TBC*

You have asked what the procedure is for the disapproval of an executive order. The state constitution contains the requirement that disapproval of an executive order is accomplished ". . . by resolution concurred in by a majority of the members in joint session . . ." (Article III, Section 23) This must be complied with or any attempt by the legislature to disapprove an executive order will probably be held invalid by the court.

In addition to the procedure set out in the constitution, Uniform Rule 49(a)(4) provides

A special concurrent resolution is employed to consider disapproval of an executive order of the governor laid before the legislature under provisions of Sec. 23, Art. III, of the State Constitution. This resolution must be considered by a joint committee and may be adopted by a majority vote of the full membership of the legislature in joint session without recourse to three readings.

Prior to 1981 that same rule in identical language was contained in Uniform Rule 48(d). So, the uniform rule adds to the constitutional requirements the requirement that a joint committee consider each special concurrent resolution before it is adopted in joint session.

The literal language of the rule appears to require formation of a joint committee for the purpose of considering a special concurrent resolution. Uniform Rule 21(b) describes the formation of a joint committee as follows:

(b) A joint committee is a committee of both houses. A joint committee may be established only by the adoption of a concurrent resolution. The presiding officer of each house appoints one-half of the members of a joint committee. The persons who co-chair a joint committee shall be chosen in the manner provided by the presiding officers.

Senator Drue Pearce

February 19, 1996

Page 2

Uniform Rule 21(d) provides further:

(d) A committee may not be established unless authorized by law or by the Uniform Rules.

Despite these rules, it has been the position of this office since at least 1981 that, because Uniform Rule 49(a)(4) does not specifically require the establishment of a joint committee under Rule 21, two standing committees meeting jointly would fulfill the requirement of consideration by a joint committee. The conclusion at that time appears to have been based on the established practice of the legislature in referring these resolutions to standing committees. That practice has never been formally challenged under a point of order so far as I have ascertained.

The legislature has not considered a special concurrent resolution very often, and, having checked back to 1975, I cannot find an example of the appointment of a joint committee to do so. In 1976, HSCR 1 was referred to the State Affairs Committee but went no further. (House Journal, page 73) In 1976 HSCR 2 was referred to the State Affairs Committee which met jointly with the Senate State Affairs Committee and was, ultimately, adopted in joint session. (House Journal, March 11, page 567) In 1977 SSCR 1 was referred to the Senate State Affairs Committee with a specific direction to meet jointly with the House committee. (Senate Journal, March 8, page 498) That resolution failed to pass in joint session. In 1980 HSCR 1 was referred to standing committees but went no further. In the Twelfth Legislature SSCR 1 was only referred to standing committees and never adopted. (Senate Journal, January 26, 1981, page 120) In the Thirteenth Legislature HSCR 1, HSCR 2, and SSCR 1 were referred to standing committees. Ultimately, the Rules Committees met jointly on SSCR 1 (disapproving Executive Order No. 53, establishing an office of management and budget) and on HSCR 1 (disapproving Executive Order 54, establishing the Department of Corrections). That same day both these resolutions were adopted in joint session. (Senate Journal, March 16, 1983, pages 407-410)

HSCR 1 was referred in the Sixteenth Legislature to standing committees and never adopted. In the Seventeenth Legislature, First Session, Executive Orders No. 78 and 79 were referred to standing and special committees (Senate Journal, January 21, 1991) but no action was taken to reject them. (Senate Journal, March 22, 1991) Executive Order 80 was returned to the governor as defective by the presiding officers. (Senate Journal, January 23, 1991) During the Second Session SSCR 1, disapproving a new Executive Order 80, was introduced and referred to a standing committee. (Senate Journal, January 13, 1992) That Executive Order was withdrawn by the governor. (Senate Journal, January 15, 1992)

As recently as 1994 SSHSCR 3 disapproving Executive Order 89 was referred to the House Labor and Commerce Committee, which met in a joint meeting with the Senate

Senator Drue Pearce
February 19, 1996
Page 3

Labor and Commerce Committee. The House committee then reported the resolution out and the House sent a message to the Senate inviting it to attend a joint session for purposes of considering the resolution. It was considered and passed in joint session. (House Journal, 3/9/94, page 2699; Senate Journal, 3/9/94, pages 3100-3101) No Senate resolution was ever introduced, referred to Committee, or reported out.

Note that procedures of a joint committee differ slightly from procedures of two committees that meet jointly. Mason's Manual addresses the subject in Secs. 663-669. In both cases, members report separately to their bodies. Sec. 664 which indicates that a joint committee typically has a single chair has been superseded by Uniform Rule 21(b) which calls for co-chairs. Otherwise, it is significant to note that a quorum of a joint committee is a majority of the combined membership, while a quorum of each committee separately is required for action at joint meetings of separate committees. Additionally, members of a joint committee vote individually and not by house while action is taken separately by vote of each committee meeting jointly.

Lastly, note that sec. 669(1) states "A house may authorize or direct two standing committees to sit as one committee for the consideration of a specific bill or subject." While I am not aware of a case when two standing committees were actually directed to sit as one committee, this could be done. There have been instances when a standing committee was directed to hold a joint meeting with a committee of the other body.

TBC:glc
96-102.glc

SB

3

HOUSE RESOURCES COMMITTEE
Roll Call and Members' Bill Votes

* (indicates first public hearing)

Room 124, Capitol Bldg.

Mon., Wed., Fri.

Date: 11-17-95

Tape# 95-49 Joint _____

Time: 8:08 am/pm Time Adjourned: _____ am/pm

ROLL CALL:	PRES	ABS	TIME	AR	_____	_____	_____
Rep. Joe Green	✓	_____	_____	_____	_____	_____	_____
Rep. Bill Williams	✓	_____	_____	_____	_____	_____	_____
Rep. Scott Ogan	✓	_____	_____	_____	_____	_____	_____
Rep. Alan Austerman	✓	_____	_____	_____	_____	_____	_____
Rep. Ramona Barnes	_____	_____	_____	_____	_____	_____	_____
Rep. John Davies	_____	_____	<u>8:10</u>	_____	_____	_____	_____
Rep. Pete Kott	✓	_____	_____	_____	_____	_____	_____
Rep. Eileen MacLean	_____	_____	_____	_____	_____	_____	_____
Rep. Irene Nicholas	_____	_____	<u>8:25</u>	_____	_____	_____	_____

Other Legislators Present _____

AGENDA:

Bill No.	Short Title	Action Taken
<u>SB 93</u>	<u>Disposal ^{of} Land Along The Station Hwy.</u>	<u>Out HCSSB 93 Out</u>
<u>HB 258</u>	<u>Hunting/Fish License Vendor Compensation</u>	<u>Filed</u>
<u>SB 3</u>	<u>Antidote Exemption For Fishermen</u>	<u>MOVED SB 3 Out</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

OTHER

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STATE OF ALASKA**

(907) 465-3808
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 400
Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Resources
4-12-95 8:08am

Tape #95-49
SB3

HOUSE RESOURCES COMMITTEE

Alaska State Legislature
House of Representatives



DATE: 4-12-95

PLACE: ROOM 124

SUBJECT OF MEETING:
SB 93- Disposal of Land Along the Dalton Hwy.
HB 258- Hunting With License Vendors
Compensation
SB 3- Anti-trust Exemption For Fishermen

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Gerran Bunn	Fish/Gare				465-6143	<input checked="" type="radio"/> N	HB 258 Alaska quaternary
Scott McAllister ✓	South East Berners Assn.				463-5871	<input checked="" type="radio"/> N	SB-3
Dean Paddock ✓	Bristol Bay Driftnetters Assn.	PO Box 21951 Juneau AK 99802	99802		463-4870	<input checked="" type="radio"/> N	SB 3
Dwight Perkins ✓	Dept. of LABOR			27600		<input checked="" type="radio"/> N	SB 3
Jerry McLane ✓	UFA			586-2820		<input checked="" type="radio"/> N	SB 3
Donna Parker ✓	DCEI				5464	<input checked="" type="radio"/> N	SB 3
						Y N	
Jim Kito Legislative Liaison	Dept. of Transportation	3132 Channel Drive Public Facilities	99801	465-3904		Y N	
						Y N	
						Y N	
						Y N	

Dwight Perkins
Donna Parker
Jerry McLane

• 04/12/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:40:05

PARTICIPANT LIST (TESTIFIERS ONLY)

BY:JNU

TCN:50584

SCHEDULED FOR:04/12/95 08:30 TO 10:00

FOR:KOD

PUBLIC HEARING

HOUSE RESOURCES

LOCATION: ~~KODIAK~~

~~SB 3~~

~~MR.~~

~~BRUCE~~

~~SCHACTLER~~ ✓

TESTIFY

P.O. Box 2254 99615 486-4686

04/12/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:35:15

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:PSG

TCN:50584 SCHEDULED FOR:04/12/95 08:30 TO 10:00

FOR:PSG

PUBLIC HEARING

HOUSE RESOURCES

LOCATION: PETERSBURG

SB 3

MS

KRIS

NOROSZ ✓

SEAS

TESTIFY

772-3920



SENATOR JIM DUNCAN

ALASKA STATE LEGISLATURE

Alaska State Senate

State Capitol • Room 119 • Juneau, Alaska 99801-1182 • (907) 465-4766 • Fax 465-4748

January 1995

SPONSOR STATEMENT, SB 3:

ANTITRUST EXEMPTION FOR COMMERCIAL FISHERMEN

Senator Jim Duncan

Senate Bill 3 will allow fishermen to form associations to collectively negotiate raw or processed fish prices with processors. It does not authorize processors to agree among themselves on the prices they will pay fishermen; it only covers collective bargaining between fishermen and a processor, or group of processors.

