

HOUSE CS FOR CS FOR SENATE BILL NO. 7(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/29/00

Offered: 3/24/00

Sponsor(s): SENATORS TAYLOR, Tim Kelly, Donley, Wilken, Leman, Pearce, Mackie, Ward

REPRESENTATIVES Halcro, James

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the University of Alaska and university land and authorizing
2 the University of Alaska to select additional state land."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 FINDINGS AND PURPOSE. The legislature finds that

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

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

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

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

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

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

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

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

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

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

19 * **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section
20 to read:

21 **LEGISLATIVE INTENT.** It is the intent of the legislature that the University of
22 Alaska

23 (1) receive land under this Act in an expeditious fashion; and

24 (2) encourage the development of in-state value-added industries to the
25 maximum extent feasible when developing land conveyed under AS 14.40.365.

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

27 (a) The Board of Regents shall

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

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

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

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

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

(B) land

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

(ii) selected by the University of Alaska and conveyed to it by the commissioner of natural resources under AS 14.40.365;

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

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

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

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

* **Sec. 4.** AS 14.40.291 is amended to read:

Sec. 14.40.291. Land of the University of Alaska not public domain land.

(a) Notwithstanding any other provision of law, university-grant land, state replacement land that becomes university-grant land on conveyance to the university, **land selected by and conveyed to the University of Alaska under AS 14.40.365,** and any other land owned by the University of Alaska is not and may not be treated as state public domain land. **Land conveyed to the University of Alaska under AS 14.40.365 shall be managed under AS 14.40.365 - 14.40.368 and policies of the Board of Regents of the University of Alaska.**

(b) Title **to** or interest **in** [TO] land described in **(a)** of this section may not

be acquired by adverse possession, prescription, or in any other manner except by conveyance from the university.

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

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

Sec. 14.40.365. University land from Statehood Act land selection conveyances. (a) The University of Alaska may select and is entitled to receive the conveyance of not less than 250,000 and not more than 260,000 acres of land conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit a list of selections to the commissioner of natural resources and, if the list of selections contains land within the boundaries of a municipality, the Board of Regents of the University of Alaska shall submit the list to the municipality. The Board of Regents and the commissioner of natural resources shall periodically and jointly submit to the legislature, within 30 days of the beginning of a regular legislative session, a list of the selections of land proposed to be conveyed by the state to the University of Alaska under this section. If the list submitted to the legislature contains land within the boundaries of a municipality, the Board of Regents and the commissioner of natural resources shall provide a copy of the list to the municipality. Each list must contain not more than 25 percent of the total acres of land to which the university is entitled after subtracting previous conveyances under this section, but not less than 25,000 acres or the remaining entitlement under this section, whichever is less. A list of selections submitted shall be considered approved for conveyance to the University of Alaska unless the legislature acts to disapprove the list during the legislative session during which the list was submitted. If the amount of land to be conveyed exceeds the balance due the university under this section, the university shall set out the land to be conveyed in priority order. Land may not be selected if, on the date of its selection by the university, it

(1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or has been reserved by law from the public domain;

(2) is located within a municipality unless the land is vacant,

unappropriated, unreserved land; if land included on the list of selections is selected by the municipality with remaining selection rights under AS 29.65 within 120 days of receiving the Board of Regents' list of selections under this subsection, the university may not select the land unless a binding agreement between the university and the municipality is negotiated to allow the selection; if the municipal selection is disapproved, in whole or in part, the university may select the land, or any available portion of the land, and that selection will relate back to the date of the Board of Regents' list of selections under this subsection and shall have priority over all other selections or claims made subsequent to that notice; in this paragraph, "vacant, unappropriated, unreserved land" has the meaning given in AS 29.65.130;

(3) is land

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

(B) leased under, or for which a lease application is pending under, AS 38.05.180(d) or 38.05.150;

(4) is subject to

(A) an oil, gas, or coal lease, or coal prospecting permit;

(B) a mining claim, offshore prospecting permit, a prospecting site, an upland mining lease, or a mining leasehold location;

(5) is necessary to carry out the purpose of an interagency land management agreement; or

(6) is subject to conveyance under a land exchange or land settlement agreement.

