

**ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672**

**8820 SENATE COMMUNITY & REGIONAL AFFAIRS**

**E. THE POPULATION WITHIN THE POST ANNEXATION BOUNDARIES MUST BE SUFFICIENTLY LARGE AND STABLE TO SUPPORT THE EXTENSION OF CITY GOVERNMENT (19 AAC 10.120)**

The Commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 19 AAC 10.120 lists five factors which the Commission commonly considers. These relate to:

1. total population;
2. duration of residency;
3. historical population patterns;
4. seasonal population changes; and
5. age distributions.

**Total Population.** The City's current population is 4,381.<sup>15</sup>

**Duration of residency.** The petitioner contended that annexation would not likely place demands on elected officials and staff of the City of Wasilla since the City presently serves the area.

**Historical population patterns.** The 1990 federal census counted 4,028 residents within the corporate boundaries of the City of Wasilla. That represented a 158% increase over the 1980 census population of 1,559 residents.<sup>16</sup> In April, 1994, the City of Wasilla noted that Wasilla had seen "steady 6% population growth over the past two years" and projected that "Population growth estimates of 6% appear to be confirmed by school enrollments, telephone subscriptions and the 1993 Matanuska-Susitna Borough census."<sup>17</sup>

**Seasonal population changes.** Significant seasonal population changes are not evident in Wasilla. It exhibits the characteristics of a permanent residential community.

**Age distributions.** Of the 4,028 Wasilla residents recorded in the 1990 census, nearly 36% (1,454) were younger than eighteen years of age.

**Findings and Conclusion.** Wasilla's current population totals 4,381 residents, exceeding that of any other first class city in Alaska. Annexation of twelve parcels and 16 residents would promote slight improvements in efficiency of scale, particularly given the location of the area proposed for annexation relative to the current irregular municipal boundary configuration.

The standard set forth in 19 AAC 10.120 is satisfied. The population within the proposed post-annexation boundaries of the city would be sufficiently large and stable to support the extension of city government.

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<sup>15</sup> DCRA State Revenue Sharing Program.

<sup>16</sup> Alaska Population Overview, 1991.

<sup>17</sup> City of Wasilla Fiscal Year 1995 Budget Message pg A-1.

**F. THE PROPOSED POST-ANNEXATION BOUNDARIES MUST INCLUDE ALL AREAS NECESSARY TO PROVIDE FULL DEVELOPMENT OF ESSENTIAL CITY SERVICES ON AN EFFICIENT, COST EFFECTIVE LEVEL (19 AAC 10.130)**

The Commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 19 AAC 10.130 lists five factors which the Commission commonly considers. These relate to:

1. land use and ownership;
2. population density;
3. transportation patterns and facilities;
4. natural geographic features and environmental factors; and
5. extraterritorial powers of cities.

Except as noted below, the Commission found no evidence that the proposed post-annexation boundaries do not include all areas necessary to provide the full development of essential city services on an efficient, cost effective level.

19 AAC 10.130(c) provides that *"The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation of that city."*

19 AAC 10.130(d) stipulates that *"The proposed boundaries of the city must not include entire geographical regions or large unpopulated areas, except when boundaries are justified by the application of the standards."*

If the proposed annexation occurs, the post-annexation boundaries of the City will encompass approximately 11.93 square miles.

**Findings and Conclusion.** A portion of the area proposed for annexation is a jurisdictional enclave, which is inherently inefficient. The area proposed for annexation closely resembles the adjacent areas within the boundaries of the City of Wasilla. Particularly relevant is 19 AAC 10.130(c), which specifically addresses consideration of public safety needs of the area. As noted previously, the current City of Wasilla boundary configuration in the area proposed for annexation is inefficient, in that it results in City police patrolling the area outside the municipal boundaries.

Annexation of the area would help perfect the boundaries of the City of Wasilla. The proposed boundary change promotes inclusion of areas necessary to provide the full development of essential city services on an efficient, cost effective level.

**F. WOULD THE PROPOSED ANNEXATION BE IN THE BALANCED BEST INTERESTS OF THE STATE, THE TERRITORY PROPOSED FOR ANNEXATION, THE CITY OF WASILLA AND THE MATANUSKA-SUSITNA BOROUGH?  
(19 AAC 10.140)**

In rendering a best interests determination, the Commission may consider any relevant factor, including the following:

1. whether the territory is an enclave of the annexing city;
2. whether health, safety or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and whether annexation will enable the city to regulate or control the detrimental effects of those conditions;
3. whether extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and whether it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;
4. whether residents or property owners within the territory receive, directly or indirectly, the benefit of city government without commensurate property tax contributions, whether these benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;
5. whether annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city; and
6. whether the territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

**Enclave.** Technically, only one of three segments of the area proposed for annexation is an enclave of the City. However, for purposes of service delivery, the other two areas exhibit some of the problems associated with jurisdictional enclaves. Annexation would help alleviate a boundary configuration which requires the Wasilla Police Department to exit and re-enter the Wasilla city limits when conducting patrols.

**Health, safety or general welfare of city residents.** The Commission considered health and safety issues relating to Wasilla Lake water quality and jurisdictional issues affecting Wasilla police services. Annexation is viewed by the Commission as a step to relieving concerns about such issues.

**Impairment of ability to extend of City facilities and/or services.** Problems with police services caused by the current City boundary configuration in the territory have been noted. The City's ability to extend water and sewer service to the area is also constrained by the City's current boundary configuration.

**Benefit of city government enjoyed by the territory without commensurate property tax contributions.** Owners and operators of businesses and others in the area proposed for annexation have stated that they receive little or no benefit from City of Wasilla services. Information provided by the City suggests otherwise. For example, Wasilla Police Department responses to the area have been documented.

Wasilla is the major service center of the Matanuska-Susitna Borough. If the community of 4,831 residents did not exist, it is questionable whether the businesses located in the area proposed for annexation would chose to be situated in their present locations or whether residents would chose to reside in the territory proposed for annexation. Certainly one reason for the large population of Wasilla is the availability of City of Wasilla services.

The Matanuska-Susitna Borough's Wasilla/Lakes Fire Service Area would continue to serve the area proposed for annexation whether or not annexation occurs. However, fire insurance savings are already enjoyed by certain residents and property owners in the area proposed for annexation as a consequence of the proximity City of Wasilla's fire hydrants. On September 1, Allstate Agent Michelle Fritz (whose office is located near the area proposed for annexation) indicated that fire insurance rates for portions of the area proposed for annexation have been lowered because of the installation of City of Wasilla fire hydrants in the vicinity. At the December 8 public hearing, Wasilla City Planner Duane Dvorak stated that the City has installed fire hydrants within 500 feet of most, if not all, of the properties located in the area proposed for annexation. Matanuska-Susitna Borough Fire Chief Jack Krill has confirmed that property within the City of Wasilla enjoys a Class 4 Insurance Services Organization (ISO) rating and that property outside Wasilla municipal boundaries and outside the range of City fire hydrants has a less attractive ISO rating of 8.

Chief Krill indicated that the ISO rating applied to structures requiring a fire flow of under 3,500 gallons per minute. He indicated that this would exclude Valley Yamaha, which may require a higher level of fire flow. However, this structure has a fully operational sprinkler system which is supplied by water from Wasilla Lake. Such structures requiring a higher fire flow rate are rated independently for insurance purposes.

After reviewing the available data, it was evident to the Commission that the area's proximity of the City of Wasilla to the area does provide direct and indirect benefits to the residents and property owners in the territory proposed for annexation.

**Effect of annexation on ability of City to plan and control reasonably anticipated growth or development in the territory that may adversely impact the City.** Most of the area which is suitable for development has already been developed.

**Would a local election fail to adequately represent the interests of the majority of the landowners?** The territory is sparsely inhabited, compared with the population density within the boundaries of the City of Wasilla. It is not known how many of the sixteen residents of the City are registered to vote. Concerns relating to this standard were not raised as an issue by interested parties.

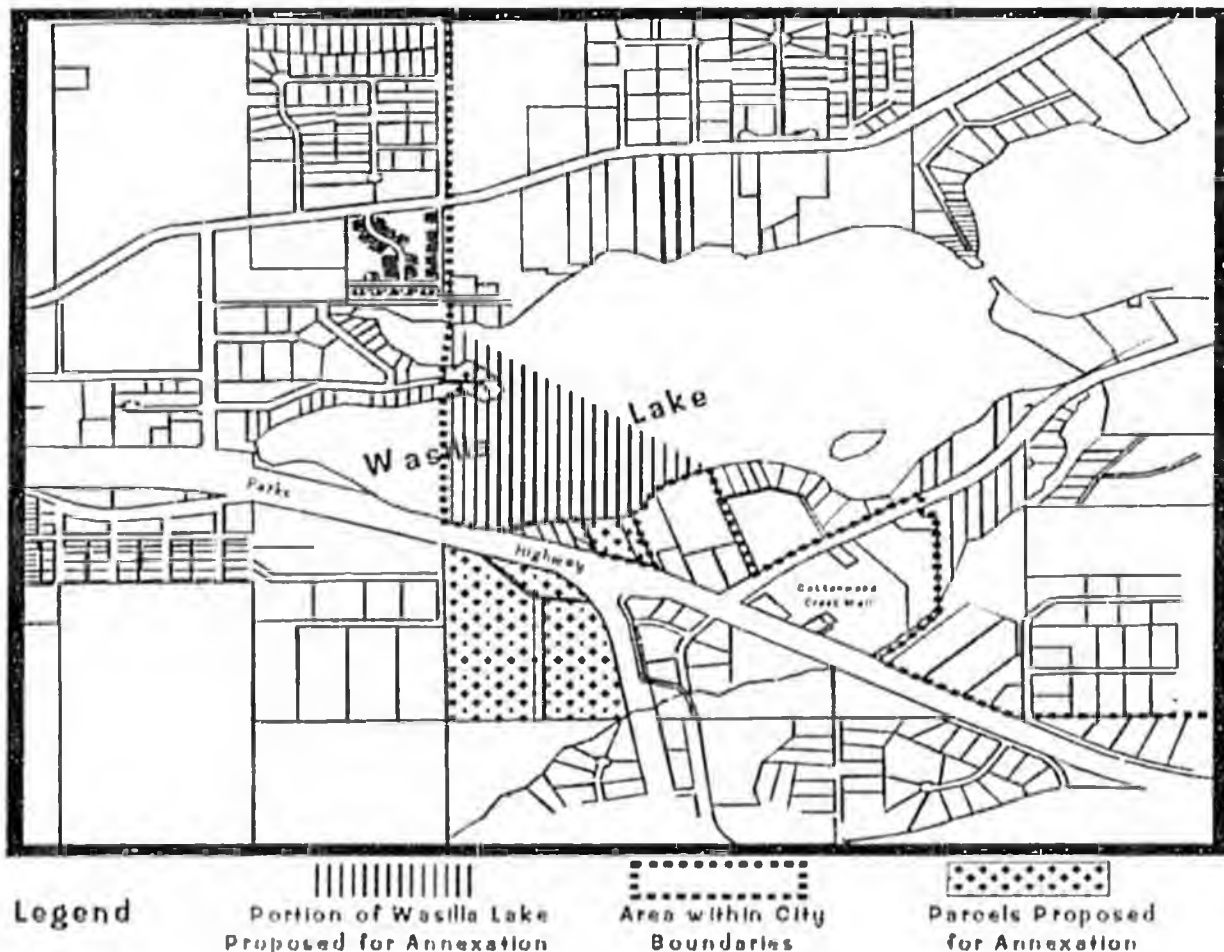
**Findings and Conclusion.** Owners of businesses in the area expressed concerns about the City sales tax and suggested that they do not need City services. Mr. Kopperud, a resident of the area, commented that previous efforts to extend the City of Wasilla's boundaries in this area have been halted in response to local opposition. While the Commission acknowledges such sentiments, it also recognizes that the City of Wasilla has changed and grown and the provision of police services by the City of Wasilla in recent years has altered the equation. Annexation of the area appears to be more appropriate now than it may have been as recently as five years ago. Residential property owners in the area should realize

benefits as a consequence of annexation, with a slight decrease in their tax burdens. Commercial enterprises in the area are naturally concerned about the City of Wasilla's sales tax, but on the whole, they should receive a reasonably commensurate level of City of Wasilla services subsequent to annexation.

The Commission finds that the proposed annexation is in the best interests of the State of Alaska, the City of Wasilla, the area proposed for annexation and will have an insignificant effect upon the Matanuska-Susitna Borough.