A state antitrust exemption is a first step to stabilizing Alaska's fishing industry. While this exemption applies only to state antitrust laws, it is necessary to gaining Congressional approval for a federal exemption, so that fishermen and processors could negotiate prices. Once the legislature has approved SB 3, the state, fishermen and processors would be in a position to request the federal exemption. The attitude toward a federal exemption may be favorable now that Alaska's congressional delegation is in the majority.

In order to permit collective bargaining, fishermen must be allowed to market and sell their fish as a group. Current state antitrust law does not mention whether fishermen could collectively sell their raw catch or fish products, although it permits them to form associations to catch and prepare their fish for market. SB 3 clarifies this ambiguity, making state law consistent with federal law, which expressly permits fishermen to collectively engage in more activities, including marketing their fish. The incongruities between current state and federal law make it possible for some fishermen's organizations to be in compliance with federal antitrust law, yet breaking state law, or be in compliance with state antitrust law and violating federal law.

State legislation such as this, and pursuit of a corresponding federal exemption were recommended in the 1993 Alaska attorney general's report on the Bristol Bay sockeye salmon industry. The fishing industry is Alaska's largest private employer, and affects every segment of our economy, from small coastal villages to the state's general fund. Collective bargaining between fishermen and processors will help stabilize commercial fishing prices, bolstering local and state economies. Stable raw fish prices will promote stable consumer prices for processed seafood products, which means greater sales of Alaska seafood.

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 22, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/12/95

The RESOURCES Committee considered:

SB 3

SENATE BILL NO. 3

ANTITRUST EXEMPTION FOR FISHERMEN

"An Act relating to an antitrust exemption for persons engaged in the fishing industry."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

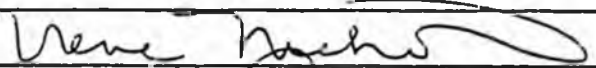
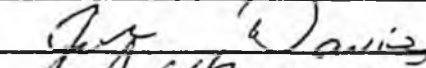
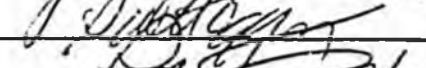
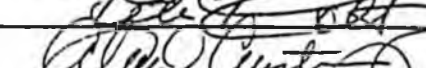
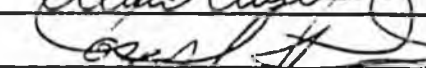


APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____


fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) DOL, 2/6/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Nicholia	✓			
	Davies	✓			
	Ogan	✓			
	Kott			✓	
	Austermen	✓			
	Green	✓			
	Williams	✓			
		(6)		(1)	

CHAIR'S SIGNATURE



Williams

9-LS0043C
Utermohle
4/10/95

HOUSE CS FOR SENATE BILL NO. 3(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS DUNCAN, Zharoff, Hoffman, Taylor, Halford, Lincoln, Pearce, Donley, Salo, Leman

REPRESENTATIVES Grussendorf, Ivan

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an antitrust exemption for persons engaged in the fishing**
2 **industry."**

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

4 *** Section 1. AS 45.50.572(c) is repealed and reenacted to read:**

5 (c) AS 45.50.562 - 45.50.596 do not forbid persons engaged in the fishing
6 industry as fishermen who catch, collect, or cultivate aquatic products from acting
7 together in associations for the purpose of collectively catching, producing, preparing
8 for market, processing, handling, and marketing their product. Associations may have
9 marketing agencies in common and may make contracts and agreements necessary to
10 achieve the purposes of this subsection. In this subsection, "association" means an
11 association, corporate or otherwise, with or without capital stock, that

12 (1) is operated for the mutual benefit of its members;

13 (2) does not deal in the aquatic products of nonmembers to an amount
14 greater in value than the association handles for its members; and

15 (3) either

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(A) does not allow a member of the association more than one vote because of the amount of stock or membership capital the member may own in the association; or

(B) does not pay dividends on stock or membership capital in excess of eight percent a year.

* Sec. 2. AS 45.50.572 is amended by adding a new subsection to read:

(j) AS 45.50.562 - 45.50.596 do not forbid persons engaged in the fishing industry as fishermen, including fishermen acting through associations allowed under (c) of this section, from collectively agreeing with fish processors, including fish processors acting through associations of processors, on the price paid to the fishermen for aquatic products. Nothing in this subsection allows fish processors to agree among themselves on the price paid to fishermen if fishermen did not participate in the making of the agreement and are not a party to the agreement.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 3

Revision Date: _____
 Title: Antitrust Exemption for Fishermen
 Sponsor: Senator Duncan
 Requestor: Senator Duncan

Department Affected: Labor
 BRU: Commissioner's Office
 Component: Commissioner's Office
 COMPONENT SERIAL NO. 340

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TCTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Arbe Williams, Director Phone: 465-5981
 Division: Administrative Services Date: 1/23/95
 Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor Date: 1/23/95

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

MEMORANDUM

January 20, 1995

SUBJECT: SB 3: Summary (Work Order No. 9-LS0043\A)

TO: Senator Jim Duncan

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum summarizes SB 3, An Act relating to an antitrust exemption for persons engaged in the fishing industry.

SB 3 proposes two significant changes to the state antitrust law.

First, SB 3 eliminates an ambiguity in state law as to whether commercial fishermen can collectively market their fish and fish products and makes the state antitrust exemption for fishermen compatible with the analogous federal exemption. See, section 1, SB 3.

When the state antitrust law was enacted in the mid-1970's, the legislature created an exemption from the law so that fishermen could agree among themselves to collectively engage in the harvesting and processing of fish. AS 45.50.572(c). Unfortunately the law does not mention whether fishermen could collectively market their fish and fish products. By expressly allowing fishermen to engage in collective harvesting and processing activities and not mentioning marketing activities, it must be presumed that the law precludes collective marketing activities by fishermen. SB 3 amends the state antitrust exemption for fishermen so that fishermen are clearly allowed to collectively engage in the marketing of their fish and fish products.

The federal antitrust law already contains an exemption that permits fishermen to collectively engage in catching, processing, and marketing their fish and fish products. 15 U.S.C. 521. But the federal law also places specific restrictions on the legal structure of the cooperatives that fishermen may form. SB 3 rewrites the state exemption so that it directly parallels the provisions of the federal law.

Thus SB 3 expands the kinds of activities that fishermen may engage in without violating the state antitrust law and substantially eases the burden on fishermen to simultaneously comply with the state antitrust law and the federal antitrust law.

Senator Jim Ducan

January 20, 1995

Page 2

Second, SB 3 creates a new exemption from the state antitrust law to allow fishermen and processors to collectively agree on the price that fishermen would receive for their fish and on the price that processors would accept for processed fish. See, section 2, SB 3. The exemption would allow fishermen to enter into price agreements with a processor or a group of processors. SB 3 does not allow groups of processors to agree among themselves on the price that they would pay fishermen for fish or they would charge for their product. Groups of processors may agree on prices, only if fishermen participate in the agreement and are a party to the agreement.

Once SB 3 is enacted and the state antitrust law provides an exemption for collective agreements between fishermen and processors, the state, fishermen, and processors can approach the Congress for a comparable exemption from the federal antitrust laws. The state exemption can serve as a model for the federal exemption. In the mean time, it would be very risky for fishermen and processors to rely solely upon the state antitrust exemption as authority to engage in collective price setting. Because the Alaska fishing and fish processing industries significantly affect interstate and international commerce, the federal antitrust laws are certain to apply to, and thus prohibit, any price agreements between fishermen and processors. Fishermen and processors should wait for the Congress to enact the appropriate exemption from the federal antitrust law before attempting any such agreements.

If I may be of further assistance, please advise.

GU:glc

95-076.glc

Sp Cmte on Fisheries

3/20/95

CHAIRMAN AUSTERMAN asked if a motion was in order. There being no motion forthcoming, he tabled the CS for HCR 12.

HFSH - 03/20/95

SB 3 - ANTITRUST EXEMPTION FOR FISHERMEN

ROSEMARY ALEXANDER, Aide, Senator Jim Duncan, testified, "Senate Bill 3 will allow fishermen to form associations to collectively negotiate fish prices with processors. While this bill covers collective bargaining between fishermen and a processor, or a group of processors, it does not authorize processors to agree among themselves on the prices they will pay fishermen. Senator Duncan believes that a state antitrust exemption is a first step to stabilizing Alaska's fishing industry. This exemption applies only to state antitrust laws, it will also be necessary to gain Congressional approval for a federal exemption. But once the legislature has approved SB 3, the state, fishermen and processors would be in a better position to request a federal antitrust exemption. The attitude toward a federal exemption may be favorable now that Alaska's congressional delegation is in the majority.

MS. ALEXANDER continued, "SB 3 also clarifies an ambiguity in state law, which does not expressly allow fishermen to market and sell their fish as a group. Currently state antitrust law only permits them to form associations to catch and prepare their fish for market. As you know, federal law expressly permits them to form associations to catch and prepare their fish for market. As you know, federal law expressly permits fishermen to collectively engage in more activities, including marketing their fish. The incongruities between current state and federal law make it possible for some fishermen's organizations to be in compliance with federal antitrust law, yet breaking state law, or be in compliance with state antitrust law and violating federal law. Passage of SB 3 will make state law consistent with federal law. During previous hearings on SB 3, CDFU testified that the inconsistency between state and federal law had become a real problem for some members. A state and the corresponding federal exemption were recommended in the 1993 Alaska Attorney General's Report on the Bristol Bay sockeye salmon industry. The fishing industry is Alaska's largest private employer, and contributes to the state's general fund. Collective bargaining between fishermen and processors will help stabilize commercial fishing prices, bolstering local and state economies. Stable raw fish prices will promote stable consumer prices for processed seafood products, which means greater sales of Alaska seafood."

