

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8761 HOUSE RESOURCES

SB

250

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

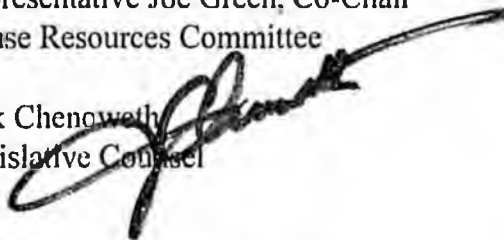
MEMORANDUM

April 3, 1996

SUBJECT: HCS CSSB 250 (Resources) (Work Order No. 9-LS1394\R)

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

FROM: Jack Chenoweth
Legislative Counsel



I appreciate that the House Resources Committee has passed the bill out, but there are some necessary changes to the amendments inserted by the committee that I have incorporated. They are, I believe, not inconsistent with the committee's additions.

I made the two insertions made to page 8, line 30--here, AS 14.40.365(d)--and page 10, line 22--here, AS 14.40.366(a)(1)--read the same, i.e. "subject to the terms and conditions" in both places.

In AS 14.40.366(b)(2), I inserted a second reference to "rent and royalty schedules." I also tweaked the language at the first place it is inserted to make it fit in context.

What was proposed as a new AS 14.40.365(k) appears as a new last bill section.

The amendment set out at the end of AS 14.40.365(b) makes no sense--what happens if the legislature neither approves or disapproves--but it is in there. The suggested text mentioned "first regular session" which I thought could mean just the sessions in the odd-numbered year, so I have revised it to read "end of the regular legislative session." I hope that is correct and that odd-numbered year was not the intent.

The suggested language of the very last amendment wholly ignores the legislature's careful attempts to reconstitute the mental health trust. I've revised the material provided in light of my understanding of what the legislature did. The last clause--based on the draft's reference to the nebulous "Alaska Mental Health Lands Trust Settlement"--necessitated some attention--please look at my reworking of the language--but I caution that it is so vague as to fairly invite litigation as to its meaning.

Again, I trust this meets the committee's objectives.

JBC:pl
96-108.plm

HOUSE CS FOR CS FOR SENATE BILL NO. 250(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (a) The Board of Regents shall

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

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

(B) land

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

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

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

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

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

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

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

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

1 and

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

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

5 Sec. 14.40.190. REPORT. (a) The Board of Regents shall prepare a written
6 report at the beginning of each first regular session of the legislature of

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

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

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

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

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

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

16 Sec. 14.40.280. ENDOWMENTS AND DONATIONS. All monetary gifts,
17 bequests, or endowments that are made to the University of Alaska for the purpose of
18 the separate trust fund created under AS 14.40.400 shall be held by the university.

19 The university [TRANSFERRED TO THE DEPARTMENT OF REVENUE. THE
20 DEPARTMENT OF REVENUE] shall manage that money in accordance with
21 AS 14.40.400. Title to and control or possession of land, personal property, and all
22 money [OTHER THAN] that [TRANSFERRED TO THE DEPARTMENT OF
23 REVENUE, WHICH] is devised, bequeathed, or given to the university for the
24 purpose of the endowment trust fund established by AS 14.40.400(a) shall be taken
25 by the university in its corporate capacity acting by and through the regents or an
26 authorized agent, and shall be entered in the perpetual inventory of the university.

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

28 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA [NOT PUBLIC
29 DOMAIN] LAND SALE CONTRACTS: CONFIDENTIAL INFORMATION. (a)
30 Notwithstanding any other provision of law, university-grant land, state replacement
31 land that becomes university-grant land on conveyance to the university, land selected

1 by and conveyed to the University of Alaska under AS 14.40.365. and any other
2 land owned by the University of Alaska is not and may not be treated as state public
3 domain land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 14.40.365. SELECTION AND CONVEYANCE OF STATE LAND TO
28 THE UNIVERSITY OF ALASKA. (a) For the purposes of providing support to the
29 state's public higher education system and for the purpose of generating responsible
30 and appropriate development of the state's land and resources, the University of Alaska
31 is authorized to receive the conveyance of 350,000 acres of land that, on the effective

1 date of this section, is owned by the state, or has been tentatively approved or selected
2 by the state under the Alaska Statehood Act and that has not been reserved by law
3 from the state public domain land and designated as part of a state park, state forest,
4 state game refuge, state wildlife refuge, state game sanctuary, state recreational area,
5 state recreational river, state wilderness park, state marine park, state special
6 management area, state public use area, critical habitat area, bald eagle preserve, bison
7 range, or moose range.

8 (b) For purposes of making the selection and conveyance of state land to the
9 university under (a) of this section, the director of the division of land, Department of
10 Natural Resources, and the director of the University of Alaska's land management
11 office shall compile and maintain and may revise a list of the land to be conveyed to
12 the university under this section. The list shall be maintained at the Anchorage office
13 of the director of the division of land. The list may not include the valid existing
14 selections of a municipality to which the municipality is entitled under AS 29.65.010 -
15 29.65.140, may not include the valid existing selections of the Alaska Mental Health
16 Trust Authority made for the purpose of reconstituting the mental health trust
17 established under the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709
18 (1956) that become subject to management under AS 38.05.801, and may not include
19 land whose management by the University of Alaska would be inconsistent with the
20 provisions of law providing for reconstitution of that mental health trust. If there is
21 a disagreement between the university and the Department of Natural Resources about
22 the land to be placed on the list, the disagreement must be submitted to the governor,
23 who shall make the final decision. The governor, upon the recommendation of the
24 director of the division of land and the director of the university's land management
25 office, shall periodically submit to the legislature, within 30 days of the beginning of
26 a regular legislative session, a list of land proposed to be conveyed by the state to the
27 University of Alaska under this section. Each list must contain not less than 25,000
28 acres of land, or the remaining entitlement under (a) of this section, whichever is less.
29 The legislature must approve or disapprove a list of land to be conveyed by the end
30 of the regular legislative session following the submission of the list. The legislature
31 may approve some, or all, of the land proposed for conveyance.

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

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

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

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

15 (2) after approval of a list by the legislature or, when approval of the
16 list is based on the legislature's inaction under (b) of this section, after the 60th day
17 following the date on which the list was submitted to the legislature, and until the land
18 has been conveyed by quitclaim deed or by a document of interim conveyance, 90
19 percent of the proceeds derived from contracts, leases, licenses, claims, prospecting
20 sites, sales, permits, rights-of-way, or easements, or from trespasses, originating after
21 the date of selection by the University of Alaska shall be held by the state; upon the
22 issuance of a document of interim conveyance or a quitclaim deed, the state shall pay
23 to the University of Alaska the proceeds held by the state under this paragraph, and
24 subsequent to the issuance of a document of interim conveyance or a quitclaim deed,
25 the University of Alaska shall receive all of the proceeds derived from the contracts,
26 leases, licenses, claims, prospecting sites, sales, permits, rights-of-way, or easements,
27 or from trespasses;

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

31 (d) When land is conveyed to the University of Alaska under this section, it

1 shall be conveyed in fee simple. The state may convey to the university any tideland
2 or submerged land adjacent to the land conveyed under this section. The University
3 of Alaska takes the land subject to any possessory interest held by another person on
4 the effective date of the conveyance and subject to the terms and conditions of
5 conveyance and the provisions of AS 14.40.365 - 14.40.400. Except as provided in
6 AS 14.40.368(a)(1), the University of Alaska is entitled to receive the consideration
7 due under that possessory interest for the duration of the possessory interest.

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

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

13 (1) is subject to

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

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

17 (C) AS 19.10.010;

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

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

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

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

29 (1) if the land has been surveyed,

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

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

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

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

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

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

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

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

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

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

27 (1) shall manage university trust land in accordance with applicable
28 trust management principles subject to the terms and conditions of conveyance and the
29 provisions of AS 14.40.365 - 14.40.400;

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

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

3 (b) The University of Alaska shall establish

4 (1) policies to provide for public notice and comment on proposals for
5 development, exchange, or sale of university trust land conveyed under AS 14.40.365;

6 (2) procedures for mineral entry or location and mineral leasing, and
7 shall adopt rent and royalty schedules, on university trust land selections made under
8 AS 14.40.365 that are substantially similar to mineral entry, location, and leasing
9 procedures, and rent and royalty schedules, for state land under AS 38.05.185 -
10 38.05.275.

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

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

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

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

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

24 (d) The policy set out in AS 44.99.100(b)(5) applies to management of the
25 resources of university trust land conveyed under AS 14.40.365. In carrying out this
26 policy, the Board of Regents shall ensure that the provisions of AS 44.99.100(b)(5)
27 apply to the development of the resources of university trust land.

28 (e) To the extent consistent with law, in contracts for the harvest or removal
29 of timber from university trust land conveyed under AS 14.40.365, the Board of
30 Regents shall require the primary manufacture of the timber before the timber is
31 exported from the state.

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

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

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

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

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

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

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

29 Sec. 14.40.375. TORT IMMUNITY FOR PERSONAL INJURIES, DEATH,
30 OR PROPERTY DAMAGE OCCURRING ON UNIVERSITY LAND. (a)
31 Notwithstanding AS 09.65.200 and except as provided in (b) of this section, the

1 University of Alaska is not liable in tort, except for an affirmative act that constitutes
2 gross negligence or reckless or intentional misconduct, for damages for the injury to
3 or death of a person, or for property damage to the property of a person, who enters
4 onto or remains on land owned by the University of Alaska.

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

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

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

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

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

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

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

- 28 (1) student fees, including tuition;
29 (2) receipts from university auxiliary services;
30 (3) recovery of indirect costs of university activities;
31 (4) the net income of the trust fund established in AS 14.40.400 and

1 receipts from sales and rentals of university property;

2 (5) federal receipts;

3 (6) gifts, grants, and contracts; and

4 (7) receipts from sales, rentals, and the provision of services of
5 educational activities.

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

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

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

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

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

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

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

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

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

1 an auxiliary of that organization;

2 (5) money on deposit;

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

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

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

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

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

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

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

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

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

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

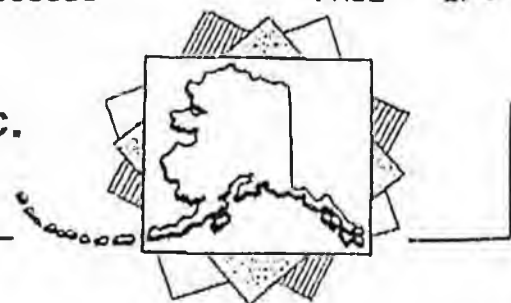
26 AS 14.40.291(e) - (g), added by sec. 7 of this Act, apply to land sale contracts entered into
27 by the University of Alaska on or after the effective date of this Act.