### Recommendation

The Commission hereby recommends annexation to the City of Wasilla of the area described in the City of Wasilla's March 2, 1995 annexation petition. The recommended post-annexation boundaries of the City of Wasilla are described as follows:



Beginning at the SE corner of Lot 16, Block 4, of Happy Mountain Estates Subdivision, which is The True Point of Beginning of this description,

thence northerly to the SE corner of Lot 6, Block 5, Goddard Subdivision,  
 thence westerly to the SE corner of Lot 4, Block 1, Happy Mountain Estates,  
 thence northerly to the NE corner of Lot 4, Block 1, Happy Mountain Estates,  
 thence westerly to the NW corner of Lot 1, Block 1, Happy Mountain Estates,

thence southerly to the SW corner of Lot 1, Block 4, Happy Mountain Estates Subdivision,  
thence westerly to the north right-of-way line of George Parks Highway,  
thence northwesterly along the north right-of-way line of George Parks Highway to the north high water line of record of Cottonwood Creek,  
thence northeasterly along the high water line of record to the SE corner of Tract E, Cottonwood Creek Mall Subdivision,  
thence northerly to the NE corner of Tract F, Cottonwood Creek Mall,  
thence westerly and northerly along the NE boundary of Tract F, Cottonwood Creek Mall Subdivision,  
thence northerly to the SW corner of Tract 7-1, Lake Subdivision, which point is on the north right-of-way line of the Palmer-Wasilla Highway,  
thence southwestward along the north right-of-way line of the Palmer-Wasilla Highway to the SE corner of Tract 1B, Olson Subdivision,  
thence northwesterly to the NE corner of Tract 1C, of Olson Subdivision, which point is on the high water line of record of Wasilla Lake,  
thence northwesterly across portion of Wasilla Lake to the SW corner of Lot 1, Block 5, Lakeshore Subdivision,  
thence northerly along the east right-of-way line to a point on the section line common to Section 35, T18N, R1W, and Section 2 T17N, R1W, SM,  
thence westerly to the north right-of-way line of Spruce Avenue,  
thence westerly along the north right-of-way of Spruce Avenue to the NE corner of Lot 1, Aspen Heights Estates Subdivision,  
thence westerly along the north boundary of Section 5, T17N, R1W, SM to the common section corner of Section 31 and 32, T18N, R1W, SM and Sections 5 and 6, T17N, R1W, SM,  
thence southerly along the section line to the common section corner of Sections 5, 6, 7 and 8, T17N, R1W, SM,  
thence westerly along the common section line of Section 6 and 7, T17N, R1W, SM to the SE corner of Phase I, Mission Hills Subdivision,  
thence northerly to the SW corner of Phase III, Mission Hills Subdivision,  
thence easterly to the SE corner of Phase III, Mission Hills Subdivision,  
thence northerly to the NE corner of Phase III, Mission Hills Subdivision,  
thence westerly to the NW corner of Tract C, Mission Hills Subdivision,  
thence southerly to the SW corner of Phase II, Mission Hills Subdivision,  
thence westerly to the SW corner of Wintergreen Acres Subdivision,  
thence southerly to the NW 1/16 corner of Section 7, T17N, R1W, SM,  
thence easterly to the CN 1/16 corner of Section 7, T17N, R1W, SM,  
thence southerly to the C 1/4 corner of Section 7, T17N, R1W, SM,  
thence westerly to the CE 1/16 corner of Section 12, T17N, R2W, SM,  
thence southerly to Corner #19 New Wasilla Airport, Plat #92-6 Section 12, T17N, R2W, SM  
thence following the perimeter of the New Wasilla Airport to Corner #4 Plat #92-6 Section 12, T17N, R2W and Section 7, T17N, R1W, SM  
thence southerly along the north-south 1/4 line of Section 7 and 18, T17N, R1W, SM, to Mack Road right-of-way,  
thence southerly along the west right-of-way line of Mack Road across Knik-Goose Bay Road to the south right-of-way line of Knik-Goose Bay Road,  
thence easterly along the south right-of-way line of Knik-Goose Bay Road to the NW corner of Lot 1, Catherine Subdivision,  
thence southeasterly to the SW corner of Lot 1, Catherine Subdivision,  
thence easterly to the west right-of-way line of Fern Street,

thence southerly along the west right-of-way of Fern Street to a point along the center line of Mint Drive,

thence easterly along the southern boundaries of Independence Estates Subdivision, Rosewood Subdivision and Bay View Gardens Subdivision to the east boundary of Togiak Avenue,

thence northerly along the east boundary of Togiak Avenue to the east-west 1/4 section line of Sections 14 and 17, T17N, R1W, SM,


thence easterly along the east-west 1/4 section line of Sections 14 and 13, T17N, R1W, SM, to the 1/4 corner of Section 13, T17N, R1W, and Section 18, T17N, R1E, SM,

thence northerly along the Seward Meridian to the south 1/16 corner of Section 12, T17N, R1W, SM and Section 7, T17N, R1E, SM,

thence westerly to the SE corner of Lot 16, Block 4, Happy Mountain Estates Subdivision, which is the True Point of Beginning of this description. Containing 7800 acres more or less.







## CHAPTER 4 - POLICY ISSUES AND CONCERNS

Current policy issues and concerns that the Commission wishes to bring to the attention of the Legislature include:

- ★ matters relating to detachment of territory from existing organized boroughs;
- ★ continued interest in dissolution of cities;
- ★ the lack of limitations on the authority of municipalities to levy certain taxes;
- ★ compensation for the Commission.

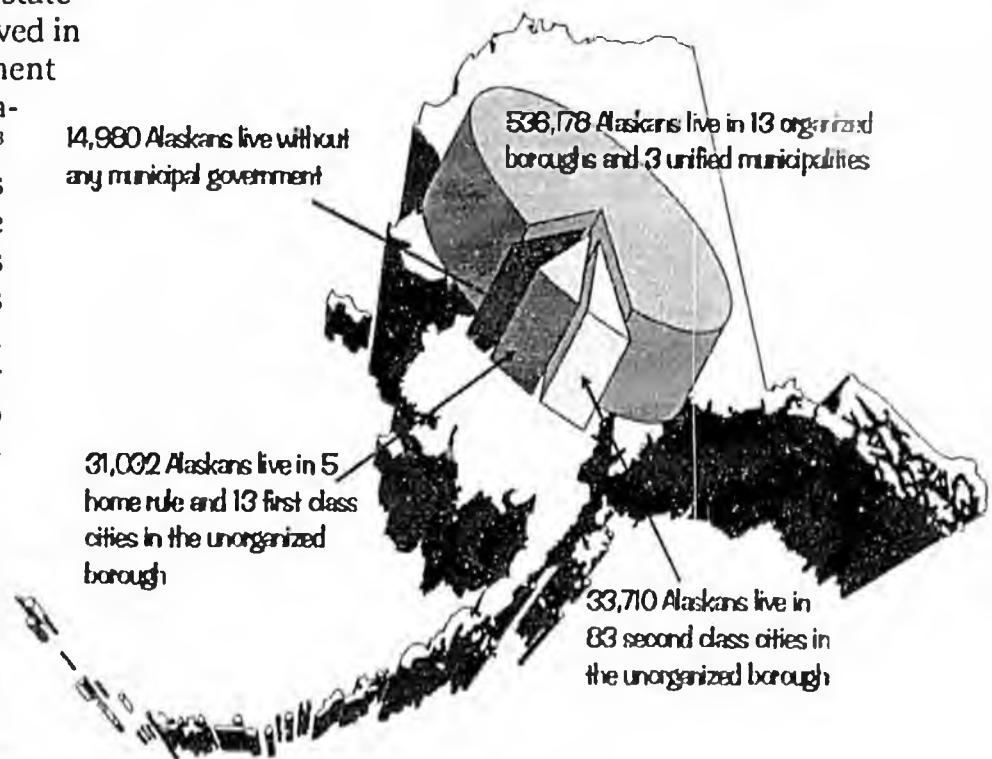
### Matters Relating to Detachment from Organized Boroughs

Lake Louise's small population and relatively insignificant tax base belie the fundamental issues of statewide importance involved in its proposed detachment from the Matanuska-Susitna Borough.<sup>18</sup> Some of those issues were beyond the scope of the Commission's duties while others were not. This section discusses the key policy issues relating to the Lake Louise proposal.

**Promotion of Maximum Local Self-Government.** Alaska's Constitution (Article X, Section 1) promotes maximum local self-government. By definition, detachment from an

organized borough to the unorganized borough — as would be the case with Lake Louise — was viewed by the Commission as an abdication of local self-government. To address that issue,

the Commission initially approved detachment, only on the condition that Lake Louise first be included within another organized borough. Upon reconsideration, the LBC added the op-



<sup>18</sup> The area has a population of 39 residents and encompasses less than one-half of one percent of the total property tax base of the Matanuska-Susitna Borough.

tion of forming a second class city to serve the local government needs of the community.

Statewide, just over 97.5% of all Alaskans (600,920 of 615,900) live within at least one municipal government. Approximately 87% (536,178) reside within Alaska's 13 organized boroughs and 3 unified municipalities. About 5% (31,032) live in the 5 home rule cities and 13 first class cities in Alaska's unorganized borough. Just under 5.5% (33,710) live in Alaska's 83 second class cities in the unorganized borough. The remaining 2.5% (14,980) live without any municipal government.

Sixteen percent of Alaskans (98,891) live within both a city government and an organized borough. Of those, 85,250 live in 7 home rule cities and 8 first class cities within organized boroughs. The remaining 13,641 live in 34 second class cities within organized boroughs.

**Promotion of Maximum Common Interests Within Boroughs.** Alaska's Constitution (Article X, Section 3) requires that each borough embrace an area and population with common interests to the maximum degree possible. The Commission concluded that this principle applied to the unorganized borough, not just organized boroughs.

The Commission found that Lake Louise had more in common with Glennallen and the remainder of the Copper River Basin than it did with the rest of the Matanuska-Susitna Borough. However because the Copper River Basin is but a small part of Alaska's huge residual unorganized borough "established" under AS 29.03.010, the Commission had difficulty applying this principle in the Lake Louise case. Similar difficulties would arise in any detachment from an organized borough to the unorganized borough. The difficulty stems from the fact that the area and population in the unorganized borough — which stretches intermittently northward from Metlakatla to Arctic Village, westward to Nome and southwesterly to the end of the Aleutian Islands — have limited common interests.

It appears that greater compliance with the Common Interests Clause of Article X, Section 3 of Alaska's Constitution could be achieved with respect to the unorganized borough if AS 29.03.010 were amended to divide the single unorganized borough into multiple unorganized boroughs — each embracing an area and population with com-

mon interests to the maximum degree possible. The foundation for such an effort already exists in the form of model borough boundaries established by the Commission a few years ago. Additionally, boundaries of regional educational attendance areas — which have largely been in place for two decades — might also serve as a guide in the formal subdivision of the unorganized borough.

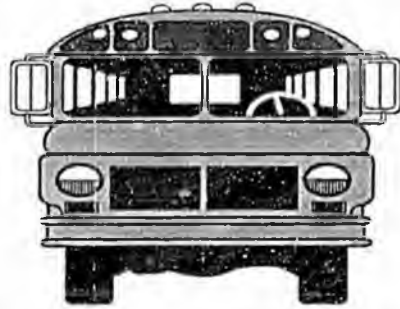
**Requirement for "Local Contributions" Under AS 14.17.025 After Detachment.** AS 14.17.025 requires boroughs (as well as home rule and first class cities in the unorganized borough) to make a "local contribution" in support of their schools. In the case of the Matanuska-Susitna Borough, the required local contribution amounts to "the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Regional Affairs under AS 14.17.140 and AS 29.45.110."

The Department of Education interprets that provision to require municipalities to include taxable property that has been detached from a municipality when calculating the local



contribution for a period of two years following detachment. Thus, if Lake Louise detaches, the Department of Education maintains that Matanuska-Susitna Borough's contribution for the following two years would be based on calculations which include the value of taxable property at Lake Louise. Yet, the Borough would apparently be unable to levy taxes on the property in question once it detaches. The amount in question with respect to Lake Louise is estimated to be approximately \$93,000 over the two years. It is a relatively tiny amount in comparison to the Borough's total annual contribution of more than \$8 million. However, the circumstance is viewed as an inequity. The issue could be much more significant in other detachments.

**Lack of Express Authority to Levy Taxes in Detached Territory.** DCRA recommended that if Lake Louise detached, the Matanuska-Susitna Borough should be held harmless by Lake Louise in terms of the requirement for "post detachment local contributions" for schools. DCRA



also recommended that Lake Louise be required to pay a prorated share of the bonded indebtedness of the Borough.

However, without the territory becoming part of another viable municipal government, it was disputed that a practical means existed to hold the Borough harmless. In particular, the Matanuska-Susitna Borough took the position that it would have no authority to levy taxes on the detached property even if the Commission stipulated such in its recommendation to the Legislature and the Legislature subsequently tacitly approved that recommendation. Some states apparently have enacted laws permitting municipalities to tax detached territory to pay for debts incurred or bonds issued prior to detachment.

**Issues of Equity.** A number of equity issues were present throughout the Lake Louise detachment proposal. Residents of Lake Louise pointed to high taxes coupled with the lack of commensurate services. They also noted that they are

disenfranchised with respect to school issues.<sup>19</sup>

The Matanuska-Susitna Borough countered that it provides many services to the area. Further, the Borough took the position that the law does not require a correlation between taxes and services. Additionally, the Borough contends that State law does not even permit it to levy differential tax rates for areawide and non-areawide services.

The Borough itself has argued that it too has been treated inequitably with respect to State funding programs, particularly those relating to education. Additionally, the Borough does not enjoy the benefit of certain state aid programs to the extent to which other regions do (e.g., National Forest Receipts and Business Fisheries Tax refunds).

Concerns of inequity are compounded by the fact that the legislature - not the voters - created the Matanuska-Susitna Borough.<sup>20</sup> In doing so, the legislature stated that the formation of the Matanuska-Susitna Borough, ". . . does not necessarily relieve the state of present service burdens. [It] shall [not] be deprived of state services,

<sup>19</sup> Lake Louise property owners pay the same areawide and nonareawide tax rate as those in the urban area of the Borough, presently 14.55 mills. With respect to services, many residents of Lake Louise indicate that the only service provided by the Borough is solid waste disposal. The disenfranchisement of voters with respect to school issues exists because students from Lake Louise attend school in the adjacent Copper River Regional Educational Attendance Area.