MS. ALEXANDER concluded, "SB 3 passed the Senate without opposition on March 7. It has a zero fiscal note. You will find letters of support in your packets from fishing organizations, the Department of Commerce and Economic Development, and the Department of Labor. The Pacific Seafood Processors Association also has testified in

favor of the legislation. A similar bill was introduced last year with the complete support of the former Hickel Administration. It passed the Senate, but got caught in the final rush of legislation in the House and did not get to the House floor but it did have complete support from the former Hickel Administration as it does from the Knowles Administration."

NUMBER 430

RICK LAUBER, LOBBYIST, Pacific Seafood Processors Association, testified, "We have had continuing problems, we in fish price negotiations, and I'm not going to attempt to mislead you that this bill standing as it does will resolve all those problems, but at least it will take care of some of the more, what I would consider ridiculous situations where fish processors and fishermen could not be in the same room when someone else for instance is discussing fish prices." He continued, "The major problem would still remain and that's the federal antitrust law but as I repeatedly said, this would be an excellent first step. You've got to start someplace. You've got to change both the state law and the federal law in order to do what this bill would attempt to do. Let me say again what Senator Duncan has said a number of times and it's very clear in the legislation and that is that this law, if there's a corresponding law passed by the federal government would still not allow processors to sit down and fix prices. There was a recent article by a major news service that reported on passage of this bill, I believe in the Senate, and they implied that that was the case. Nothing can be further from the truth. There is never going to be any law in the United States that would allow price fixing on the part of fishermen or processors."

MR. LAUBER added, "In working with this bill last year and again, this year and having turned it over to attorneys to review. I apparently neglected a section of the bill is probably not going to be the end of the world but I am getting so much, not flack in the sense of anybody telling me that this is the end of the world but I hate to have anyone laugh at a piece of legislation and particularly one that I testified in favor of. I'm referring to on page two, line 12, the language for the rest of the sentence starting with '(2) minimum price that fish processors will accept for the sale of processed aquatic products'. What in effect this says, if you read (1) and (2) together, the fish processors and fishermen could talk about price paid for the fishermen for aquatic products and that, of course, is what we are attempting to do to be in discussions about that. But I have not been able to find anyone, either fishermen or processor that wants or thinks that processors and fishermen would ever agree as to the minimum price that fish processors will accept for the product when they sell the finish product. It would probably be almost an impossibility to reach such an agreement. I would compare this to a situation where the Ford Motor Company is negotiating wages with their employees and their employees are vitally interested in wages and working

conditions but the employees to my knowledge have never attempted or requested to be able to dictate to the Ford Motor Company the price that they will sell each individual automobile and its various accessories on the open market. Or what each individual dealer would then sell for. It just is so ludicrous that no one would ever ask to do it. But yet that is in here. I guess one could counter and say, 'Well, if they will never do it, then what harm is done'. But it is beyond humorous. If this passes this way it will make a law of the state of Alaska a kind of a ridiculous document. I've discussed this with United Fishermen of Alaska and asked sincerely, is there any legitimate reason for this, is there someone that wants this for a valid purpose. Neither from UFA or anyone else has been able to tell me any valid reason, anything that this would do to help anything."

CHAIRMAN AUSTERMAN asked if Mr. Lauber was requesting that that line be taken out.

MS. ALEXANDER explained, "That particular line did come out of the Attorney General's recommendation to George Utermohle who wrote the legislation. I have talked to Legal Services about this and I have an opinion from Jim Forbes, the Assistant Attorney General in the Fair Business Practices Section of the Attorney General's Office," and, "Mr. Lauber raised this question to us. This should be something the processors would keep in consideration when they negotiate this particular section, they felt that this would be something that would help level the negotiation field, the playing field, if you will, between fishermen and processors. Senator Duncan is not here and whether or not we would want to amend this without him, I don't think would be the case. I guess I would appreciate it if you would consider talking to him about this particular section."

Number 570

SCOTT MCALLISTER, Southeast Seiners, testified in support of SB 3, saying, "I think that this bill does potentially go a long way to level the playing field, so to speak, between the processors and the fishermen." He said, "Giving the fishermen the benefit of the wholesale arena where a fisherman with a processor or a group of processors, could essentially sit down and have a tremendous advantage in the marketplace enjoyed by very few in a free market except for a few primary producers and the farming industries that enjoy these antitrust exemptions as well, and together, to the benefit and advantage of both control volumes of product and be able to negotiate the wholesale level, prices to the advantage of the seafood industry as a whole." He concluded, "I support this bill, our organization supports this bill, in its current form. Without that particular wording, it puts us back where we have always been."

Number 652

REPRESENTATIVE ELTON said, "It seems to me that you're inducing additional restriction that may be hard to live up to. It also seems to me, and again, this is partly my background speaking, you may be taking away a marketing capability. For example there may be a lot of value to selling into the school lunch program at a lower price than you might get if you hold your pack later. And that advantage would be that you're creating new eaters of the product. And it seems to me that you have the minimal price language that you may be taking away some of those opportunities. For example an opportunity to sell 200,000 cases into the school lunch program at less than an agreed upon minimum wholesale price. It seems to me we're complicating an awful lot."

Number 672

MR. MCALLISTER said, "Well, we could be. These are ponderables. They're all what-ifs in a market place that is forever changes (indisc.), it has a life of its own. And pondering minimum price advantages or disadvantages into the future, are things that (indisc.) those prices will be there regardless."

TAPE 95-19, SIDE B
Number 016

DEAN PADDOCK, LOBBYIST, Bristol Bay Driftnetters Association and United Fishermen of Alaska, said, "Jerry McCune, because he wanted to go to a basketball game and because I'm a member of the Executive Committee of the UFA, authorized me to speak in behalf of the United Fishermen as well. We urge your support for this bill. The fishermen need all the help they can get. I think that this legislation should have been introduced many many years ago." He added, "This legislation should be motherhood and apple pie. I think it is and I'm sorry that some attorney somewhere saw fit to throw that clause in there. I don't think it adds a whole lot," and, "The deletion of the section mentioned by Mr. Lauber in my mind would not notably reduce the value or the importance of this bill or our support for it."

Number 155

REPRESENTATIVE ELTON moved to pass SB 3 out of committee with individual recommendations proposing that the possible amendment could be addressed in House Resources, the next committee of referral.

There was no opposition.

CHAIRMAN AUSTERMAN adjourned the meeting at 7:04 p.m.



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

February 16, 1995

The Honorable Robin Taylor, Chair
and Members of the Senate Judiciary Committee
Alaska State Senate
The Capitol Building
Juneau, Alaska 99801-1182

Dear Chairman Taylor and Committee Members:

United Fishermen of Alaska (UFA) supports Senate Bill 3 regarding Anti-Trust Exemption for Commercial fishermen.


This piece of legislation was first recommended in the 1993 Alaska Attorney General's Report on the Bristol Bay fishery.

Fishermen need to breathe new life in their industry. This is one avenue to be able to do so as it gives the fisherman the ability to make collective bargaining agreements with processors.

We might still have to deal with Federal anti-trust laws, but this bill is a step in the right direction.

I urge the Senate Judiciary Committee to pass SB 3 for the fishermen of Alaska.

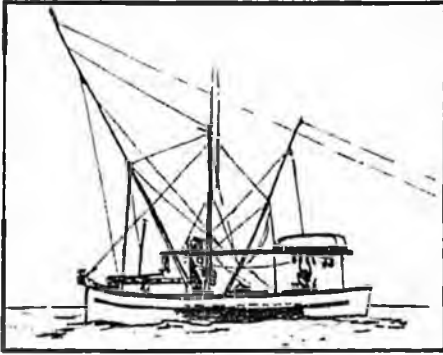
Sincerely,


Jerry McCune
President

cc: Senator Jim Duncan
UFA Board of Directors

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Area K Seiners Association
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

March 16, 1995

Senator Jim Duncan
Alaska State Legislature
Juneau, AK 99811

Dear Senator Duncan:

The Alaska Trollers Association strongly supports SB 3, which would provide anti-trust exemptions for commercial fishermen.

Allowing fishermen to collectively negotiate fish prices and take a more active role in marketing strategies should enhance the value of our seafood products. At this time of decreased stability and increased competition in the marketplace, this is precisely the type of option fishermen need to maintain a competitive edge.

ATA encourages legislative support for this bill and any subsequent changes necessary under federal law to secure anti-trust exemptions for commercial fishermen.

ATA appreciates the time you and your staff have dedicated to this issue.

Sincerely,

Dale A. Kelley
Executive Director

Ketchikan Office:
P.O. Box 9579
Ketchikan, AK 99901
Phone: (907) 225-5156
Fax: (907) 225-5258



Juneau Office:
P.O. Box 23081
Juneau, AK 99802
Phone: (907) 463-5030
Fax: (907) 463-5080

March 3, 1995

Dear Senator Duncan.

After extensive discussion and review it is the opinion of our board of directors that Senate Bill 3, relating to an antitrust exemption for commercial fishermen will benefit Southeast Alaskan Seiners. We support this bill and ultimately look forward to the congressional legislation necessary to make these antitrust exemptions opporative.

Functional, antitrust exemptions will facilitate fishermen and processors to more efficiently harvest, process and market Alaska's seafoods and achieve a greater value from these seafood products to the benefit of all Alaskans.

We offer our help and support in advancing this bill through the legislative process and thank you for your consideration and understanding of the fishing industry by bringing this bill to the floor.