28 * Sec. 19. APPLICABILITY OF PROVISION AUTHORIZING SELECTION BY AND
29 CONVEYANCE TO UNIVERSITY OF ALASKA OF TRUST LAND TO MEMORANDUM
30 OF AGREEMENT OF DECEMBER 2, 1994, SETTLING CERTAIN LITIGATION. Nothing
31 in AS 14.40.365, added by sec. 8 of this Act, shall operate contrary to the purposes of the

1 Memorandum of Agreement entered into on December 2, 1994, between the university, the
2 state, and various other parties in settlement of litigation in Consolidated Case No. 1JU-88-271
3 Civil.

David S. Manzer
President
5381 Tudor Top Circle
Anchorage, Alaska 99507-1631
(907) 563-8882
FAX 563-8883

Alaska Land Status, Inc.



March 22, 1996

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

Via Telefax

Re: University Lands Bill (SB 250)

Dear Senator Frank:

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

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

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

Senator Steve Frank
March 22, 1996
Page 2

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

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

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

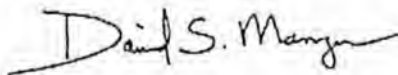
Now stretch the mining company's uncertainty about which State lands will be selected until the year 2016, with no total acreage limitation on selections, which this bill allows. This is a chilling investment climate!

Senator Steve Frank
March 22, 1996
Page 3

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

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

Sincerely yours,



David S. Manzer

cc: via telefax

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

DAVID E. ROGERS
ATTORNEY AND COUNSELOR AT LAW

211 Fourth Street, Suite 108
P.O. Box 33932
Juneau, Alaska 99803
(907) 586-1107 Fax: (907) 586-1097

May 2, 1996

Representative Joe Green
Co-Chair
House Resources Committee
Capitol Building, Room 124
Juneau, Alaska 99801-1182

Dear Rep. Green:

I am writing this letter on behalf of the Council of Alaska Producers. The Council is a non-profit corporation who members are essentially all of the major mining companies that are actively exploring, developing and operating in Alaska. We have carefully reviewed and discussed HB 469 and reluctantly concluded that we cannot support legislation to transfer state land to the University of Alaska for support of its operations.

The resource development community has faced for many years daunting obstacles resulting from the vagaries and complications of numerous and seemingly endless land selection processes and related litigation. The most recent example of this phenomenon regarding the Mental Health Trust is still sorting itself out and may take years to finally resolve.

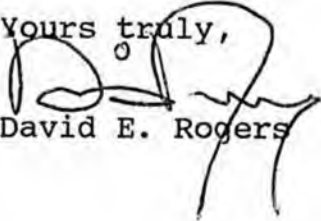
We believe that HB 469 in any form also is likely to have a chilling effect on development and generate similar conflicts, confusion and delays. These are not "bogeymen" or idle fears based on worst case speculation. These are valid concerns born of experience. And for these reasons, we have no choice but to oppose this legislation. We simply are not willing to suffer through yet another land transfer saga involving high value, high interest lands.

The Council is genuinely sympathetic to the University's desire to find a new, stable funding source for its programs; many of which directly benefit the mining and other industries doing business in the state. But we honestly don't think this is the answer. We urge you to

table the legislation and work with us to find a better,
less divisive way to secure a stable funding source for the
University of Alaska.

Thanks, Mr. Chairman.

Yours truly,


David E. Rogers

fiduciary challenge because they are accompanied with all cavaets that are included in the conveyance and in the law.

Page 10, Line 30, following "leasing"

Insert "and rent and royalty schedules"

NOTES: The exclusion of this language was an oversight. The intention of the bill sponsor is that the University will manage its mineral lands using the same policies, including rent and royalty schedules, as apply to other state mineral lands.

Page 10, Line 16

Insert new subsection (j):

(j) Nothing herein shall operate contrary to the purposes of the Memorandum of Agreement entered into on December 2, 1994 between the University, the state and various other parties in settlement of litigation in Consolidated Case No. 1JU-88-271 Civil."

NOTES: The University, the City of Yakutat, the State of Alaska, and the Southeast Alaska Conservation Council (SEACC) entered into a settlement for the harvest of timber in the Gulf Coast. It is important to all the parties that the terms of this agreement not be intentionally or unintentionally disrupted by any provision of this legislation. This amendment was drafted by representatives of the University and SEACC.

Page 11, Line 17, following "land"

Delete "."

Insert "conveyed under AS 14.40.365."

Page 11, Line 21, following "land"

Delete "."

Insert "conveyed under AS 14.40.365."

NOTES: These are technical amendments to make the sections consistent with others in the same section



University of Alaska Statewide System
Fairbanks, Alaska 99775-5560

Wendy Redman, Vice President
University Relations
(907) 474-7582
(907) 474-7570 (FAX)

April 1, 1996

Mr. David Manzer
Alaska Land Status, Inc.
5382 Tudor Top Circle
Anchorage, AK 99507

Dear David:

I was a little surprised to get a copy of your March 22 letter regarding SB 250, the UA lands bill. While I understand some of the concerns you raise, the vehemence of your antipathy is a bit stunning. As you know, I have been attempting to get input from you and other representatives of the mining industry since last summer. Your letter is a welcome articulation of issues -- both real and perceived. The bill is still in committee hearings, and changes can easily be made. Outlined below are the issues you raised, and the suggested changes in the legislation that I would propose to address them:

- 1) **The "trust" issue:** The land proposed to be conveyed to the University under AS 14.40.365 is not an "entitlement" like the original UA Land Grant Lands, or the Mental Health Trust. The lands are referred to as "University of Alaska Trust Land" to differentiate them from University Land Grant Lands, and because the earnings go into the Land Grant Trust Fund. Although the bill states that the management of these lands will follow "prudent trust management principles", the lands are subject to whatever conditions accompany the conveyance as well as any conditions included in the legislation; any challenge to the "fiduciary interest" would have to take these facts into consideration. As I am sure you understand, "prudent trust management principles" apply to the management of the funds as well as to the management of the lands. To further clarify the distinction between federal trust lands and the University trust lands appropriated under this legislation, it is suggested that page 8, Line 30, and page 10, Line 22 both include the language, "...subject to the terms of the conveyance and the provisions of AS 14.40.366 - AS 14.40.491".
- 2) **Rents and Royalties:** I believed that the statutory provision in the bill, i.e., AS 38.05.185 -275, included the rents and royalties schedules; and since the bill clearly calls for the University to establish policies substantially similar to the State, I thought this issue was covered. Apparently, I was wrong; to further clarify, it is suggested that on page 10, line 30, the language be amended to say, "...procedures for mineral entry or location and mineral leasing, and mineral rents and royalties on university trust land.....".
- 3) **The 6(I) Question:** The Attorney General has opined that Section 6(I) does not present a problem for several reasons:
 - a) The land will be transferred to the University subject to 6(I), (Page 9, Line 8), and therefore the mineral estate will not be subject to disposal to third parties.
 - b) The University is an instrumentality of the state and the land is being transferred for a valid state purpose;

- c) The University must adopt procedures substantially similar to AS 38.05.185 - 275 (Page 10, Line 30).
 - d) Transfer to the University does not diminish the congressional purpose in passing 6(1), i.e., to insure long-term revenue for the state.
 - e) The Legislature will continue to ultimately make decisions regarding spending income generated by the University in the form of appropriations (Page 13, Line 22).
- 4) **Unlimited selections:** I don't understand this concern. The bill clearly states that the University is authorized to receive 350,000 acres -- no more. DNR will certainly not allow any top-filing, and over-filing is not an option. The reason that the year 2016 was selected is because DNR believes it will probably take 20 years to select 350,000 acres given the current state of land selections that have priority, e.g., Mental Health and municipalities. The bill specifically states that the Governor is the final arbiter if there are disagreements over which lands are made available for selection, and does not guarantee that any acreage must be made available. It should also be pointed out that all lands must be approved for conveyance by the legislature. This bill represents an authorization, not an entitlement.
- 5) **Hypothetical Mineral Development Scenario:** The scenario that you present as a hypothetical situation is unlikely to occur for the following reasons:
- a) The University will be adopting procedures similar to AS 38.05.185-275.
 - b) The subsurface estate is dominant and there are statutes in place which control the events discussed under your scenario.
 - c) It is highly unlikely that DNR, the Governor or the Legislature would approve a selection which would have the potential to render a mining project uneconomic.
 - d) There would be no reasonable basis for the University's non-concurrence.

You mention that there are "...many other problems with the....bill", but don't go into detail. Although I assume from the tone of your letter that you will not be supporting the legislation regardless of what changes are made, I would appreciate understanding what the gist of your further concerns are.

If you have any comments on the suggestions I have made here, or further concerns that you think will enhance this legislation, please contact me at 474-7582.

Sincerely,



Wendy Redman

cc: Steve Borrell
David Rogers
Kent Dawson
Senator Steve Frank
Representative Gene Theriault

AMENDMENT

Annotated

OFFERED IN THE HOUSE

TO: CSSB 250 (FIN), Version M, dated 3/25/96

Page 7, Lines 22, following "legislature."

Delete all material through line 26 and Insert: "must approve or disapprove land to be conveyed by the end of the next regular session following submission of the list. The legislature may approve for conveyance some or all of the land proposed in the list.

NOTES: There is some question of whether legislative approval by inaction would be legal. To assure that this will not be an issue, the sentence is deleted and the bill will now require that the legislature approve or disapprove the land selections for final conveyance to the University.

Page 8, Line 30, following "conveyance"

Delete "."

Insert "and subject to the terms and conditions of conveyance and the provisions in AS14.40.365 - AS 14.40.400.

Page 10, Line 22, following "principles"

Delete ";

Insert "subject to terms of conveyance and the provisions in AS 14.40.365 - AS 14.40.400

NOTES: These two amendments are offered in response to concerns raised by representatives of the mining industry. The language clarifies that the lands authorized for conveyance to the University are subject to all conditions accompanying the conveyance and all provisions of this legislation. The concern has been raised that a fiduciary challenge might be raised regarding the requirement that the University follow the same rents and royalties provisions that currently apply to state lands. Although the University does not think this is likely, the language clarifies that the management of the lands are not subject to a fiduciary challenge because they are accompanied with all cavaets that are included in the conveyance and in the law.

Page 10, Line 30. following "leasing"

Insert "and rent and royalty schedules"

NOTES: The exclusion of this language was an oversight. The intention of the bill sponsor is that the University will manage its mineral lands using the same policies, including rent and royalty schedules, as apply to other state mineral lands.

Page 10, Line 16

Insert new subsection (k):

(k) Nothing herein shall operate contrary to the purposes of the Memorandum of Agreement entered into on December 2, 1994 between the University, the state and various other parties in settlement of litigation in Consolidated Case No. 1JU-88-271 Civil."

