

SENATE BILL NO. 7

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATORS TAYLOR, Tim Kelly, Donley, Wilken, Leman

Introduced: 1/19/99

Referred: Resources, Finance

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

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

19 **(a)** Notwithstanding any other provision of law, university-grant land, state
 20 replacement land that becomes university-grant land on conveyance to the university,
 21 **land selected by and conveyed to the University of Alaska under AS 14.40.365,** and
 22 any other land owned by the University of Alaska is not and may not be treated as
 23 state public domain land. **Land conveyed to the University of Alaska under**
 24 **AS 14.40.365 shall be managed under AS 14.40.365 - 14.40.369 and policies of the**
 25 **Board of Regents of the University of Alaska.**

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

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

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

1 **Sec. 14.40.365. University land from Statehood Act land selection**
 2 **conveyances.** (a) The University of Alaska may select and is entitled to receive the
 3 conveyance of 250,000 acres of land conveyed to the state under Sec. 6(b) of the
 4 Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). Annually, the university shall select
 5 not more than 25 percent of the total acres of land to which the university is entitled
 6 after subtracting previous conveyances under this section, but not less than 25,000
 7 acres or the remaining entitlement under this section, whichever is less. If there is a
 8 disagreement between the university and the commissioner of natural resources about
 9 the land to be selected, the disagreement must be submitted to the governor, who shall
 10 make the final decision. If the amount of land to be conveyed exceeds the balance due
 11 the university under this section, the university shall set out the land to be conveyed
 12 in priority order. Land may not be selected if, on the date of its selection by the
 13 university, it

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

15 (2) is land

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

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

20 (3) is subject to

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

22 (B) a mining claim, a prospecting site, or an upland mining
 23 lease;

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

26 (5) is subject to conveyance under a land exchange or land settlement
 27 agreement.

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

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

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

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

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

11 (2) the commissioner of natural resources shall convey a document of
12 interim conveyance under (j) of this section or a patent to land.

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

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

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

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

27 (2) 90 percent of the proceeds derived from contracts, leases, licenses,
28 prospecting sites, claims, permits, rights-of-way, or easements, or from trespasses,
29 originating after the date of selection by the University of Alaska shall be held by the
30 state until the land has been conveyed by the patent or by a document of interim
31 conveyance; upon the issuance of a document of interim conveyance or a patent, the

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

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

11 (e) Unless the governor provides otherwise under (a) of this section, the
 12 commissioner of natural resources may not make a conveyance of a land selection
 13 made by the University of Alaska under this section if the commissioner determines
 14 that the proposed selection

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

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

20 (B) the commissioner reasonably believes the land may be
 21 selected by a municipality under AS 29.65, but the commissioner may not
 22 withhold under this subparagraph the conveyance of title to land selected by the
 23 university longer than three years after the date of the municipality's
 24 incorporation;

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

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

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

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

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

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

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

12 (1) is subject to

13 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
14 339);

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

16 (C) AS 19.10.010;

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

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

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

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

29 (i) The University of Alaska shall bear all costs of selection, platting,
30 surveying, and, except as provided in (k) of this section, conveyance of the land that
31 it selects under this section and, subject to appropriation, shall reimburse the

1 Department of Natural Resources for the reasonable costs incurred by that department
2 relating to that selection, platting, surveying, and conveyance. As to land due the
3 University of Alaska under (c) of this section,

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

6 (2) if the land is unsurveyed, the commissioner shall survey the exterior
7 boundaries of the land to be conveyed without interior subdivision and shall issue
8 patent in terms of the exterior boundary survey within one year of the date of
9 selection.

10 (j) For land due the University of Alaska under (c) of this section that is
11 unsurveyed, pending the survey of exterior boundaries and issuance of patent, the
12 commissioner of natural resources shall, within one year of the date of selection,
13 prepare and provide to the University of Alaska a document of interim conveyance for
14 the land to be conveyed.

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

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

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

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

1 scheduled approval by the Board of Regents of the plan,

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

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

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

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

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

20 **Sec. 14.40.367. Confidential records.** Notwithstanding AS 09.25.100 -
21 09.25.220, on a determination that it is in the best interest of the University of Alaska
22 or on the request of the person who has provided the information, the president of the
23 university may keep the following confidential:

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

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

29 (3) all geological, geophysical, engineering, architectural, sales,
30 appraisal, gross receipts, net receipts, or other financial information relating to
31 university land or an interest in university land and considered for or offered for

1 disposal or currently subject to a contract;

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

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

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

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

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

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

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

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

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

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

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

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

6 * **Sec. 7.** AS 29.45.030(a) is amended to read:

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

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

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

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

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

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

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

30 (4) property of a nonbusiness organization composed entirely of persons
 31 with 90 days or more of active service in the armed forces of the United States whose

1 conditions of service and separation were other than dishonorable, or the property of
2 an auxiliary of that organization;

3 (5) money on deposit;

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

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

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

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