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

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

(2) the oil and gas that may be in or on the land, but only as to land that is selected by the University of Alaska under this section on and after the date that

1 is the third anniversary of the effective date of this section.

2 (c) When the University of Alaska selects the land to which it is entitled under
3 this section, selections must be made in parcels of 40 acres or larger unless the
4 selection is an isolated tract or the commissioner of natural resources finds it is in the
5 best interest of the state to convey less. When the University of Alaska becomes
6 entitled to land under this section, the commissioner of natural resources shall convey
7 a document of interim conveyance under (j) of this section or a patent to land.

8 (d) Notwithstanding any other provision of law, for land selected under (a) of
9 this section but not yet patented to the University of Alaska or for which a document
10 of interim conveyance has not been issued to the University of Alaska under this
11 section,

12 (1) the state, with the concurrence of the University of Alaska, is
13 authorized to enter into contracts and grant leases, licenses, prospecting sites, claims,
14 permits, rights-of-way, or easements and any interim conveyance or patent shall be
15 subject to the contract, lease, license, prospecting site, claim, permit, right-of-way, or
16 easement, except that the authority granted the state by this paragraph is the authority
17 that the state otherwise would have had under existing laws and regulations had the
18 land not been selected by the University of Alaska;

19 (2) income from and management of the land is subject to
20 AS 14.40.368.

21 (e) The list of selections of land submitted to the legislature may not include
22 a land selection made by the University of Alaska under this section if the
23 commissioner of natural resources determines in writing that the proposed selection

24 (1) includes land that the commissioner, in consultation with the
25 commissioner of fish and game, determines has demonstrated value to the public as
26 a habitat area that is especially critical to the perpetuation of fish or wildlife;

27 (2) includes land for which, at the time of its selection under this
28 section, a municipality has made a selection under AS 29.65 unless the land selection
29 is, at a later date, rejected by the commissioner of natural resources or relinquished by
30 the municipality;

31 (3) includes land that the commissioner reasonably believes may be

selected by a newly formed municipality under AS 29.65.030, but the commissioner may not withhold selection under this paragraph for more than three years after the municipality's incorporation;

(4) includes land within the boundaries of a municipality, the municipality has a remaining entitlement under AS 29.65, and the municipality selects the land under AS 29.65 within 120 days after receipt by the municipality of the Board of Regents' list of selections under (a) of this section;

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

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

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

(6) includes land the commissioner of natural resources reasonably believes would not be in the best interests of the state to convey outside of state ownership.

(f) When land is conveyed to the University of Alaska under this section, the University of Alaska takes the land subject to any valid possessory interest held by another person on the effective date of the conveyance.

(g) In conveying land to the University of Alaska under this section, the commissioner of natural resources shall give public notice that substantially complies with notice requirements under AS 38.05.945(b) and (c) and provide for access under AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not apply.

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

(1) is subject to

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

(B) art. IX of the state constitution;

(C) AS 19.10.010;

(D) the payment requirements to the Alaska permanent fund

1 under AS 37.13.010(a) and (b); and

2 (E) any easement, right-of-way, or other access under former
3 43 U.S.C. 932 (sec. 8, Act of July 26, 1866, 14 Stat. 253);

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

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

12 (i) The University of Alaska shall bear all of its own costs of selection,
13 platting, surveying, and, except as provided in (k) of this section, conveyance of the
14 land that it selects under this section and, subject to appropriation, shall reimburse the
15 Department of Natural Resources for the reasonable costs incurred by that department
16 relating to that selection, platting, surveying, and conveyance. As to land due the
17 University of Alaska under (c) of this section,

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

20 (2) if the land is unsurveyed, the commissioner shall survey the exterior
21 boundaries of the land to be conveyed without interior subdivision and shall issue
22 patent in terms of the exterior boundary survey within one year of the later of the
23 effective date of the approval by the legislature of the list containing the land or the
24 adjournment of the legislative session during which the list containing the land was not
25 disapproved by the legislature.