NOTES: The University, the City of Yakutat, the State of Alaska, and the Southeast Alaska Conservation Council (SEACC) entered into a settlement for the harvest of timber in the Gulf Coast. It is important to all the parties that the terms of this agreement not be intentionally or unintentionally disrupted by any provision of this legislation. This amendment was drafted by representatives of the University and SEACC.

Page 11, Line 17, following "land"

Delete "."

Insert "conveyed under AS 14.40.365."

Page 11, Line 21, following "land"

Delete "."

Insert "conveyed under AS 14.40.365."

NOTES: These are technical amendments to make the sections consistent with others in the same section



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

VOTE NO SB 250 UNIVERSITY LAND GRANT

- The University of Alaska's land grant obligation is fulfilled. The State of Alaska has no additional land obligation to the University, and has monetarily supported the University since Statehood. The University has **no higher right to State resources** than any other agency.
- In a time when we **cannot fully fund our Public Schools** it is inappropriate to give resources worth millions of dollars to the University. The University already has an endowment!
- All Alaskans currently have access to share the opportunity to use of State lands. Putting **500,000 acres** of State owned land into the "private" ownership of the University **preempts equal access**.
- "Customary and traditional use" of the land, like fishing, hunting, camping, trapping, and hiking, will only be protected until the University's development plans conflict with it.
- **Fracturing the ownership pattern** of Alaskan lands is **not in the State's best interest**. If these are lands the State should develop, then the State should lease them out. Giving away valuable resource lands, with out a plan for future of Alaska's land management is short sighted.

STOP THIS GIVEAWAY OF STATE RESOURCES

2/27/96

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
KNIK GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL • TONGASS CONSERVATION SOCIETY



STEVE FRANK

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

Alaska State Legislature



Senate

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

Sponsor Statement - Senate Bill No. 250

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

SB 250 would allow the University of Alaska to select 350,000 acres of unencumbered land from the State of Alaska. In this era of declining state funds, endowing the university with additional lands will allow it to develop those lands to produce income for university programs.

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.

This legislation passed both houses last year and was subsequently vetoed by the Governor. We have worked closely with the administration to make changes to the bill that address their concerns.

SB 250 is similar to SB 16 that passed the Alaska Legislature in 1995 and was subsequently vetoed by Governor Knowles. The new bill contains several significant changes in response to concerns raised by the Department of Natural Resources and other constituencies:

1. The most significant change is the elimination of sections that directed which lands, and under what conditions the lands would be put up for possible conveyance. The new bill (in Sec. 8, Page 6) gives the Department of Natural Resources the control of what lands may be made available for conveyance based on their own best interest findings.
2. If there is disagreement between the University and the Department about lands available for conveyance, the disagreement must be submitted to the governor, who shall make the final decision (Section 8, Page 7, Lines 9-11). In other words, the University will not be allowed to enter into litigation against the Department regarding the conveyance process.
3. The new bill includes sections [Sec. 7,(e) (f) & (g)] that deal with the issue of foreclosure on contracts for the sale of land. This section parallels provisions currently used by the state in their foreclosure process.
4. The new bill includes sections [Sec. 7, (h)] provides for the protection of proprietary information that may be submitted by private companies in proposals submitted to the University in relation to purchase, lease, or other disposal of university land or interest in university land. This section parallels the provisions currently used by the state in protecting proprietary information.

Other provisions of the bill remain the same as they were in SB 16. These provisions are outlined in detail on the Fact Sheet.

UNIVERSITY LAND GRANT BILL
SECTIONAL ANALYSIS
9-LS1394\M
3-25-96

Section 1. FINDINGS AND PURPOSE.

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

Section 2. LEGISLATIVE INTENT.

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

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

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

Section 4. Amends 14.40.190. REPORT TO LEGISLATURE.

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

Section 5. Amends 14.40.280. ENDOWMENTS AND DONATIONS.

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

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

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

Section 7. Amends AS 14.40.291 by adding a new subsection

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

March 27, 1996

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

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

Authorizes the University to select and receive 350,000 acres of land from the state that, on the effective date of this section, is owned by the state, or has been tentatively approved or selected by the state under the AK Statehood Act. The director of the division of lands and the director of land management for the UofA shall compile, maintain and revise a list of lands to be conveyed. The list shall be maintained at the Anchorage office. If there is disagreement between the Univ. and DNR about lands available for conveyance, the disagreement must be submitted to the governor, who shall make the final decision. The Univ. will not be allowed to enter into litigation against DNR regarding the conveyance process. The director shall periodically submit to the legislature, within 30 days of the beginning of a regular session, a list of land proposed to be conveyed by the state to the UofA. Each list must contain not less than 25,000 acres of land or the remaining entitlement, whichever is less. The legislature may, by law, approve or disapprove the list but if no action is taken within 60 days by the legislature the list will be considered approved.

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

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

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

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

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

March 27, 1996

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

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

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

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

Establishes policies to provide for public notice and comment on proposals for development, exchange, or sale of land selected by and conveyed to the university. Establishes procedures for mineral entry or location and mineral leasing on university trust land selections that are substantially similar to those of the state. Regents shall adopt policies which provide that the university shall prepare an annual plan for management and disposition of land not less than 60 days before scheduled approval by the board and provides for ample public notification and comment period. Ensures that the provisions of AS 44.99.100 (b)(5) apply to the development of the resources of university trust land. Requires, to the extent consistent with law, the primary manufacture of timber harvest or removal from university trust land before the timber is exported from the state.

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

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

Section 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE CONTINUED.

States that the University shall manage the land in a manner that permits customary and traditional uses of the resources of that land including hunting, fishing, and recreational opportunities except for the commercial harvest of timber.

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

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

March 27, 1996

Section 11. Amends AS 14.40.400(a)

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

Section 12. Amends AS 14.40.400(b)

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

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

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

Section 14. Amends AS 29.45.030.

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

Section 15. Amends AS 36.30.850(b)(15).

Takes out reference to AS 14.40.400

Section 16. Repeals AS 14.40.400.

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

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

Section 18. APPLICABILITY OF LAND SALE CONTRACT REMEDY PROVISIONS.

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

FACT SHEET
CSSB 250 (FIN) - Enhancing UA Land Grant

SB 250 is similar to SB 16 that passed the Alaska Legislature in the first session of the Nineteenth Alaska Legislature and was subsequently vetoed by Governor Knowles. The bill is intended to grant 500,000 acres of state land to the University of Alaska to provide income to support the research, instructional and public service programs of the state's public land grant university. The current University of Alaska land grant is 112,000 acres; only Delaware, with 90,000 acres, has a smaller university land grant than Alaska.

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

SB 250 will provide that:

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

University of Alaska

Statewide System

SB 250 EXPANDING UNIVERSITY OF ALASKA LAND GRANT

By Senators FRANK, Reiger, Kelly, Miller, 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

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

FACT SHEET
CSSB 250 (FIN) - Enhancing UA Land Grant

SB 250 is similar to SB 16 that passed the Alaska Legislature in the first session of the Nineteenth Alaska Legislature and was subsequently vetoed by Governor Knowles. The bill is intended to grant 500,000 acres of state land to the University of Alaska to provide income to support the research, instructional and public service programs of the state's public land grant university. The current University of Alaska land grant is 112,000 acres; only Delaware, with 90,000 acres, has a smaller university land grant than Alaska.

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

SB 250 will provide that:

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

7. existing leases and encumbrances will be honored throughout the term, including any provisions for lease extensions. [Page 11, Sec. 9, lines 6-25]
8. the legislature approves final selections in lists of not less than 25,000 acres. [Page 7, Sec.8 (b)]
9. customary and traditional uses of resources on UA land, including hunting and fishing, will be permitted to the maximum extent practicable. [Page 11, Sec. 9, lines 26-31]
10. additional requirement for UA regarding public notification and comment on land management plans. [Page 10, Sec. 9, lines 22-31 and Page 11, lines 1-5]
11. the responsibility for the management of the UA Land Grant Trust Fund be transferred from the Department of Revenue to the University of Alaska. [Page 2, Sec.3; Page 4, Sec. 5; and Page 12, Sec. 11 & Sec.12]
12. net income from University trust lands will be designated as "university receipts" and appropriated by the Legislature. [Page 13, Sec.13, lines 6-7]
13. proceeds made on land, originating after selection, but prior to final conveyance, from land leases, license, contracts, claims, sales, permits, prospecting sites, or rights of way will be held in escrow. Upon final conveyance, 90% of the proceeds will be distributed to the University. [Page 8, Sec. 8 (c)(2)]
14. proceeds on land selected and conveyed that is subject to a possessory interest at the time of conveyance, shall be split evenly between the state and the University until the conclusion of the interest, including all available renewals. [Page 11, Sec. 9, lines 6-2]
15. proprietary information provided by private companies is protected. [Page 6, Sec. 7(h), lines 6-24]
16. process for foreclosure if a contract for a sale of land, or interest in land is breached. [Page 5, Sec. 7(e), lines 10-31 and Page 6, lines 1-5]

During the First Session of the Nineteenth Legislature, SB 16 had six substantive hearings in the House and Senate. During this, the Second Session, SB 250 has had one hearing in Senate Finance. The changes to the bill include:

Senate Finance Committee

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

University of Alaska

Statewide System

SB 250 EXPANDING UNIVERSITY OF ALASKA LAND GRANT

By Senators FRANK, Reiger, Kelly, Miller, 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

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

STATE OF ALASKA
1996 LEGISLATIVE SESSION

FISCAL NOTE

No. 2

Bill Version: CSSB 250(FIN)

(S) Publish Date: 2/15/96

Revision Date: February 9, 1996 Dept. Affected: Revenue
 Title: An act relating to the Univ of Alaska and to the BRU: Revenue Operations
assets of the Univ of Alaska; Component: Treasury
 Sponsor: Senator Frank
 Requestor: Finance COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-5.0	-5.0	-5.0	-5.0	-5.0	-5.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-5.0	-5.0	-5.0	-5.0	-5.0	-5.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	11.3	11.3	11.3	11.3	11.3	11.3
005 GF/Program Receipts						
1001 CBRF	14.0	14.0	14.0	14.0	14.0	14.0
1048 University of AK receipts	(30.3)	(30.3)	(30.3)	(30.3)	(30.3)	(30.3)
TOTAL	-5.0	-5.0	-5.0	-5.0	-5.0	-5.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Treasury Division currently manages the University of Alaska Trust Fund. This bill would transfer the \$35 million Trust to the University for management. The division's FY97 budget reflects the Trust Fund as a funding source for a share of the personal service costs and custodial costs of the division. There is also \$5.0 in investment management fees which are specific to the Trust Fund and will not be incurred by Treasury if the Trust Fund is transferred. The passage of this act will result in the loss of this funding source for the Division. As there will not be an equal offsetting reduction in expenditures, Treasury will need to increase its funding from other sources, primarily the general fund and CBRF, although minimal amounts may be allocable to other funds (less than \$1.0)