Sincerely,


Jim Bacon
Southeast Alaska Seiners President

c.c. Senator Robin Taylor
Representative Bill Williams
Representative Kim Elton
Representative Jerry Mackie
Representative Caren Robinson
United Fishermen of Alaska



Cordova District Fishermen United

P.O. Box 939
Cordova, Alaska 99574
(907) 424-3447 FAX (907) 424-3430

January 24, 1995

Senator Jim Duncan
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Senator Duncan:

On behalf of Cordova District Fishermen United (CDFU), I am pleased to write in support of Senate Bill No. 3—*An Act relating to an antitrust exemption for persons engaged in the fishing industry*. CDFU supports SB3 for three primary reasons:

- **SB3 will clarify ambiguities in existing law.**
Under current law, it is clear that fishermen may harvest, process and handle their catch or prepared product collectively but it is unclear whether they may collectively see the fruit of their labors through to the marketplace. The current law is interpreted by some to mean that, after collectively catching or processing their fish, each individual fisherman must separate his portion of the catch or product from that of other fishermen and then attempt to sell that portion individually. CDFU supports SB3 because it expressly allows fishermen to collectively sell their catch or their prepared product.
- **SB3 will remove inconsistencies between state and federal laws.**
The federal exemption covers harvesting, processing, handling and marketing and is, thus, inconsistent with existing state law. This inconsistency creates an atmosphere wherein a group of fishermen may acquire an exemption from the state government and be in violation of federal law—and vice versa. Section 1 of SB3 rewrites existing law to make the state exemption virtually identical to its federal counterpart. CDFU believes this is an important improvement over existing state law.
- **SB3 will level the playing field for fishermen.**
Section 2 of SB3 places fishermen in a better position to obtain the best price for their fish by allowing them to collectively agree on the price that processors will pay to fishermen for raw fish and that processors will accept for the sale of processed fish. This will have the effect of leveling the playing field. Fishermen will be in a better position to obtain the best price for their fish by allowing them to deal with processors. Fishermen and processors will be able to put up a united front against the major corporations that dominate the world markets for processed fish.

The commercial fishermen who comprise CDFU strongly support Senate Bill No. 3. If you have any questions or require additional information, please do not hesitate to contact me at the number above. Thank you for your consideration.

Sincerely,
CORDOVA DISTRICT FISHERMEN UNITED


Dome Hawxhurst, Executive Director

cc: Senator Georgianna Lincoln
Representative Gene Kubina

BSFA Bering Sea Fishermen's Association



725 Christensen Drive
Anchorage, Alaska 99501
(800) 770-6519 (Within Alaska)
(907) 279-6519
FAX (907) 258-6688

Serving western Alaska small boat fisheries since 1980

January 24, 1995

The Honorable Jim Duncan
Alaska State Senate
State Capitol
Juneau, Alaska 99801

Dear Senator Duncan:

The Bering Sea Fishermen's Association supports Senate Bill No. 3, "An Act relating to an antitrust exemption for persons engaged in the fishing industry", as positive legislation that will benefit commercial fishermen in western Alaska and statewide.

Western Alaska small boat fishermen, which BSFA represents, are engaged continually in a process of trying to develop and market fish products from their region. Their efforts involve species such as salmon, herring, and halibut.

By clarifying present law, SB 3 makes clear that commercial fishermen may join together to produce and market their catches, as well as bargain collectively with processors for better prices. In a region where there are few alternate sources of income, these activities are vital to the ability of western Alaska fishermen to strengthen their markets and achieve the best possible return from their seasonal fisheries.

Thank you for introducing SB 3. Please do not hesitate to contact our office if we can provide you with further information.

Yours truly,

A handwritten signature in cursive script that reads "Karl Ohls". The signature is written in dark ink and is positioned above the printed name.

Karl Ohls
Fisheries Development Specialist



Edward E. Crane
President

2550 Denali Street, Suite 1201
Anchorage, Alaska 99503
(907) 276-2007

January 27, 1995

Senator Jim Duncan
Alaska State Senate
State Capitol, Room 119
Juneau, Alaska 99801-1182

Dear Senator Duncan,

I have noted and read Senate Bill 3. In my view, SB3 serves a relevant and highly significant purpose.

I have been directly or indirectly involved with individual producers of food and fiber, and with both formal and informal associations of such producers, for nearly 30 years. That includes almost continuous and intense involvement with producers and marketers of agricultural commodities of all kinds from 1965 through 1981.

As contrasted with manufacturers, an individual producer of food and fiber commodities is greatly disadvantaged by his or her isolated status within what may be a huge conformation of economic forces. The producer is further made vulnerable by the limited-life nature of most commodities and by the pressure to capture whatever value may exist on a timely basis.

There has probably been no more positive statutory force affecting commodities producers than the limited antitrust exemptions in Federal, and most state, statutes. While a superficial glance may suggest they are merely the extension of privilege to a few, such exemptions are in actuality the cornerstones of the stability which is critical to any food production and distribution system and which provides immeasurable benefits to each of us as consumers.

Senator Jim Duncan
January 27, 1995
Page 2

Senate Bill 3 establishes and clarifies this important exemption for harvesters, producers, and marketers of Alaska's seafood resources. While it will solve no problems by itself, its enactment will provide significant opportunities for the creation of stabilizing forces which will benefit all of Alaska as well as seafood industry participants.

I would be most interested in knowing of any opportunities to express support for Senate Bill 3.

Very truly yours,



Edward E. Crane

EEC:dmv

BILL NO: Senate Bill No. 3

DATE: February 23, 1995

TITLE: Antitrust Exemption for Fishermen

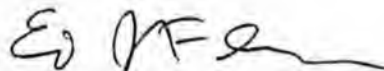
CONTACT: Dwight Perkins
465-2700

Senate Bill No. 3 would allow fishers to form associations to negotiate fish prices. AS 16.10.280 provides that the Department of Labor serve as mediator of disputes between fishers and fish processors on the price to be paid for salmon. The department's experience has revealed that the inability of fishers to form associations to negotiate with processors has been a primary factor in such disputes as the 1991 Bristol Bay strike.

This legislation would provide a mechanism to stabilize raw fish prices, thereby protecting Alaskan fishers and processors from the debilitating and extreme fluctuations in fish prices. A stable fishing industry will have a direct and positive effect on the Alaskan economy. It is only reasonable that Alaskan fishers and processors have the legal ability to protect themselves and this important resource from price setting by outside interests.

The Department of Labor supports Senate Bill No. 3.

APPROVED:



DATE:

2/23/95

for

Tom Cashen, Commissioner

POSITION PAPER/Department of Labor

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF ECONOMIC DEVELOPMENT

P.O. BOX 110804
JUNEAU, ALASKA 99811-0804
PHONE: (907) 465-2017

The Honorable Senator Jim Duncan
State Capitol
Juneau, Ak. 99811

DCED comments on SB 3

DCED supports passage of SB 3; "An Act relating to an anti-trust exemption for persons engaged in the fishing industry."

Currently, Alaska fishermen and processors cannot discuss price issues without violating anti-trust laws. This proposed legislation would help bring stability to the Alaska fishing industry and the communities dependent on this resource by allowing fishermen and processors to negotiate long-term price agreements.

Three years ago former Governor Hickel assigned DCED to head a Salmon Strategy Task Force to investigate the cause of salmon price declines. It was determined that increased world production of salmon had caused prices to decrease in recent years. Specifically, Alaska salmon has lost market share to increased farmed salmon production which is able to deliver to the marketplace a product that offers consistent supply, quality and price. A strategy to help recover market share was developed which included; expanded marketing efforts, improved consistency of quality, reduced costs of production and increased product options to consumers. While all these issues can not be addressed in a single piece of legislation, SB 3 is an important first step that offers the hope of stable pricing and supply necessary for food manufacturers to commit to new product development.

As part of its efforts to develop a price recovery strategy for salmon, DCED conducted a comparison study of Alaska and Canadian salmon prices. It was learned that a similar anti-trust exemption exists in Canada where long-term price contracts have helped keep Canadian pink salmon prices 113% higher and sockeye prices 60% higher than ex-vessel prices paid in Alaska.

While a federal anti-trust exemption may be necessary to fully remove liability, this is an important first step in a direction that will help the Alaska salmon industry to recover lost market share.



SENATOR JIM DUNCAN
ALASKA STATE LEGISLATURE

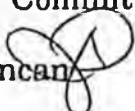
Alaska State Senate

State Capitol • Room 119 • Juneau, Alaska 99801-1182 • (907) 465-4766 • Fax 465-4748

MEMORANDUM

Date: March 29, 1995

To: Rep. Bill Williams, Co-Chair
Rep. Joe Green, Co-Chair
House Fisheries Committee

From: Senator Jim Duncan 

Subject: SB 3, An Act relating to antitrust exemption for persons engaged in the fishing industry.

I urge you to schedule a hearing on SB 3, which amends the existing state antitrust statute to permit fishermen and processors to collectively negotiate fish prices.

SB 3 has the support of the United Fishermen of Alaska, Southeast Alaska Seiners Association, Alaska Trollers, Bristol Bay Gillnetters Association, Cordova District Fishermen United and various other fishing groups, as well as the departments of Commerce and Economic Development, and Labor.

As you know, the House Fisheries Committee passed SB 3 on March 20. You may recall that House Resources waived a similar bill last session, however, it did not make it to the House floor before adjournment.

In addition to allowing fishermen and processors to discuss prices, SB 3 clarifies existing ambiguities in state law. The legislation was recommended by the antitrust division of the Attorney General's office in its 1993 report on the Bristol Bay sockeye salmon industry.

