

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/6/98

Referred: Rules

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

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

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

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

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

17 (2) 90 percent of the proceeds derived from contracts, leases, licenses,  
18 prospecting sites, claims, permits, rights-of-way, or easements, or from trespasses,  
19 originating after the date of selection by the University of Alaska shall be held by the  
20 state until the land has been conveyed by the patent or by a document of interim  
21 conveyance; upon the issuance of a document of interim conveyance or a patent, the  
22 state shall pay to the University of Alaska the proceeds allocable to the land that were  
23 derived from the contracts, leases, licenses, prospecting sites, claims, permits, rights-of-  
24 way, or easements, or from trespasses, and, subsequent to the issuance of a document  
25 of interim conveyance or a patent, the University of Alaska shall receive 100 percent  
26 of the proceeds derived from the contracts, leases, licenses, prospecting sites, claims,  
27 permits, rights-of-way, or easements, or from trespasses;

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

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

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

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

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

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

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

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

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

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

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

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

2 (1) is subject to

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

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

6 (C) AS 19.10.010;

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

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

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

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

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

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

27 (2) if the land is unsurveyed, the commissioner shall survey the exterior  
28 boundaries of the land to be conveyed without interior subdivision and shall issue  
29 patent in terms of the exterior boundary survey within one year of the later of the  
30 effective date of the approval by the legislature of the list containing the land or the  
31 adjournment of the legislative session during which the list containing the land was not

1 disapproved by the legislature.

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

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

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

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

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

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

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

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

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

5 (c) Subject to appropriation of the income, the Board of Regents shall use an  
6 amount up to 20 percent of the income derived from the management of university  
7 land selections made under AS 14.40.365 for the campus of the university that is  
8 located closest to the land from which the income is derived if the municipality within  
9 which the campus is located agrees to provide a match of the same amount to the  
10 campus.

11 **Sec. 14.40.367. Confidential records.** Notwithstanding AS 09.25.100 -  
12 09.25.220, on a determination that it is in the best interest of the University of Alaska  
13 or on the request of the person who has provided the information, the president of the  
14 university may keep the following confidential:

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

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

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

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

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

30 (6) requests for information about or applications by public agencies  
31 for land conveyed to the university under AS 14.40.365 that is being considered for

1 use for a public purpose.

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

6 (1) the state is entitled to receive the income obtained from the lease,  
 7 contract, prospecting site, claim, sale, permit, or right-of-way for the duration of the  
 8 term of the lease, contract, prospecting site, claim, sale, permit, or right-of-way, and  
 9 during any renewal of it that is authorized by the lease, contract, prospecting site,  
 10 claim, sale, permit, or right-of-way, or by law;

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

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

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

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

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

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

30 (b) This section does not enhance or diminish rights granted under former  
 31 43 U.S.C. 932 (R.S. 2477).

1 (c) In this section, "unimproved land" includes land that contains  
 2 (1) a trail;  
 3 (2) an abandoned aircraft landing area; or  
 4 (3) a road built to provide access for natural resource extraction but that  
 5 is no longer maintained or used.

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

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

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

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

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

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

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

18 (1) municipal property, including property held by a public corporation  
 19 of a municipality, [OR] state property, **property of the University of Alaska,** or land  
 20 that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L.  
 21 84-830, 70 Stat. 709, except that

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

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

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

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

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

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

13 (5) money on deposit;

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

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

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

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