Prepared by: Betty Martin, Comptroller Phone: 465-2350
 Division: Treasury Date: February 9, 1996
 Approved by Commissioner: Ross Kinney, Deputy Commissioner Date: February 14, 1996
 Agency: Department of Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

No: 1

Bill Version: CS SB 250 (Fin)

(S) Publish Date: 2/15/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Increase Land Grant to University of Alaska BRU: Habitat and Restoration
 Component: Habitat Protection
 Sponsor: Senator Frank
 Requester: Senate Finance COMPONENT SERIAL NO. 2100

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES	60.0	60.0	60.0	60.0	60.0	60.0
TRAVEL	1.6	1.6	1.6	1.6	1.6	1.6
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						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	63.1	63.1	63.1	63.1	63.1	63.1

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	63.1	63.1	63.1	63.1	63.1	63.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	63.1	63.1	63.1	63.1	63.1	63.1

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	1	1	1	1	1	1
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 500,000 acres or more of university land selections and advise the Department of Natural Resources and the legislature on the effects of university conveyance on fish and wildlife resources, public uses of fish and game; and potential impacts on designated state game refuges, critical habitat areas, and game sanctuaries. Additionally, as university land conveyances are made, existing state land management plans and special area plans will need to be revised to reflect the changes in ownership and land management. This will require approximately one-half full time equivalent Habitat Biologist to advise DNR on the their land use plans and to revise the department's special area plans.

Prepared by: Janet Kowalski
 Title: Habitat and Restoration

Phone: 267-2334
 Date: 2/13/96

Approved by Commissioner: [Signature]
 Agency: [Signature]

Date: 2-14-96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No. 3

Bill Version: CSSB 250(FIN)

(S) Publish Date: 2/15/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: Original Dept Affected Natural Resources
 Title: An Act relating to the University of Alaska and BRU: Resource Development
to assets of the University of Alaska; authorizing the... Component: Land Development
 Sponsor: Senator(s) Frank, Reiger, Kelly, Miller, Sharp
 Requestor: Senate Finance Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	67.0	67.0	67.0	67.0	67.0	67.0
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	78.0	78.0	78.0	78.0	78.0	78.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	*	*	*	*	*	*
------------------------	---	---	---	---	---	---

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 I/A	78.0	78.0	78.0	78.0	78.0	78.0
TOTAL	78.0	78.0	78.0	78.0	78.0	78.0

Estimate of any current year (FY96) 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 the minimum necessary for DNR to process land selections and conveyances to the University of Alaska. All costs for the conveyance work will be paid for by the University of Alaska using Interagency Receipts. This includes all costs of selection, conveyance, records notation, deed recordation, survey, 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 exactly what lands will be transferred.

Prepared by: Ron Swanson Phone: 269-8503
 Division: Land Date: 9-Feb-96
 Approved by Commissioner: [Signature] Date: 9-Feb-96
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

FISCAL NOTE

No. 4

Bill Version: CS SB 250(FIN)

(S) Publish Date: 2/15/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date:

Department Affected: University of Alaska

Title: An Act ...authorizing the University of Alaska to select additional
... university trust land ...

BRU: Statewide Programs & Services

Component: Statewide Services

Sponsor: Frank

Requestor:

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	170.0	170.0	170.0	170.0	170.0	170.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	170.0	170.0	170.0	170.0	170.0	170.0

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

REVENUE FD SOURCE						
-------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 FEDERAL FUNDS						
1003 GF MATCH						
1004 GENERAL FUND						
1006 GF/MHTIA						
1048 University Receipts	170.0	170.0	170.0	170.0	170.0	170.0
TOTAL FUNDING	170.0	170.0	170.0	170.0	170.0	170.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) Costs identified include \$100.0 for land conveyance costs, which may include a contract with the Department of Natural Resources, and \$70.0 for management costs of the Land Grant Trust Fund. Land conveyance costs could exceed this estimate if land conveyance can be done more quickly than is currently anticipated. Additional authority to cover those costs would be requested at that time. Management fees are based on the budget currently authorized for the Dept. of Revenue for the same function. Additional land will also generate additional revenue. However, we are unable to quantify the potential for revenue generation until we have specific identification of land selections.

Prepared by: _____
Division: Statewide Budget Office

Phone: 463-3086
Date: 2/12/96

Approved by: Marylou Burton, Director
Title: Statewide Budget Office

Date: 2/12/96

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SB

257



Senator Fred F. Zharoff
Alaska State Legislature

In Kodiak: P.O. Box 405, Kodiak, Alaska 99615 (907) 486-5259 (Fax also)

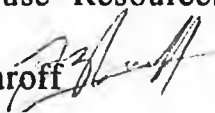
In Juneau: State Capitol, Room 121, Juneau, Alaska 99801-1182

Phone: (907) 465-3473 • Fax: (907) 463-3043

State Senate District C

Kodiak Island & Rural Southeast Alaska

To: Representative Joe Green
Representative Bill Williams
Co-Chairman, House Resources Committee

From: Senator Fred Zharoff 

Date: April 17, 1996

Re: Hearing request for SB 257

I would appreciate the scheduling of a hearing on SB 257, "An Act relating to the taking of game or fish for public safety purposes." The bill passed the Senate on April 10 on a unanimous 20 - 0 vote.

Enclosed is my sponsor statement, a letter of support from ADF&G, and zero fiscal notes from ADF&G and the Department of Public Safety.

Thank you for your consideration of this request.

Attachment



Senator Fred F. Zharoff

Alaska State Legislature

In Kodiak: P.O. Box 405, Kodiak, Alaska 99615 (907) 486-5259 (Fax also)

In Juneau: State Capitol, Room 121, Juneau, Alaska 99801-1182

Phone: (907) 465-3473 • Fax: (907) 463-3043

State Senate District C

Kodiak Island & Rural Southeast Alaska

Sponsor Statement SB 257

"An Act relating to the taking of game or fish for public safety purposes"

I have introduced SB 257 to clarify the powers of the Department of Fish and Game and the Alaska Board of Game with regard to matters of public safety. The need for this legislation arose from meetings with ADF&G and the Board of Game concerning chronic bear/human conflicts in communities throughout my district.

Section 1 provides the commissioner of fish and game with the power to authorize the taking of fish and game for public safety purposes. This will allow the department to work with remote communities on dealing with true "problem" wildlife that are causing unacceptable threats to public safety. The department and the Board of Game can establish the criteria and procedures to be followed in resolving serious conflicts.

Section 2 provides clarity to the Board of Game with regard to their powers to adopt regulations regarding public safety and welfare. The Department of Law has informed the board that they currently lack clear authority in this area, and asked them to defer the adoption of further regulations until the statutes are amended. Many current regulations are also in question with this interpretation by the Department of Law. These regulations range from authorizing the taking of wildlife in defense of life and property to the requirement of hunter safety training for juveniles prior to hunting in certain game refuges.

The passage of SB 257 will provide necessary tools to the Department of Fish and Game and the Board of Game to aid in public safety and welfare.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 25528
JUNEAU, ALASKA 99802-5528
PHONE: (907) 485-4100
FACSIMILE: (907) 485-2332

January 16, 1996

The Honorable Fred Zharoff
Alaska State Senate
State Capitol, Room 121
Juneau, AK 99801-1182

Dear Senator Zharoff:

At the fall Board of Game meeting, you asked the board to consider how wildlife/human interactions, and particularly bear/human conflicts, could be better resolved in those communities and areas of the state where department personnel are unavailable. As a first step in addressing this problem, I have invited Commissioner Oute of Public Safety to discuss ways of authorizing Village Public Safety Officers and other enforcement personnel to handle wildlife problems within their jurisdictions.

As was discussed at the board meeting, the department and board may lack statutory authority to issue permits (or otherwise delegate authority) on matters related to public safety. At the fall 1994 board meeting, the board adopted a regulation authorizing the department to issue "permits to control nuisance wildlife." The purpose of the regulation was to clarify the department's authority to issue permits for such purposes as controlling nuisance beavers and taking migratory birds at airports to safeguard arriving and departing aircraft. The board also adopted a regulation that would require commercial wildlife exhibitors to carry liability insurance. The Department of Law questioned the authority of the board to regulate solely on the basis of public safety, and recommended that those regulations be deferred and reconsidered.

The authority for other public safety regulations has also been questioned. Those regulations include the requirement for persons under 16 to have hunter safety training before hunting without an adult on the Mendenhall State Game Refuge, the taking of wildlife in defense of life or property, and provisions for taking nuisance beavers under a permit. The department also issues "depredation" permits to airports around the state. The need to take birds and other game at airports to ensure public safety was underscored by the tragic loss of an AWACS plane at Elmendorf AFB last fall.

I agree with the board that statutory clarification is preferable to inventing a rationale on which to base public safety regulations that deal with wildlife. Not only would a statutory amendment support our existing public safety/property damage regulations, but it could provide the basis for empowering VPSOs to help resolve human/wildlife conflicts in remote communities.

At the fall board meeting you offered to help with this matter. A comprehensive statutory solution would be to amend three statutes, as follows. Amend AS 16.05.255(a) (Regulations of the Board of Game) by inserting: "The Board of Game may adopt regulations it considers advisable in accordance with AS 44.62 for . . . (3) establishing the means and methods employed in the pursuit, capture, and transport of game, including regulations, consistent with public safety and welfare, and resource conservation and development goals . . ." and by adding: "(11) taking game to ensure public safety," Amend AS 16.05.050(6) (Powers and duties of the commissioner) by inserting: "(6) to take, capture, propagate, transport, buy, sell, or exchange fish or game or eggs for propagating, scientific, [OR] stocking, or public safety purposes." We have discussed this wording with the Department of Law and believe these amendments would provide concrete authority for existing regulations and activities. The department and the board would support this or some similar clarification of statutory authority. If we can provide any assistance in this matter, please let me know.

Sincerely,



Frank Rue
Commissioner

cc: Pat Pourchot, Legislative Director, Governor's Office
Wayne Regelin, Director of Wildlife Conservation
Kevin Saxby, Assistant Attorney General

FISCAL NOTE

No. 1
 Bill Version: SB 257
 (S) Publish Date: 2-21-96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Taking Fish or Game for Public Safety BRU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Senator Zharoff
 Requester: Senate Resources COMPONENT SERIAL NO. 473

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (1024)	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						
1037 GF/Mental Health						
her						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

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 bill clarifies statutory authority for existing department and board of game practices.
 Passage will not result in any increased costs.

