

HOUSE CS FOR CS FOR SENATE BILL NO. 7(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 2/11/00

Referred: Finance

Sponsor(s): SENATORS TAYLOR, Tim Kelly, Donley, Wilken, Leman, Pearce, Mackie, Ward

REPRESENTATIVE Halero

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.** The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

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

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

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

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

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

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

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

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

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

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

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

19 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section
20 to read:

21 **LEGISLATIVE INTENT.** It is the intent of the legislature that the University of
22 Alaska

23 (1) receive land under this Act in an expeditious fashion; and

24 (2) encourage the development of in-state value-added industries to the
25 maximum extent feasible when developing land conveyed under AS 14.40.365.

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

27 (a) The Board of Regents shall

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

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

- 1 (3) confer such appropriate degrees as it may determine and prescribe;
- 2 (4) have the care, control, and management of
- 3 (A) all the real and personal property of the university; and
- 4 (B) land
- 5 (i) conveyed to the Board of Regents by the
- 6 commissioner of natural resources in the settlement of the claim of the
- 7 University of Alaska to land granted to the state in accordance with the
- 8 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance
- 9 with the Act of January 21, 1929 (45 Stat. 1091), as amended; **and**
- 10 **(ii) selected by the University of Alaska and conveyed**
- 11 **to it by the commissioner of natural resources under AS 14.40.365,**
- 12 **except as provided in AS 14.40.368(2);**
- 13 (5) keep a correct and easily understood record of the minutes of every
- 14 meeting and all acts done by it in pursuance of its duties;
- 15 (6) under procedures to be established by the commissioner of
- 16 administration, and in accordance with existing procedures for other state agencies,
- 17 have the care, control, and management of all money of the university and keep a
- 18 complete record of all money received and disbursed;
- 19 (7) adopt reasonable rules for the prudent trust management and the
- 20 long-term financial benefit to the university of the land of the university;
- 21 (8) provide public notice of sales, leases, exchanges, and transfers of
- 22 the land of the university or of interests in land of the university.

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

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

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

26 replacement land that becomes university-grant land on conveyance to the university,

27 **land selected by and conveyed to the University of Alaska under AS 14.40.365,** and

28 any other land owned by the University of Alaska is not and may not be treated as

29 state public domain land. **Land conveyed to the University of Alaska under**

30 **AS 14.40.365 shall be managed under AS 14.40.365 - 14.40.368 and policies of the**

31 **Board of Regents of the University of Alaska.**

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

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

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

7 **Sec. 14.40.365. University land from Statehood Act land selection**
 8 **conveyances.** (a) The University of Alaska may select and is entitled to receive the
 9 conveyance of not less than 250,000 and not more than 260,000 acres of land
 10 conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72
 11 Stat. 339). The Board of Regents of the University of Alaska shall annually submit
 12 a list of selections to the commissioner of natural resources and, if the list of selections
 13 contains land within the boundaries of a municipality, the Board of Regents of the
 14 University of Alaska shall submit the list to the municipality. If there is disagreement
 15 between the university and the commissioner of natural resources about the land
 16 selected, the disagreement must be submitted to the governor, who shall make the final
 17 decision. The Board of Regents and the governor shall annually and jointly submit to
 18 the legislature, within 30 days of the beginning of a regular legislative session, a list
 19 of the selections of land proposed to be conveyed by the state to the University of
 20 Alaska under this section. If the list submitted to the legislature contains land within
 21 the boundaries of a municipality, the Board of Regents and the governor shall provide
 22 a copy of the list to the municipality. Each list must contain not more than 25 percent
 23 of the total acres of land to which the university is entitled after subtracting previous
 24 conveyances under this section, but not less than 25,000 acres or the remaining
 25 entitlement under this section, whichever is less. The legislature may by law approve
 26 or disapprove the list of selections submitted to it. A list of selections submitted may
 27 not be considered approved for conveyance to the University of Alaska unless the
 28 legislature acts to approve the list during the legislative session during which the list
 29 was submitted. If the amount of land to be conveyed exceeds the balance due the
 30 university under this section, the university shall set out the land to be conveyed in
 31 priority order. Land may not be selected if, on the date of its selection by the

1 university, it

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

3 (2) is located within a municipality that has not received at least 80
4 percent of its land entitlement under AS 29.65 and is not vacant, unappropriated,
5 unreserved land; in this paragraph, "vacant, unappropriated, unreserved land" has the
6 meaning given in AS 29.65.130;

7 (3) is land

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

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

12 (4) is subject to

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

14 (B) a mining claim, offshore prospecting permit, a prospecting
15 site, an upland mining lease, or a mining leasehold location;

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

18 (6) is subject to conveyance under a land exchange or land settlement
19 agreement.