<sup>20</sup> The Matanuska-Susitna Borough, Greater Anchorage Area Borough, Kenai Peninsula Borough and the Fairbanks North Star Borough were established without voter approval under the Mandatory Borough Act (Chapter 52, SLA 1963).

revenues, or assistance or be otherwise penalized because of incorporation."<sup>21</sup> Yet, when compared to unorganized areas of the State, the Borough has clearly been "penalized" because of incorporation. Anticipated continued reductions in state aid to local governments will likely add to the concern.<sup>22</sup>

As it has done for the past 16 years or so, the Commission continues to urge the legislature to address fundamental issues concerning equity in the delivery of services. In the Commission's view, there is clearly a rapidly growing need to examine certain existing State policies and laws.

For example, there are inequities in the manner in which regional service delivery in Alaska is structured. In 1963, the Legislature mandated the formation of eight boroughs. Today, those eight boroughs encompass about 80% of Alaska's population. The residents and property owners in the mandatory boroughs typically pay substantial local taxes for basic services. In contrast, areas of the state that lie outside any local government pay no taxes. Some of those areas enjoy services comparable to the services in the mandatory boroughs.

Further, some of these areas have resources at least comparable to boroughs formed under the 1963 Mandatory Borough Act.

Typically, education is the biggest expenditure of any organized borough. Provision of that service by organized boroughs is mandated by State law. There appear to be disparities in funding for education between municipal school districts and regional educational attendance areas. For example, because of requirements for local contributions, some municipal school districts receive State and federal aid amounting to only about two-thirds of their defined level of "basic need" for education.<sup>23</sup> Regional educational attendance areas receive more State funding, in part, because they are not required to contribute in support of education. Further, some regional educational attendance areas receive funding not available to other districts due to geographic location (e.g., National Forest Receipts).

While the legislature more than 30 years ago mandated that the major populated areas of the state form boroughs, it has since gradually eliminated many of the incentives to form boroughs.

Consequently Alaskans have two strikingly different forms of regional service delivery.

By raising these equity issues, the Commission is not advocating mandatory organization of the rest of the state. However, given the certainty of further reductions in State revenues, attention to these issue is warranted.

### Continued Interest in City Dissolution

Interest in dissolving city governments continues. As described in Chapter 2, LBC staff responded to active or potential city dissolution efforts in seventeen communities.

Generally this interest appears to reflect a desire to return to more traditional ways of governance. However, the potential exists for interest in dissolution of municipal governments in other parts of Alaska.

Many of the policy issues noted in the previous discussion concerning detachment from organized boroughs are relevant to this issue as well. Just as there are incentives to detach from boroughs (or to remain part of the unor-

<sup>21</sup> Section 1, Chapter 52, Session Laws of Alaska 1963.

<sup>22</sup> Municipal Assistance and Revenue Sharing programs have been cut more than 55% since FY '85.

<sup>23</sup> The level of basic need is determined under AS 14.17.021.

ganized borough), there are incentives to dissolve cities (or to remain unincorporated).

For example, communities can often enjoy a substantial level of services without the civic and financial responsibilities of city government. Unincorporated communities in the unorganized borough may receive state revenue sharing (AS 29.60.130 - .140), capital project matching grants (AS 37.06.020) and education that is fully funded by the state (AS 14).

Unincorporated communities may also receive police protection through the State Troopers or the Village Public Safety Officer program. Additionally, State agencies and the legislature may fund projects such as water and sewer facilities with little or no local contribution. If communities can enjoy these privileges without assuming the responsibility for local government, it is reasonable to expect that local efforts to dissolve the cities in Alaska may increase in the future.

Beyond these somewhat abstract policy issues, the Commission wishes to raise a specific concern relating to dissolution of cities. Under current law (AS 29.06.520),

the State succeeds to the assets, liabilities, duties, powers and rights of the cities if they dissolve (unless another municipal government becomes the successor). The Commission takes the position that the State should not assume responsibility for local services and other liabilities and that these should be transferred to a local successor.

As the successor under the law, the State assumes liabilities of the dissolved cities. Of course, liabilities are not necessarily limited to debts and contracts. As the successor, the State may find itself legally exposed to risks related to the improper operation and construction of water and sewer systems, bulk fuel storage tanks, landfills, and other public facilities. Those risks may be reduced by the State conveying properties to the local communities. However, because the State would be in the chain of title for properties of dissolved municipalities, under those circumstances the State may not be able to escape all exposure to liabilities. The Commission believes that it would be ideal to keep the State out of the chain of title. House Bill No. 391 has been introduced to address this concern.

### **Lack of Limitations on Authority of Municipalities to Levy Certain Taxes**

For the past three years, the Commission reported to the legislature that concerns have been expressed over the lack of reasonable limits on the authority of municipalities to levy taxes. Such concerns continued to be expressed during the year just ended. While the recently formed Cities of Pilot Point and Egegik were most often cited as examples of the need for reasonable limitations, the Commission is aware of several other local governments that also levy substantial taxes on natural resources. These resources are not limited to fisheries, but include oil and gas properties, mining properties, timber and other natural resources.

Because Pilot Point is cited so frequently in arguments regarding this issue, the Commission offers details below concerning the tax levy of that particular government. In doing so, however, the Commission stresses that it does not intend to single out the City of Pilot Point for judgment as to the reasonableness of its taxes. There are other municipal governments in Alaska that levy even more

taxes on a per capita basis than the City of Pilot Point.

For Fiscal Year 1995, the City of Pilot Point reported collecting \$690,721 from its 3% sales tax on commercially-caught fish. With a population of 94 residents, the tax revenue in this case amounted to about \$7,348 for each person in the community. This compares to a per capita average of all taxes levied by municipal governments in Alaska amounting to \$1,202.<sup>24</sup> If municipal taxes on oil and gas properties were excluded from the equation (87.5% of which are collected by a single municipal government), the average per capita municipal tax would be only \$777 - about 10.6% of the per capita tax revenue of the City of Pilot Point.

Presently, the law imposes no limitation on the rate at which a municipal govern-



ment may levy a sales tax.<sup>25</sup> Additionally, the Supreme Court has determined that limitations imposed by AS 29.45.090(b) do not apply to the levy of sales taxes.<sup>26</sup> Thus, there are no statutory limitations whatsoever on a municipality's authority to levy sales taxes (subject to voter ratification of rate increases).

The Commission is keenly aware that as State funding for local services continues to decline, the ability of Alaska's 166 municipal governments to raise revenues will become more critical. Therefore, any attempt to address this issue fairly will no doubt prove to be as difficult as it will be controversial. The Commission raises this issue again only to ensure that the legislature is aware of sentiments concerning this matter.

## Compensation for the Commission

The Local Boundary Commission urges the legislature to enact a law providing some measure of compensation for the Commission. While the current economic climate is clearly less than ideal for such a proposal, the demands placed on the Commission have grown beyond what can be reasonably expected of unpaid members. Given the role that the Commission plays in the formation and alteration of municipal government boundaries and the reclassification of cities, this compensation proposal is a wise investment in the future of Alaska. Please consider the following:

- The Alaska Supreme Court has consistently acknowledged the expertise of the Commission in all matters involving municipal boundary proposals. In doing so, the State's highest Court has placed expectations and demands on the Commis-

<sup>24</sup> Tables published in Alaska Taxable, (DCRA, January 1995) on pages 14-17 indicate that during 1994, municipalities in Alaska collected a total of \$719,939,117 in taxes. [\$90,484,219 in sales taxes; \$23,449,445 in "special taxes" such as alcohol, tobacco, overnight accommodations, and commercially caught fish; \$351,436,470 in ad valorem taxes on property other than oil & gas related (AS 43.56); and \$254,568,983 in ad valorem taxes on oil and gas related properties (AS 43.56).] According to the State Revenue Sharing and Municipal Assistance - FY 95 Final Report (DCRA, March 1995), the population of all municipal governments in Alaska equaled 599,126. Thus, the statewide average per capita municipal tax collected from the sources described equaled \$1,201.65.

<sup>25</sup> Chapter 159, Session Laws of Alaska 1990, repealed a 6% limitation on sales taxes.

<sup>26</sup> AS 29.45.090(b) states that, "A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes (1) that will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or (2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality."

and demands compel members to dedicate substantial time evaluating complex and controversial proposals. Often, the record before the Commission on a single issue will exceed 1,000 pages.

- ➔ The Commission formulates fundamental policies that have important statewide political, economic and social implications. Again, such responsibilities dictate that the Commission be both prudent and diligent in carrying out its duties.
- ➔ The Commission is one of only five boards with origins in the State Constitution. The others are the Judicial Council, Commission on Judicial Qualifications, Reapportionment Board and the University Board of Regents. The Board of Regents and the Reapportionment Board are compensated in some fashion. Further, the two judicial boards include at least some members who are salaried state judges. Of the four other boards with constitutional origins, the work of the Commission appears to be most similar to the Reapportionment Board which is compensated at the rate of \$150 per day of service.
- ➔ The demands and expect-

tations placed on the Commission appear to be at least comparable to the twenty or so state boards and commissions that are presently compensated (except for the three full-time salaried commissions).

- ➔ There are 166 municipal governments in Alaska today, more than four times the number that existed at statehood. Even then, the Public Administration Service - which played a consulting role in setting the framework for State government - recommended to the First Session of the First Alaska Legislature that members of the Commission be compensated.
- ➔ As a consequence of the fourfold increase in the number of municipalities since statehood, the scope of the Commission's responsibilities has grown substantially since its creation. Initially, the Commission was responsible only for municipal annexations and detachments. The courts handled other municipal boundary matters. Over the years, responsibility for municipal incorporations, dissolutions, mergers and consolidations has been shifted from the courts to the Commission. Not only has this relieved the courts of a substantial

burden, but all municipal boundary issues are now placed before a single expert body. Last year, the Commission's responsibilities and authorities were extended to include consideration of proposals to reclassify cities.

- ➔ The Commission typically meets about 20 times each year. Travel and participation at meetings of the Commission takes members away from their livelihoods, often requiring substantial financial sacrifice on the part of each Commission member.
- ➔ Meetings are often held in remote locations. This involves extended travel, sometimes under arduous conditions.
- ➔ The fiscal impact to the State would be relatively inconsequential. Using an estimate of 20 one-day meetings per year and compensation of \$150 per day per member, the total cost of compensation would be \$15,000 per year if all members were present at each meeting.
- ➔ Without compensation, it is likely to become increasingly difficult for the State to find qualified Alaskans who are willing to stay on the Commission long enough to give it the needed continuity and expertise.

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# 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

January 27, 1996

**SUBJECT:** Legislative action regarding a local boundary commission recommendation (Work Order No. 9-LS1605)

**TO:** Senator John Torgerson, Chair  
Senate Community and Regional Affairs Committee

**FROM:** Tamara Brandt Cook  
Director  
Division of Legal Services

The Local Boundary Commission (LBC) has recommended that the Lake Louise area be detached from the Matanuska-Susitna Borough conditioned upon voter approval of incorporation of a new borough that includes the Lake Louise area or incorporation of the area as a second class city. You have asked what power the legislature has to influence or alter a boundary change proposed by the LBC. Under Article X, Section 12 of the state constitution the commission may submit any proposed boundary change to the legislature during the first ten days of a regular session. The section additionally provides:

The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

Separation of powers considerations dictate the general rule that when the legislature is granted authority under the constitution to take action that affects an executive branch function, the authority is narrowly construed (limited to the terms set out in the constitution) and additional authority over the subject will not be inferred. (Bradner v. Hammond, 553 P.2d 1 (Alaska 1976)) In the case of a proposed boundary change submitted by the Local Boundary Commission, the legislature has been granted a veto power. (United States Smelting, Ref. & Mining Co. v. Local Boundary Commission, 489 P.2d 140 (Alaska 1971); State v. A.L.L.V.E. Voluntary, 606 P.2d 769 (Alaska 1980)) This is the only power the legislature may exercise. The legislature cannot rewrite, condition, or otherwise modify a LBC proposal.

Assuming that the legislature does not disapprove the proposed detachment of territory from the Matanuska-Susitna Borough, be aware that the subsequent formation of a new borough

Senator John Torgerson, Chair

January 27, 1996

Page 2

or second class city will not be subject to legislative review. (Mobil Oil Corporation v. Local Boundary Commission, 518 P.2d 92 (Alaska 1974)) The court in that case noted at page 104:

Carving a new unit of government from the unorganized borough generates no controversy between governments with competing economic and political interests. The conflicts accompanying boundary adjustments between two functioning governments which must be submitted to the legislature under section 12 do not afflict mere incorporation.