26 (j) For land due the University of Alaska under (c) of this section that is
27 unsurveyed, pending the survey of exterior boundaries and issuance of patent, the
28 commissioner of natural resources shall, within one year of the later of the effective
29 date of the approval by the legislature of the list containing the land or the
30 adjournment of the legislative session during which the list containing the land was not
31 disapproved by the legislature, prepare and provide to the University of Alaska a

document of interim conveyance for the land to be conveyed.

(k) Management of land conveyed to the University of Alaska by patent or by a document of interim conveyance vests with the University of Alaska from the date of recording of the patent or document of interim conveyance. The state shall pay the cost of recording all patents and documents of interim conveyance.

(l) The University of Alaska may not make a land selection under this section after December 31, 2010.

(m) The commissioner of natural resources, when conveying land under this section, shall reserve easements, rights-of-way, and other forms of access

(1) required under the Constitution of the State of Alaska or other law; and

(2) sufficient to ensure reasonable access to the public to all navigable and public water under AS 38.05.127.

(n) The University of Alaska may seek review of the decision of the commissioner of natural resources under (e) of this section through the process established by the Department of Natural Resources.

(o) Notwithstanding (a)(1) of this section, land identified under AS 41.23 or included within the Tanana Valley State Forest created in AS 41.17.400 may be selected by the University of Alaska if the selection satisfies the other requirements of this section.

Sec. 14.40.366. Management requirements for university land. (a) The Board of Regents shall, by policy, establish procedures for mineral entry or location and mineral leasing on university land selections made under AS 14.40.365 that are consistent with the Constitution of the State of Alaska and the Alaska Statehood Act (P.L. 85 - 508, 72 Stat. 339).

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

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

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

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

8 (4) seek public comment on the annual plan before action by the Board
9 of Regents approving the plan.

10 (c) Subject to appropriation of the income, the Board of Regents shall use an
11 amount up to 20 percent of the earnings derived from the management of university
12 land conveyed to the university under AS 14.40.365 for programs and services
13 supporting the development of natural resources within the region from which the
14 earnings were derived. The earnings shall be used by the campus or campuses located
15 within the region from which the earnings were derived if a municipality within which
16 the campus or campuses are located provides to the campus or campuses a match of
17 the same amount. This subsection does not apply if the match is not made available
18 by a municipality.

19 (d) Before the conveyance or the disposal of an interest in the land to a third
20 party, land conveyed to the University of Alaska under AS 14.40.365 shall be managed
21 in a manner that, to the extent practicable, permits reasonable activities of the public
22 that do not interfere with the use or management of the land by the university. The
23 Board of Regents shall adopt a permitting process consistent with this subsection.

24 **Sec. 14.40.367. Confidential records.** Notwithstanding AS 09.25.100 -
25 09.25.220, on a determination that it is in the best interest of the University of Alaska
26 or on the request of the person who has provided the information, the president of the
27 university may keep the following confidential:

28 (1) the name of a person applying for the sale, lease, or other disposal
29 of university land or an interest in university land;

30 (2) before the issuance of a notice of intent to award a contract relating
31 to a sale, lease or disposal of university land or an interest in university land, the

names of the participants and the terms of their offers;

(3) all geological, well, geophysical, engineering, architectural, sales, market, cost, appraisal, timber cruise, gross receipts, net receipts, or other financial information relating to university land or an interest in university land and considered for, offered for, or currently subject to disposal or a contract;

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

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

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

Sec. 14.40.368. Encumbrances and trespasses. Except as provided in AS 14.40.365(b), for the land selected by the University of Alaska under AS 14.40.365 that is subject to a lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement, or to trespass,