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

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

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

29 (c) When the University of Alaska selects the land to which it is entitled under
30 this section, selections must be made in parcels of 640 acres or larger unless the
31 selection is an isolated tract or the commissioner of natural resources finds it is in the

1 best interest of the state to convey less. When the University of Alaska becomes
2 entitled to land under this section, the commissioner of natural resources shall 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, for land selected under (a) of
5 this section but not yet patented to the University of Alaska or for which a document
6 of interim conveyance has not been issued to the University of Alaska under this
7 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 paragraph is the authority that the state otherwise would have had under existing
13 laws and regulations had the land not been selected by the University of Alaska;

14 (2) income from and management of the land is subject to
15 AS 14.40.368.

16 (e) Unless the governor provides otherwise under (a) of this section, the
17 governor may not include on a list of selections of land submitted to the legislature a
18 land selection made by the University of Alaska under this section if the commissioner
19 of natural resources determines that the proposed selection

20 (1) includes land that the commissioner, in consultation with the
21 commissioner of fish and game, determines has demonstrated value to the public as
22 a habitat area that is especially critical to the perpetuation of fish or wildlife;

23 (2) includes land for which, at the time of its selection under this
24 section, a municipality has made a selection under AS 29.65 unless the land selection
25 is, at a later date, rejected by the commissioner of natural resources or relinquished by
26 the municipality;

27 (3) includes land within the boundaries of a municipality, the
28 municipality has a remaining entitlement under AS 29.65, and the municipality selects
29 the land under AS 29.65 after its selection by the Board of Regents and before the
30 Board of Regents and the governor jointly submit their list of land selections to the
31 legislature; or

1 (4) includes land that, at the time of its selection under this section,
 2 (A) is subject to an oil and gas exploration license; or
 3 (B) the commissioner reasonably believes will be made part of
 4 an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the
 5 commissioner may not refuse to convey title to land to the University of Alaska
 6 under this subparagraph for more than three years after its first selection by the
 7 University of Alaska.

8 (f) When land is conveyed to the University of Alaska under this section, the
 9 University of Alaska takes the land subject to any possessory interest held by another
 10 person on the effective date of the conveyance.

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

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

16 (1) is subject to

17 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
 18 339);

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

20 (C) AS 19.10.010;

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

23 (E) any easement, right-of-way, or other access claimed,
 24 reserved, occupied, or possessed by the state and any rights of the state under
 25 former 43 U.S.C. 932 (sec. 8, Act of July 26, 1866, 14 Stat. 253);

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

28 (3) based on a land selection filed by the University of Alaska on or
 29 after the effective date of this section and until the day before the day that is the fifth
 30 anniversary of the effective date of this section, is subject to reservation by the state
 31 in perpetuity of all oil and gas that may be in or on the land, together with the right

1 to explore the land for oil and gas and to remove from the land all oil and gas located
2 in and on it.

3 (i) The University of Alaska shall bear all costs of selection, platting,
4 surveying, and, except as provided in (k) of this section, conveyance of the land that
5 it selects under this section and, subject to appropriation, shall reimburse the
6 Department of Natural Resources for the reasonable costs incurred by that department
7 relating to that selection, platting, surveying, and conveyance. As to land due the
8 University of Alaska under (c) of this section,

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

11 (2) if the land is unsurveyed, the commissioner shall survey the exterior
12 boundaries of the land to be conveyed without interior subdivision and shall issue
13 patent in terms of the exterior boundary survey within one year of the effective date
14 of the approval by the legislature of the list containing the land.

15 (j) For land due the University of Alaska under (c) of this section that is
16 unsurveyed, pending the survey of exterior boundaries and issuance of patent, the
17 commissioner of natural resources shall, within one year of the effective date of the
18 approval by the legislature of the list containing the land, prepare and provide to the
19 University of Alaska a document of interim conveyance for the land to be conveyed.

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

25 (l) The University of Alaska may not make a land selection under this section
26 after December 31, 2010.

27 (m) The commissioner may not convey land under this section unless the
28 commissioner reserves easements, rights-of-way, and other forms of access

29 (1) required under the Constitution of the State of Alaska or other law;
30 and

31 (2) sufficient to ensure all current access, and reasonably foreseeable

1 future access, to adjacent public or private land or water.

2 **Sec. 14.40.366. Management requirements for university land.** (a) The
3 Board of Regents shall, by policy, establish procedures for mineral entry or location
4 and mineral leasing on university land selections made under AS 14.40.365 that are
5 substantially similar to mineral entry, location, and leasing procedures for state land
6 under AS 38.05.185 - 38.05.275.

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

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

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

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

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

22 (c) Subject to appropriation of the income, the Board of Regents shall use an
23 amount up to 20 percent of the earnings derived from the management of university
24 land conveyed to the university under AS 14.40.365 for programs and services
25 supporting the development of natural resources within the region from which the
26 earnings were derived. The earnings shall be used by the campus or campuses located
27 within the region from which the earnings were derived if a municipality within which
28 the campus or campuses are located provides to the campus or campuses a match of
29 the same amount. This subsection does not apply if the match is not made available
30 by a municipality.

31 (d) Before the conveyance or the disposal of an interest in the land to a third

1 party, land conveyed to the University of Alaska under AS 14.40.365 shall be managed
 2 in a manner that, to the maximum extent practicable, permits activities of the public
 3 that do not interfere with the use of the land by the university.

