

**CS FOR SENATE BILL NO. 340(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

**BY THE SENATE RESOURCES COMMITTEE**

**Offered: 4/30/98**  
**Referred: Finance**

**Sponsor(s): SENATE JUDICIARY COMMITTEE**

**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. FINDINGS AND PURPOSE.** The legislature finds that

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

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

**12 (3) the Territory was unable to receive most of the land conveyed by the Act**  
**13 of March 4, 1915, before repeal of that Act by Sec. 6(k) of the Alaska Statehood Act (P.L. 85-**  
**14 508, 72 Stat. 339);**

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

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

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

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

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

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

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

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

21 (a) The Board of Regents shall

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

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

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

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

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

29 (B) land

30 (i) conveyed to the Board of Regents by the  
31 commissioner of natural resources in the settlement of the claim of the

1 University of Alaska to land granted to the state in accordance with the  
 2 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance  
 3 with the Act of January 21, 1929 (45 Stat. 1091), as amended; **and**

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

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

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

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

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

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

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

27 **(B) that were selected by and conveyed to the University of**  
 28 **Alaska under AS 14.40.365.**

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

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

31 **(a)** Notwithstanding any other provision of law, university-grant land, state

1 replacement land that becomes university-grant land on conveyance to the university,  
 2 **land selected by and conveyed to the University of Alaska under AS 14.40.365**, and  
 3 any other land owned by the University of Alaska is not and may not be treated as  
 4 state public domain land. **Land conveyed to the University of Alaska under**  
 5 **AS 14.40.365 shall be managed under AS 14.40.365 - 14.40.369 and policies of the**  
 6 **Board of Regents of the University.**

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

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

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

13 **Sec. 14.40.365. University land from Statehood Act land selection**  
 14 **conveyances.** (a) The University of Alaska may select and, except as provided in (m)  
 15 of this section, is entitled to receive the conveyance of 250,000 acres of land conveyed  
 16 to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339).  
 17 The Board of Regents of the University of Alaska and the commissioner of natural  
 18 resources shall periodically and jointly submit to the legislature, within 30 days of the  
 19 beginning of a regular legislative session, a list of land proposed to be conveyed by  
 20 the state to the University of Alaska under this section. Each list must contain not less  
 21 than 25,000 acres of land or the remaining entitlement under this subsection, whichever  
 22 is less. The legislature may by law approve or disapprove the list. A list submitted  
 23 shall be considered approved for conveyance to the University of Alaska if the  
 24 legislature neither approves nor disapproves the list during the legislative session  
 25 during which the list was submitted. Land may be included in the list only if it, on  
 26 the date of its selection by the university,

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

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

29 (3) is not land

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

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

3 (4) is not subject to a possessory interest or encumbrance other than  
4 (A) a lease that is not an oil or gas lease or a coal lease;  
5 (B) a timber contract;  
6 (C) a mining claim, a prospecting site, or a prospecting permit  
7 on tide or submerged land;

8 (D) a sale of materials under AS 38.05.110 - 38.05.123;

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

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

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

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

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

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

24 (c) When the University of Alaska selects the land to which it is entitled under  
25 this section,

26 (1) selections must be made in parcels of 40 acres or larger unless the  
27 commissioner of natural resources finds it is in the best interest of the state to convey  
28 less; and

29 (2) unless the commissioner of natural resources determines under (e)  
30 of this section that the land should not be included on the list of land submitted to the  
31 legislature under (a) of this section, the commissioner of natural resources shall, upon

1 approval of the list submitted to the legislature or upon failure of the legislature during  
2 the legislative session following submission of the list to disapprove the list, convey,  
3 subject to divestiture under (m) of this section, a document of interim conveyance  
4 under (j) of this section or a patent to land.

5 (d) Notwithstanding any other provision of law, on land selected by but not  
6 yet patented to the University of Alaska or for which a document of interim  
7 conveyance has not been issued to the University of Alaska under this section,

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

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

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

18 (2) 90 percent of the proceeds derived from contracts, leases, licenses,  
19 prospecting sites, claims, permits, rights-of-way, or easements, or from trespasses,  
20 originating after the date of selection by the University of Alaska shall be held by the  
21 state until the land has been conveyed by the patent or by a document of interim  
22 conveyance; upon the issuance of a document of interim conveyance or a patent, the  
23 state shall pay to the University of Alaska the proceeds allocable to the land that were  
24 derived from the contracts, leases, licenses, prospecting sites, claims, permits, rights-of-  
25 way, or easements, or from trespasses, and, subsequent to the issuance of a document  
26 of interim conveyance or a patent, the University of Alaska shall receive 100 percent  
27 of the proceeds derived from the contracts, leases, licenses, prospecting sites, claims,  
28 permits, rights-of-way, or easements, or from trespasses;

29 (3) subject to AS 14.40.368, responsibility for management of contracts,  
30 leases, licenses, prospecting sites, claims, permits, rights-of-way, or easements vests  
31 with the University of Alaska upon issuance of a patent or a document of interim

1 conveyance.