Prepared by: Phil Koehl, Wildlife Biologist PK Phone: 465-6198
 Division: Wildlife Conservation Date: 2/16/96
 Approved by Commissioner: Gordon Buerge for Date: 2/16/96
 Agency: Department of Fish and Game

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: SB 257
(S) Publish Date: 3-25-96

Revision Date: _____ Dept. Affected: Public Safety
 Title: Taking fish or game for public safety BRU: Alaska State Troopers
 Component: Detachments and VPSO
 Sponsor: Senator Zharoff
 Requestor: S. Judician COMPONENT SERIAL NO. 0799 and 0517

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHT/A						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ _____

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 bill will not have a fiscal impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: March 20, 1996
 Approved by Commissioner: *[Signature]* Date: 3/21/96
 Agency: Ronald L. Ote, Department of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA

1996 LEGISLATIVE SESSION

No. 3
 Bill Version: SB 257
 (S) Publish Date: 3-25-96

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to the taking of game or fish BRU: Fish & Wildlife Protection
for public safety purposes. Component: Enforcement & ISU
 Sponsor: Senator Zharoff
 Requestor: S. Judiciary COMPONENT SERIAL NO. 0490

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (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-

Estimate of current year (FY 96) impact: \$ 0 0

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.)
 No fiscal impact.

Prepared By: Captain Richard Graham, Operations Commander Phone: 269-5589
 Division: Fish & Wildlife Protection Date: 03/19/96
 Approved by Commissioner: *Ronald L. Otte* Date: 3/21/96
 Agency: Ronald L. Otte, Department of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

SB

262

Alaska State Legislature



Senate

Sponsor Statement SB 262

While in Juneau

State Capitol

Juneau, Alaska

99801-1182

Ph: (907) 465-4976

Fax: (907) 465-3883

Senate District 6

SENATOR

MIKE MILLER

Mailing Address:

119 N. Cushman, Suite 101

Fairbanks, Alaska 99701

Ph: (907) 488-0862

Fax: (907) 488-4271

Since Statehood, Alaskans, whose sustenance and livelihood relies upon our wildlife resources, have lost over 100 million acres to consumptive uses in one form or another. This land mass is larger than the State of Wyoming. Additionally, Alaskan hunters have lost effective utilization of some of the most productive areas in the State through ever increasing restrictions on access. These restrictions are being adopted in lands which sportsmen themselves have helped set aside and whom exclusively pay for the maintenance, management and administration of these lands.

Because of increasing restrictions and the loss of available areas to hunt, Alaskans are currently taking less than 2% of the annual harvestable surplus of moose, caribou and sheep--compared to other states who routinely harvest 30-50% of their big game each year. Additionally, Alaskan hunters harvest of moose, caribou and sheep has declined over 30% between 1989 and 1993.

The Department of Fish and Game is funded 100% by sportsmen's dollars generated through license fees and self imposed taxes. This legislation recognizes that public trust and would allow for no net loss of land for Alaska's consumptive users. Additionally, it requires remediation of 5 acres for every acre lost in the future.

The legislation will also eliminate the spending of Fish and Game fund monies paid by consumptive users for any activity on lands where consumptive uses have been eliminated or restricted. By passing this legislation, the legislature will recognize the special public trust created by the use of license monies and will reverse the trend of restrictions on consumptive uses throughout Alaska.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

SENATE BILL 262

"relating to management of game populations for maximum sustained yield for human harvest"

Rifle hunters suing the State of Alaska when an area is limited to bow hunting; fishermen suing when a river is posted for catch and release to enhance trophy specimens; streamside anglers suing to keep the banks of the Kenai River open no matter what the long-term cost to king salmon spawning habitat: This is the future contemplated by Senate Bill 262.

Senate Bill 262 is a fatally flawed attempt to coerce the Alaska Department of Fish and Game into managing resources that belong to all Alaskans for the benefit of the disgruntled few. The Alaska Environmental Lobby opposes SB 262.

Senate Bill 262 hangs a "SUE ME" sign around the necks of public officials

SB 262 exposes the public officials who manage Alaska's resources to lawsuits brought by the disgruntled few who feel they've been harmed by official actions. The bill exempts only members of the Board of Game, not members of the Board of Fisheries, employees of the Department of Fish and Game, or anyone else who administers public lands and resources.

Current law allows the public to bring suit against officials acting *ultra vires* (outside their scope of duty). SB 262 drastically expands the public's right to sue government officials. Public officials could be sued in the following cases, among others:

For managing fish and game for social reasons, such as administering trophy hunting areas by permit or implementing catch and release fishing;

For managing fish and game for economic reasons, for instance at the request of local communities interested in promoting tourism;

For managing fish and game for biological reasons other than "maximum sustained yield" in areas where human harvest has been found to be an "important" use of game;

For actions taken in the best interest of the State of Alaska, where these conflicted with the provisions of SB 262;

For actions mandated by the Board of Game but applied by other public officials. The Board of Game is protected from suit, but a resource manager could be sued for carrying out the directives of the Board of Game, even when that official has no power to alter Board of Game decisions.

Public servants should base their decisions on sound science and public input, not on fear of legal reprisal from those who dislike their actions. Do we really want public officials to face lawsuits when they manage public resources for the benefit of all Alaskans, instead of the angry few?

Angered by an official decision? Sue the government -- free!

The Assistant Attorney General representing the Board of Game, Kevin Saxby, testified that SB 262 would invite a legion of expensive lawsuits paid for by state government. People bringing such lawsuits could be considered public interest litigants, so they would not be responsible for the costs of litigation. State government would pay the public to sue its officials. Who wouldn't sue, if there were no costs associated with bringing action?

Senate Bill 262 is based on fiction, not fact

SB 262 requires the state to open one acre of land for every acre "closed" to hunting. The bill is predicated on the mistaken belief that huge areas of state land are closed to hunting. Over and over we've heard the refrain,

"Since statehood, Alaska's consumptive users have lost the right to do as they wish on millions and millions of acres." This refers to federal, not state land. Wayne Regelin, Director of the Division of Wildlife Conservation, has testified that "almost all state-owned lands are open to hunters." The "no net loss" provision would be nearly impossible for Alaska's resource managers to implement, because no large areas of state land are presently closed to hunting.

Because of the lack of available closed land and the fact that reasonable management procedures would be considered "closures," SB 262 would, in effect, prohibit the management of any area for trophy hunting, catch and release fishing, or tourism (one of the state's growing industries). These are reasonable goals of fish and game management, and they benefit many Alaskans, including hunters and fishermen.

Senate Bill 262 will have unknown effects on Alaska's fisheries

SB 262 refers to "fish" in the title, to "sport fish" "fishing" "fish" and the "consumptive use of fish" in Section 2, to "fishing" in Sections 3 and 5, to "fish" and "fishing" in Section 6. But the ramifications of the bill for sport and commercial fisheries haven't been adequately explored. The Assistant Attorney General representing the Board of Fisheries, Steven Daugherty, testified that SB 262 has "negative implications" for fisheries. Examples he gave included catch and release fishing and trophy fishing.

Still unanswered is this question: How does SB 262 apply to commercial set-netting which occur on public tidelands? Will this result in lawsuits limiting the ability of managers to enact permit systems or regulate set-net sites? Nowhere does this bill exclude commercial fishing from its provisions. If commercial fishing is not excluded from the provisions of this bill, how could the state of Alaska enforce fishing openings and closings or in any way protect Alaska's priceless commercial fish resource?

Notably, SB 262 provides immunity from lawsuit to the Board of Game, but not to the Board of Fisheries. Why not? How could we get qualified

people to serve on the Board, if they could be sued by anyone who disliked their decisions?

SB 262 creates a new "public trust" that harms the public

SB 262 creates a new public trust for "special fish and game management areas" where none existed before. In doing so, it extends the public trust doctrine far beyond its traditional interpretation. The bill states that this trust would be broken by restricting public access or by restricting activities and opportunities for fishing, hunting and trapping. The penalties for breaching this so-called trust are enforcement of the "no net loss" provision and the possibility of punitive litigation against public officials.

Who is calling for this trust to be created? Not the vast majority of hunters and fishermen, who like to participate in the healthy processes of a fully functioning ecosystem. Only the fringe, who take any restriction of method of harvest or access as a personal insult.

By calling for "unrestricted fishing, hunting, and trapping activities," SB 262 steals many tools from the wildlife manager's bag of options. Regulating or limiting hunting and fishing seasons, controlling the method of hunting allowed or the type of access used, or setting bag limits, could all be considered "closures" under SB 262, triggering the "no net loss" provision. These methods are used by wildlife managers where appropriate to protect the state's fish and game resources. Although it calls for management based on biology, SB 262 would rob managers of these scientific management options.

The new "trust" created by SB 262 would penalize the State of Alaska's fish and wildlife managers for doing their job: conserving these resources for present and future use. The penalties would be the "no net loss" provision of SB 262, and the potential for a multitude of lawsuits against public officials doing their jobs to protect Alaska's fish and game resources for the benefit of all users. The results for Alaska's fish and wildlife would be calamitous. All Alaskans who like to view or consume fish and wildlife would be harmed by the creation of this new trust.

5/2/96

HOUSE JUDICIARY COMMITTEE

DATE 5/2/96

ISSUE Table SB 262

	YES	NO
BUNDE	✓	
TOOHEY		✓
VEZEY		✓
B. DAVIS	✓	
FINKELSTEIN	✓	
GREEN		✓
PORTER		✓

Fair

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1984
PHONE: (907) 289-6100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2848

P.O. BOX 110300-DIMOND COURT HO
JUNEAU, ALASKA 99811-0300
PHONE: (907) 488-3600
FAX: (907) 485-6735

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 29, 1996

Hon. Brian Porter
Chairman
House Judiciary Committee
State Capitol
Juneau, AK 99801-1182

Re: House CS for CS for Senate
Bill 262 (Res)

Dear Rep. Porter:

Tom Meyer of your staff requested a memo confirming testimony I offered earlier today about House CS for CS for Senate Bill No. 262 (Res), and suggestions for language changes. What follows is a very preliminary assessment of some of the most obvious legal issues. Others will undoubtedly need analysis if the bill is passed.

Perhaps the primary issue is sec. 2's incorporation of the public trust doctrine for certain state lands. To my knowledge, this is the first time this doctrine will have been explicitly applied to uplands, as opposed to navigable waters and tidelands, in Alaska. Where a public trust exists, courts typically set fairly high standards for approving disposals of interests in the subject real property. In Alaska, public trust tidelands may not be conveyed unless the conveyance is in furtherance of public trust principles or is found to not substantially impair public uses of the tidelands. CWC Fisheries, Inc. v. Bunker, 755 P.2d 1115 (Alaska 1988). A great deal of jurisprudence from other jurisdictions also exists on the public trust doctrine, and we should expect most of this law to eventually be argued to be applicable to limit state discretion to, for example, hold timber sales, lease minerals, or otherwise develop the subject uplands. Eliminating the "public trust" language from sec. 2 would preserve the Department of Law's

ability to, as it has hitherto generally done successfully, argue that limiting public trust principles are applicable only to tidelands and navigable waters, not uplands.

