

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/11/98

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 governor shall periodically and jointly submit to the
 18 legislature, within 30 days of the beginning of a regular legislative session, a list of
 19 land proposed to be conveyed by the state to the University of Alaska under this
 20 section. If there is a disagreement between the university and the commissioner of
 21 natural resources about the land to be placed on the list, the disagreement must be
 22 submitted to the governor, who shall make the final decision. Each list must contain
 23 not less than 25,000 acres of land or the remaining entitlement under this subsection,
 24 whichever is less. A list may identify land in excess of the amount of acreage set out
 25 in this subsection, but the amount of land identified on the list may not exceed by
 26 more than 25 percent in total acreage the amount of acreage to which, on the date of
 27 submission of the list to the legislature, the university has not received title under this
 28 section. If, on a list presented to the legislature under this subsection, the amount of
 29 land to be conveyed exceeds the balance due the university under this section, the
 30 university shall set out the land to be conveyed in priority order. The legislature may
 31 by law approve or disapprove the list. A list submitted shall be considered approved

1 for conveyance to the University of Alaska if the legislature neither approves nor
 2 disapproves the list during the legislative session during which the list was submitted.
 3 Land may not be included in the list if, on the date of its selection by the university,
 4 it

5 (1) has been reserved by law from the public domain;

6 (2) is land

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

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

11 (3) is subject to

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

13 (B) a mining claim, a prospecting site, or an upland mining
 14 lease;

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

17 (5) is subject to conveyance under a land exchange or land settlement
 18 agreement.

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

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

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

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

30 (1) selections must be made in parcels of 40 acres or larger unless the
 31 commissioner of natural resources finds it is in the best interest of the state to convey

1 less; and

2 (2) the commissioner of natural resources shall, upon approval of the
3 list submitted to the legislature or upon failure of the legislature during the legislative
4 session following submission of the list to disapprove the list, convey a document of
5 interim conveyance under (j) of this section or a patent to land.

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

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

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

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

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

31 (3) subject to AS 14.40.368, responsibility for management of contracts,

1 leases, licenses, prospecting sites, claims, permits, rights-of-way, or easements vests
2 with the University of Alaska upon issuance of a patent or a document of interim
3 conveyance.

4 (e) Unless the governor provides otherwise under (a) of this section, the
5 commissioner of natural resources may not include on a list of land submitted to the
6 legislature a land selection made by the University of Alaska under this section if the
7 commissioner determines that the proposed selection

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

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

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

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

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

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

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

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

31 (g) In conveying land to the University of Alaska under this section, the

1 commissioner of natural resources shall give public notice that substantially complies
 2 with notice requirements under AS 38.05.945(b) and (c) and provide for access under
 3 AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not apply.

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

5 (1) is subject to

6 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
 7 339);

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

9 (C) AS 19.10.010;

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

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

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

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

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

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

30 (2) if the land is unsurveyed, the commissioner shall survey the exterior
 31 boundaries of the land to be conveyed without interior subdivision and shall issue

1 patent in terms of the exterior boundary survey within one year of the later of the
2 effective date of the approval by the legislature of the list containing the land or the
3 adjournment of the legislative session during which the list containing the land was not
4 disapproved by the legislature.

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

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

17 (l) The University of Alaska may not make a land selection under this section
18 after December 31, 2020.

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

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

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

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

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

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

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

17 **Sec. 14.40.367. Confidential records.** Notwithstanding AS 09.25.100 -
18 09.25.220, on a determination that it is in the best interest of the University of Alaska
19 or on the request of the person who has provided the information, the president of the
20 university may keep the following confidential:

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

23 (2) before the issuance of a notice of intent to award a contract relating
24 to a sale, lease or disposal of university land or an interest in university land, the
25 names of the participants and the terms of their offers;

26 (3) all geological, geophysical, engineering, architectural, sales,
27 appraisal, gross receipts, net receipts, or other financial information relating to
28 university land or an interest in university land and considered for or offered for
29 disposal or currently subject to a contract;

30 (4) cost data and financial information submitted by an applicant in
31 support of applications for bonds, leases, or other information in offerings and ongoing

1 operations relating to management of university land;

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

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

6 **Sec. 14.40.368. Management and disposition of income from existing**
7 **encumbrances.** For the land selected by and conveyed to the University of Alaska
8 under AS 14.40.365 that is subject to a lease, contract, prospecting site, claim, sale,
9 permit, or right-of-way

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

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

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

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

25 **Sec. 14.40.375. Tort immunity for personal injuries, death, or property**
26 **damage occurring on university land.** (a) Notwithstanding AS 09.65.200 and except
27 as provided in (b) of this section, the University of Alaska is not liable in tort, except
28 for an affirmative act that constitutes gross negligence or reckless or intentional
29 misconduct, for damages for the injury to or death of a person, or for property damage
30 to the property of a person, who enters onto or remains on land owned by the
31 University of Alaska.

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

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.