

Calendar No. 208

105TH CONGRESS
1ST Session

S. 660

[Report No. 105-106]

A BILL

To provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

OCTOBER 9, 1997

Reported with an amendment

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To provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 1997

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 9, 1997

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSES.**

4 (a) ~~FINDINGS.—The Congress finds that—~~

1 (1) the University of Alaska is the successor to
2 and the beneficiary of all Federal grants and convey-
3 ances to or for the Alaska Agricultural College and
4 School of Mines;

5 (2) under the Acts of March 4, 1915, 38 Stat.
6 1214, and January 21, 1929, 45 Stat. 1091, the
7 United States granted to the Territory of Alaska
8 certain federal land for the University of Alaska;

9 (3) the Territory was unable to receive most of
10 the land intended to be conveyed by the Act of
11 March 4, 1915, before repeal of that Act by Sec.
12 6(k) of the Alaska Statehood Act (P.L. 85-508, 72
13 Stat. 339);

14 (4) only one other state land grant college in
15 the United States has obtained a smaller land grant
16 from the federal government than the University of
17 Alaska has received; and all land grant colleges in
18 the western states of the United States have ob-
19 tained substantially larger land grants than the Uni-
20 versity of Alaska;

21 (5) an academically strong and financially se-
22 cure state university system is a cornerstone to the
23 long-term development of a stable population and to
24 a healthy, diverse economy and is in the national in-
25 terest;

1 (6) the national interest is served by transfer-
2 ring certain federal lands to the University of Alaska
3 which will be able to use and develop the resources
4 of such lands and by returning certain lands held by
5 the University of Alaska located within certain fed-
6 eral conservation system units to federal ownership;
7 and

8 (7) the University of Alaska holds valid legal
9 title to and is responsible for management of lands
10 transferred by the United States to the Territory
11 and State of Alaska for the University and that an
12 exchange of lands is consistent with and in further-
13 ance of the purposes and terms of, and thus not in
14 violation of, the Federal grant of such lands.

15 (b) PURPOSES.—The purposes of this act are—

16 (1) to fulfill the original commitment of Con-
17 gress to establish the University of Alaska as a land
18 grant university with holdings sufficient to facilitate
19 operation and maintenance of a university system
20 for the inhabitants of the State of Alaska; and

21 (2) to acquire from the University of Alaska
22 lands it holds within federal Parks, Wildlife Refuges,
23 and Wilderness areas.

1 **SEC. 2. PRIMARY FEDERAL GRANT.**

2 (a) Notwithstanding any other provision of law, but
3 subject to valid existing rights and the procedures set
4 forth herein, the University is granted and entitled to take
5 up to 250,000 acres of federal lands (or reserved interests
6 in lands) in or adjacent to Alaska as a federal grant. The
7 University may identify and select the specific lands it in-
8 tends to take pursuant to this grant, and the Secretary
9 of the Interior (“Secretary”) shall promptly convey to the
10 University the lands selected, in accordance with the provi-
11 sions of this Act.

12 (b)(1) Within 48 months of enactment of this Act,
13 the University of Alaska may submit to the Secretary a
14 list of properties the University has tentatively selected to
15 receive under the conditions of this grant. Such list may
16 be submitted in whole or in part during this period and
17 the University may make interim tentative selections that
18 it may relinquish or change within the 48 month period.
19 The University may submit tentative selections that ex-
20 ceed the amount of the grant except that such selections
21 shall not exceed 275,000 acres at any one time.

22 (2) All selections shall be in reasonably compact
23 units: *Provided*, That the University may select small
24 tracts of federal land within federal reservations consistent
25 with the limitations in subsection (c) below.