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

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

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

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

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

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

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

24 **Sec. 14.40.368. Land subject to encumbrances and trespasses.** Except as
 25 provided in AS 14.40.365(b), for the land selected by the University of Alaska under
 26 AS 14.40.365 that is subject to a lease, license, contract, prospecting site, claim, sale,
 27 permit, right-of-way, or easement, or to trespass,

28 (1) if the lease, license, contract, prospecting site, claim, sale, permit,
 29 right-of-way, easement, or trespass

30 (A) existed before the selection of the land by the University
 31 of Alaska, the state is entitled to receive the income obtained from the lease,

1 license, contract, prospecting site, claim, sale, permit, right-of-way, easement,
 2 or trespass for the duration of the term of the lease, license, contract,
 3 prospecting site, claim, sale, permit, right-of-way, or easement, or of the
 4 trespass, and during any renewal of it that is authorized by the lease, license,
 5 contract, prospecting site, claim, sale permit, right-of-way, or easement, or by
 6 law;

7 (B) did not exist before the selection of the land by the
 8 University of Alaska,

9 (i) the state is entitled to receive the income obtained
 10 from the lease, license, contract, prospecting site, claim, sale, permit,
 11 right-of-way, or easement, or from trespass before the recording of the
 12 conveyance to the University of Alaska by the issuance of a document
 13 of interim conveyance or a patent;

14 (ii) the University of Alaska is entitled to receive the
 15 income obtained from the lease, license, contract, prospecting site,
 16 claim, sale, permit, right-of-way, or easement, or from trespass on the
 17 date of and after the recording of the conveyance to the University of
 18 Alaska by the issuance of a document of interim conveyance or a
 19 patent;

20 (2) the responsibility for the management of the land vests with the
 21 University of Alaska only upon conclusion of the term of the lease, license, contract,
 22 prospecting site, claim, sale, permit, right-of-way, or easement, and any renewal
 23 authorized by the lease, license, contract, prospecting site, claim, sale, permit, right-of-
 24 way, or easement, or by law, if the lease, license, contract, prospecting site, claim,
 25 sale, permit, right-of-way, or easement existed before the land's being selected by the
 26 university; if the lease, license, contract, prospecting site, claim, sale, permit, right-of-
 27 way, or easement was entered into after selection, then the responsibility for
 28 management vests with the university on the date of recording of the conveyance of
 29 the land to the university by a document of interim conveyance or patent.

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

31 (a) The Board of Regents shall establish a separate endowment trust fund in

1 which shall be held in trust in perpetuity all

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

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

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

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

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

11 (1) municipal property, including property held by a public corporation
12 of a municipality, [OR] state property, property of the University of Alaska, or land
13 that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L.
14 84-830, 70 Stat. 709, except that

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

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

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

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

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

1 cemetery, hospital, or educational purposes;

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

6 (5) money on deposit;

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

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

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

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

18 * **Sec. 8.** AS 41.17.115(b) is amended to read:

19 (b) The commissioner shall adopt regulations for the protection of riparian
20 areas; the regulations may include higher standards of protection for fish and other
21 public resources on land managed by the department **or owned by the University of**
22 **Alaska** than on other public land or private land. The regulations may vary by region
23 of the state and must take into consideration reasonable classification of water bodies
24 and the economic feasibility of timber operations.

25 * **Sec. 9.** AS 41.17.118(a) is amended to read:

26 (a) The riparian standards for state land, **including land owned by the**
27 **University of Alaska,** are as follows:

28 (1) on state forest land managed by the department **or owned by the**
29 **University of Alaska** that is located north of the Alaska Range, harvest of timber may
30 not be undertaken within 100 feet immediately adjacent to an anadromous or high
31 value resident fish water body unless the division determines that adequate protection

1 remains for the fish habitat;

2 (2) on state forest land managed by the department **or owned by the**
 3 **University of Alaska** that is located south of the Alaska Range,

4 (A) harvest of timber may not be undertaken within 100 feet
 5 immediately adjacent to an anadromous or high value resident fish water body;

6 (B) between 100 and 300 feet from the water body, timber
 7 harvest may occur but shall be consistent with the maintenance of important
 8 fish and wildlife habitat.

9 * **Sec. 10.** AS 41.17.950(11) is amended to read:

10 (11) "other public land" means state land managed by state agencies
 11 other than the department **or the University of Alaska and** [,] land owned by a
 12 municipality [, AND LAND OWNED BY THE UNIVERSITY OF ALASKA];

13 * **Sec. 11.** AS 41.17.950(13) is amended to read:

14 (13) "riparian area" means

15 (A) the areas specified in AS 41.17.116(a) on private land in the
 16 coastal forest of spruce or hemlock;

17 (B) the areas specified in regulations adopted by the
 18 commissioner under AS 41.17.116(b) on private land outside the coastal forest
 19 of spruce or hemlock;

20 (C) the area 100 feet from the shore or bank or an anadromous
 21 or high value resident fish water body on state land managed by the department
 22 **or owned by the University of Alaska** and on other public land;