TBC:glc

96-057.glc

# Alaska State Legislature

**Committee Chair**  
Community & Regional Affairs

**Committee Vice-Chair**  
Labor & Commerce

**Committee Membership**  
Legislative Council



**District Address:**  
145 Main St. Loop; Suite 226  
Kenai, AK 99611  
(907) 283-2690; fax 283-9267

**Session Address:**  
State Capitol, Room 427  
Juneau, AK 99801-1182  
(907) 465-2828; fax 465-4779

*Senator John Torgerson*

January 24, 1996

## MEMORANDUM

TO: Tam Cook, Director  
Legal Services

FROM: Senator John Torgerson  
Chair, Senate Community & Regional Affairs Committee

RE: Local Boundary Commission Recommendation Regarding the  
Detachment of Lake Louise from the Mat-Su Borough

The Local Boundary Commission recommended that 252 square miles of the Lake Louise area be detached from the Mat-Su Borough subject to certain stipulations. Can the legislature accept a portion of the Commission's recommendation or is it required to accept or reject the recommendation in its entirety? Specifically, can the Legislature adopt a concurrent resolution that approves the detachment of the Lake Louise Area, but negates the stipulation that the detachment is contingent upon the area becoming a part of another organized borough or incorporating as a second-class city within two years.

The Legislature must finalize any action on this matter by March 2. I would appreciate a response to this question as soon as possible. A copy of the Commission's recommendation is attached for your information. If you have any questions, please contact Deb Davidson or me. Thank you.

Attachment

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

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

## MEMORANDUM

February 13, 1996

**SUBJECT:** Conditional detachment recommendation by the Local Boundary Commission (Work Order No. 9-LS1707)

**TO:** Senator John Torgerson, Chair  
Senate Community and Regional Affairs Committee

**FROM:** Tamara Brandt Cook  
Director

The Local Boundary Commission (LBC) has recommended that the Lake Louise area be detached from the Matanuska-Susitna Borough conditioned upon voter approval of incorporation of a new borough that includes the Lake Louise area or incorporation of the area as a second class city. You have asked whether the LBC has authority to impose this condition. I can find nothing that suggests that a court is likely to find that LBC has acted beyond its power.

Under art. X, sec. 12 the LBC is permitted to consider and present any proposed boundary change to the legislature. The constitution does not specifically address the question of a conditional recommendation by the LBC, but the authority to present any change could certainly be construed to include a conditional change.

The court has recognized that the LBC is charged by statute (AS 44.47.567) with developing proposed standards and procedures for changing local boundaries. (United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n., 489 P.2d 140 (Alaska 1971)) The LBC has adopted standards by regulation. If it is necessary to meet all the standards set for detachment, 19 AAC 10.260(b) specifically permits the LBC to "condition the approval of the detachment upon voter approval of the incorporation." To be valid a regulation must be consistent with the authorizing statute and reasonably necessary to carry out the purpose of that statute. (Lake and Pen. Borough v. Local Boundary Commission, 885 P.2d 1059 (Alaska 1994)) This regulation appears to meet that test.

The court has recognized that the purpose for creating the boundary commission was to deal with controversies over municipal boundaries that cannot be settled at the local level. (Oesau v. City of Dillingham, 439 P.2d 180 (Alaska 1968) upholding LBC action that had the effect of dissolving a city in a manner outside of statutory provisions for dissolution) I expect that

Senator John Torgerson, Chair

February 13, 1996

Page 2

a court would find that the condition of incorporation imposed by the LBC in this case is in keeping with the purpose the commission serves.

TBC:klb

96-102.klb



## MATANUSKA-SUSITNA BOROUGH

BOROUGH MAYOR'S OFFICE

350 East Dahlia Avenue, Palmer, Alaska 99645-6488

Phone (907) 745-9682 • FAX (907) 745-9845

January 18, 1996

Senator John Torgerson  
Room 427  
State Capitol  
Juneau, AK 99801-1182

Re: Lake Louise Area Detachment

Dear Senator Torgerson:

I am writing to advise you of the Matanuska-Susitna Borough's concern over an important matter involving the integrity of local government boundaries throughout Alaska. On January 12, 1996, over the borough's objections, the Local Boundary Commission (LBC) authorized the detachment of approximately 252 square miles of territory from the Matanuska-Susitna Borough. The territory is located in the Lake Louise area. The detachment will cause the borough to lose approximately \$10 million of assessed value and increase the area of the unorganized borough, unless another organized borough is formed to include the detachment territory. Increasing the state's burden of governance by increasing the area of the unorganized borough in a time of state government downsizing impacts scarce state resources and reduces municipal assistance and revenue sharing entitlements.

The borough's boundaries, including the detachment area, were formed in 1964 based upon the requirements of the Mandatory Borough Act and Article X §§ 1 and 3 of the Alaska Constitution. The borough believes that it has, and continues to meet the standards for incorporation, and the LBC erred in finding that the Lake Louise territory should be detached from the borough.

The borough is also concerned about the precedent-setting public policy position the Department of Community & Regional Affairs and the Local Boundary Commission have established as a result of this decision. Currently, there are several proposals to detach territory or to alter the Matanuska-Susitna Borough's boundaries. As a result of the LBC's decision, other organized municipalities are also at risk of detachment.

January 18, 1996

Page 2

The detachment of territory from an existing organized municipality causes negative impacts and promotes a regressive public policy. Detachment *undermines the municipality's revenue base, reduces investor confidence in its bonding capacity, unnecessarily expends public resources, and generally undermines the integrity of local governments throughout the state.*

The Department of Community & Regional Affairs should be promoting the formation of organized boroughs because regional borough governments were expressly created by the constitutional framers to provide services to populated and sparsely populated areas. Boroughs were also designed to provide maximum local self-government with a minimum of tax levying jurisdictions. The Local Boundary Commission's decision in this case promotes none of these principles.

In furtherance of the borough's concern over this important public policy question, it has passed the attached Resolution Serial No. 96-002, which opposes the Local Boundary Commission's decision and requests each house of the legislature to adopt a joint resolution disapproving the detachment. (Time is of the essence since the legislature must disapprove the detachment within 45-days of its presentation.) Please support a joint resolution opposing this ill-advised detachment.

Very truly yours,

MATANUSKA-SUSITNA BOROUGH



Barbara Lacher, Mayor

BL:drm  
Enclosure

Draft Presented: 1/16/96  
Corrected: 1/16/96  
Adopted: 1/16/96

**MATANUSKA-SUSITNA BOROUGH  
RESOLUTION SERIAL NO. 96-002**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REQUESTING THE LEGISLATURE OF THE STATE OF ALASKA TO ADOPT A JOINT RESOLUTION OF THE SENATE AND THE HOUSE DISAPPROVING THE DECISION OF THE STATE OF ALASKA LOCAL BOUNDARY COMMISSION RECOMMENDING THE DETACHMENT OF PROPERTY IN THE LAKE LOUISE AREA FROM THE MATANUSKA-SUSITNA BOROUGH

WHEREAS, on December 15, 1995, the Alaska State Local Boundary Commission (LBC) recommended that 252 square miles of property situated within the Lake Louise area of the Matanuska-Susitna Borough be detached upon the condition that it become incorporated into another organized borough; and

WHEREAS, the Lake Louise detachment petitioners sought reconsideration of the LBC's decision, which was amended to authorize detachment from the Matanuska-Susitna Borough upon the formation of a second class city; and

WHEREAS, the Matanuska-Susitna Borough Assembly opposes the LBC's decision because it is not in compliance with the Alaska State Constitution Article X, Sec. 1, which provides:

"The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

and Article X, Sec. 3, which provides:

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

and

WHEREAS, the Matanuska-Susitna Borough Assembly believes that it is improvident public policy to authorize the detachment of property from an existing organized municipality; and

WHEREAS, the boundaries of the borough have remained as established by the legislature since 1964; and

WHEREAS, the legislature placed property within the Matanuska-Susitna Borough to provide a revenue base for essential government services, such as education, planning, platting, land use, and other governmental activities which protect the public's health, safety, and welfare; and

WHEREAS, it is undisputed that the borough provides and has services available to the Lake Louise area; and

WHEREAS, unorganized boroughs receive full funding from the state of Alaska while organized areas are required to tax themselves to provide for needed services; and

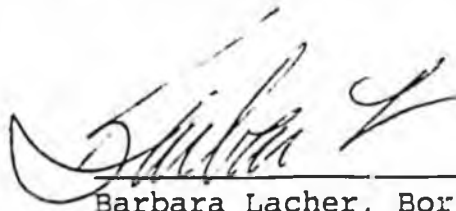
WHEREAS, state entitlement funding to help defray the costs of local government services has been reduced substantially over the years and continues to be reduced; and

WHEREAS, the legislature should support the establishment of mandatory boroughs, to provide essential government services to areas within their jurisdiction; and

WHEREAS, the LBC's approval of a detachment of property within an organized borough can lead to a landslide of other detachment requests, which could increase the demand for limited state funds and cause the number of government tax levying jurisdictions to proliferate.

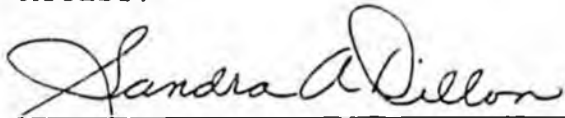
NOW, THEREFORE, BE IT RESOLVED that the Matanuska-Susitna Borough Assembly requests that the Alaska State Senate and House of Representatives adopt a joint resolution which disapproves of the LBC decision authorizing the detachment of 252 square miles from the Lake Louise area situated within the Matanuska-Susitna Borough, since it is improvident public policy and does not promote the requirements of the Alaska Constitution, Art. X §§ 1, 3.

ADOPTED by the Matanuska-Susitna Borough Assembly this 16th  
day of January, 1996.



Barbara Lacher, Borough Mayor

ATTEST:



Sandra A. Dillon, Borough Clerk  
(SEAL)

# Lake Louise Community Non-Profit Corporation

HC01 Box 1736  
Glennallen, Alaska 99588  
(907) 822-5566

January 22, 1996

Senator John Torgerson  
State Capitol  
Juneau, Ak. 99801

2  
1  
Lake Louise

Re: Local Boundary Commission (LBC) Decision to Detach  
Lake Louise from the Matanuska-Susitna (Mat-Su) Borough  
Conditioned Upon Formation of a Second Class City

Dear Senator Torgerson,

As residents and landowners of Lake Louise who assisted in petitioning for the detachment of our community from the Mat-Su Borough, we ask that you uphold the Local Boundary Commission's carefully considered Statement of Decision dated January 12, 1996. The decision permits the detachment of Lake Louise from the Mat-Su Borough, conditioned upon our formation of a second class city within two years.

The LBC conducted extensive hearings, at both Lake Louise and Wasilla, and held three separate decisional meetings, the last one in Palmer. The LBC gave full hearing to those both in support of and opposed to the detachment, including representatives of the Mat-Su Borough. The concerns now expressed to you by the Mat-Su Borough were aired and argued fully by the Borough attorney and Borough manager to the LBC. The LBC is made up of competent, hard-working Commissioners who were not automatically swayed by either side. The Commission carefully balanced the concerns of the Mat-Su Borough, Lake Louise, and the State, and reached a conclusion which weighed the facts against all of the pertinent constitutional, statutory, and regulatory provisions concerning boroughs and detachments. The LBC did not ignore the Mat-Su Borough's concerns, but found that they were outweighed only when overwhelming evidence was presented showing that (1) Lake Louise has more in common with Glennallen and the Copper River Basin than it does with the rest of the Mat-Su Borough, and (2) the dearth of services and connections between the Mat-Su Borough and Lake Louise. It is noteworthy that testimony from citizens, at both Lake Louise and Wasilla, was overwhelming in support of detachment. The only opposition was from Mat-Su Borough officials. Two Mat-Su Borough Assemblymen even testified in support of our detachment.

After the thorough and careful consideration the LBC has given to this question, and in absence of any evidence that they were improperly influenced or hadn't considered the Mat-Su Borough's concerns, it would be wrong for the Legislature to overturn its decision. The Legislature previously created the LBC as a specialized body, advised by the Department of Community and Regional Affairs (DCRA), which in this case, supported the detachment upon the condition that the Lake Louise area incorporate into a second class city.

There is a historical pattern of cooperation and shared commitment between Lake Louise and the Copper River Basin. And there are greater social, cultural, economic and other ties between Lake Louise and the Cooper River Basin than there are between Lake Louise and the rest of the Mat-Su Borough. As far as travel by roadway, Lake Louise is an enclave separated from the rest of the Mat-Su Borough. One has to travel 37 highway miles through the unorganized borough to get from one part of the Mat-Su Borough to Lake Louise. Glennallen is approximately 41 miles from Lake Louise versus Palmer being approximately 132 miles from Lake Louise (see attached map prepared by DCRA). Our students have always been and will continue to be educated in the Copper River Basin REAA, rather than in Mat-Su Borough schools because of distance. The nearest Mat-Su Borough school is over 70 miles away from Lake Louise.

The only actual service provided to Lake Louise by the Mat-Su Borough are the garbage dumpsters, at an expense of approximately \$20,000 per year to the Borough. We have been paying far greater property taxes to the Mat-Su Borough (approximately \$170,000 in FY '95). Mat-Su Borough's water pollution control efforts are limited principally to enforcement of a 75 foot building set back from water bodies. In 1988, when undertaking proceedings to enforce the 75 foot set back at Lake Louise, the Mat-Su Borough did not prosecute those who failed to comply because "*it was viewed as an inefficient use of resources.*" (DCRA Provisional Report, Oct. 1995).

The reality is that we have long been included in the wrong regional borough area because of watersheds. The Susitna Area Plan (DNR, 1985) describes the Lake Louise Subregion as, "*...a unique and popular residential and visitor recreation area, with an 'interior' Alaska character quite different from the rest of the [Susitna drainage].*" We are a part of the Copper River Basin.

