

CS FOR SENATE BILL NO. 16(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/27/95

Referred: Rules

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
3 net income from the University of Alaska's endowment trust fund as 'university
4 receipts' subject to prior legislative appropriation."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 * Sec. 3. AS 14.40.291 is amended to read:

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

1 not be treated as state public domain land. **However, land conveyed to the**
2 **University of Alaska under AS 14.40.365 shall be treated as other public land and**
3 **shall be managed under AS 14.40.366 and rules or regulations of the Board of**
4 **Regents of the University.**

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

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

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

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

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

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

18 (3) is not land

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

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

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

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

25 (B) a timber contract;

26 (C) a mining claim;

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

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

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

1 (6) is not subject to conveyance under a land exchange or land
2 settlement agreement.

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

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

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

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

16 (d) Notwithstanding any other provision of law, on land selected by but not
17 yet patented to the University of Alaska or for which a document of interim
18 conveyance has not been issued to the University of Alaska under AS 14.40.365,

19 (1) the state is authorized to enter into contracts and grant leases,
20 licenses, permits, rights-of-way, or easements and any interim conveyance or patent
21 shall be subject to the contract, lease, license, permit, right-of-way, or easement, except
22 that the authority granted the state by this subsection

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

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

28 (2) 90 percent of the proceeds derived from contracts, leases, licenses,
29 permits, rights-of-way, or easements, or from trespasses, originating after the date of
30 selection by the University of Alaska shall be held by the state until the land has been
31 conveyed by the patent or by a document of interim conveyance; upon the issuance of

1 a document of interim conveyance or a patent, the state shall pay to the University of
2 Alaska the proceeds allocable to the land that are derived from the contracts, leases,
3 licenses, permits, rights-of-way, or easements, or from trespasses, and subsequent to
4 the issuance of a document of interim conveyance or a patent, the University of Alaska
5 shall receive 100 percent of the proceeds derived from the contracts, leases, licenses,
6 permits, rights-of-way, or easements, or from trespasses;

7 (3) responsibility for management of contracts, leases, licenses, permits,
8 rights-of-way, or easements vests with the University of Alaska upon issuance of a
9 patent or a document of interim conveyance.

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

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

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

18 (B) the commissioner reasonably believes the land may be
19 selected by a municipality under AS 29.65.030, but the commissioner may not
20 withhold under this subparagraph the conveyance of title to land selected by the
21 university longer than three years after the date of the municipality's
22 incorporation;

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

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

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

30 (3) is not in the best interests of the state; in making a determination
31 under this paragraph as to whether a selection by the University of Alaska is in the

1 best interests of the state, the commissioner shall consider

2 (A) the interest of the general public in retention of the land in
3 state ownership;

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

6 (C) the public benefits achieved by conveyance of the land to
7 the University of Alaska;

8 (D) the probable potential for the development of the land and
9 its resources and the probable income to the University of Alaska from the
10 conveyance of the land;

11 (E) benefits to the University of Alaska from the conveyance
12 of the land to it; and

13 (F) the efficiency of the management of the land resulting from
14 the conveyance of the land.

15 (f) If the Board of Regents of the University of Alaska disagrees with a
16 decision of the commissioner of natural resources not to convey to the University of
17 Alaska land selected by it under this section, the Board of Regents and the
18 commissioner of natural resources shall submit the matter to the governor, who shall
19 make the decision. The decision of the governor is final.

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

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

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

31 (A) section 6(i) of the Alaska Statehood Act (P.L. 85-508, 72

1 Stat. 339);
2 (B) art. IX of the state constitution;
3 (C) AS 19.10.010;
4 (D) payment to the Alaska permanent fund of the amounts
5 required by AS 37.13.010(a) and (b); and
6 (E) the rights of the state under former 43 U.S.C. 932 (sec. 8,
7 Act of July 26, 1866, 14 Stat. 253);
8 (2) excludes any interest transferred to the state by quit claim deed
9 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.
10 141;
11 (3) based on a land selection filed by the University of Alaska on or
12 after the effective date of this section and until the day before the day that is the fifth
13 anniversary of the effective date of this section is subject to reservation by the state
14 in perpetuity of all oil and gas that may be in or on the land, together with the right
15 to explore the land for oil and gas and to remove from the land all oil and gas located
16 in and on it.
17 (j) The University of Alaska shall bear all costs of selection, platting,
18 surveying, and, except as provided in (l) of this section, conveyance of the land that
19 it selects under this section and, subject to appropriation, shall reimburse the
20 Department of Natural Resources for the reasonable costs incurred by that department
21 relating to that selection, platting, surveying, and conveyance. As to land due the
22 University of Alaska under (c) of this section because it has not been disapproved
23 under (e) of this section,
24 (1) if the land has been surveyed, the boundaries of the land conveyed
25 must conform to the public land subdivisions established by the approved survey;
26 (2) if the land is unsurveyed, the commissioner shall survey the exterior
27 boundaries of the land to be conveyed without interior subdivision, and shall issue
28 patent in terms of the exterior boundary survey within one year of request by the
29 University of Alaska.
30 (k) For land due the University of Alaska under (c) of this section that is
31 unsurveyed, pending the survey of exterior boundaries and issuance of patent, the

1 commissioner of natural resources shall, within one year of request by the University
2 of Alaska, prepare and provide to the University of Alaska a document of interim
3 conveyance for the land to be conveyed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 * **Sec. 8.** AS 14.40.491 is amended to read:

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

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

- 1 (6) gifts, grants, and contracts; and
- 2 (7) receipts from sales, rentals, and the provision of services of
- 3 educational activities.

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

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

6 (1) municipal property, including property held by a public corporation

7 of a municipality, [OR] state property, or property of the University of Alaska,

8 except that

9 (A) a private leasehold, contract, or other interest in the

10 property is taxable to the extent of the interest;

11 (B) notwithstanding any other provision of law, property

12 acquired by an agency, corporation, or other entity of the state through

13 foreclosure or deed in lieu of foreclosure and retained as an investment of a

14 state entity is taxable; this subparagraph does not apply to federal land granted

15 to the University of Alaska under AS 14.40.380 or 14.40.390, [OR] to other

16 land granted to the university by the state to replace land that had been granted

17 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the

18 University of Alaska under AS 14.40.365;

19 (C) an ownership interest of a municipality in real property

20 located outside the municipality acquired after December 31, 1990, is taxable

21 by another municipality; however, a borough may not tax an interest in real

22 property located in the borough and owned by a city in that borough;

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

24 household;

25 (3) property used exclusively for nonprofit religious, charitable,

26 cemetery, hospital, or educational purposes;

27 (4) property of a nonbusiness organization composed entirely of persons

28 with 90 days or more of active service in the armed forces of the United States whose

29 conditions of service and separation were other than dishonorable, or the property of

30 an auxiliary of that organization;

31 (5) money on deposit;

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

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

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

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

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