The second issue identified is that the definitions set forth in sec.s 1, 2 and 8 present the same problems that were recently identified as some of the reasons for the Governor's veto of SB 77. In other words, the newly-defined sustained yield concepts in this bill greatly narrow what has, until now, been thought by Alaska's game managers to be appropriate sustained yield management. To the extent that these definitions are deemed to be implementing, and defining, the sustained yield mandate of art. VIII, sec. 4 of the Alaska constitution, they will serve to severely limit the options available to managers, and will probably require extensive re-working of most current game management schemes. Elimination of these definitions of "harvestable surplus", "highest levels of human harvest" and "maximum sustained yield" would alleviate these concerns.

Other issues are raised by the citizen suit provisions in sec.s 1 and 2. Both purport to authorize suits against unidentified state officials to enforce, or challenge, decisions that will probably be made in most cases by the Board of Game, while exempting members of the Board of Game from such suits. The result is authorization of suits against state officials, like the Commissioner of the Department of Fish and Game, who probably will usually have no authority to effect the desired changes. While the State should be able to have most such suits dismissed, these invitations to bring suits against these powerless officials will probably cause a great deal of litigation expense and effort. Elimination of these provisions is advisable, and would have no effect on the public's right to seek declaratory judgments and injunctions to enforce game management statutes.

Other issues also exist; for example, the Board of Game's duty to "guarantee access" in sec.s 4 and 6, when the Board of Game generally has little land use authority, is confusing. Also, the requirement in sec. 1 to replace lands where opportunity is restricted with equivalent acreage elsewhere in the State is likely to create many impasses in, and greatly complicate, what is an already extremely complex set of factors

Hon. Brian Porter
House Judiciary Committee

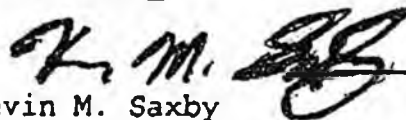
May 1, 1996
Page 3

for the Board of Game to consider when adopting its regulations. These, and other issues, will require more careful attention if the bill is passed.

Please let me know if I can be of any further assistance.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL



By: Kevin M. Saxby
Assistant Attorney General

cc: Pat Pourchot
Chrystal Smith
Bruce Botelho
Barbara Ritchie
Deborah Behr

Alaska State Legislature



House of Representatives House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

May 1, 1996

TO: House Judiciary Committee members

FROM: Tom Meyer

RE: May 2, 1996, calendar

The committee will be meeting tomorrow, Thursday, at 1:00 pm to hear SB 262. The bill passed from Resources this morning and is now version "R".

I've included the "O" version. This version received two amendments today in Resources. One is in hard copy from and is included. Another, from R. Ogan, deleted "emergency" and inserted "basis" on page 2, line 7.

**DIVISION OF WILDLIFE CONSERVATION
 CONCERNS WITH CSSB 282(RES)
 4/9/96**

- Will prohibit the spending of Fish and Game or Federal Aid funds on fish or wildlife education programs, special area management or planning, endangered species and nongame management, marine mammal management, law enforcement, public information services, and habitat protection.
- Will shift more than \$1 million in expenses to the general fund to cover costs of current programs which would no longer be funded from Fish and Game and Federal Aid funds.
- Contains definitions of "high level of human harvest", "intensive management", and "maximum sustained yield" that are without a sound scientific basis and will result in poor management of fish and wildlife resources.
- Mandates exclusive management of wildlife, a "common use" resource belonging to all Alaskans, for a narrow, special interest group.
- Eliminates "methods and means" restrictions as a useful regulatory and management tool (used by all wildlife agencies in all states). The bill would allow a "methods and means" or access restriction to be imposed only when the same restriction is lifted from a nearby area that is 3 times larger in size. No such areas exist.
- Would prohibit any permanent closure of public land to hunting or trapping, including for purposes of public safety, even if endorsed by all area residents.
- Eliminates all access restrictions to "special management areas," including state sanctuaries, unless the restriction is imposed to protect habitat. This will open up McNeil River, Pack Creek, and Round (Walrus) Island to unlimited and uncontrolled visitation, because current restrictions are for protection of wildlife populations, not for habitat protection.
- Eliminates access restrictions to "controlled use areas" created by the board to meet public demand for high quality hunting areas and to avoid conflicts between various consumptive user groups (e.g., Koyukuk controlled use area, Upper Kuskokwim controlled use area, Holitna controlled use area).
- Hamstrings responsible wildlife management by making public officials liable to lawsuits for proper performance of their jobs.

Post-it® Fax Note	7671	Date	# of pages ▶ 1
To	<i>Cheryl</i>	From	<i>Michele</i>
Co./Dept.		Co.	<i>La Brea</i>
Phone #		Phone #	
Fax #		Fax #	



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

The Alaska Environmental Lobby Says: Vote NO to SB 262

- SB 262 mandates the Board of Game to open new areas to consumptive use three times larger than lands closed to consumptive use by the department, Board of Game, or other state agency. Allowing openings three times as large to areas that have only a healthy game population is not a comprehensive view of managing Alaska's resources.
- SB 262 neglects social and economic interests by managing solely on a biological basis.
- This management scheme does not provide biologically sound management for Alaska's game. This bill attempts to manage Alaska's wildlife on land measurement and human consumption scales.
- SB 262 does not take into account the overall status of the ecosystem in which these mandatory consumptive uses are imposed. Only a healthy ecosystem can adequately sustain both consumptive and non consumptive uses of the land and its wildlife, and this fails to address that concern.
- Assuming that consumptive use of game is the best use is inconsistent with the response of the majority of Alaskan citizens. We must also realize the magnitude of revenue that could potentially be lost by supporting this assumption.
- SB 262's vindictive and threatening language encourages individuals to pursue civil action and holds liability over the heads of public officials and state agencies.

We urge the Senate to consider these negative forces driving the management of Alaska's wildlife populations down a dead end street. Alaskans and Alaska's resources deserve more thoughtful governing than SB 262.

4/10/96

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
 ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
 DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU GROUP, SIERRA CLUB
 KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
 KNIA GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • KENNEDY NATIONAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER

Senator Mike Milier
February 12, 1996
Page 2

the state must provide five times the amount of land for unrestricted sport fishing, hunting, or trapping activities to replace the land on which the trust was violated. A person may bring an action to compel compliance with the provisions of this section or to remedy a violation of this section. If the person prevails in the action, the person is entitled to recover the full costs of the litigation. Key terms in this section are defined.

Section 3 of the bill amends the purposes for which state game refuges are established.

Section 4 of the bill amends AS 16.20.075 to require the Board of Game to adopt regulations guaranteeing access to state game refuges and continued opportunities for sport fishing, hunting, and trapping on state game refuges.

Section 5 of the bill adds a new section to AS 16.20 relating the purposes for which state range areas are established.

Section 6 of the bill amends AS 16.20.500 to amend the purposes for which fish and game critical habitat areas are established.

Section 7 of the bill amends AS 16.20.510 to require the Board of Fisheries and Board of Game to adopt regulations guaranteeing access to fish and game critical habitat areas and continued opportunities for sport fishing, hunting, and trapping on critical habitat areas.

Section 8 of the bill amends AS 16.20 by adding a new section containing a definition of "maximum sustained yield" for purposes of AS 16.20.

Section 9 of the bill states that certain provisions added by secs. 1 and 2 of the bill have the effect of amending certain rules of civil procedure adopted by the Alaska Supreme Court by allowing a person to recover the full, true, and actual costs of bringing and prosecuting an action authorized under those sections of the bill.

Section 10 of the bill provides that the provisions (amending court rules) described in sec. 9 of the bill do not take effect if they are not approved by two-thirds majority vote of each house as required by the Constitution of the State of Alaska.

If I may be of further assistance, please advise.

GU:klb:glc
96-094.klb

FISCAL NOTE

No. 1
 Bill Version: CS SB 26.26(c5)
 (S) Publish Date: 3-12-96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Management of Fish/Game Population & Area BRU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Senator Miller
 Requester: Senate Resources COMPONENT SERIAL NO. 473

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 (1024)	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	1,025.7	1,025.7	1,025.7	1,025.7	1,025.7	1,025.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (1024 Fish & Game Fund)	(1,025.7)	(1,025.7)	(1,025.7)	(1,025.7)	(1,025.7)	(1,025.7)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

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)

Assumptions: (1) The legislation will become effective at the beginning of FY97. (2) To maintain department services and programs at existing levels, General Funds will be provided to offset Fish & Game Fund and Federal Aid spending reductions for programs such as, nongame, wildlife education, watchable wildlife, endangered species, marine mammals, and the McNeil River, Stan Price and Walrus Islands State Game Sanctuaries.

Sec. 2 of the bill restricts utilization of federal aid and license/tag revenue in areas where game populations are subject to preferences among consumptive uses that are not valid under the state constitution or state law. Virtually all big game populations trespass on federal lands that are "subject" to subsistence preferences not valid under state law. Accordingly, a strict interpretation of this bill would preclude expending nearly all Fish & Game Fund and Federal Aid revenues on wildlife management programs. To maintain existing programs and services using that interpretation would require annual General Fund appropriations of approximately \$15,000.0.

Prepared by: Diana Ground, Administrative Officer
 Division: Wildlife Conservation
 Approved by Commissioner: [Signature]
 Agency: Alaska Department of Fish and Game

Phone: 465-6194
 Date: 2/9/96
 Date: 2-12-96

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 403
Juneau, Alaska 99801-2105

MEMORANDUM

February 10, 1996

SUBJECT: Sectional Summary of SB 262; An Act relating to management of game populations for maximum sustained yield for human harvest and providing for the replacement of areas closed to consumptive uses of game and relating to management of fish and game areas.

TO: Senator Mike Miller

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of SB 262; An Act relating to management of game populations for maximum sustained yield for human harvest and providing for the replacement of areas closed to consumptive uses of game and relating to management of fish and game areas.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.05 by adding a new section (AS 16.05.005), relating to management of game. On most land in the state, game populations are to be managed solely on a biological basis for maximum sustained yield for human harvest. Consumptive use of game is the highest and best use of game. If the Department of Fish and Game, the Board of Game, or another state agency closes an area of the state for consumptive use of game for sport or subsistence use or closes an area of the state to taking of game for consumptive use by a method, manner, or means that was permitted in the area before the closure, the Board of Game shall open new areas where the consumptive uses that were prohibited can occur, unless the closure was due to a biological emergency. A person may bring an action to compel compliance with the provisions of this section or to remedy a violation of this section. If the person prevails in the action, the person is entitled to recover the full costs of the litigation. Key terms in this section are defined.