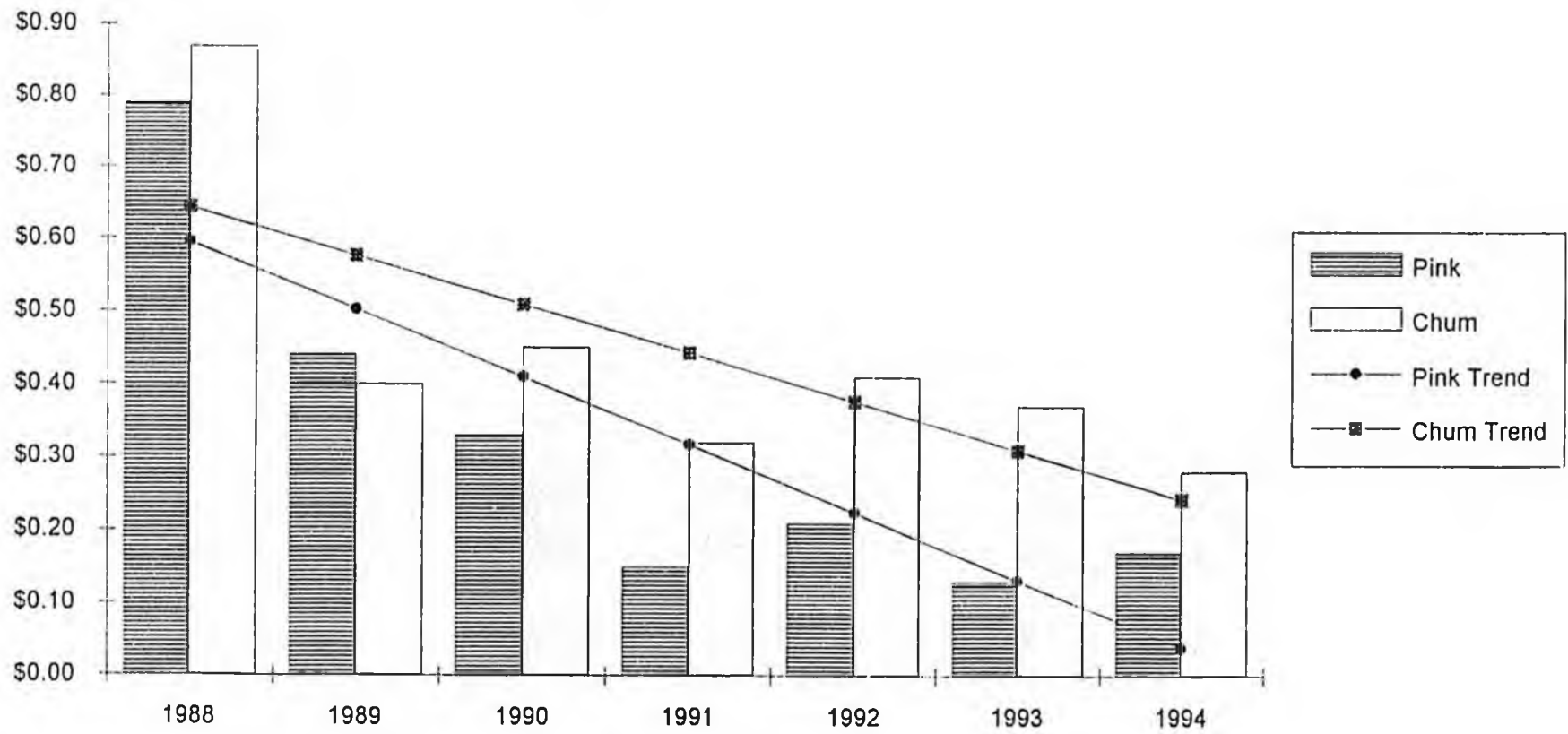
I am attaching SB 3, the sponsor statement, a legal opinion and letters of support. Please contact my office for additional information. I look forward to an early hearing on SB 3.

Attachments

dh

FIGURE 1

Salmon Pricing Trends



SB

16

HOUSE RESOURCES COMMITTEE
Roll Call and Members' Bill Votes

* (indicates first public hearing)

Room 124, Capitol Bldg.

Mon., Wed., Fri. Thurs.

Date: 4-27-95

Tape# 95-58 Joint _____

Time: 4:15 am/pm am Time Adjourned: _____ am/pm

ROLL CALL:	PRES	ABS	TIME	AR	^{HB} 312	_____	_____
Rep. Joe Green	✓	_____	<u>4:18</u>	_____	Y	_____	_____
Rep. Bill Williams	✓	_____	_____	_____	Y	_____	_____
Rep. Scott Ogan	✓	_____	_____	_____	Y	_____	_____
Rep. Alan Austerman	✓	_____	_____	_____	Y	_____	_____
Rep. Ramona Barnes	✓	_____	_____	_____	Y	_____	_____
Rep. John Davies	_____	_____	<u>4:16</u>	_____	Y	_____	_____
Rep. Pete Kott	✓	_____	_____	_____	Y	_____	_____
Rep. Eileen MacLean	_____	_____	_____	_____	_____	_____	_____
Rep. Irene Nicholia	_____	_____	<u>4:17</u>	_____	N	_____	_____

7-1

Other Legislators Present _____

AGENDA:

Bill No.	Short Title	Action Taken
<u>HB 312</u>	<u>Extend Current Substance Law</u>	<u>CS HB 312 (RES) OUT</u>
<u>HJR 38</u>	<u>Magnuson Fisheries Conservation 1991 Act</u>	<u>Out</u>
<u>HJR 46</u>	<u>Endorsing Fall Creek Hydropower Project</u>	<u>Out</u>
<u>SB 16</u>	<u>Increase Land Grant to Univ of AK</u>	_____
_____	_____	_____
_____	_____	_____

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Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Resources
5-3-95 8:13am
Tape #95-62, Side A
SB 16

House Resources
4-27-95 4:15 pm
Tape #95-58
SB 16

05/03/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:01:09

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:PSG

TCN:50704 SCHEDULED FOR:05/03/95 08:00 TO 10:00

FOR:PSG

PUBLIC HEARING

HOUSE RESOURCES

LOCATION: PETERSBURG

SB 77

MR.

DON

CORNELIUS

Defenders of wild life

TESTIFY

HOUSE RESOURCES COMMITTEE



Alaska State Legislature
House of Representatives

DATE: 5/3/95

PLACE: ROOM 124

SUBJECT OF MEETING:
SJR 27 - Fall Creek Hydro Project
SB 16 - University Land Grant
SB 77 - Intensive Game Management

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Wayne Regelin	Fish & Game	P.O. Box 25526	99801			<input checked="" type="radio"/> Y	<input type="radio"/> N	SB 77
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
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						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

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						Y	N	
Sara Hanna	AEL				463-3366	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SB 77
						<input type="checkbox"/>	<input type="checkbox"/>	
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9-LS0165VK ✓
Chenoweth
5/2/95

HOUSE CS FOR CS FOR SENATE BILL NO. 16()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) The Board of Regents shall

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

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

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

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

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

31 (B) land

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 14.40.365. UNIVERSITY LAND FROM STATEHOOD ACT LAND
28 SELECTION CONVEYANCES. (a) The University of Alaska may select and, except
29 as provided in (n) of this section, is entitled to receive the conveyance of 350,000
30 acres of land conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L.
31 85-508, 72 Stat. 339) that, on the date of its selection by the university,

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- (1) has not been conveyed by the state;
 - (2) has not been reserved by law from the public domain;
 - (3) is not land
 - (A) included in a five-year proposed oil and gas leasing program under AS 38.05.180(b); or
 - (B) leased under, or for which a lease application is pending under, AS 38.05.180(d);
 - (4) is not subject to a possessory interest or encumbrance other than
 - (A) a lease that is not an oil or gas lease;
 - (B) a timber contract;
 - (C) a mining claim, a prospecting site, or a prospecting permit on tide or submerged land;
 - (D) a sale of materials under AS 38.05.110 - 38.05.120;
 - (E) a land use permit or right-of-way issued by the Department of Natural Resources under AS 38.05;
 - (5) is not necessary to carry out the purpose of an interagency land management agreement; or
 - (6) is not subject to conveyance under a land exchange or land settlement agreement.
- (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and management of land from the Department of Natural Resources to the Board of Regents of the University of Alaska under this section includes
- (1) the interest of the state in the coal, ores, minerals, fissionable materials, geothermal resources, and fossils that may be in or on the land; and
 - (2) the interest of the state in the oil and gas that may be in or on the land, but only as to land that is selected by the University of Alaska under this section on and after the date that is the fifth anniversary of the effective date of this section.
- (c) When the University of Alaska selects the land to which it is entitled under this section,
- (1) selections must be made in whole sections of 640 acres, whether surveyed or unsurveyed, and may not be made in fractional parts of sections; and

Handwritten note: purchase 40 of 640 acres

1 (2) unless the commissioner of natural resources determines under (e)
2 of this section that title to the land should not be conveyed, the commissioner of
3 natural resources shall convey, subject to divestiture under (n) of this section, a
4 document of interim conveyance under (k) of this section or a patent to land.