2 (e) The commissioner of natural resources may not include on a list of land  
3 submitted to the legislature under (a) of this section a land selection made by the  
4 University of Alaska under this section if the commissioner determines that the  
5 proposed selection

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

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

11 (B) the commissioner reasonably believes the land may be  
12 selected by a municipality under AS 29.65, but the commissioner may not  
13 withhold under this subparagraph the conveyance of title to land selected by the  
14 university longer than three years after the date of the municipality's  
15 incorporation;

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

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

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

23 (3) is not in the best interests of the state.

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

29 (g) In conveying land to the University of Alaska under this section, the  
30 commissioner of natural resources shall give public notice that substantially complies  
31 with notice requirements under AS 38.05.945(b) and (c) and provide for access under

1 AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not apply.

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

3 (1) is subject to

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

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

7 (C) AS 19.10.010;

8 (D) the payment requirements to the Alaska permanent fund  
9 under AS 37.13.010(a) and (b); and

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

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

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

20 (i) The University of Alaska shall bear all costs of selection, platting,  
21 surveying, and, except as provided in (k) of this section, conveyance of the land that  
22 it selects under this section and, subject to appropriation, shall reimburse the  
23 Department of Natural Resources for the reasonable costs incurred by that department  
24 relating to that selection, platting, surveying, and conveyance. As to land due the  
25 University of Alaska under (c) of this section,

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

28 (2) if the land is unsurveyed, the commissioner shall survey the exterior  
29 boundaries of the land to be conveyed without interior subdivision and shall issue  
30 patent in terms of the exterior boundary survey within one year of the later of the  
31 effective date of the approval by the legislature of the list containing the land or the

1 adjournment of the legislative session during which the list containing the land was not  
2 disapproved by the legislature.

3 (j) For land due the University of Alaska under (c) of this section that is  
4 unsurveyed, pending the survey of exterior boundaries and issuance of patent, the  
5 commissioner of natural resources shall, within one year of the later of the effective  
6 date of the approval by the legislature of the list containing the land or the  
7 adjournment of the legislative session during which the list containing the land was not  
8 disapproved by the legislature, prepare and provide to the University of Alaska a  
9 document of interim conveyance for the land to be conveyed.

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

15 (l) The University of Alaska may not make a land selection under this section  
16 after December 31, 2012.

17 (m) When the commissioner of natural resources issues a document of interim  
18 conveyance under (j) of this section or a patent for land selected and held by the  
19 University of Alaska, the commissioner of natural resources shall retain the right to  
20 reenter the land conveyed and recover title to it. The commissioner of natural  
21 resources shall reenter and recover title

22 (1) if, on the 10th anniversary of the execution of the conveyance, the  
23 commissioner finds that the University of Alaska is not actively managing the land to  
24 provide income for the support of its education programs; however, if, at any time  
25 during the 10-year period, litigation, including any appeal, has prevented the University  
26 of Alaska from actively managing the land to provide income, the date on which the  
27 commissioner of natural resources shall make the finding required by this paragraph  
28 is extended by a period equal to the period attributable to the litigation during which  
29 the University of Alaska was prevented from actively managing the land to provide  
30 income; for purposes of this paragraph, "actively managing the land to provide  
31 income" means that the University of Alaska is deriving revenue from the land

1 selection or has in place a development program to derive income from the land  
2 selection; or

3 (2) if, before January 1, 2013, any land selected and conveyed to the  
4 University of Alaska under this section is conveyed, except in an acre-for-acre land  
5 exchange, directly by the University of Alaska or indirectly by third parties, to the  
6 United States; the reentry and recovery of title under this paragraph terminates the  
7 university's title or ownership interest in all land conveyed to it under this section and,  
8 after the reentry and recovery of title, the University of Alaska may not make any  
9 other land selections under this section.

