

CS FOR SENATE BILL NO. 7(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/3/99

Offered: 4/26/99

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.** 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(2);**

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

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

30 (2) is land

31 (A) included in a five-year proposed oil and gas leasing

1 program under AS 38.05.180(b); or

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

4 (3) is subject to

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

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

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

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

12 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and
13 management of land from the Department of Natural Resources to the Board of
14 Regents of the University of Alaska under this section includes the interest of the state
15 in

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

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

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

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

31 (1) the state is authorized to enter into contracts and grant leases,

1 licenses, prospecting sites, claims, permits, rights-of-way, or easements and any interim
 2 conveyance or patent shall be subject to the contract, lease, license, prospecting site,
 3 claim, permit, right-of-way, or easement, except that the authority granted the state by
 4 this subsection

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

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

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

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

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

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

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

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

31 (3) includes land that, at the time of its selection under this section,

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

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

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

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

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

15 (1) is subject to

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

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

19 (C) AS 19.10.010;

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

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

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

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

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

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

9 (2) if the land is unsurveyed, the commissioner shall survey the exterior
 10 boundaries of the land to be conveyed without interior subdivision and shall issue
 11 patent in terms of the exterior boundary survey within one year of the later of the
 12 effective date of the approval by the legislature of the list containing the land or the
 13 adjournment of the legislative session during which the list containing the land was not
 14 disapproved by the legislature.

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 later of the effective
 18 date of the approval by the legislature of the list containing the land or the
 19 adjournment of the legislative session during which the list containing the land was not
 20 disapproved by the legislature, prepare and provide to the University of Alaska a
 21 document of interim conveyance for the land to be conveyed.

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

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

29 **Sec. 14.40.366. Management requirements for university land.** (a) The
 30 Board of Regents shall, by policy, establish procedures for mineral entry or location
 31 and mineral leasing on university land selections made under AS 14.40.365 that are

1 substantially similar to mineral entry, location, and leasing procedures for state land
2 under AS 38.05.185 - 38.05.275.

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

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

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

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

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

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

27 (d) Before the conveyance or the disposal of an interest in the land to a third
28 party, land conveyed to the University of Alaska under AS 14.40.365 shall be managed
29 in a manner that, to the maximum extent practicable, permits activities of the public
30 that do not interfere with the use of the land by the university.

31 **Sec. 14.40.367. Confidential records.** Notwithstanding AS 09.25.100 -

1 09.25.220, on a determination that it is in the best interest of the University of Alaska
2 or on the request of the person who has provided the information, the president of the
3 university may keep the following confidential:

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

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

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

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

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

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

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

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

26 (A) existed before the selection of the land by the University
27 of Alaska, the state is entitled to receive the income obtained from the lease,
28 license, contract, prospecting site, claim, sale, permit, right-of-way, easement,
29 or trespass for the duration of the term of the lease, license, contract,
30 prospecting site, claim, sale, permit, right-of-way, or easement, or of the
31 trespass, and during any renewal of it that is authorized by the lease, license,

1 contract, prospecting site, claim, sale permit, right-of-way, or easement, or by
2 law;

3 (B) did not exist before the selection of the land by the
4 University of Alaska,

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

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

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

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

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

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

31 (2) net income derived from the sale, lease, or management of the

1 **land selected by and conveyed to the University of Alaska under AS 14.40.365;**
 2 **and**

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

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

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

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

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

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

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

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

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

29 (4) property of a nonbusiness organization composed entirely of persons
 30 with 90 days or more of active service in the armed forces of the United States whose
 31 conditions of service and separation were other than dishonorable, or the property of

1 an auxiliary of that organization;

2 (5) money on deposit;

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

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

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

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