

CS FOR SENATE BILL NO. 7(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 2/5/99

Referred: Finance

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

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

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

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

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

23 (a) The Board of Regents shall

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

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

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

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

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

31 (B) land

1 (i) conveyed to the Board of Regents by the
 2 commissioner of natural resources in the settlement of the claim of the
 3 University of Alaska to land granted to the state in accordance with the
 4 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance
 5 with the Act of January 21, 1929 (45 Stat. 1091), as amended; **and**

6 **(ii) selected by the University of Alaska and conveyed**
 7 **to it by the commissioner of natural resources under AS 14.40.365,**
 8 **except as provided in AS 14.40.368(3);**

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

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

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

17 (8) provide public notice of sales, leases, exchanges, and transfers of
 18 the land of the university or of interests in land of the university.

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

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

21 **(a)** Notwithstanding any other provision of law, university-grant land, state
 22 replacement land that becomes university-grant land on conveyance to the university,
 23 **land selected by and conveyed to the University of Alaska under AS 14.40.365,** and
 24 any other land owned by the University of Alaska is not and may not be treated as
 25 state public domain land. **Land conveyed to the University of Alaska under**
 26 **AS 14.40.365 shall be managed under AS 14.40.365 - 14.40.368 and policies of the**
 27 **Board of Regents of the University of Alaska.**

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

31 **(c)** The land **described in (a) of this section** is subject to condemnation for

1 public purpose in accordance with law.

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

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

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

25 (2) is land

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

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

30 (3) is subject to

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

1 (B) a mining claim, a prospecting site, an upland mining lease,
2 or a mining leasehold location;

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

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

7 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and
8 management of land from the Department of Natural Resources to the Board of
9 Regents of the University of Alaska under this section includes the interest of the state
10 in

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

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

16 (c) When the University of Alaska selects the land to which it is entitled under
17 this section, selections must be made in parcels of 640 acres or larger unless the
18 selection is an isolated tract or the commissioner of natural resources finds it is in the
19 best interest of the state to convey less. When the University of Alaska becomes
20 entitled to land under this section, the commissioner of natural resources shall convey
21 a document of interim conveyance under (j) of this section or a patent to land.

22 (d) Notwithstanding any other provision of law, for land selected under (a) of
23 this section but not yet patented to the University of Alaska or for which a document
24 of interim conveyance has not been issued to the University of Alaska under this
25 section,

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

31 (A) is the authority that the state otherwise would have had

1 under existing laws and regulations had the land not been selected by the
2 University of Alaska; and

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

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

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

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

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

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

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

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

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

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

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

10 (1) the state is entitled to receive the income obtained from the lease,
11 license, contract, prospecting site, claim, sale, permit, right-of-way, or easement, or
12 from trespass,

13 (A) for the duration of the term of the lease, license, contract,
14 prospecting site, claim, sale, permit, right-of-way, or easement, or from
15 trespass, and during any renewal of it that is authorized by the lease, license,
16 contract, prospecting site, claim, sale, permit, right-of-way, or easement, or by
17 law, if the lease, license, contract, prospecting site, claim, sale, permit, right-of-
18 way, or easement existed before the selection of the land by the University of
19 Alaska;

20 (B) until the recorder of the conveyance to the University of
21 Alaska by the issuance of a document of interim conveyance or a patent;

22 (2) the University of Alaska is entitled to receive the income obtained
23 from the lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or
24 easement, or from trespass, in situations not described in (1) of this section;

25 (3) the responsibility for the management of the land vests with the
26 University of Alaska only upon conclusion of the term of the lease, license, contract,
27 prospecting site, claim, sale, permit, right-of-way, or easement, and any renewal
28 authorized by the lease, license, contract, prospecting site, claim, sale, permit, right-of-
29 way, or easement, or by law, if the lease, license, contract, prospecting site, claim,
30 sale, permit, right-of-way, or easement existed before the land's being selected by the
31 university; if the lease, license, contract, prospecting site, claim, sale, permit, right-of-

1 way, or easement was entered into after selection, then the responsibility for
 2 management rests with the university on the date of recording of the conveyance of
 3 the land to the university by a document of interim conveyance or patent.

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

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

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

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

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

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

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

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

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

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

30 (C) an ownership interest of a municipality in real property
 31 located outside the municipality acquired after December 31, 1990, is taxable

1 by another municipality; however, a borough may not tax an interest in real
2 property located in the borough and owned by a city in that borough;

3 (2) household furniture and personal effects of members of a
4 household;

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

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

11 (5) money on deposit;

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

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

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

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