10 **Sec. 14.40.366. Management and disposition of university land.** (a) The  
11 Board of Regents shall, by policy, establish procedures for mineral entry or location  
12 and mineral leasing on university land selections made under AS 14.40.365 that are  
13 substantially similar to mineral entry, location, and leasing procedures for state land  
14 under AS 38.05.185 - 38.05.275.

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

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

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

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

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

30 (c) Subject to appropriation of the income, the Board of Regents shall use at  
31 least 20 percent of the income derived from the management of university land

1 selections made under AS 14.40.365 for the campus of the university that is located  
2 closest to the land from which the income is derived.

3 **Sec. 14.40.367. Confidential records.** Notwithstanding AS 09.25.100 -  
4 09.25.220, on a determination that it is in the best interest of the University of Alaska  
5 or on the request of the person who has provided the information, the president of the  
6 university may keep the following confidential:

7 (1) the name of a person applying for the sale, lease, or other disposal  
8 of land or an interest in land conveyed to the university under AS 14.40.365;

9 (2) before the announced time of opening of an offer to purchase, lease,  
10 or obtain a disposal of land conveyed to the university under AS 14.40.365, the names  
11 of the participants and the terms of their offers;

12 (3) all geological, geophysical, engineering, architectural, sales,  
13 appraisal, gross receipts, net receipts, or other financial information relating to land or  
14 an interest in land conveyed to the university under AS 14.40.365 and considered for  
15 or offered for disposal or currently subject to a contract;

16 (4) cost data and financial information submitted by an applicant in  
17 support of applications for bonds, leases, or other information in offerings and ongoing  
18 operations relating to management of land conveyed to the university under  
19 AS 14.40.365;

20 (5) applications for rights-of-way or easements across land conveyed  
21 to the university under AS 14.40.365; and

22 (6) requests for information about or applications by public agencies  
23 for land conveyed to the university under AS 14.40.365 that is being considered for  
24 use for a public purpose.

25 **Sec. 14.40.368. Management and disposition of income from existing**  
26 **encumbrances.** For the land selected by and conveyed to the University of Alaska  
27 under AS 14.40.365 that is subject to a lease, contract, prospecting site, claim, sale,  
28 permit, or right-of-way identified in AS 14.40.365(a)(4)

29 (1) the state is entitled to receive the income obtained from the lease,  
30 contract, prospecting site, claim, sale, permit, or right-of-way for the duration of the  
31 term of the lease, contract, prospecting site, claim, sale, permit, or right-of-way, and

1 during any renewal of it that is authorized by the lease, contract, prospecting site,  
2 claim, sale, permit, or right-of-way, or by law;

3 (2) the responsibility for the management of the land vests with the  
4 University of Alaska only upon conclusion of the term of the lease, contract,  
5 prospecting site, claim, sale, permit, or right-of-way, and any renewal authorized by  
6 the lease, contract, prospecting site, claim, sale, permit, or right-of-way, or by law.

7 **Sec. 14.40.369. Customary and traditional uses to be continued.** When land  
8 selected by the University of Alaska under AS 14.40.365 has been conveyed to it,  
9 before conveying or disposing of an interest in land to a third party, the University of  
10 Alaska shall manage the land in a manner that permits customary and traditional uses  
11 of the resources of that land to the maximum extent practicable.

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

13 **Sec. 14.40.375. Tort immunity for personal injuries or death occurring on**  
14 **unimproved land.** (a) The University of Alaska is not liable in tort, except for an  
15 act or omission that constitutes gross negligence or reckless or intentional misconduct,  
16 for damages for the injury to or death of a person who enters onto or remains on the  
17 unimproved portion of land owned by the university if

18 (1) the injury or death resulted from a natural condition of the  
19 unimproved portion of the land or the person entered onto the land for recreation; and

20 (2) the person had no responsibility to compensate the owner for the  
21 person's use or occupancy of the land.

22 (b) This section does not enhance or diminish rights granted under former  
23 43 U.S.C. 932 (R.S. 2477).

24 (c) In this section, "unimproved land" includes land that contains

25 (1) a trail;

26 (2) an abandoned aircraft landing area; or

27 (3) a road built to provide access for natural resource extraction but that  
28 is no longer maintained or used.

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

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

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

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

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

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

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

10 (1) municipal property, including property held by a public corporation  
11 of a municipality, [OR] state property, **property of the University of Alaska,** or land  
12 that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L.  
13 84-830, 70 Stat. 709, except that

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

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

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

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

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

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

5                   (5) money on deposit;

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

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

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

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