If a Copper River Basin Borough were to form, we would support our inclusion in it. We do not have the voting force to create such a Borough. In the meantime, our only method for providing substitute municipal government is a second class city, which we intend to form. The LBC decision imposed the requirement that we reimburse the Borough for our proportionate share of its bonded indebtedness, and any education expenses it would incur due to our having been in the Borough. Though the LBC has not imposed such a requirement in any of the five prior detachments approved by it, we readily agreed to make this payment. It is an express condition for detachment in the LBC's Statement of Decision dated January 12, 1996..

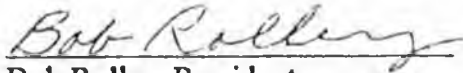
Our detachment will not set a precedent for other detachments. The LBC stated it will continue to judge each case **on its own merits**. Lake Louise is relatively unique because (1) we conclusively demonstrated that we have far stronger ties with the Copper River Basin than the Mat-Su Borough region, and (2) we are willing and able to form a second class city, which DCRA has preliminarily indicated would be feasible. Those who seek to detach from boroughs merely to escape municipal taxes cannot look to us for an example. We would continue to pay municipal taxes, but this time, to a truly local government which can actually deliver local government services. Because Lake Louise serves as our principal source of potable water, we are highly motivated to maintain our water quality. No one has a greater interest in prudent land use planning than the residents and property owners of Lake Louise.

Page three

The Mat-Su Borough's argument that our detachment disserves the constitutional purpose of maximizing local government fails, because the Borough has provided us neither "maximum" nor "local" government. We can provide better local government to Lake Louise with a second class city.

Please uphold the Local Boundary Commission's carefully considered decision.

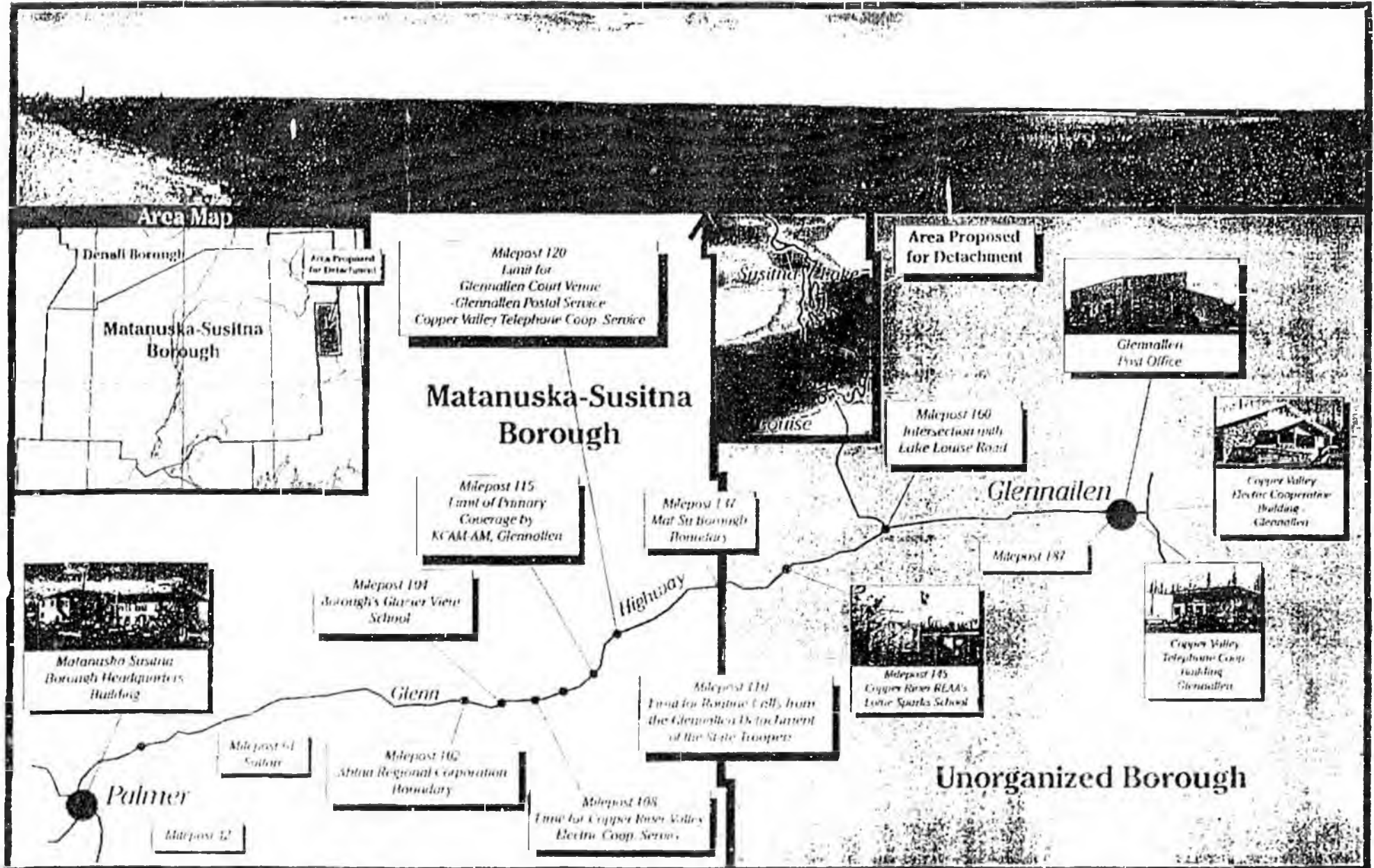
Sincerely,



Bob Rolley, President  
Lake Louise Community Non-Profit Corporation



Patti Billman  
Petitioner for Detachment of  
Lake Louise Conditioned upon  
Formation of a Second Class City



HC31 Box 5175-V  
Wasilla AK 99654

February 2, 1996

Ref: Lake Louise Boundary Changes  
in Mat-Su Borough

Senator Torgerson  
Chairman, Community & Regional Affairs Comm.  
State Capitol  
Juneau AK 99801-1182

Dear Senator Torgerson:

The newspapers report The Matanuska-Susitna Borough has hired a lobbyist to contact all legislators to object to The removal of The Lake Louise area from within its borough boundaries. I live within The Mat-Su Borough. Living in this community I would like to say I can understand where they were coming from when they chose to start the process of leaving the borough. There is a very high value placed on the property up there because it is a popular recreation area and because of their remoteness from the rest of the borough they do not feel they receive in turn what they pay in taxes.

The Matanuska-Susitna Borough, in my mind, is much too large to effectively accommodate the needs of all its people. Because the core of the borough is so heavily populated it must meet the demands of a growing urban area. High density areas do require so much more to accommodate the number of people - more roads, sewars, schools, buses, garbage disposal etc.

Its concerns with the core area become more pressing than those of more outlying areas. But, is that right to those in a more remote setting that do not demand all of the same services of a large urban area?

I would prefer the legislator stay out of this one and let what the boundary commission recommended stay. No matter how small the entity; if they can effectively manage their land and themselves they should have the right to do it. Look at the variety of sizes in states from Alaska to little Rhode Island. If the Lake Louise area feels it can manage itself better than the borough. They have that right. It's the people who should dictate -- not Government!!

Sincerely,  
Carol Compton

cc: Senator Sharp  
State Affairs Committee  
Mad-Su Delegation

## daily bill introduced

under House Bill 481, introduced in the House by Rep. Beverly Masek, R-Willow.

The bill would give juries the option of requiring the death penalty for persons convicted of murdering children when kidnapping, assault, sexual assault or attempts of such acts are perpetrated in the crime.

"I want to send a clear message that killing a child in this state will mean risking your life. It is my primary desire to help protect children who might otherwise be killed. This bill is not about punishment alone; it's also about saving children," Masek said Wednesday.

"People can argue about effectiveness of various deterrents, but when it comes to children, who could oppose the strongest possible deterrent?" Masek added.

The bill specifically pertains to a murder victim under the age of 18, who is victimized by someone at least two years older than the victim at the time of death. "I have left it to our legal bill drafters to design a bill to fit into our present system of definitions and code. The main thrust here is to protect our

most vulnerable citizens with the stiffest penalty we can impose," Masek said.

HB-481 has been referred to the House Judiciary Committee for public hearings.

Unlike some capital punishment proposals, Masek's bill would leave it up to the jury to decide the fate of the convicted killer.

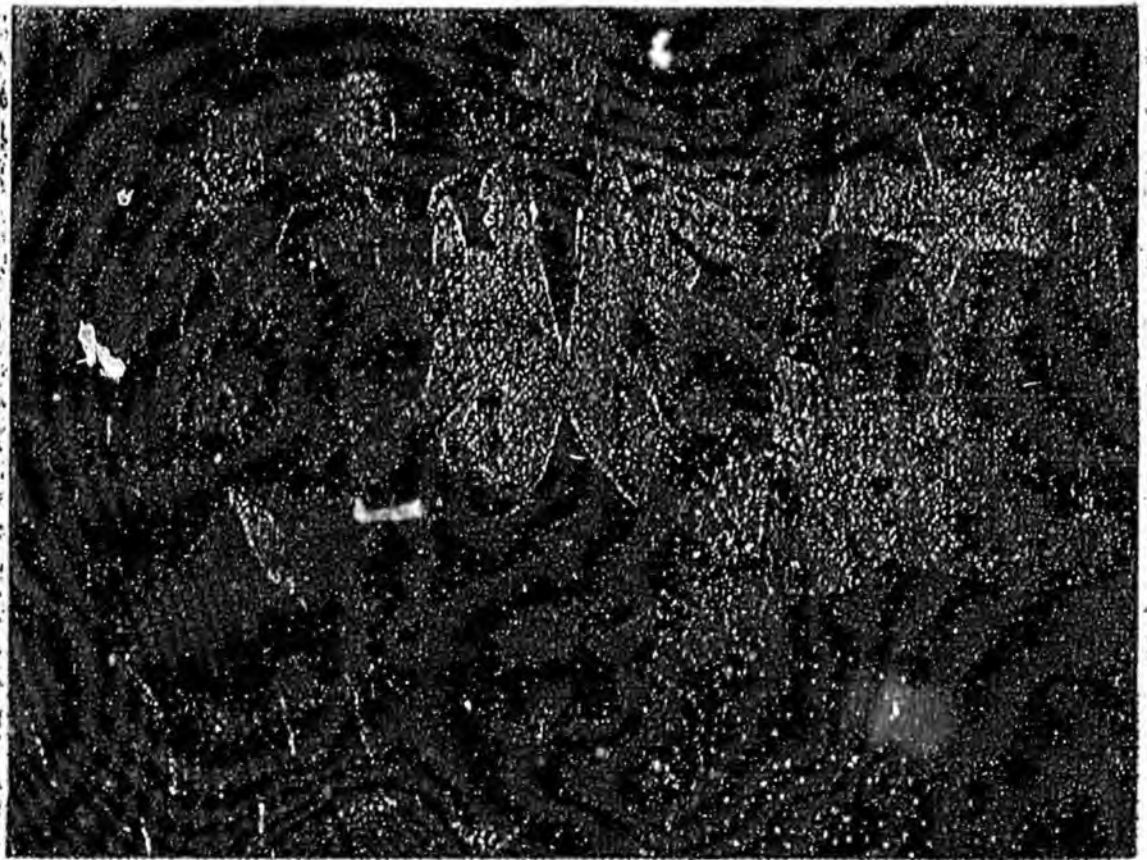
Prosecutors would have no such option in their role under the bill.

"Juries need to have all options available to deal with people who prey on children," Masek added.

Under terms of the bill, after a prescribed appeals process, if denied, a death warrant would be issued and execution would take place not less than 30 days nor more than 60 days after the date of the warrant.

The bill has been written with an eye to prevent or withstand constitutional challenges, according to Masek's chief of staff, Dave Standliff. As written, it would require a two-thirds majority for approval by the Legislature.

House Speak Gail Phillips, R-Homer, reportedly viewed the bill favorably.



EDWYN LEMAY/WELY/For frontiersman

### 'ALL SHOOK UP'

On center stage, Conrad (Matt Hoffman) enjoys the "oohs" and "ahhs" of a swarm of female fans in Colony High's "Bye Bye Birdie." Swinging skirts and '50s tunes will hit the stage on Feb. 15.

## Lake Louise break seems certain; issue splits Legislature

By PAUL STUART

Frontiersman reporter

JUNEAU — The secession of Lake Louise from Mat-Su Borough is only three weeks away from becoming an accomplished fact, but the focus it has placed on the vast part of Alaska remaining unorganized has kindled strong action that may divide the Legislature along non-party lines.

Chairmen of the respective Community and Regional Affairs committees in both the Senate and House agree there is virtually no likelihood any resolution will

see daylight before a March 2 deadline to thwart the decision of the Local Boundary Commission (LBC) to set Lake Louise area free. Even Mat-Su Borough Manager Don Moore conceded Tuesday the apparent inevitability of losing the 252-square-mile piece of territory.

But the borough is pressing ahead on the more general issue of state organization spotlighted by Lake Louise, because of related financial concerns and what it claims are constitutional points.

On that larger issue, Sen. John Torgerson, R-Kasilof, chairman of the Senate Community and Regional Affairs Com-

mittee, told the Frontiersman Tuesday he would introduce a bill this week, co-sponsored by Sen. Lydia Green, R-Wasilla, to mandate the organization of the rest of Alaska into boroughs by 1998.