Section 2 of the bill amends AS 16.05 by adding a new section (AS 16.05.145), creating a public trust for fish and game management areas. The public trust is violated by restricting public access to fish and game management areas, restricting sport fishing, hunting, or trapping in fish and game management areas, or using license fees paid by sportsmen or certain federal funds in certain areas or for certain purposes. If the public trust is violated,

HOUSE CS FOR CS FOR SENATE BILL NO. 262(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS MILLER, Sharp, Pearce, Halford, Green, Frank, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game populations for maximum sustained
2 yield for human harvest and providing for the replacement of areas closed to
3 consumptive uses of game; relating to management of fish and game areas."

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

5 * Section 1. AS 16.05 is amended by adding a new section to read:

6 Sec. 16.05.005. MANAGEMENT OF GAME. (a) Notwithstanding any other
7 law to the contrary, game populations shall be managed solely on a biological basis.
8 In areas where human harvest has been found to be an important use of game, game
9 populations in those areas shall be managed for maximum sustained yield by human
10 harvest. Consumptive use of game is the highest and best use of game. This section
11 does not apply on land designated as a park or a state game sanctuary where
12 consumptive use of game is prohibited.

13 (b) If the department, the Board of Game, or other agency of the state, closes
14 an area to the taking of a game species for consumptive use for subsistence or sport

1 uses, or closes an area to the taking of a game species for consumptive use by a
2 method, manner, or means that was permitted in the area before the closure, the Board
3 of Game at its next regularly scheduled meeting after the closure shall open a new area
4 or areas where the consumptive uses that were prohibited can occur and where healthy
5 populations of the affected game species are present. The new area or areas opened
6 by the board shall be at least equal in size to the area that was closed. This subsection
7 does not apply to a temporary closure based upon a biological emergency.

8 (c) A person may bring a civil action in a court of competent jurisdiction
9 against a state agency or public official, other than a member of the Board of Game,
10 for an injunction to compel compliance with this section or to compel remedial action
11 to correct a violation of this section. A public official, other than a member of the
12 Board of Game, is not immune from suit under this section.

13 (d) In this section,

14 (1) "harvestable surplus" means the estimated number of animals that
15 is equal to the number of offspring born in a game population during a year less the
16 number of animals in the population that die during the year from all causes other than
17 predation or human harvest;

18 (2) "highest levels of human harvest" means the harvest of greater than
19 one-third or more of the harvestable surplus of a game population by humans;

20 (3) "maximum sustained yield" means the achievement and
21 maintenance in perpetuity of the highest levels of human harvest on an annual basis
22 of game, other than mammalian predators.

23 * Sec. 2. AS 16.05 is amended by adding a new section to read:

24 Sec. 16.05.145. PUBLIC TRUST FOR SPECIAL FISH AND GAME
25 MANAGEMENT AREAS. (a) The state has created a public trust by the use of
26 revenue generated from taxes, license fees, and other fees paid by sportsmen, by the
27 acceptance and use of funds received from federal aid in sport fish and wildlife
28 restoration programs, and by the establishment of state game refuges, range areas,
29 special management areas, critical habitat areas, and similar areas established by law.

30 (b) This public trust would be breached by

31 (1) restricting public access to state game refuges, range areas,

1 sanctuaries, special management areas, critical habitat areas, and similar areas
2 established by law, except when the restriction on access is necessary solely for the
3 purpose of protecting habitat from damage due to the method of access;

4 (2) restricting fishing, hunting, and trapping activities and opportunities
5 on state game refuges, range areas, special management areas, critical habitat areas,
6 and similar areas established by law in a manner that is inconsistent with maximum
7 sustained yield of fish and game; or

8 (3) utilization of the revenue generated from taxes, license fees, and
9 other fees paid by sportsmen or funds received from federal aid in sport fish and
10 wildlife restoration programs

11 (A) in an area where consumptive use of fish and game is not
12 permitted; or

13 (B) for management of nongame species.

14 (c) If the state breaches this public trust, the state shall either acquire an area
15 of land or designate an area of state land equal in size to the area of land on which the
16 public trust was breached in order to provide a location in the same geographic area
17 where unrestricted fishing, hunting, or trapping activities can occur.

18 (d) A person may bring a civil action in a court of competent jurisdiction
19 against a state agency or a public official, ~~who is a member of the Board of Game,~~
20 for an injunction to compel compliance with this section or to compel remedial action
21 to correct a violation of this section. A public official, ~~who is a member of the~~
22 **Board of Game**, is not immune from suit under this section.

23 (e) In this section,

24 (1) "harvestable surplus" means the estimated number of animals that
25 is equal to the number of offspring born in a game population during a year less the
26 number of animals in the population that die during the year from all causes other than
27 predation or human harvest;

28 (2) "highest levels of human harvest" means the harvest greater than
29 one-third or more of the harvestable surplus of a fish stock or game population by
30 humans;

31 (3) "maximum sustained yield" means the achievement and

1 maintenance in perpetuity of the highest levels of human harvest on an annual basis
2 of game, other than mammalian predators, or of fish.

3 * Sec. 3. AS 16.20.020 is amended to read:

4 Sec. 16.20.020. PURPOSE. The purpose of AS 16.20.010 - 16.20.080 is to
5 conserve, maintain, and develop habitat and game populations [PROTECT AND
6 PRESERVE THE NATURAL HABITAT AND GAME POPULATION] in certain
7 designated areas of the state and to guarantee access to and continued public
8 fishing, hunting, and trapping activities and opportunities in these areas,
9 consistent with maximum sustained yield.

10 * Sec. 4. AS 16.20.075 is amended to read:

11 Sec. 16.20.075. REGULATIONS. The board shall, under AS 16.05, adopt
12 regulations

13 (1) governing the taking of game on state game refuges it considers
14 advisable for conservation and protection purposes;

15 (2) guaranteeing access to and for continued consumptive uses.

16 * Sec. 5. AS 16.20 is amended by adding a new section to article 4 to read:

17 Sec. 16.20.295. PURPOSE. In addition to the purposes stated in AS 16.20.300
18 - 16.20.360, state range areas are created to guarantee access to and continued public
19 fishing, hunting, and trapping activities and opportunities in these areas, consistent with
20 maximum sustained yield.

21 * Sec. 6. AS 16.20.500 is amended to read:

22 Sec. 16.20.500. PURPOSE. The purpose of AS 16.20.500 - 16.20.690 is to
23 protect and preserve habitat areas especially crucial to the perpetuation of fish and
24 wildlife, and to restrict all other uses not compatible with that primary purpose and
25 to guarantee access to and continued public fishing, hunting, and trapping
26 activities and opportunities in critical habitat areas, consistent with maximum
27 sustained yield.

28 * Sec. 7. AS 16.20.510 is amended to read:

29 Sec. 16.20.510. REGULATIONS. The Board of Fisheries and the Board of
30 Game, where appropriate, shall adopt regulations they consider advisable for

31 (1) conservation and protection purposes governing the taking of fish

1 and game in state fish and game critical habitat areas;

2 (2) guaranteeing access to and continued public fishing, hunting,
3 and trapping activities and opportunities in fish and game critical habitat areas.
4 consistent with maximum sustained yield.

5 * Sec. 8. AS 16.20 is amended by adding a new section to read:

6 ARTICLE 6. GENERAL PROVISIONS.

7 Sec. 16.20.990. DEFINITION. In this chapter, "maximum sustained yield" has
8 the meaning given in AS 16.05.145.

HOUSE CS FOR CS FOR SENATE BILL NO. 262(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS MILLER, Sharp, Pearce, Halford, Green, Frank, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game populations for maximum sustained
 2 yield for human harvest and providing for the replacement of areas closed to
 3 consumptive uses of game; relating to management of fish and game areas."

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

5 * Section 1. AS 16.05 is amended by adding a new section to read:

6 Sec. 16.05.005. MANAGEMENT OF GAME. (a) Notwithstanding any other
 7 law to the contrary, game populations shall be managed solely on a biological basis.
 8 In areas where human harvest has been found to be an important use of game, game
 9 populations in those areas shall be managed for maximum sustained yield by human
 10 harvest. Consumptive use of game is the highest and best use of game. This section
 11 does not apply on land designated as a park or a state game sanctuary where
 12 consumptive use of game is prohibited.

13 (b) If the department, the Board of Game, or other agency of the state, closes
 14 an area to the taking of a game species for consumptive use for subsistence or sport

1 uses, or closes an area to the taking of a game species for consumptive use by a
2 method, manner, or means that was permitted in the area before the closure, the Board
3 of Game at its next regularly scheduled meeting after the closure shall open a new area
4 or areas where the consumptive uses that were prohibited can occur and where healthy
5 populations of the affected game species are present. The new area or areas opened
6 by the board shall be at least equal in size to the area that was closed. This subsection
7 does not apply to a temporary closure based upon a biological basis.

8 (c) A person may bring a civil action in a court of competent jurisdiction
9 against a state agency or a public official, other than a member of the Board of Game,
10 for an injunction to compel compliance with this section or to compel remedial action
11 to correct a violation of this section. A public official, other than a member of the
12 Board of Game, is not immune from suit under this section.

13 (d) In this section,

14 (1) "harvestable surplus" means the estimated number of animals that
15 is equal to the number of offspring born in a game population during a year less the
16 number of animals in the population that die during the year from all causes other than
17 predation or human harvest;

18 (2) "highest levels of human harvest" means the harvest of greater than
19 one-third or more of the harvestable surplus of a game population by humans;

20 (3) "maximum sustained yield" means the achievement and
21 maintenance in perpetuity of the highest levels of human harvest on an annual basis
22 of game, other than mammalian predators.

23 * Sec. 2. AS 16.05 is amended by adding a new section to read:

24 Sec. 16.05.145. PUBLIC TRUST FOR SPECIAL FISH AND GAME
25 MANAGEMENT AREAS. (a) The state has created a public trust by the use of
26 revenue generated from taxes, license fees, and other fees paid by sportsmen, by the
27 acceptance and use of funds received from federal aid in sport fish and wildlife
28 restoration programs, and by the establishment of state game refuges, range areas,
29 special management areas, critical habitat areas, and similar areas established by law.