1 ~~(3) The University may submit tentative selections of~~
2 ~~federal lands validly selected but not conveyed to the State~~
3 ~~of Alaska or the corporations organized pursuant to the~~
4 ~~Alaska Native Claims Settlement Act. *Provided,* That such~~
5 ~~lands may not be approved or conveyed to the University~~
6 ~~unless the State of Alaska and or the corporation has re-~~
7 ~~linquished its prior selection.~~

8 ~~(4) The University shall make no selections within~~
9 ~~Conservation System Units as defined in the Alaska Na-~~
10 ~~tional Interest Lands Conservation Act (16 U.S.C. 3101).~~

11 ~~(5) Within forty-five (45) days or receipt of a Univer-~~
12 ~~sity tentative selection, the Secretary shall publish notice~~
13 ~~of said selection in the Federal Register. Such notice shall~~
14 ~~identify lands included in the tentative selection and pro-~~
15 ~~vide for a period for public comment on the tentative selec-~~
16 ~~tion not to exceed sixty (60) days.~~

17 ~~(6) Within six months of the receipt of a University~~
18 ~~tentative selection, the Secretary shall notify the Univer-~~
19 ~~sity of his acceptance or objection to each tentative selec-~~
20 ~~tion, including the reasons for any objection. Failure to~~
21 ~~object within six months shall constitute approval by the~~
22 ~~Secretary. Any public comments submitted in response to~~
23 ~~a public notice issued pursuant to paragraph (5) above~~
24 ~~may be considered by the Secretary. *Provided,* That the~~
25 ~~Secretary may object to tentative selections of the Univer-~~

1 sity if and only if he demonstrates that a conveyance of
 2 such to the University—

3 (A) will have a significant adverse impact on
 4 the purposes for which a Conservation System Unit
 5 was established; or

6 (B) will have a significant adverse impact on
 7 fulfillment of the Alaska Statehood Act or the Alas-
 8 ka Native Claims Settlement Act. (43 U.S.C. 1601)

9 (7) The Secretary's acceptance of, or objection to,
 10 any tentative selections submitted by the University of
 11 Alaska pursuant to Section 2 of this Act or the conveyance
 12 of any such selections by tentative approval, patent or
 13 other instrument are not major federal actions within the
 14 means of section 102(2)(e) of Public Law 91-190.

15 (8) The Secretary shall publish notice of any decision
 16 to accept or object to a tentative selection in the Federal
 17 Register.

18 (e) The Secretary shall not approve or convey, under
 19 this grant,

20 (1) any federal lands which, at the time of en-
 21 actment of this Act, are included in a Conservation
 22 System Unit;

23 (2) any federal lands validly selected or top
 24 filed pursuant to § 906(e) of Public Law 96-487 but
 25 not conveyed to the State of Alaska or the corpora-

1 tions pursuant to the Alaska Native Claims Settle-
2 ment Act; or

3 ~~(3) any federal lands withdrawn and actually~~
4 ~~used in connection with the administration of any~~
5 ~~federal installations and military reservations unless~~
6 ~~the head of the land holding or occupying agency or~~
7 ~~entity agrees.~~

8 (d) If, following the Secretary's review of tentative
9 selections by the University, the amount of acreage ap-
10 proved by the Secretary for conveyance is less than the
11 full primary grant, the University may select additional
12 lands to satisfy the primary grant.

13 (e) Upon the University's tentative selection of
14 land—

15 (1) Such land shall be segregated and unavail-
16 able for selection by and conveyance to the State
17 of Alaska or any corporation organized pursuant to
18 the Alaska Native Claims Settlement Act and shall
19 not be otherwise encumbered or disposed of by the
20 United States pending completion of the selection
21 process.

22 (2) The University shall possess the non-exclu-
23 sive right to enter onto such lands for the purpose
24 of—

1 (A) assessing the oil, gas, mineral and
2 other resource potential therein. The Univer-
3 sity, and its delegates or agents, shall be per-
4 mitted to engage in assessment techniques in-
5 cluding but not limited to core drilling to assess
6 the metalliferous or other values, and surface
7 geological exploration and seismic exploration
8 for oil and gas: *Provided*, That this paragraph
9 shall not be construed as including or allowing
10 exploratory drilling of oil and gas wells; and

11 (B) exercising due diligence regarding the
12 making of a final selection.