Later Tuesday, Rep. Iynn Ivan, D-Akiak, co-chairman of the House Community and Regional Affairs Committee, said he too saw nothing to stop Lake Louise from seceding. But Ivan did not share Torgerson's enthusiasm for resumed mandatory formation of boroughs.

"I represent people in a rural area who I do not think would want to be organized into a borough, unless they chose

it," the Lower Kuskokwim Delta representative said. "Nor do I think anyone in any area should have organization forced on them from above." Ivan said he felt this was common sense, and more significant than nit-picking about phrases in the state Constitution dealing with local government units.

Torgerson said the language of the bill he is introducing in the Senate to mandate organization would call for following the model-borough boundaries prepared by staff of the LBC in a 1991 report.

See SPLIT, Page A12

Fish and Game to turn to for public opinion. Boyd said he would like to see the new regulations tabled until the Board of Game can hear public comment. However, the regulation has already been passed. Masteller said the best course for people who are unhappy with the boundary lines is to present their positions to the Board of Game. Fish and Game wildlife biologist Herman Griese explains the new regulation in his Fish & Game column on page B4. A map on the same page delineates the boundaries of the management area.

## SPLIT: Structuring state

Continued from Front Page

Torgerson said in following the LBC model-borough plan, his bill, if enacted, would bring to 31 the total number of boroughs in the state. There are now 16. The bill would also reconfigure school districts in now-unorganized regions to conform to the same boundaries, reducing the number of school districts statewide from the present 54 to 31. This, Torgerson said, would save considerably in administrative costs.

Torgerson said the model-borough plan he used to pattern his bill also presents evidence that the potential boroughs as defined would be able to sustain local government with taxable resources within their own boundaries.

This, Torgerson said, is what the Alaska Constitution calls for in Article 10. He added that a large portion of the state — in the so-called unorganized borough — for too long has had its schools paid for 100 percent by the state. "Many of these regions, even in rural areas, are experiencing population explosions, too," Torgerson said, "and they do have taxable property. It's time they paid their share for schools and services, like those in organized boroughs do."

Torgerson said the bill would provide plenty of time for public hearings with the two-year time frame.

House Bill 250, introduced last year by Rep. Norman Rokeberg, R-Anchorage, seeks mandatory borough organization, but leaves specifics up to the LBC and its staff agency, the Department of Community and Regional Affairs (DCRA). Rokeberg's bill has never made it out of the Community and Regional Affairs Committee. Alan Austerman, R-Kodiak, who co-chairs the House committee with Ivan, is also chairman of the Fisheries

Committee, and said he leaves the lead to Ivan in his other committee.

As Mat-Su Borough reluctantly came to a position that the secession of Lake Louise apparently cannot be stopped, Moore said the borough was raising its sights to the level of the larger issue of continued organization of the unorganized borough.

Besides general constitutional arguments, Mat-Su has repeatedly pointed to the inequities of school districts in organized areas receiving minimal state funds, while schools in unorganized regions are 100 percent funded by the state.

Mat-Su Borough has for some time had a lawsuit pending before the Alaska Supreme Court on the matter of what it regards as inequities in state aid to education formulas.

When the LBC voted Jan. 12 to allow the secession of Lake Louise, it stipulated that the region must within two years either be annexed to another organized borough or else become incorporated as a second-class city.

There is no other adjacent borough for Lake Louise to join in the unorganized Copper River Basin region, and a second-class city does not levy taxes for its own school system.

Mat-Su officials criticized this result, saying it means education costs for Lake Louise would become wholly state-funded, and ultimately would be paid for by taxpayers in Mat-Su and other organized parts of Alaska.

The LBC additionally required the Lake Louise property owners reimburse Mat-Su a proportionate share of bonded indebtedness and certain other education-related costs over a two-year period, which would total about \$160,000. That is about amount the borough now assesses the region in real estate property taxes every year.

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# 19<sup>th</sup> Alaska State Legislature

Second Session, 1996



<b>PHONE MESSAGE</b>		DATE <u>1-16-96</u>	TIME <u>1:35</u> <small>AM</small>
FOR	<u>Senator</u>		<input type="checkbox"/> URGENT <input checked="" type="checkbox"/> PHONED <input type="checkbox"/> RETURNED YOUR CALL <input checked="" type="checkbox"/> PLEASE CALL BACK <input type="checkbox"/> WILL CALL AGAIN <input type="checkbox"/> WAS IN <input type="checkbox"/> WANTS TO SEE YOU
M	<u>Michael Matti</u>		
OF	<u>Mat Su Boro Attorney</u>		
PHONE ( )	<u>745-9677</u>	EXT.	
<input type="checkbox"/> FAX <input type="checkbox"/> MOBILE <input type="checkbox"/> PAGER ( )			
MESSAGE	<u>re: Local Gov't issues.</u>		
			SIGNED _____

*Mike Lewis / Boundary Commission  
would like a resolution intro-  
jecting the Boundary Commission  
decision to allow Mike Lewis  
to withdraw from*

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# State of Alaska

## Local Boundary Commission

### NOTICE OF PUBLIC MEETINGS



*Darroll Hargraves, Chairperson, At-Large*  
*Kathleen Wasserman, Vice-Chairperson, First Judicial District*  
*Nancy Cannington, Member, Second Judicial District*  
*H. Toni Salmeier, Member, Third Judicial District*  
*William Walters, Member, Fourth Judicial District*



The LBC will meet on the dates & times, and at the locations noted below.

<b>February 13 &amp; 14, 1996</b> 8:00 a.m. - 12:00 p.m. 3:00 p.m. - 5:00 p.m.	<b>February 13, 1996</b> 1:00 p.m.	<b>February 14, 1996</b> 1:30 p.m.
8th Floor OMB Conference Rm 240 Main Street Juneau, Alaska	House C&RA Committee State Capitol Juneau, Alaska	Senate C&RA Committee State Capitol Juneau, Alaska
<b>Purpose:</b> To hold a forum on constitutional and other issues of direct interest to the LBC.	<b>Purpose:</b> To present to the House C&RA Committee the LBC's January 17, 1996 annual report and recommendation.	<b>Purpose:</b> To present the Senate C&RA Committee, the LBC's January 17, 1996 annual report and recommendations.

Individuals with disabilities who need reasonable accommodations to participate at any of these meetings should contact LBC staff at 269-4560 or TDD 800 930-4555 by February 9, 1996.

Additional information concerning these meetings is available from:

Local Boundary Commission Staff  
 333 West 4th Avenue, Suite 220  
 Anchorage, AK 99501-2341  
 (telephone: 269-4500)  
 (fax: 269-4539)

**E O**

**9 3**

# FISCAL NOTE

Revision Date: \_\_\_\_\_ Dept. Affected: Community & Regional Affairs  
 Title: EO - ARDOR BRU: Employment/Training/Rural Dev.  
 Component: Rural Development Grants  
 Sponsor: Rules Committee  
 Requestor: Governor COMPONENT SERIAL NO. 667

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1007 I/A						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY96)  
costs: \_\_\_\_\_

POSITIONS:

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

**ANALYSIS:** (Attach a separate page if necessary)  
 The ARDORS program is being transferred by Executive Order from the Department of Commerce and Economic Development to the Department of Community and Regional Affairs. Fiscal impacts will be addressed by budget amendment at a later date.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
 Division: Division of Administrative Services Date: 01/04/96  
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 01/04/96  
 Agency: Community & Regional Affairs

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# FISCAL NOTE

No. 2

Bill Version: EO 93

(S) Publish Date: 1/8/96

**STATE OF ALASKA  
1996 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_  
 Title: Executive Order transferring the ARDOR Program  
to the Department of Community and Regional Affairs  
 Sponsor: Rules  
 Requestor: Governor

Department: Commerce and Economic Development  
 BRU: Trade and Development  
 Component: Trade and Development  
 COMPONENT SERIAL NO. 2056

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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES</b>						

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ \_\_\_\_\_

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)  
 This Executive Order will have no fiscal impact. The financial transfer will be accomplished with an amendment to the FY 97 budget transferring the \$650.0 grant program and \$15.0 for administrative costs from the Department of Commerce and Economic Development, Division of Trade and Development, to the Department of Community and Regional Affairs.

Prepared by: Guy Bell, Director Phone: 465-2505  
 Division: Administrative Services Date: January 5, 1996  
 Approved by Commissioner: William L. Hensley Date: 1-5-96  
 Agency: Commerce and Economic Development

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TONY KNOWLES  
GOVERNOR



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OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
Juneau Alaska 99811-0001  
19071 465-3500  
Fax 19071 465-3532

2013

January 8, 1996

The Honorable Drue Pearce  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an Executive Order to transfer the Alaska regional economic assistance program (AS 44.33.026) from the Department of Commerce and Economic Development (DCED) to the Department of Community and Regional Affairs (DCRA).

The transfer of this program to DCRA is in the interest of more efficient functioning of state government. There are already several loan programs administered by DCRA to encourage rural economic development. Because the Alaska regional economic assistance program has essentially the same goals, placing this program in DCRA should result in more efficient operation.

I urge your support of this Executive Order.

Sincerely,

A handwritten signature in cursive script that reads "Tony Knowles".

Tony Knowles  
Governor



# MEMORANDUM

TO: ALL LEGISLATORS  
FROM: ALASKA ARDOR ASSOCIATION

RE: GOVERNOR'S EXECUTIVE ORDER MOVING THE ARDOR PROGRAM FROM COMMERCE TO DCRA, BUDGET ISSUES, PRIVATIZING CERTAIN GOVERNMENT SERVICES

DATE: JANUARY 20, 1996

The ARDORS (Alaska Regional Development Organizations) exist to promote private development and jobs throughout Alaska. The ARDORS are private corporations recognized by the State of Alaska and governed by boards of directors comprised of local company representatives and local government representatives. (See attached example)

In the past, many cities have seen each other as competitors for state funds. The driving logic behind the ARDORS is to promote cooperation between communities and to achieve more private based, self sufficient communities through regional cooperation. ARDORS are held accountable by the requirement to file a specific work plan and to make periodic progress reports as a condition of obtaining and maintaining a State \$46,000 organizational grant.

In addition to promoting private sector development, the ARDORS are very well placed to take on specific initiatives such as designing and implementing a regional welfare reform strategy focussed on providing jobs and targeted training for people moving off welfare.

## EXECUTIVE ORDER:

The ARDOR Association does not object to the Governor's executive order moving the ARDOR program from Commerce to DCRA. One of the advantages we see to this move is the ability to integrate our development efforts with the training and CDQ programs in DCRA.

It really makes sense to pull all the state's economic development programs into one agency. Therefore, we also do not object to Rep. Pete Kelly's bill to create a Department of Community and Economic Development.

We are also aware that Senate President Pearce and House Speaker Phillips have been considering efforts to pull together all of the State's international trade efforts.

In all these consolidation and coordination efforts, we see a key role for the ARDORS in helping the state achieve efficient delivery of economic and community development services. We feel that due to our extensive contacts within our regions, we can be particularly effective in outreach and referral activities for state and federal programs.

No other agency has the statewide reach of the ARDORS or the direct connections to businesses and local governments in our regions.

#### BUDGET ISSUES:

The ARDORS recognized by the State each receive a grant of \$46,000 which they must match with private funds. Some of the ARDORS in less developed areas can only make the minimum match. Some ARDORS match state funds at a much higher ratio - up to 10 to 1. In this sense, the ARDORS are one of the best investments Alaska makes in economic development through this private/public partnership.

Previously, the ARDORS received up to \$68,000 in state funding for a total of \$900,000. In 1995 the legislature reduced the ARDOR funding to \$650,000. This has required the ARDORS to come up with even more matching local funds. We feel that this current level of funding is the minimum level of funding for the ARDORS to continue to exist.

The Governor's budget changes the funding source from Department of Commerce general funds to AIDEA earnings funds. This funding connection will facilitate a closer relationship between the ARDORS and AIDEA, particularly in the area of outreach, referral and loan packaging.

Whereas the bond rating agencies are concerned about removing large amounts of AIDEA's asset base, they are not so concerned about appropriating the interest earned from these assets.

In 1993, the Legislature passed a law allowing the ARDORS to contract directly with state agencies to provide services where they were deemed more efficient. As the State of Alaska reduces its budget and consolidates government agencies, the ARDORS will be looking for ways they can contract with the state to provide the same level or even a higher level of services to Alaska's people.