(1) if the lease, license, contract, prospecting site, claim, sale, permit, right-of-way, easement, or trespass

(A) existed before the selection of the land by the University of Alaska, the state is entitled to receive the income obtained from the lease, license, contract, prospecting site, claim, sale, permit, right-of-way, easement, or trespass until the land is conveyed to the University of Alaska by the issuance of a document of interim conveyance or a patent;

(B) did not exist before the selection of the land by the University of Alaska, the income obtained from the lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement, or from trespass

(i) before the recording of the conveyance to the University of Alaska by the issuance of a document of interim conveyance or a patent shall be separately accounted for under AS 37.05.142, and the legislature may appropriate the balance of the account to the University of Alaska; nothing in this sub-subparagraph

creates a dedicated fund;

(ii) on the date of and after the recording of the conveyance to the University of Alaska by the issuance of a document of interim conveyance or a patent is the property of the University of Alaska;

(2) the responsibility for the management of the land vests with the University of Alaska on the date of recording of the conveyance of the land to the university by a document of interim conveyance or patent.

* **Sec. 6.** AS 14.40.400(a) is amended to read:

(a) The Board of Regents shall establish a separate endowment trust fund in which shall be held in trust in perpetuity all

(1) [ALL] net income derived from the sale or lease of the land granted under the Act of Congress approved January 21, 1929, as amended; [AND]

(2) net income derived from the sale, lease, or management of the land selected by and conveyed to the University of Alaska under AS 14.40.365; and

(3) [ALL] monetary gifts, bequests, or endowments made to the University of Alaska for the purpose of the fund.

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

Sec. 14.40.461. University demonstration forest. (a) For the purpose of advancing research into forest management practices, from land conveyed to the University of Alaska under AS 14.40.365 that is suitable for the purpose, the Board of Regents may establish a University of Alaska demonstration forest.

(b) The demonstration forest shall be managed under

(1) the principles of multiple use and sustained yield; and

(2) a management plan prepared by the University of Alaska in consultation with residents of any community within or adjacent to the demonstration forest.

(c) The Board of Regents shall

(1) include within the demonstration forest sufficient land that is within one watershed so that management of the resources of the demonstration forest under

multiple-use and sustained yield principles applicable to forest land within a watershed may be fairly tested and evaluated; and

(2) analyze possible timber utilization programs for the demonstration forest to illustrate how timber in the forest can be completely and profitably used, including, to the extent possible, on-site or off-site value-added product manufacture in the state.

(d) The information generated as a result of management of the demonstration forest established under this section is public information. The Board of Regents shall compile, analyze, and distribute the information for the benefit of the timber industry and the state and federal governments.

(e) In this section, "sustained yield" has the meaning given in AS 41.17.950.

* **Sec. 8.** AS 29.45.030(a) is amended to read:

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

(1) municipal property, including property held by a public corporation of a municipality, [OR] state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

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

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

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

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

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

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

(5) money on deposit;

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

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

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

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

* **Sec. 9.** AS 41.17.118(a) is amended to read:

(a) The riparian standards for state land **and land conveyed to the University of Alaska under AS 14.40.365** are as follows:

(1) on state forest land managed by the department **or conveyed to the University of Alaska under AS 14.40.365** that is located north of the Alaska Range, harvest of timber may not be undertaken within 100 feet immediately adjacent to an anadromous or high value resident fish water body unless the division determines that adequate protection remains for the fish habitat;

(2) on state forest land managed by the department **or conveyed the University of Alaska under AS 14.40.365** that is located south of the Alaska Range,

(A) harvest of timber may not be undertaken within 100 feet

- 1 immediately adjacent to an anadromous or high value resident fish water body;
- 2 (B) between 100 and 300 feet from the water body, timber
- 3 harvest may occur but shall be consistent with the maintenance of important
- 4 fish and wildlife habitat.