13 (f) Within one year of the Secretary's approval of a
14 tentative selection, the University may make therefrom a
15 final selection pursuant to this Act. Within six months of
16 such final selection by the University, the Secretary shall
17 issue a tentative approval of such final selection. Such ten-
18 tative approval shall be deemed to transfer to the Univer-
19 sity all right, title, and interest of the United States in
20 and to the described selection. Any lakes, rivers and
21 streams contained within such selections shall be mean-
22 dered and lands submerged thereunder conveyed in ac-
23 cordance with 43 U.S.C. § 1631, as amended. Upon com-
24 pletion of a survey of lands included within such tentative
25 approval, the Secretary shall promptly issue patent to such

1 lands. Pending issuance of a patent, the University shall
2 have rights and authorities over tentatively approval lands
3 consistent with those under the Alaska Statehood Act and
4 the Alaska Native Claims Settlement Act, including the
5 right to transfer, assign, exchange, grant, deed, lease or
6 otherwise convey any or all present or future interest in
7 the lands granted pursuant to this Act.

8 (g) The Secretary of Agriculture, as well as the heads
9 of other federal agencies, shall take such actions as may
10 be necessary to facilitate and expedite the implementation
11 of this Act by the Secretary of the Interior.

12 **SEC. 3. RELINQUISHMENT OF CERTAIN UNIVERSITY OF**
13 **ALASKA HOLDINGS.**

14 (a) As a condition to receiving the land grant pro-
15 vided by Section 6 of this Act, the University of Alaska
16 shall convey to the Secretary those lands listed in “The
17 University of Alaska’s Inholding Reconveyance Docu-
18 ment” and dated April 24, 1997.

19 (b) The University shall begin conveyance of the
20 lands listed in (a) above upon taking title to lands it has
21 selected pursuant to section 6 of this Act and shall convey
22 to the Secretary a percentage amount of land proportional
23 to that which it has received, but in no event shall it be
24 required to convey any lands other than those listed in

1 (a) above to the Secretary. The Secretary shall accept
2 quitclaim deeds from the University for these lands.

3 **SEC. 4. ALIENATION OF LANDS**

4 Notwithstanding any other provision of law, the Uni-
5 versity of Alaska may transfer, assign, exchange, grant,
6 deed, lease or otherwise convey any or all present future
7 interests in the lands granted pursuant to this Act.

8 **SEC. 5. JUDICIAL REVIEW.**

9 The University of Alaska has the right to bring action
10 for, including but not limited to, relief in the nature of
11 mandamus, against the Secretary for violation of this Act
12 or for review of an agency decision under this Act. Such
13 an action can only be brought in the United States Dis-
14 trict Court for the District of Alaska and within two (2)
15 years of the alleged violation or the final decision-making.
16 For all other entities or persons, decisions of the Secretary
17 shall be final and conclusive.

18 **SEC. 6. STATE MATCHING GRANT.**

19 (a) Notwithstanding any other provision of law, but
20 subject to valid existing rights and the procedures set
21 forth in this Act, the University is granted and shall be
22 entitled to take, in addition to the primary grant provided
23 for in Section 2 herein, up to another 250,000 acres in
24 federal lands (or reserved interests in lands) in or adjacent
25 to Alaska: *Provided*, That any additional acres are grant-

1 ed, as specified below, on a matching acre-for-acre basis
 2 to the extent that the State of Alaska shall first grant
 3 to the University State-owned land in Alaska.

4 (b) The university may select and the Secretary shall
 5 convey lands which the University is entitled to receive
 6 pursuant to this State Matching Grant Provisions in mini-
 7 mum increments of 25,000 acres up to the maximum of
 8 250,000 acres.