COPPER VALLEY ECONOMIC DEVELOPMENT COUNCIL, INC.  
P. O. BOX 9  
GLENNALLEN, ALASKA 99588

BOARD OF DIRECTORS

Carol Neeley, President Copper Basin Sanitation (Owner) P. O. Box 88 Glennallen, AK 99588	Term expires 4/97
John Downes, Vice President Mechanix Warehouse (Owner) P. O. Box 309 Copper Center, AK 99573	Term expires 4/97
Theresa Absher, Secretary State of Alaska Glennallen Employment Center (Manager) P. O. Box 109 Glennallen, AK 99588	Term expires 4/96
Darby Hobson, Treasurer National Bank of Alaska (Branch Manager) P. O. Box 67 Glennallen, AK 99588	Term expires 4/97
Susan Winingham Kenny Lake Mercantile (Owner) HC60 Box 230 Copper Center, AK 99573	Term expires 4/96
Thelma Schrank Duffy's Roadhouse (Owner) S. R. Box 380 Gakona, AK 99586	Term expires 4/96
Will Tipton National Park Service (Facility Manager) P. O. Box 29 Glennallen, AK 99588	Term expires 4/97
Mary Bowman, Alaska Native Representative Rather Rough It Adventures (Owner) HC60 Box 222 Copper Center, AK 99573	Term expires 4/97
Dr. Vickie Nelson Nelson Chiropractic Center (Owner) P. O. Box 48 Glennallen, AK 99588	Term expires 4/97

JAN-11-1996 11:36

SEC&amp;JUNEAU CHAMBER

907 463 5670 P.01

# SOUTHEAST CONFERENCE

Tel (907) 463-3445 FAX (907) 463-5670 124 West 5th Street Juneau, Alaska 99801

## BOARD OF DIRECTORS FOR FISCAL YEAR 1996

J. Allan MacKinnon President (Private - expires 1997)	AT&T Wireless Services P.O. Box 32760 Juneau, AK 99803	TEL 789-5755 FAX 789-3940 MSG 1-800 928-7324
Ginny Tierney Immediate Past President (Public - expires 1996)	Administrator - City of Thorne Bay P.O. Box 19484 Thorne Bay, AK 99919	TEL 828-3908 FAX 828-3374
John Tronrud First Vice President (Public - expires 1998)	Council - City of Skagway P.O. Box 415 Skagway, AK 99840	TEL 983-2297 FAX 983-2151
Dick Smith Second Vice President (At Large - expires 1999)	Consultant 4775 Halibut Point Road Sitka, AK 99835	TEL 747-5775 FAX 747-5335
Rosemary Hagevig Treasurer (Public - expires 1998)	Assembly - City of Juneau Box 240423 Douglas, AK 99824	TEL 465-8715 FAX 465-3396
Linda Snow Secretary (Public - expires 1998)	Manager - City of Petersburg P.O. Box 329 Petersburg, AK 99833	TEL 772-4511 ext 22 FAX 772-3759
Bobbie Permenter Director (Private - expires 1996)	Prince of Wales Island Chamber of Commerce P.O. Box 89 Craig, AK 99921	TEL 826-2927 FAX 826-2929
Bob Ward Director (Private - expires 1997)	Skagway Convention & Visitors Bureau P.O. Box 415 Skagway, AK 99840	TEL 983-2854 FAX 983-2151
The Honorable Forrest DeWitt Director (Public - expires 1998)	City of Saxman Route 2 Box 1 Saxman, AK 99901	TEL 225-4166 FAX 225-6450
Maricke Nordlinger Director (Private - expires 1997)	Consultant 517 Revilla Street Ketchikan, AK 99901	TEL 225-6191 FAX 247-0872
David Stone Director (Private - expires 1998)	Echo Bay Mines 3100 Channel Drive - Suite 2 Juneau, AK 99801	TEL 463-5704 FAX 463-5740
Berne Miller Executive Director (Ex Officio)	Southeast Conference 124 West Fifth Street Juneau, AK 99801	TEL 463-3445 FAX 463-4425 463-5670

**S B**

**16**

02/20/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150  
13:41:00 PARTICIPANT LIST (ALL PARTICIPANTS) BY:FBX  
TCN:50237 SCHEDULED FOR:02/20/95 13:30 TO 15:30 FOR:FBX  
PUBLIC HEARING SENATE COMMUNITY & REGIONAL AFFAIRS  
LOCATION:FAIRBANKS  
SB 16 MR. BRIAN ROGERS - TESTIFY ✓

02/20/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150  
13:46:26 PARTICIPANT LIST (ALL PARTICIPANTS) BY:SEW  
TCN:50237 SCHEDULED FOR:02/20/95 13:30 TO 15:30 FOR:SEW  
PUBLIC HEARING SENATE COMMUNITY & REGIONAL AFFAIRS  
LOCATION:SEWARD  
LOCAL BOUNDRY MR RICK SMERIGLIO SELF TESTIFY

02/20/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150  
13:46:32 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC  
TCN:50237 SCHEDULED FOR:02/20/95 13:30 TO 15:30 FOR:ANC  
PUBLIC HEARING SENATE COMMUNITY & REGIONAL AFFAIRS  
LOCATION:ANCHORAGE  
SB 16 MARTIN EPSTEIN U OF A TESTIFY ✓  
SB 16 CLIFF EAMES AK CNTR ENVIRON TESTIFY ✓  
SB 16 FRED KLOUDA AK SPORT FISH TESTIFY ✓

X ADDITIONAL NAME!

02/20/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150  
13:38:38 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC  
TCN:50237 SCHEDULED FOR:02/20/95 13:30 TO 15:30 FOR:ANC  
PUBLIC HEARING SENATE COMMUNITY & REGIONAL AFFAIRS  
LOCATION:ANCHORAGE  
SB 16 MARTIN EPSTEIN U OF A TESTIFY  
SB 16 CLIFF EAMES AK CNTR ENVIRON TESTIFY

# SENATE COMMITTEE REPORT

## First Committee of Referr

DATE: 1/16/95

FURTHER: Resources  
Finance

Date of 5-Day Notice: 2/9/95  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2/22/95

C&RA      Committee considered      SENATE BILL NO. 16

University of Alaska and university land, authorizing the University of Alaska to select additional state public domain land, and defining net income from the University of Alaska's endowment trust fund as 'university receipts' subject to prior legislative appropriation.

and recommends:

- be replaced with \_\_\_\_\_ CS SB 16 (CRA)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:

same title  
new title

House Bill:

technical change  
new: SCR# \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS:	DP	DNP	NR	AM
<i>Roll E. Crook</i>			✓	
<i>Paul F. Knapp</i>			✓	
<i>Leon Hoffa</i>			X	
<i>Thom Kelly</i>	X			
CHAIR: <i>John Ingram</i>	✓			

**NEW FISCAL NOTE(S):**

Department      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
UNIVERSITY	1/27/95		100.0
NATURAL RESOURCES	2/7/95		76.0
FISH & GAME	2/10/95		34.3
REVENUE	2/1/95	✓	
REVENUE O&G			
AVIATION DIV	2/6/95	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

No. 7

Bill Version: CSSB 116 (FIN)

# FISCAL NOT (S) Publish Date: 3-27-95

## STATE OF ALASKA 1995 LEGISLATIVE SESSION

BILL NO. CSSB16(CRA)

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

Expenditures/Revenues	(Thousands of Dollars)					
	FY96	FY97	FY98	FY99	FY00	FY01
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	60.01	60.01	60.01	60.01	60.01	60.01
TRAVEL	5.01	5.01	5.01	5.01	5.01	5.01
CONTRACTUAL	5.01	5.01	5.01	5.01	5.01	5.01
SUPPLIES	1.01	1.01	1.01	1.01	1.01	1.01
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>	<b>0.01</b>

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF/MHT/A						
Other I/A Receipts	71.01	71.01	71.01	71.01	71.01	71.01
<b>TOTAL</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>	<b>71.01</b>

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

POSITIONS						
FULL-TIME	01	01	01	01	01	01
PART-TIME	01	01	01	01	01	01
TEMPORARY	01	01	01	01	01	01

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

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

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

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

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No. 8Bill Ver. CSSB 16 FIN

(S) P:

Date: 3-27-95

## FISCAL NOTE

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

Revision Date: 3/9/95 Dept. Affected: Fish and Game  
 Title: University Land Selection BRU: Habitat and Restoration Division  
 Component: Habitat  
 Sponsor: Senator Frank  
 Requester: Senate Resources COMPONENT SERIAL NO. 386

## Expenditures/Revenues (Thousands of Dollars)

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

## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	34.3	34.3	34.3	34.3	34.3	34.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	34.3	34.3	34.3	34.3	34.3	34.3

Estimate of any current year (FY95) cost: 0.0

## POSITIONS

FULL-TIME	0.51	0.51	0.51	0.51	0.51	0.51
PART-TIME						
TEMPORARY						

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

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

Prepared by: Elen Fritts, Acting Director  
 Division: Habitat and Restoration  
 Approved by Commissioner: Elen Fritts for  
 Agency: Alaska Department of Fish and Game

Phone: 465-1105  
 Date: 3/8/95  
 Date: 3/7/95

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NO. 9  
 Bill Version: CSB 16 (Fin)  
 (S) Publish Date: 3-27-95

# FISCAL NOTE

## STATE OF ALASKA 1995 LEGISLATIVE SESSION

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

**Expenditures/Revenues (Thousands of Dollars)**

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

**FUND SOURCE (Thousands of Dollars)**

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

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

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

**CS FOR SENATE BILL NO. 16(CRA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) The Board of Regents shall

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

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

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

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

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

27 (B) land

28 (i) conveyed to the Board of Regents by the commissioner  
29 of natural resources in the settlement of the claim of the University of  
30 Alaska to land granted to the state in accordance with the Act of March 4,  
31 1915 (38 Stat. 1214), as amended, and in accordance with the Act of

1 January 21, 1929 (45 Stat. 1091), as amended; and

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

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

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

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

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

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

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

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

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

26 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA NOT PUBLIC  
27 DOMAIN LAND. (a) Notwithstanding any other provision of law, university-grant  
28 land, state replacement land that becomes university-grant land on conveyance to the  
29 university, land selected by and conveyed to the University of Alaska under  
30 AS 14.40.365, and any other land owned by the University of Alaska is not and may not  
31 be treated as state public domain land. However, land conveyed to the University of

1 Alaska under AS 14.40.365 shall be treated as other public land and shall be  
2 managed under AS 14.40.366 and rules or regulations of the Board of Regents of the  
3 University.

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

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

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

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

15 (1) has not been conveyed by the state;

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

17 (3) is not land

18 (A) included in a five-year proposed oil and gas leasing program  
19 under AS 38.05.180(b); or

20 (B) leased under, or for which a lease application is pending  
21 under, AS 38.05.180(d);

22 (4) is not subject to a possessory interest or encumbrance other than

23 (A) a lease that is not an oil or gas lease;

24 (B) a timber contract;

25 (C) a mining claim;

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

27 (E) a land use permit or right-of-way issued by the Department  
28 of Natural Resources under AS 38.05;

29 (5) is not necessary to carry out the purpose of an interagency land  
30 management agreement; or

31 (6) is not subject to conveyance under a land exchange or land settlement

1 agreement.

2 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and management  
3 of land from the Department of Natural Resources to the Board of Regents of the  
4 University of Alaska under this section includes

5 (1) the interest of the state in the coal, ores, minerals, fissionable  
6 materials, geothermal resources, and fossils that may be in or on the land; and

7 (2) the interest of the state in the oil and gas that may be in or on the land,  
8 but only as to land that is selected by the University of Alaska under this section on and  
9 after the date that is the fifth anniversary of the effective date of this section.

10 (c) When the University of Alaska selects the land to which it is entitled under  
11 this section, unless the commissioner of natural resources determines under (e) of this  
12 section that title to the land should not be conveyed, the commissioner of natural  
13 resources shall convey, subject to divestiture under (n) of this section, a document of  
14 interim conveyance under (k) of this section or a patent to land.

15 (d) When a selection has been made by the University of Alaska under (c) of this  
16 section, the land selected is closed to entry until the land selected has been conveyed or  
17 the selection has been rejected by the commissioner of natural resources.

18 (e) The commissioner of natural resources may not convey title to any land  
19 selection made by the University of Alaska under this section if the commissioner  
20 determines that the proposed selection

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

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

25 (B) the commissioner reasonably believes the land may be  
26 selected by a municipality under AS 29.65.030, but the commissioner may not  
27 withhold under this subparagraph the conveyance of title to land selected by the  
28 university longer than three years after the date of the municipality's  
29 incorporation;

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

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

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

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

9 (A) the interest of the general public in retention of the land in  
10 state ownership;

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

13 (C) the public benefits achieved by conveyance of the land to the  
14 University of Alaska;

15 (D) the probable potential for the development of the land and its  
16 resources and the probable income to the University of Alaska from the  
17 conveyance of the land;

18 (E) benefits to the University of Alaska from the conveyance of  
19 the land to it; and

20 (F) the efficiency of the management of the land resulting from  
21 the conveyance of the land.

22 (f) If the Board of Regents of the University of Alaska disagrees with a decision  
23 of the commissioner of natural resources not to convey to the University of Alaska land  
24 selected by it under this section, the Board of Regents and the commissioner of natural  
25 resources shall submit the matter to the governor, who shall make the decision. The  
26 decision of the governor is final.

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

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

5 (i) Land transferred or conveyed to the University of Alaska under this section

6 (1) is subject to

7 (A) section 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.  
8 339);

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

10 (C) AS 19.10.010;

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

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

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

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

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

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

31 (2) if the land is unsurveyed, the commissioner shall survey the exterior

1 boundaries of the land to be conveyed without interior subdivision, and shall issue patent  
2 in terms of the exterior boundary survey within one year of request by the University of  
3 Alaska.

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

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

14 (m) The University of Alaska may not make a land selection under this section  
15 after December 31, 2009.

16 (n) When the commissioner of natural resources issues a document of interim  
17 conveyance under (k) of this section or a patent for land selected and held by the  
18 University of Alaska, the commissioner of natural resources shall retain the right to  
19 reenter the land conveyed and recover title to it. The commissioner of natural resources  
20 shall reenter and recover title if, on the 10th anniversary of the execution of the  
21 conveyance, the commissioner finds that the University of Alaska is not actively  
22 managing the land to provide income for the support of its education programs.  
23 However, if at any time during the 10-year period, litigation, including any appeal, has  
24 prevented the University of Alaska from actively managing the land to provide income,  
25 the date on which the commissioner of natural resources shall make the finding required  
26 by this subsection is extended by a period equal to the period attributable to the litigation  
27 during which the University of Alaska was prevented from actively managing the land  
28 to provide income. For purposes of this subsection, "actively managing the land to  
29 provide income" means that the University of Alaska is deriving revenue from the land  
30 selection.