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

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

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

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

18 (2) 90 percent of the proceeds derived from contracts, leases, licenses,
19 prospecting sites, claims, permits, rights-of-way, or easements, or from trespasses,
20 originating after the date of selection by the University of Alaska shall be held by the
21 state until the land has been conveyed by the patent or by a document of interim
22 conveyance; upon the issuance of a document of interim conveyance or a patent, the
23 state shall pay to the University of Alaska the proceeds allocable to the land that were
24 derived from the contracts, leases, licenses, prospecting sites, claims, permits, rights-of-
25 way, or easements, or from trespasses, and subsequent to the issuance of a document
26 of interim conveyance or a patent, the University of Alaska shall receive 100 percent
27 of the proceeds derived from the contracts, leases, licenses, prospecting sites, claims,
28 permits, rights-of-way, or easements, or from trespasses;

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

1 (e) The commissioner of natural resources may not convey title to a land
2 selection made by the University of Alaska under this section if the commissioner
3 determines that the proposed selection

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

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

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

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

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

16 (B) the commissioner reasonably believes will be made part of,
17 an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the
18 commissioner may not refuse to convey title to land to the University of Alaska
19 under this subparagraph for more than three years after its first selection by the
20 University of Alaska;

21 (3) is not in the best interests of the state; in making a determination
22 under this paragraph as to whether a selection by the University of Alaska is in the
23 best interests of the state, the commissioner shall consider

24 (A) the interest of the general public in retention of the land in
25 state ownership;

26 (B) ensuring an appropriate diversity in the character of land
27 owned by the state and by the University of Alaska;

28 (C) the public benefits achieved by conveyance of the land to
29 the University of Alaska;

30 (D) the probable potential for the development of the land and
31 its resources and the probable income to the University of Alaska from the

1 conveyance of the land;

2 (E) benefits to the University of Alaska from the conveyance
3 of the land to it; and

4 (F) the efficiency of the management of the land resulting from
5 the conveyance of the land.

6 (f) If the Board of Regents of the University of Alaska disagrees with a
7 decision of the commissioner of natural resources not to convey to the University of
8 Alaska land selected by it under this section, the Board of Regents and the
9 commissioner of natural resources shall submit the matter to the governor, who shall
10 make the decision. The decision of the governor is final.

11 (g) When land is conveyed to the University of Alaska under this section, the
12 University of Alaska takes the land subject to any possessory interest held by another
13 person on the effective date of the conveyance. Except as provided in
14 AS 14.40.368(1), the University of Alaska is entitled to receive the consideration due
15 under that interest for the duration of the interest.

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

20 (i) Land transferred or conveyed to the University of Alaska under this section
21 (1) is subject to

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

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

25 (C) AS 19.10.010;

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

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

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

1 141;

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

8 (j) The University of Alaska shall bear all costs of selection, platting,
9 surveying, and, except as provided in (l) of this section, conveyance of the land that
10 it selects under this section and, subject to appropriation, shall reimburse the
11 Department of Natural Resources for the reasonable costs incurred by that department
12 relating to that selection, platting, surveying, and conveyance. As to land due the
13 University of Alaska under (c) of this section because it has not been disapproved
14 under (e) of this section,

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

17 (2) if the land is unsurveyed, the commissioner shall survey the exterior
18 boundaries of the land to be conveyed without interior subdivision, and shall issue
19 patent in terms of the exterior boundary survey within one year of request by the
20 University of Alaska.

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

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

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

1 after December 31, 2009.

2 (n) When the commissioner of natural resources issues a document of interim
3 conveyance under (k) of this section or a patent for land selected and held by the
4 University of Alaska, the commissioner of natural resources shall retain the right to
5 reenter the land conveyed and recover title to it. The commissioner of natural
6 resources shall reenter and recover title

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

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

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

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

1 (b) Notwithstanding other provisions of law, the University of Alaska shall
2 seek public comment on proposals for development or sale of university selections
3 made under AS 14.40.365. The Board of Regents shall adopt policies which provide
4 that the university shall prepare an annual plan for management and disposition of
5 university land under this section and shall, not less than 60 days before scheduled
6 approval by the Board of Regents of the plan

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

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

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

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

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

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

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

29 Sec. 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE
30 CONTINUED. When land selected by the University of Alaska under AS 14.40.365
31 has been conveyed to it, before conveying or disposing of an interest in land to a third

1 party, the University of Alaska shall manage the land in a manner that permits
2 customary and traditional uses of the resources of that land to the maximum extent
3 practicable.

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

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

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

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

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

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

25 (b) The president of the University of Alaska [COMMISSIONER OF
26 REVENUE] is the fiduciary of the trust fund and shall account for and invest the fund
27 as set out for the commissioner of revenue in AS 37.14.110(c), 37.14.160, and
28 37.14.170, except that the president of the university [COMMISSIONER] shall report
29 the condition and investment performance of the fund to the Board of Regents and to
30 the legislature.

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

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

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

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

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

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

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

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

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

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

1 household;

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

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

8 (5) money on deposit;

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

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

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

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

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

21 (15) a contract that is a delegation, in whole or in part, of investment
22 powers held by the commissioner of revenue under [AS 14.40.400,] AS 14.42.200,
23 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

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

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

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

31 * Sec. 16. APPLICABILITY OF UNIVERSITY SELECTION RIGHTS UNDER

1 AS 14.40.365 TO CERTAIN LAND. In addition to the land that, under AS 14.40.365(e), the
2 commissioner of natural resources may not convey to the University of Alaska, the
3 commissioner of natural resources may not convey land that, at the time of its selection by
4 the university, is subject to designation for conveyance or conveyance to the Alaska Mental
5 Health Trust Authority under sec. 40, ch. 5, FSSLA 1994, as amended by secs. 4 and 5,
6 ch. 1, SSSLA 1994, and may not convey land that, at the time of its selection by the
7 university, is land obtained under the Alaska Mental Health Enabling Act of 1956, P.L. 84 -
8 830, 70 Stat. 709, redesignated by ch. 181, SLA 1978, as state general grant land, not later
9 disposed of by the state, and not part of the mental health trust as reconstituted by ch. 66,
10 SLA 1991, ch. 5, FSSLA 1994, and ch. 1, SSSLA 1994, until all litigation regarding
11 reconstitution of the mental health trust has been concluded.

HOUSE RESOURCES COMMITTEE
Roll Call and Members' Bill Votes

* (indicates first public hearing)

Room 124, Capitol Bldg.

Mon., Wed, Fri.

Date: 5/3/95

Tape# 95-62

Joint _____

Time: 8:13

am/pm

Time Adjourned: _____

am/pm

ROLL CALL:

	PRES	ABS	TIME	AR	<i>Amend #1</i>	<i>SB 777 amendments</i>	<i>340000</i>	<i>341000</i>	<i>Bill 19-25</i>
Rep. Joe Green	✓	_____	_____	_____	N	Y	N	N	N
Rep. Bill Williams	✓	_____	_____	_____	N	Y	Y	Y	N
Rep. Scott Ogan	✓	_____	_____	_____	N	Y	N	N	N
Rep. Alan Austerman	✓	_____	_____	_____	N	Y	Y	Y	N
Rep. Ramona Barnes	_____	_____	_____	_____	_____	_____	_____	_____	_____
Rep. John Davies	✓	_____	_____	_____	Y	N	Y	Y	Y
Rep. Pete Kott	✓	_____	_____	_____	N	Y	N	N	N
Rep. Eileen MacLean	_____	_____	_____	_____	_____	_____	_____	_____	_____
Rep. Irene Nicholia	_____	_____	_____	_____	_____	_____	_____	_____	_____

3-3 3-3 1-5

Other Legislators Present _____

AGENDA:

Bill No.	Short Title	Action Taken
<u>SB 16</u>	<u>Increase Bond Grant to Univ. of AK</u>	<u>HCS CSSB 16 (RES) OUT</u>
<u>SJR 27</u>	<u>Endorsing Falls Creek Hydropower Project</u>	<u>SJR 27 OUT</u>
<u>SB 77</u>	<u>Intensive Management of Rivers</u>	<u>HCS SB 77 (RES) OUT</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

OTHER

HOUSE RESOURCES COMMITTEE



Alaska State Legislature
House of Representatives

DATE: 4/27/95

PLACE: ROOM 124

SUBJECT OF MEETING:
 HB 312 - Extended Licensure Subsidies Law
 HJR 38 - Magnuson Fishery Conservation + mgmt. Act
 HJR 46 - Endorsing Fall Creek Hydropower Project
 SB16 - Increased Land Grant Volume of AK

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
→ P. LAMAR LEVITT	GUSTAVUS ELEC. CO.	Box 102 Gustavus			6972299	(Y) N	HJR 46
→ KYLE SANGU	"	3475 W " "			7904477	(Y) N	"
Oliver [unclear]	Grand Central ANIS					(Y) N	HB 312
→ ANDREW EBONA	GR. CAMP ANIS	ONE SE ALASKA PLAZA JUN. AK.				Y (N)	
✓ Nico Blas	AK - DNR	400 Willoughby Ave			2406	(Y) N	SB16
Sara Hamon	A.E.L	PO Box 22151 JUNEAU, AK 99801			463-3364	(Y) N	SB16
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

HOUSE RESOURCES COMMITTEE

Alaska State Legislature
House of Representatives



DATE: 4-27-95

PLACE: ROOM 124

SUBJECT OF MEETING:
SB 16 -
HB 312 -

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Wendy Redma	Ug A					<input checked="" type="radio"/> Y	<input type="radio"/> N	SB 16
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

04/27/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

18:08:42

PARTICIPANT LIST (TESTIFIERS ONLY)

BY:JNU

TCN:50677 SCHEDULED FOR:04/27/95 16:00 TO 19:00

FOR:ALL

PUBLIC HEARING

HOUSE RESOURCES

LOCATION: ANCHORAGE

HB 312	GEORGE	IRWIN	2801 Touche Ct. 99517 274-3611	AFN	TESTIFY
SB 16	JEFF	PARKER	1201 Hyler 99507	ASA/TU 274-5418	TESTIFY
SB 16	ERUK	WILLIAMSON	12720 Kuparuk Rd. 99516	ANCH F & G ADV.	TESTIFY
SB 16	CLIFF	EAMES	519 W. 8th # 201 99501	AK CNTR ENVIR. 274-3621	TESTIFY