9 **SECTION 1. FINDINGS AND PURPOSES.**

10 (a) *FINDINGS.—The Congress finds that—*

11 (1) *the University of Alaska is the successor to*
 12 *and the beneficiary of all Federal grants and convey-*
 13 *ances to or for the Alaska Agricultural College and*
 14 *School of Mines;*

15 (2) *under the Acts of March 4, 1915, 38 Stat.*
 16 *1214, and January 21, 1929, 45 Stat. 1091, the Unit-*
 17 *ed States granted to the Territory of Alaska certain*
 18 *Federal land for the University of Alaska;*

19 (3) *the Territory was unable to receive most of*
 20 *the land intended to be conveyed by the Act of March*
 21 *4, 1915, before repeal of that Act by section 6(k) of*
 22 *the Alaska Statehood Act (Public Law 85–508, 72*
 23 *Stat. 339);*

24 (4) *only one other State land grant college in the*
 25 *United States has obtained a smaller land grant from*

1 *the Federal Government than the University of Alaska*
2 *has received, and all land grant colleges in the West-*
3 *ern States of the United States have obtained substan-*
4 *tially larger land grants than the University of Alas-*
5 *ka;*

6 *(5) an academically strong and financially se-*
7 *cure state university system is a cornerstone to the*
8 *long-term development of a stable population and to*
9 *a healthy, diverse economy and is in the national in-*
10 *terest;*

11 *(6) the national interest is served by transferring*
12 *certain Federal lands to the University of Alaska*
13 *which will be able to use and develop the resources of*
14 *such lands and by returning certain lands held by the*
15 *University of Alaska located within certain Federal*
16 *conservation system units to Federal ownership;*

17 *(7) the University of Alaska holds valid legal*
18 *title to and is responsible for management of lands*
19 *transferred by the United States to the Territory and*
20 *State of Alaska for the University and that an ex-*
21 *change of lands is consistent with and in furtherance*
22 *of the purposes and terms of, and thus not in viola-*
23 *tion of, the Federal grant of such lands.*

24 *(b) PURPOSES.—The purposes of this Act are—*

1 (1) to fulfill the original commitment of Congress
2 to establish the University of Alaska as a land grant
3 university with holdings sufficient to facilitate oper-
4 ation and maintenance of a university system for the
5 inhabitants of the State of Alaska; and

6 (2) to acquire from the University of Alaska
7 lands it holds within Federal parks, wildlife refuges,
8 and wilderness areas.

9 **SEC. 2. PRIMARY FEDERAL GRANT.**

10 (a) Notwithstanding any other provision of law, but
11 subject to valid existing rights and the procedures set forth
12 herein, the University is granted and entitled to take up
13 to 250,000 acres of Federal lands (or reserved interests in
14 lands) in or adjacent to Alaska as a Federal grant. The
15 University may identify and select the specific lands it in-
16 tends to take pursuant to this grant, and the Secretary of
17 the Interior (“Secretary”) shall promptly convey to the
18 University the lands selected, in accordance with the provi-
19 sions of this Act.

20 (b)(1) Within 48 months of enactment of this Act, the
21 University of Alaska may submit to the Secretary a list
22 of properties the University has tentatively selected to re-
23 ceive under the conditions of this grant. Such list may be
24 submitted in whole or in part during this period and the
25 University may make interim tentative selections that it

1 *may relinquish or change within the 48-month period. The*
2 *University may submit tentative selections that exceed the*
3 *amount of the grant except that such selections shall not*
4 *exceed 275,000 acres at any one time.*

5 *(2) All selections shall be in reasonably compact units:*
6 *Provided, That the University may select small tracts of*
7 *Federal land within Federal reservations consistent with*
8 *the limitations in subsection (c) below.*

9 *(3) The University may submit tentative selections of*
10 *Federal lands validly selected but not conveyed to the State*
11 *of Alaska or the corporations organized pursuant to the*
12 *Alaska Native Claims Settlement Act: Provided, That such*
13 *lands may not be approved or conveyed to the University*
14 *unless the State of Alaska and or the corporation has relin-*
15 *quished its prior selection.*