31 \* Sec. 5. AS 14.40 is amended by adding new sections to read:

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

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

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

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

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

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

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

25                   (1) the state is entitled to receive the income obtained from the lease,  
26 contract, claim, sale, permit, or right-of-way for the duration of the term of the lease,  
27 contract, claim, sale, permit, or right-of-way, and during any renewal of it that is  
28 authorized by the lease, contract, claim, sale, permit, or right-of-way, or by law;

29                   (2) the responsibility for the management of the land vests with the  
30 University of Alaska only upon conclusion of the term of the lease, contract, claim, sale,  
31 permit, or right-of-way, and any renewal authorized by the lease, contract, claim, sale,

1 permit, or right-of-way, by law.

2 Sec. 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE  
3 CONTINUED. When land selected by the University of Alaska under AS 14.40.365 has  
4 been conveyed to it, before conveying or displaying of an interest in land to a third party,  
5 the University of Alaska shall manage the land in a manner that permits customary and  
6 traditional uses of the resources of that land to the maximum extent practicable.

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

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

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

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

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

26 \* Sec. 8. AS 14.40.491 is amended to read:

27 Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In AS 14.40.120  
28 - 14.40.491, "university receipts" includes

- 29 (1) student fees, including tuition;  
30 (2) receipts from university auxiliary services;  
31 (3) recovery of indirect costs of university activities;

- 1 (4) the net income of the trust fund established in AS 14.40.400 and  
2 receipts from sales and rentals of university property;  
3 (5) federal receipts;  
4 (6) gifts, grants, and contracts; and  
5 (7) receipts from sales, rentals, and the provision of services of  
6 educational activities.

7 = Sec. 9. AS 29.45.030(a) is amended to read:

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

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

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

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

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

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

27 (3) property used exclusively for nonprofit religious, charitable, cemetery,  
28 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 an

1 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 entity  
8 of the United States to the extent required by federal law; except that a private leasehold,  
9 contract, or other interest in the property is taxable to the extent of that interest;

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

13 \* Sec. 10. APPLICABILITY OF UNIVERSITY SELECTION RIGHTS UNDER  
14 AS 14.40.365 TO CERTAIN LAND. In addition to the land that, under AS 14.40.365(e), the  
15 commissioner of natural resources may not convey to the University of Alaska, the commissioner  
16 of natural resources may not convey land that, at the time of its selection by the university, is  
17 subject to designation for conveyance or conveyance to the Alaska Mental Health Trust Authority  
18 under sec. 40, ch. 5, FSSLA 1994, as amended by secs. 4 and 5, ch. 1, SSSLA 1994.

F A X T R A N S M I S S I O N  
to follow

From: Senator John Torgerson, Alaska State Legislature  
Phone: (907) 465-2828 Fax: (907) 465-4779

To: LEGAL SERVICES FAX#: 2029

Attn: \_\_\_\_\_ RE: SB16 9-LS0165 \ A

Date: 2/20/95 Pages, including this cover sheet: 3

Memoranda: S. CRA PASSED OUT SB 16 TODAY WITH THE  
ATTACHED AMENDMENTS THAT ARE TO BE INCORPORATED  
INTO A COMMITTEE SUBSTITUTE

@S(CRA) CAN BE DELIVERED TO CAP ROOM 427 -  
ATTENTION SANDY

Telephone Contact: 465-4989 SANDY

SENATE BILL 16 - Relating to University Land Grant Lands

DRAFT AMENDMENTS

Page 4, Line 4.

Following last sentence:

INSERT: "Provided, however, that land conveyed to the University under AS 14.40.365 shall be treated as other public land and shall be managed in accordance with AS. 14.40.366 and regulations promulgated by the University."

Page 7, Line 5

Following semicolon:

INSERT: "and AS 37.13.010;"

Page 7, Line 29

DELETE period

INSERT: "within one year of request by the University."

Page 8, Line 1

Following "...resources shall":

INSERT: "within one year of request by the University"

Page 8, Line 5

DELETE: "..execution"

INSERT: "...recording"

Page 8, Line 6

Following period,

INSERT: "The State shall bear the cost of recording all documents and deeds."

Page 9, Line 28

Following "..University of Alaska shall"

INSERT: ", prior to disposal or conveyance to third parties."

Page 9, Line 31

ADD new section and renumber following sections:

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

**Sec. 14.40.371. Tort immunity for claims arising on University land not improved by the University.** The University of Alaska is not liable in tort, except for an affirmative act that constitutes gross negligence or reckless or intentional misconduct, for property damage or for injury to or death of a person who enters or remains on land owned by the University of Alaska; provided that the above exemption from liability does not apply to claims which arise on that portion of those lands which have been improved and actively maintained by the University of Alaska after its receipt of title thereto.

Page 10, Lines 7-12

DELETE

Page 10, Line 28

DELETE: "or"

Following "...state property,"

INSERT: "or property owned by the University of Alaska"

pg 4, LINE 3 - CHANGE "30" DAYS TO "60" DAYS

9-LS0165C ✓  
Chenoweth  
2/21/95

**CS FOR SENATE BILL NO. 16(CRA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

Offered:  
Referred:

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

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) The Board of Regents shall

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

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

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

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

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

27 (B) land

28 (i) conveyed to the Board of Regents by the commissioner  
29 of natural resources in the settlement of the claim of the University of  
30 Alaska to land granted to the state in accordance with the Act of March 4,  
31 1915 (38 Stat. 1214), as amended, and in accordance with the Act of

1 January 21, 1929 (45 Stat. 1091), as amended; and

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

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

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

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

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

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

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

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

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

26 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA NOT PUBLIC  
27 DOMAIN LAND. (a) Notwithstanding any other provision of law, university-grant  
28 land, state replacement land that becomes university-grant land on conveyance to the  
29 university, land selected by and conveyed to the University of Alaska under  
30 AS 14.40.365, and any other land owned by the University of Alaska is not and may not  
31 be treated as state public domain land. However, land conveyed to the University of

1 Alaska under AS 14.40.365 shall be treated as other public land and shall be  
2 managed under AS 14.40.366 and rules or regulations of the Board of Regents of the  
3 University.

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

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

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

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

15 (1) has not been conveyed by the state;

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

17 (3) is not

18 (A) included in a five-year proposed oil and gas leasing program  
19 under AS 38.05.180(b); or

20 (B) leased under, or for which a lease application is pending  
21 under, AS 38.05.180(d);

22 (4) is not subject to a possessory interest or encumbrance other than

23 (A) a lease that is not an oil or gas lease;

24 (B) a timber contract;

25 (C) a mining claim;

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

27 (E) a land use permit or right-of-way issued by the Department  
28 of Natural Resources under AS 38.05;

29 (5) is not necessary to carry out the purpose of an interagency land  
30 management agreement; or

31 (6) is not subject to conveyance under a land exchange or land settlement

1 agreement.

2 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and management  
3 of land from the Department of Natural Resources to the Board of Regents of the  
4 University of Alaska under this section includes

5 (1) the interest of the state in the coal, ores, minerals, fissionable  
6 materials, geothermal resources, and fossils that may be in or on the land; and

7 (2) the interest of the state in the oil and gas that may be in or on the land,  
8 but only as to land that is selected by the University of Alaska under this section on and  
9 after the date that is the fifth anniversary of the effective date of this section.

10 (c) When the University of Alaska selects the land to which it is entitled under  
11 this section, unless the commissioner of natural resources determines under (e) of this  
12 section that title to the land should not be conveyed, the commissioner of natural  
13 resources shall convey, subject to divestiture under (n) of this section, a document of  
14 interim conveyance under (k) of this section or a patent to land.

15 (d) When a selection has been made by the University of Alaska under (c) of this  
16 section, the land selected is closed to entry until the land selected has been conveyed or  
17 the selection has been rejected by the commissioner of natural resources.

18 (e) The commissioner of natural resources may not convey title to any land  
19 selection made by the University of Alaska under this section if the commissioner  
20 determines that the proposed selection

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

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

25 (B) the commissioner reasonably believes the land may be  
26 selected by a municipality under AS 29.65.030, but the commissioner may not  
27 withhold under this subparagraph the conveyance of title to land selected by the  
28 university longer than three years after the date of the municipality's  
29 incorporation;

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

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

32 (B) the commissioner reasonably believes will be made part of,

1 an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the  
2 commissioner may not refuse to convey title to land to the University of Alaska  
3 under this subparagraph for more than three years after its first selection by the  
4 University of Alaska;

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

8 (A) the interest of the general public in retention of the land in  
9 state ownership;

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

12 (C) the public benefits achieved by conveyance of the land to the  
13 University of Alaska;

14 (D) the probable potential for the development of the land and its  
15 resources and the probable income to the University of Alaska from the  
16 conveyance of the land;

17 (E) benefits to the University of Alaska from the conveyance of  
18 the land to it; and

19 (F) the efficiency of the management of the land resulting from  
20 the conveyance of the land.

21 (f) If the Board of Regents of the University of Alaska disagrees with a decision  
22 of the commissioner of natural resources not to convey to the University of Alaska land  
23 selected by it under this section, the Board of Regents and the commissioner of natural  
24 resources shall submit the matter to the governor, who shall make the decision. The  
25 decision of the governor is final.

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

31 (h) In conveying land to the University of Alaska under this section, the  
32 commissioner of natural resources shall give public notice under AS 38.05.945(b) and

1 (c) and provide for access under AS 38.05.127, but other provisions of AS 38.04 and  
2 AS 38.05 do not apply.

3 (i) Land transferred or conveyed to the University of Alaska under this section

4 (1) is subject to

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

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

8 (C) AS 19.10.010;

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

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

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

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

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

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

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

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

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

11 (m) The University of Alaska may not make a land selection under this section  
12 after December 31, 2009.

13 (n) When the commissioner of natural resources issues a document of interim  
14 conveyance under (k) of this section or a patent for land selected and held by the  
15 University of Alaska, the commissioner of natural resources shall retain the right to  
16 reenter the land conveyed and recover title to it. The commissioner of natural resources  
17 shall reenter and recover title if, on the 10th anniversary of the execution of the  
18 conveyance, the commissioner finds that the University of Alaska is not actively  
19 managing the land to provide income for the support of its education programs.  
20 However, if at any time during the 10-year period, litigation, including any appeal, has  
21 prevented the University of Alaska from actively managing the land to provide income,  
22 the date on which the commissioner of natural resources shall make the finding required  
23 by this subsection is extended by a period equal to the period attributable to the litigation  
24 during which the University of Alaska was prevented from actively managing the land  
25 to provide income. For purposes of this subsection, "actively managing the land to  
26 provide income" means that the University of Alaska is deriving revenue from the land  
27 selection.

28 \* Sec. 5. AS 14.40 is amended by adding new sections to read:

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

1 procedures for state land under AS 38.05.185 - 38.05.275.

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

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

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

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

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

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

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

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

29 Sec. 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE  
30 CONTINUED. When land selected by the University of Alaska under AS 14.40.365 has  
31 been conveyed to it, before conveying or displaying of an interest in land to a third party,  
32 the University of Alaska shall manage the land in a manner that permits customary and

1 traditional uses of the resources of that land to the maximum extent practicable.

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

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

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

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

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

21 \* Sec. 8. AS 14.40.491 is amended to read:

22 Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In AS 14.40.120  
23 - 14.40.491, "university receipts" includes

- 24 (1) student fees, including tuition;
- 25 (2) receipts from university auxiliary services;
- 26 (3) recovery of indirect costs of university activities;
- 27 (4) the net income of the trust fund established in AS 14.40.400 and  
28 receipts from sales and rentals of university property;
- 29 (5) federal receipts;
- 30 (6) gifts, grants, and contracts; and
- 31 (7) receipts from sales, rentals, and the provision of services of

1 educational activities.

2 \* Sec. 9. AS 29.45.030(a) is amended to read:

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

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

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

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

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

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

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

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

28 (5) money on deposit;

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

31 (7) real property or an interest in real property that is exempt from

1 taxation under 43 U.S.C. 1620(d), as amended;

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

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

8 \* **Sec. 10. APPLICABILITY OF UNIVERSITY SELECTION RIGHTS UNDER**  
9 **AS 14.40.365 TO CERTAIN LAND.** In addition to the land that, under AS 14.40.365(e), the  
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11 of natural resources may not convey land that, at the time of its selection by the university, is  
12 subject to designation for conveyance or conveyance to the Alaska Mental Health Trust Authority  
13 under sec. 40, ch. 5, FSSLA 1994, as amended by secs. 4 and 5, Ch. 1, SSSLA 1994.

**SENATE BILL NO. 16**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - FIRST SESSION**

**BY SENATORS FRANK, Kelly, Sharp, Rieger**

**Introduced: 1/16/95**

**Referred: CRA, RES, FIN**

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

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

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

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



# 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

**SENATE BILL NO. 16**

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9 beneficiary, and of March 4, 1915, 38 Stat. 1214, transferring certain land for its location and  
10 support, the University of Alaska is a land grant university;

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

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

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

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

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

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

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

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

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

18 (a) The Board of Regents shall

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

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

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

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

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

26 (B) land

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