LOCATION: BARROW

LOCATION: BETHEL

HB 312	CALVIN	SIMEON	P.O. Box 219 99559	AVCP 5143-3521	TESTIFY
--------	--------	--------	--------------------	----------------	---------

LOCATION: FAIRBANKS

SB 16	MS. BONNIE	WILLIAMS	1335 Sunny Slope 99709	455-6652	TESTIFY
SB 16	MR. DAN	RITZMAN	218 Driveway Fb 99701	NAEC	TESTIFY
SB 16	MR. COLIN	READ	653 Love Rd 99712	488-7117	TESTIFY
SB 16	MS. MARIE	BEAVER	bx 86433 99708	479-8129	TESTIFY
SB 16	MR. BRIAN	ROGERS	100 Cushman St. #388 99701	457-4209	TESTIFY
SB 16	MR. SEAN	MCGUIRE	351 Cloudberry Dr. 99709	479-7134	TESTIFY

LOCATION: HOMER

HB 312	MR. JACK	POLSTER	1506 Decon Dr 99603		TESTIFY
SB 16	MS. LAUREN	CARLTON	bx 198 99603		TESTIFY

LOCATION: JUNEAU

ALL ITEMS	REP	B	WILLIAMS	CO-CHAIR	TESTIFY
ALL ITEMS	REP	J	GREEN	CC-CHAIR	TESTIFY
ALL ITEMS	REP	S	OGAN		TESTIFY
ALL ITEMS	REP	R	BARNES		TESTIFY
ALL ITEMS	REP	A	AUSTERMAN		TESTIFY
ALL ITEMS	REP	P	KOTT		TESTIFY
ALL ITEMS	REP	J	DAVIES		TESTIFY

ALL ITEMS	REP	I	NICKOLIA	TESTIFY
ALL ITEMS		TO	TESTIFY	TESTIFY
ALL ITEMS		TO	TESTIFY	TESTIFY
ALL ITEMS		TO	TESTIFY	TESTIFY
ALL ITEMS		TO	TESTIFY	TESTIFY
ALL ITEMS		TO	TESTIFY	TESTIFY
ALL ITEMS		TO	TESTIFY	TESTIFY
ALL ITEMS		TO	TESTIFY	TESTIFY

LOCATION: PETERSBURG
SB 16 MR. DON CORNELIUS TESTIFY
10x 1727 99833

LOCATION: KEN/SOL

Alaska Federation of Natives, Inc.

AFN TESTIMONY ON H.B. 312 - HOUSE RESOURCES - 4/27/95 (GI)

The Alaska Federation of Natives urges the Nineteenth Alaska Legislature not to enact H.B. 312. This bill will do nothing to resolve the real issue of subsistence in Alaska - which is the federal-state impasse over the rural preference and the steadily expanding loss of state authority over our own resources.

In 1992, the Hickel administration tried to force on the Native community a whole new system of subsistence eligibility which, if enacted, would have dismantled village economies and social structures. That plan was firmly rejected, and all that the former administration could get was bits and pieces of an anti-subsistence statute. It got the power to designate huge regions of the state as non-subsistence use areas - in which sport and commercial uses were to be protected from all other competition and no Alaskan, no matter how great his or her need, could hunt or fish for food. It also got a definition of "customary trade," a definition of "customary and traditional" uses, and a "reasonable opportunity" standard of subsistence protections - none of which is adequate to the state's needs or complies with federal law.

Non-subsistence use areas have been struck down as unconstitutional by the Superior Court. That ruling will likely be upheld by the Alaska Supreme Court - in which case the state government will not enjoy that power regardless of what the Legislature does on H.B. 312.

The 1992 statute also provided an automatic "sunset" on October 1, 1995 and required an in-depth analysis of the 1992 law's implementation, including specific policy recommendations, prior to further legislative action. No such analysis has ever been conducted, and the legislative leadership's determined neglect of the entire issue has now brought it face to face with its own deadline. H.B. 312 therefore proposes to renege on the commitments of 1992, to hide from difficult policy choices and continue applying last-minute Band-Aids to every hemorrhage of state sovereignty.

AFN urges the Legislature to reject H.B. 312 - because it is inadequate to the state's needs, because it is anti-subsistence in intent and effect, and because it means that this Legislature has no intention of taking its responsibilities on the most divisive issue in state politics.

SB 16, Amendment #6

We do not support the requirement for selections not being less than 640 acres. Selections of that size make sense for mineralized or oil and gas areas as you need to make sure you cover the development area. 640 acres is way to large, however, for commercial development, recreation, commercial, industrial or residential tracts. A minimum of 40 acres makes much more sense in these cases. Often we do not mind development within a 40 - 160 acre site within a section but cannot support development within the whole section because of other public interest values. We need some flexibility in order to deal effectively with these concerns.

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421

Alaska State Legislature



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

Senate

Sponsor Statement - Senate Bill No. 16

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

SB 16 would allow the University of Alaska to select one million acres of unencumbered land from the State of Alaska.

In this era of declining state funds, endowing the university with additional lands will allow it to develop those lands to produce income for university programs.

Under the Congressional Morrill Act of 1862, each state was entitled to receive a grant for public lands, the income from which would provide the financial base of operation for at least one college or university. The University of Alaska received about 112,000 acres of land, less than any other western public land state and less than the national average entitlement of over 300,000 acres. Some universities in states with much smaller state land grants, such as New Mexico and Oklahoma, have received up to one million acres.

An additional grant of land would bring Alaska up to the level of other western states and follows through with the original purpose of land grant colleges.

Thank you for your consideration.

BY: SEN. ZHAROFF

TO: CS SB 16 (FIN)

LETTER OF INTENT
FOR
CS SB 16 (FIN)

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

4/10/95:Adopted by the Senate

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

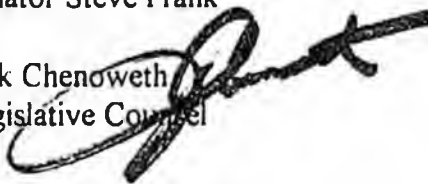
MEMORANDUM

April 20, 1995

SUBJECT: CSSB 16 (FIN) am, relating to the University of Alaska -- sectional analysis (Work Order No. 9-LS0165/F)

TO: Senator Steve Frank

FROM: Jack Chenoweth
Legislative Counsel



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

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

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

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

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

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

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

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

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

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

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

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

-- payment of all amounts due the Alaska Permanent Fund; and

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

but it excludes from selection by and conveyance to the University certain lands obtained by the state under the Alaska Omnibus Act, P.L. 86-70. In addition, under paragraph (3) of the subsection, for land selections made by the University within five years of the taking effect of the Act, the state shall reserve to itself in perpetuity any oil and gas interests on that land.

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

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

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

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

-- Subsection (n) establishes a divestiture mechanism under which the land may be reconveyed to the state if, within 10 years of the date of conveyance, the University is not actively managing the land to provide income.

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

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

Bill section 5 adds a series of new related bill sections. Proposed AS 14.40.366 directs the University to establish rules for mineral entry, location, or leasing on the land selections, and to develop an annual plan for the management and disposition of land and describes a framework under which the public has the opportunity to comment on the Regents' plan. Proposed AS 14.40.368 addresses the manner of the management and disposition of income from encumbrances on land selected by and conveyed to the University. That responsibility shifts from the state to the University only after conclusion of the term of an existing encumbrance and the term of any renewal that may be authorized by the language of the existing encumbrance. Proposed AS 14.40.369 declares that the University's management of land conveyed to and held by it must permit continued "customary and traditional uses of the resources of that land to the maximum extent possible."

Bill section 6 adds a tort immunity provision to protect the University against claims for personal injury, death, or property damage on its land that is unimproved or not actively maintained. Under this bill section, the University does not enjoy tort immunity as to that land when injury or damage is due to its gross negligence or its reckless or intentional misconduct.

Senator Steve Frank
April 20, 1995
Page 4

Bill section 7: This amendment of AS 14.40.400(a) alters the provision that directs the University to establish an endowment trust fund for land conveyed to it under the 1929 grant to the Territory of Alaska for the benefit of the University to require deposit into the trust the land selected by the University and conveyed by the state under AS 14.40.365. The land selections made under bill section 4 would be managed under applicable trust principles.

Bill section 8 amends the definition of "university receipts" to incorporate reference to the net income of the University trust fund.

Bill section 9: 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 10 sets aside land that may be used to satisfy the obligation to reconstitute the mental health trust as other land that may not be conveyed to the University under the Act.