16 *(4) The University shall make no selections within*
17 *Conservation System Units as defined in the Alaska Na-*
18 *tional Interest Lands Conservation Act (16 U.S.C. 3101)*
19 *or lands designated as LUD II by section 201 of the*
20 *Tongass Timber Reform Act of 1990.*

21 *(5) Within forty-five (45) days of receipt of a Univer-*
22 *sity tentative selection, the Secretary shall publish notice*
23 *of said selection in the Federal Register. Such notice shall*
24 *identify lands included in the tentative selection and pro-*

1 *vide for a period for public comment on the tentative selec-*
2 *tion not to exceed sixty (60) days.*

3 (6) *Within six months of the receipt of a University*
4 *tentative selection, the Secretary shall notify the University*
5 *of his acceptance or objection to each tentative selection, in-*
6 *cluding the reasons for any objection. Failure to object with-*
7 *in six months shall constitute approval by the Secretary.*
8 *Any public comments submitted in response to a public no-*
9 *tice issued pursuant to paragraph (5) above may be consid-*
10 *ered by the Secretary: Provided, That the Secretary may*
11 *object to tentative selections of the University if and only*
12 *if he demonstrates that a conveyance of such to the Univer-*
13 *sity—*

14 (A) *will have a significant adverse impact on the*
15 *purposes for which a Conservation System Unit was*
16 *established; or*

17 (B) *will have a significant adverse impact on*
18 *fulfillment of the Alaska Statehood Act or the Alaska*
19 *Native Claims Settlement Act (43 U.S.C. 1601).*

20 (7) *The Secretary's acceptance of, or objection to, any*
21 *tentative selections submitted by the University of Alaska*
22 *pursuant to section 2 of this Act or the conveyance of any*
23 *such selections by tentative approval, patent or other in-*
24 *strument are not major Federal actions within the means*
25 *of section 102(2)(c) of Public Law 91-190.*

1 (8) *The Secretary shall publish notice of any decision*
2 *to accept or object to a tentative selection in the Federal*
3 *Register.*

4 (c) *The Secretary shall not approve or convey, under*
5 *this grant—*

6 (1) *any Federal lands which, at the time of en-*
7 *actment of this Act, are included in a Conservation*
8 *System Unit, or are designated as LUD II by section*
9 *201 of the Tongass Timber Reform Act of 1990;*

10 (2) *any Federal lands validly selected or top*
11 *filed pursuant to section 906(e) of Public Law 96–*
12 *487 but not conveyed to the State of Alaska or the*
13 *corporations pursuant to the Alaska Native Claims*
14 *Settlement Act; or*

15 (3) *any Federal lands withdrawn and actually*
16 *used in connection with the administration of any*
17 *Federal installations and military reservations unless*
18 *the head of the land holding or occupying agency or*
19 *entity agrees.*

20 (d) *If, following the Secretary’s review of tentative se-*
21 *lections by the University, the amount of acreage approved*
22 *by the Secretary for conveyance is less than the full primary*
23 *grant, the University may select additional lands to satisfy*
24 *the primary grant.*

25 (e) *Upon the University’s tentative selection of land:*

1 (1) *Such land shall be segregated and unavail-*
2 *able for selection by and conveyance to the State*
3 *of Alaska or any corporation organized pursuant to*
4 *the Alaska Native Claims Settlement Act and shall*
5 *not be otherwise encumbered or disposed of by the*
6 *United States pending completion of the selection*
7 *process.*

8 (2) *The University shall possess the nonexclusive*
9 *right to enter onto such lands for the purpose of—*

10 (A) *assessing the oil, gas, mineral, and*
11 *other resource potential therein. The University,*
12 *and its delegates or agents, shall be permitted to*
13 *engage in assessment techniques including but*
14 *not limited to core drilling to assess the metallif-*
15 *erous or other values, and surface geological ex-*
16 *ploration and seismic exploration for oil and*
17 *gas: Provided, That this paragraph shall not be*
18 *construed as including or allowing exploratory*
19 *drilling of oil and gas wells; and*