30 (b) This public trust would be breached by

31 (1) restricting public access to state game refuges, range areas,

1 sanctuaries, special management areas, critical habitat areas, and similar areas
2 established by law, except when the restriction on access is necessary solely for the
3 purpose of protecting habitat from damage due to the method of access;

4 (2) restricting fishing, hunting, and trapping activities and opportunities
5 on state game refuges, range areas, special management areas, critical habitat areas,
6 and similar areas established by law in a manner that is inconsistent with maximum
7 sustained yield of fish and game except for controlled use areas; or

8 (3) utilization of the revenue generated from taxes, license fees, and
9 other fees paid by sportsmen or funds received from federal aid in sport fish and
10 wildlife restoration programs

11 (A) in an area where consumptive use of fish and game is not
12 permitted; or

13 (B) for management of nongame species.

14 (c) If the state breaches this public trust, the state shall either acquire an area
15 of land or designate an area of state land equal in size to the area of land on which the
16 public trust was breached in order to provide a location in the same geographic area
17 where unrestricted fishing, hunting, or trapping activities can occur.

18 (d) A person may bring a civil action in a court of competent jurisdiction
19 against a state agency or a public official, other than a member of the Board of Game,
20 for an injunction to compel compliance with this section or to compel remedial action
21 to correct a violation of this section. A public official, other than a member of the
22 Board of Game, is not immune from suit under this section.

23 (e) In this section,

24 (1) "harvestable surplus" means the estimated number of animals that
25 is equal to the number of offspring born in a game population during a year less the
26 number of animals in the population that die during the year from all causes other than
27 predation or human harvest;

28 (2) "highest levels of human harvest" means the harvest of greater than
29 one-third or more of the harvestable surplus of a fish stock or game population by
30 humans;

31 (3) "maximum sustained yield" means the achievement and

1 maintenance in perpetuity of the highest levels of human harvest on an annual basis
2 of game, other than mammalian predators, or of fish.

3 * Sec. 3. AS 16.20.020 is amended to read:

4 Sec. 16.20.020. PURPOSE. The purpose of AS 16.20.010 - 16.20.080 is to
5 conserve, maintain, and develop habitat and game populations [PROTECT AND
6 PRESERVE THE NATURAL HABITAT AND GAME POPULATION] in certain
7 designated areas of the state and to guarantee access to and continued public
8 fishing, hunting, and trapping activities and opportunities in these areas.
9 consistent with maximum sustained yield.

10 * Sec. 4. AS 16.20.075 is amended to read:

11 Sec. 16.20.075. REGULATIONS. The board shall, under AS 16.05, adopt
12 regulations

13 (1) governing the taking of game on state game refuges it considers
14 advisable for conservation and protection purposes;

15 (2) guaranteeing access to and for continued consumptive uses.

16 * Sec. 5. AS 16.20 is amended by adding a new section to article 4 to read:

17 Sec. 16.20.295. PURPOSE. In addition to the purposes stated in AS 16.20.300
18 - 16.20.360, state range areas are created to guarantee access to and continued public
19 fishing, hunting, and trapping activities and opportunities in these areas, consistent with
20 maximum sustained yield.

21 * Sec. 6. AS 16.20.500 is amended to read:

22 Sec. 16.20.500. PURPOSE. The purpose of AS 16.20.500 - 16.20.690 is to
23 protect and preserve habitat areas especially crucial to the perpetuation of fish and
24 wildlife, and to restrict all other uses not compatible with that primary purpose and
25 to guarantee access to and continued public fishing, hunting, and trapping
26 activities and opportunities in critical habitat areas, consistent with maximum
27 sustained yield.

28 * Sec. 7. AS 16.20.510 is amended to read:

29 Sec. 16.20.510. REGULATIONS. The Board of Fisheries and the Board of
30 Game, where appropriate, shall adopt regulations they consider advisable for

31 (1) conservation and protection purposes governing the taking of fish

1 and game in state fish and game critical habitat areas;

2 (2) guaranteeing access to and continued public fishing, hunting,
3 and trapping activities and opportunities in fish and game critical habitat areas,
4 consistent with maximum sustained yield.

5 * Sec. 8. AS 16.20 is amended by adding a new section to read:

6 ARTICLE 6. GENERAL PROVISIONS.

7 Sec. 16.20.990. DEFINITION. In this chapter, "maximum sustained yield" has
8 the meaning given in AS 16.05.145.

SB

278

Alaska State Legislature

Chairman,
Judiciary Committee

Vice Chairman,
Transportation Committee

Member,
Resources Committee
Western Legislative Forestry Task Force



Senator Robin L. Taylor

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Sponsor Statement

Senate Bill 278

Senate Bill 278 was introduced to address concerns raised by the Ketchikan Area State Parks Advisory Board and the Ketchikan Gateway Borough Assembly.

SB 278 would provide a mechanism by which the Division of Parks and Outdoor Recreation could acquire two small parcels of land adjacent to Totem Bight State Historical Park.

The parcels are currently held by Ketchikan Public Utilities as the site of a diesel generation plant. KPU plans to vacate the property, which would then revert to the Ketchikan Gateway Borough.

SB 278 would allow DNR to offer credits against fees paid by commercial tour operators for payments made to a municipality for projects that will mitigate or alleviate access, congestion and parking problems at historical parks. The Division of Parks and Outdoor Recreation has indicated that use of this provision at any state historical park other than Totem Bight is unlikely. In any event, the authority would sunset on December 31, 2000. The three year window is needed to avoid drawing too quickly against the fees.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Sponsor Statement - SB 278

Page Two

Totem Bight, a 12.5 acre state park located north of the City of Ketchikan, had an estimated 160,000 visitors in 1995, about half of them arriving on commercial tours. In 1977 it was estimated that the park could handle between 636 and 744 people at one time. Actual use now exceeds 925 people in the park at once.

The park only has seven parking spaces for busses and often there are up to 21 busses parked in the lot, on road shoulders and at a nearby gift shop. Park staff is now advising independent travelers and local park users to pay attention to the cruise ship schedule and avoid the park when the ships are in town.

To mitigate this overcrowding and congestion, DNR is proposing that the tour operators pay for acquisition of the borough-owned parcels to provide additional parking space and additional attractions such as trails and a carving demonstration area.

The Department of Transportation and Public Facilities has indicated an interest in developing a transportation enhancement project along the road at Totem Bight if the land becomes available.

Totem Bight is a valuable asset. The state has invested more than a million dollars in capital improvements to the facility over the past ten years. By acquiring these two parcels we can spread out the use area, enhance the park and mitigate the problems.

MEMORANDUM**Department of Natural Resources****State of Alaska****Division of Parks and Outdoor Rec.****DATE:** March 15, 1996**TO:** Joe Ambrose**TELEPHONE NO:** 269-8700**FAX NO:** 269-8907**FROM:** Jim Stratton
Director**SUBJECT:** SB278 fiscal impact

This bill will have no fiscal impact on Parks' existing program receipts. The total paid to the state from commercial operators in summer 1995 will not decrease in summer 1996. Program receipts above the 1995 level resulting from an increased number of visitors this summer would be available for use. A fee increase planned for 1997 will generate the majority of the funds necessary to complete this project. Commercial operators currently bring about 70,000 visitors annually to Totem Bight. Current fee is \$3/person, going up to \$4/person in 1997.

If you need more information about 278, please give me a ring. I have contacted Senator Duncan's office and told them we are very supportive of this bill.

Also, you should have just received a letter from the Sitka Parks Advisory Board (dated March 8) with a laundry list of capital projects. One of those projects, replacing the Halibut Point SRS picnic shelter, is in the Governor's proposed capital budget for \$20.0.

Craig Moore, 2118 Second Avenue, said he is the chair of the Ketchikan Area State Parks Advisory Board. The board was pleased to see their request on the agenda for the Borough to endorse and support the addition of lands to the Totem Bight State Parks. He hopes the Borough will agree this is the best use for this property. They want the request on this year's legislative priority list. They hope it is not too late to do that. This would aid the Division of Parks in obtaining funds to purchase the two tracts of land. He understands KPU will be vacating one of the parcels. They feel this tract will be especially beneficial to the park. This would be a very good use of the land. The plan is to use it for parking and for a totem carving project. It is a good area for viewing the park. The Board urges the Assembly to look favorably on their request and hopefully the Ketchikan Area State Parks Advisory Board can get this on their legislative priority list.

In response to Assemblymember Elkins, Mr. Moore said the Ketchikan Area State Parks Advisory Board looked at the fee structure for the park several years ago. They researched it thoroughly. The fee was raised. He is not sure if the fee will be raised again. Totem Bight raises quite a bit of money for the Division of Parks. It is definitely profitable. He doesn't know what Saxman charges for their tours. The local legislators were involved when the fee was raised. The park is a very popular attraction, not only to the local residents, but the visiting tourists. He just returned from Mexico where he learned that anything with history, archeology, and anthropology is a very important attraction. People all over the world are interested in it. Our native culture is very popular. The park is undergoing a management plan through the Division of parks. That is why they would like to add these parcels to the park. It would make it easier for tourists that want to view that area.

In response to Assemblymember Mitchel, Mr. Moore said they would certainly like to have both Tract M and L. If the Borough decides not to release both parcels, perhaps it would be reconsidered in the future. It is adjacent to the tidelands and has some trail potential.

Assemblymember Yetka said the agenda statement given to the Assembly states the Borough may have a need for Tract L for a location to place waste or recycling containers. She asked Mr. Moore if this was just going to be used for viewing and to protect the tidelands.

Mr. Moore said yes. Those were some of the ideas the advisory board had for that tract. He is not sure what the Management of the Division of Parks has in mind. They do listen to the local Advisory board. The Board wants to keep the view shed along that area. Tract L is steep and narrow.

Mayor Carlton said the community priority list is finished for this year. If the Assembly approves this request, the Assembly could send a letter of support.

~~Ray Sallee, 15007 North Tongue, said he is against mandated garbage pickup. He understands it has already passed. He spoke to a lot of people who are not in favor of it. He feels he got bypassed during the process. He did not see a referendum on the ballot or anything. He is just about to the point of circulating petitions to see if he can get this overturned. He is one of the good guys who takes care of his garbage.~~

~~Manager Rody explained how the exemption works and who can be exempted. Reasons for receiving an exemption are (1) if you can't be served, (2) if you are part of an area that gets pickup already like a mobile home court, and (3) if the person does several recycling things such as composting and burning.~~

~~Mr. Sallee said he feels like he was bypassed and did not get a chance to let the Assembly know how he felt about the passage of the new regulations. He doesn't feel this will help with the dumping. He thinks people will probably dump even more in those places, because they will be irate. He feels this should have been voted on by the people.~~

Post-It™ brand fax transmittal memo 7671 # of pages 2

To	JOE AMBROSE		From	BOROUGH	
Co.			Co.	CLERK	
Dept.			Phone #		
Fax #	465-3922		Fax #		