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

JBC:glc:lmb
95-176.lmb

FISCAL NOTE

Bill Version: CSB 16 (Final)
 (S) Publish Date: 3-27-95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

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

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: [Signature] Phone: 907-276-1363
 Division: Oil and Gas Audit Date: 3/9/95
 Approved by: [Signature]
 Commissioner: Deborah Voigt Date: 3/9/95
 Agency: Revenue

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SB 16

No. 8Version: CSSB 16 Fin(S) Publish Date: 3-27-95

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSIONBILL NO. CSSB 16 (CRA)

Revision Date: 3/9/95 Dept. Affected: Fish and Game
 Title: University Land Selection BRU: Habitat and Restoration Division
 Component: Habitat
 Sponsor: Senator Frank
 Requester: Senate Resources COMPONENT SERIAL NO. 486

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	31.2	31.2	31.2	31.2	31.2	31.2
TRAVEL	1.8	1.8	1.8	1.8	1.8	1.8
CONTRACTUAL	1.0	1.0	1.0	1.0	1.0	1.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	34.3	34.3	34.3	34.3	34.3	34.3
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	34.3	34.3	34.3	34.3	34.3	34.3
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	34.3	34.3	34.3	34.3	34.3	34.3

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.5	0.5	0.5	0.5	0.5	0.5
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

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

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

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

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FISCAL NOT

BILL NO. CSSB16(CRA)

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: 9-Mar-95 Dept Affected: Natural Resources
 Title: An Act relating to the University of Alaska and BRU: Resource Development
university land, authorizing the University of Alaska to select... Component: Information Resource Management
 Sponsor: Senator(s) Frank, Kelly, Sharp, Reiger Land Development
 Requestor: _____ Component Serial No. 427

Expenditures/Revenues	(Thousands of Dollars)					
	FY96	FY97	FY98	FY99	FY00	FY01
OPERATING EXPENDITURES						
PERSONAL SERVICES	60.0	60.0	60.0	60.0	60.0	60.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	71.0	71.0	71.0	71.0	71.0	71.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0*	0.0*	0.0*	0.0*	0.0*	0.0*

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other I/A Receipts	71.0	71.0	71.0	71.0	71.0	71.0
TOTAL	71.0	71.0	71.0	71.0	71.0	71.0

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

POSITIONS						
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

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

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

Prepared by: Ron Swanson, Director Phone: 465-2406
 Division: Division of Land Date: 9-Mar-95
 Approved by Commissioner: _____ Date: 3-9-95
 Agency: Natural Resources

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515 16

FISCAL NOTE

No. 6

Bill Version: CS SB16 (CRA)

(S) Publish Date: 3/26/95

STATE OF ALASKA

LEGISLATIVE SESSION

Revision Date: 9-Mar-95 Dept Affected: Natural Resources
 Title: An Act relating to the University of Alaska and BRIJ: Resource Development
university land, authorizing the University of Alaska to select... Component: Information Resource Management
 Sponsor: Senator(s) Frank, Kelly, Sharp, Reiger
 Requestor: _____ Component Serial No. 427

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01	
PERSONAL SERVICES	22.0						
TRAVEL							
CONTRACTUAL	2.0						
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	24.0	0.0	0.0	0.0	0.0	0.0	
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF	24.0						
1005 GF/Program Receipts							
1006 GF/MHTIA							
Other							
TOTAL	24.0	0.0	0.0	0.0	0.0	0.0	

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

POSITIONS		FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME		0	0	0	0	0	0
PART-TIME		0	0	0	0	0	0
TEMPORARY		0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

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

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

Prepared by: Nico Bus, Acting Director Phone: 465-2406
 Division: Support Services Date: 3-Mar-95
 Approved by Commissioner: _____ Date: 3-9-95
 Agency: Natural Resources

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FACT SHEET
SB 16 - Enhancing UA Land Grant

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

SB 16 has had three substantive hearings in the Senate that resulted in additional amendments. The changes and clarifications that have been made in response to concerns and questions raised by legislators and members of the public.

Senate Community & Regional Affairs Committee

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

Senate Resources Committee:

- * No amendments were made in Resources Committee

Senate Finance Committee:

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

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

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

Re: SB 16 (University Land Grant)

For the Record

Dear Committee Members:

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

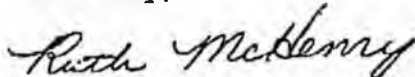
As a UAF graduate, I am grateful for and appreciative of the special role that the university plays in our state. It is disturbing to hear that maintenance has been deferred, that students wear parkas in some classrooms because of aging heating systems, and that a nearly-completed natural science building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

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

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

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

Sincerely,



Ruth McHenry

by FAX to (907)465-4589



SB 16 EXPANDING UNIVERSITY OF ALASKA LAND GRANT

By Senators FRANK, Kelly, Sharp

The University of Alaska is called a "Land Grant University" in the tradition of American land grant universities, providing teaching, research and public service to the people of Alaska. While the University has attempted to mold itself in the land grant tradition, one piece of that tradition is lacking -- a sufficient land grant.

In 1915, Congress provided a land grant of approximately 250,000 acres -- every section 33 in the Tanana Valley -- to support the Territorial Agricultural College and School of Mines, together with a site for the institution itself. In 1929 Congress granted an additional 100,000 acres of public lands for the use and benefit of the Agricultural College and School of Mines.

In 1959, the Alaska Statehood act extinguished the University's right to receive the unsurveyed sections 33 of the Tanana Valley, leaving the University with 100,000 acres. Congress so acted because its land grant to the state was by far the most generous of all state land grants. Supporters of the extinguishment said the state clearly was receiving enough land that it could provide necessary land to support the University. The State of Alaska has never kept this moral obligation to the University of Alaska.

Forty-nine of the states received land grants to support their universities. In all but one, the universities received more land than the University of Alaska, notwithstanding the fact that Alaska's state land grant is 16 times the size of the average state land grant. In eighteen of the lower 48 states, the entire federal land grants -- 100% -- went to support the universities. In Alaska, less than one percent -- 0.11% -- went to the University.

The State of Alaska did not manage what land the University received well. In 1978, following legislative appropriation of the University's most valuable acreage, the University sued, eventually winning a legislative settlement that reconstituted the University land trust. Later litigation brought replacement land for the legislatively-appropriated acreage. The University's total land grant holdings today total 140,000 acres. Still, nearly 50,000 acres of limited timber cutting rights west of Icy Bay remains tied up in litigation.

Alaskans look to the University of Alaska to provide for some of its financial needs by earning income from the federal land grant, yet Alaskans do not realize the paucity of lands managed by the university.

If the University of Alaska received the average percentage of the total federal grant to the state -- 42.01% of the State of Alaska grant -- the University would be managing 43 million acres, and would probably need no further state support. If the University of Alaska received a proportional share of the total federal grant to universities -- 5.09% of the State of Alaska grant -- the University would be managing 5.3 million acres. Even bringing the University of Alaska's federal grant up to the average of the smaller states -- 340,000 -- would triple the size of the University's federal grant.

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

contact:

Wendy Redman
University Relations
463-3086/474-7582

Position Paper

State Land Grant Rankings

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

Average 334,156

Ranked by the percentage of the state grant given to Higher Education	
1	New York 100.00%
2	Pennsylvania 100.00%
3	Massachusetts 100.00%
4	Tennessee 100.00%
5	Virginia 100.00%
6	Georgia 100.00%
7	North Carolina 100.00%
8	Maine 100.00%
9	Maryland 100.00%
10	New Jersey 100.00%
11	Connecticut 100.00%
12	South Carolina 100.00%
13	Texas 100.00%
14	New Hampshire 100.00%
15	Vermont 100.00%
16	West Virginia 100.00%
17	Rhode Island 100.00%
18	Delaware 100.00%
19	Kentucky 93.06%
20	Oklahoma 33.92%
21	Ohio 25.34%
22	Washington 11.04%
23	Indiana 10.79%
24	South Dakota 10.66%
25	North Dakota 10.62%
26	New Mexico 10.52%
27	Idaho 9.09%
28	Illinois 8.44%
29	Arizona 8.05%
30	Alabama 7.67%
31	Utah 7.41%
32	Montana 6.52%
33	Mississippi 5.71%
34	Missouri 5.07%
35	Nevada 4.99%
36	Nebraska 3.93%
37	Iowa 3.55%
38	Wisconsin 3.26%
39	Wyoming 3.13%
40	Colorado 3.09%
41	Michigan 2.36%
42	Louisiana 2.24%
43	California 2.22%
44	Kansas 1.94%
45	Oregon 1.94%
46	Arkansas 1.64%
47	Minnesota 1.29%
48	Florida 0.75%
49	Alaska 0.11%
50	Hawaii 0.00%
TOTAL 5.09%	

Average 42.01%

Ranked by the amount of federal land given to the States	
1	Alaska 104,569,251
2	Florida 24,214,366
3	Minnesota 16,422,051
4	New Mexico 12,794,718
5	Michigan 12,142,846
6	Arkansas 11,936,834
7	Louisiana 11,441,343
8	Arizona 10,543,753
9	Wisconsin 10,179,804
10	California 8,825,508
11	Iowa 8,061,262
12	Kansas 7,794,669
13	Utah 7,501,737
14	Missouri 7,417,022
15	Oregon 7,032,847
16	Illinois 6,234,655
17	Mississippi 6,097,997
18	Montana 5,963,338
19	Alabama 5,006,883
20	Colorado 4,471,604
21	Wyoming 4,342,520
22	Idaho 4,254,448
23	Indiana 4,040,518
24	Nebraska 3,458,711
25	South Dakota 3,435,373
26	North Dakota 3,163,552
27	Oklahoma 3,095,760
28	Washington 3,044,471
29	Ohio 2,758,862
30	Nevada 2,725,226
31	New York 990,000
32	Pennsylvania 780,000
33	Massachusetts 360,000
34	Kentucky 354,607
35	Tennessee 300,000
36	Virginia 300,000
37	Georgia 270,000
38	North Carolina 270,000
39	Maine 210,000
40	Maryland 210,000
41	New Jersey 210,000
42	Connecticut 180,000
43	South Carolina 180,000
44	Texas 180,000
45	New Hampshire 150,000
46	Vermont 150,000
47	West Virginia 150,000
48	Rhode Island 120,000
49	Delaware 90,000
50	Hawaii 0
TOTAL 328,426,536	

Average 6,568,531