20 (B) *exercising due diligence regarding the*
21 *making of a final selection.*

22 (f) *Within one year of the Secretary's approval of a*
23 *tentative selection, the University may make therefrom a*
24 *final selection pursuant to this Act. Within six months of*
25 *such final selection by the University, the Secretary shall*

1 *issue a tentative approval of such final selection. Such ten-*
2 *tative approval shall be deemed to transfer to the University*
3 *all right, title, and interest of the United States in and to*
4 *the described selection. Any lakes, rivers and streams con-*
5 *tained within such selections shall be meandered and lands*
6 *submerged thereunder conveyed in accordance with 43*
7 *U.S.C. §1631, as amended. Upon completion of a survey*
8 *of lands included within such tentative approval, the Sec-*
9 *retary shall promptly issue a patent to such lands. Pending*
10 *issuance of a patent, the University shall have rights and*
11 *authorities over tentatively approval lands consistent with*
12 *those under the Alaska Statehood Act and the Alaska Native*
13 *Claims Settlement Act, including the right to transfer, as-*
14 *sign, exchange, grant, deed, lease or otherwise convey any*
15 *or all present or future interest in the lands granted pursu-*
16 *ant to this Act.*

17 *(g) The Secretary of Agriculture, as well as the heads*
18 *of other Federal agencies, shall take such actions as may*
19 *be necessary to facilitate and expedite the implementation*
20 *of this Act by the Secretary of the Interior.*

21 **SEC. 3. RELINQUISHMENT OF CERTAIN UNIVERSITY OF**
22 **ALASKA HOLDINGS.**

23 *(a) As a condition to receiving the land grant provided*
24 *by section 2 of this Act, the University of Alaska shall con-*
25 *vey to the Secretary those lands listed in “The University*

1 of Alaska's Inholding Reconveyance Document" and dated
2 April 24, 1997.

3 (b) The University shall begin conveyance of the lands
4 listed in (a) above upon taking title to lands it has selected
5 pursuant to section 2 of this Act and shall convey to the
6 Secretary a percentage amount of land proportional to that
7 which it has received, but in no event shall it be required
8 to convey any lands other than those listed in (a) above
9 to the Secretary. The Secretary shall accept quitclaim deeds
10 from the University for these lands.

11 **SEC. 4. ALIENATION OF LANDS.**

12 Notwithstanding any other provision of law, the Uni-
13 versity of Alaska may transfer, assign, exchange, grant,
14 deed, lease or otherwise convey any or all present or future
15 interests in the lands granted pursuant to this Act.

16 **SEC. 5. JUDICIAL REVIEW.**

17 The University of Alaska has the right to bring action
18 for, including but not limited to, relief in the nature of
19 mandamus, against the Secretary for violation of this Act
20 or for review of an agency decision under this Act. Such
21 an action can only be brought in the United States District
22 Court for the District of Alaska and within two (2) years
23 of the alleged violation or the final decisionmaking. For all
24 other entities or persons, decisions of the Secretary shall be
25 final and conclusive.

1 **SEC. 6. STATE MATCHING GRANT.**

2 (a) *Notwithstanding any other provision of law, but*
3 *subject to valid existing rights and the procedures set forth*
4 *in this Act, the University is granted and shall be entitled*
5 *to take, in addition to the primary grant provided for in*
6 *section 2 herein, up to another 250,000 acres in Federal*
7 *lands (or reserved interests in lands) in or adjacent to Alas-*
8 *ka: Provided, That any additional acres are granted, as*
9 *specified below, on a matching acre-for-acre basis to the ex-*
10 *tent that the State of Alaska shall first grant to the Univer-*
11 *sity State-owned land in Alaska.*

12 (b) *The University may select and the Secretary shall*
13 *convey lands which the University is entitled to receive pur-*
14 *suant to this State matching grant provision in minimum*
15 *increments of 25,000 acres up to the maximum of 250,000*
16 *acres.*