

SENATE BILL NO. 188

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATOR WARD

Introduced: 4/10/01

Referred: Health, Education and Social Services, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an education fund and a land endowment for public education;**
2 **and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 37.14 is amended by adding new sections to read:

5 **Article 7. Education Fund.**

6 **Sec. 37.14.600. Education fund established.** (a) Under art. IX, sec. 18,
7 Constitution of the State of Alaska, the education fund is established as a separate fund
8 of the state.

9 (b) The principal of the fund consists of

10 (1) legislative appropriations to the fund; and

11 (2) gifts, bequests, and contributions of cash or other assets from a
12 person.

13 (c) The net income of the fund shall be determined by the commissioner of
14 revenue in accordance with investment accounting principles and in a manner that

1 preserves the distinction between principal and income.

2 **Sec. 37.14.610. Powers and duties of the commissioner of revenue.** The
3 commissioner of revenue is the treasurer of the fund and has the power and duty to

4 (1) act as official custodian of the cash and investments belonging to
5 the fund by securing adequate and safe custodial facilities;

6 (2) receive all items of cash and investments belonging to the fund;

7 (3) collect the principal and income from investments owned or
8 acquired by the fund and deposit the amounts in separate principal and income
9 accounts for the fund;

10 (4) invest and reinvest the assets of the fund as provided in this section
11 and as provided for the investment of funds under AS 37.14.170;

12 (5) exercise the powers of an owner with respect to the assets of the
13 fund;

14 (6) maintain accounting records of the fund in accordance with
15 investment accounting principles and with distinction between the principal and
16 income accounts of the fund;

17 (7) engage an independent firm of certified public accountants to
18 annually audit the financial condition of the fund's investments and investment
19 transactions;

20 (8) enter into and enforce contracts or agreements considered
21 necessary for the investment purposes of the fund;

22 (9) report to the board the condition and investment performance of the
23 fund;

24 (10) do all acts, whether or not expressly authorized, that the
25 commissioner of revenue considers necessary or proper in administering the assets of
26 the fund.

27 **Sec. 37.14.620. Administration of the fund; fund board established.** (a)
28 The fund shall be administered by the Education Fund Board.

29 (b) The Education Fund Board is established in the Department of Education
30 and Early Development. The board is composed of

31 (1) the governor or a designee of the governor;

1 (2) the commissioner of natural resources or the commissioner's
2 designee;

3 (3) the commissioner of education and early development or the
4 commissioner's designee; and

5 (4) four public members appointed by the governor; in appointing the
6 public members, the governor shall give a preference to persons who have experience
7 and expertise in

8 (A) education; or

9 (B) private sector resource development.

10 **Sec. 37.14.630. Powers and duties of the board.** When acting as
11 administrator of the fund, the board shall

12 (1) hold regular and special meetings it considers necessary; the board
13 may hold meetings by teleconference;

14 (2) have the care, control, and management of land selected by and
15 conveyed to the fund by the commissioner of natural resources under AS 37.14.650;

16 (3) keep audio tape recordings of each meeting of the board to be made
17 available on request; and

18 (4) submit to the governor and make available to the legislature by
19 February 1 each year a report describing

20 (A) expenditures made during the preceding fiscal year from
21 the fund that are derived from sales, leases, exchanges, or transfers of the land
22 of the fund or of interests in land of the fund that were selected by and
23 conveyed to the fund under AS 37.14.650; and

24 (B) the annual level of contributions to, income of, and
25 expenses of the fund.

26 **Sec. 37.14.640. Uses of fund principal and net income.** (a) The principal of
27 the fund shall be retained perpetually in the fund for investment as specified in
28 AS 37.14.610.

29 (b) The net income of the fund may be annually appropriated by the
30 legislature for the support of public elementary and secondary education and for
31 support of the University of Alaska.

Sec. 37.14.650. Fund land from Statehood Act land selection conveyances.

(a) The board may select and is entitled to receive the conveyance of 5,000,000 acres of land conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). The board shall annually submit a list of selections to the commissioner of natural resources. If there is disagreement between the board and the commissioner of natural resources about the land selected, the disagreement must be submitted to the governor, who shall make the final decision. The board and the governor shall annually and jointly submit to the legislature, within 30 days of the beginning of a regular legislative session, a list of the selections of land proposed to be conveyed to the fund under this section. Each list must contain not more than 25 percent of the total acres of land to which the fund is entitled after subtracting previous conveyances under this section, but not less than 25,000 acres or the remaining entitlement under this section, whichever is less. The legislature may by law approve or disapprove the list of selections submitted to it. A list of selections submitted shall be considered approved for conveyance to the fund if the legislature does not disapprove the list during the legislative session during which the list was submitted. If the amount of land to be conveyed exceeds the balance due the fund under this section, the fund shall set out the land to be conveyed in priority order. Land may not be selected if, on the date of its selection by the board, it

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

(2) is land

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

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

(3) is subject to

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

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

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

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

3 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and
4 management of land from the Department of Natural Resources to the fund under this
5 section includes the interest of the state in

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

8 (2) the oil and gas that may be in or on the land, but only as to land
9 that is selected by the board under this section on and after the date that is the fifth
10 anniversary of the effective date of this section.

11 (c) When the board selects the land to which it is entitled under this section,
12 selections must be made in parcels of 640 acres or larger unless the selection is an
13 isolated tract or the commissioner of natural resources finds it is in the best interest of
14 the state to convey less. When the fund becomes entitled to land under this section,
15 the commissioner of natural resources shall convey a document of interim conveyance
16 under (j) of this section or a patent to land.

17 (d) Notwithstanding any other provision of law, for land selected under (a) of
18 this section but not yet patented to the fund or for which a document of interim
19 conveyance has not been issued to the fund under this section,

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

25 (A) is the authority that the commissioner otherwise would
26 have had under existing laws and regulations had the land not been selected by
27 the fund; and

28 (B) may be exercised only if the fund has concurred before the
29 action is taken by the commissioner;

30 (2) income from and management of the land is subject to
31 AS 37.14.680.

1 (e) Unless the governor provides otherwise under (a) of this section, the
 2 governor may not include on a list of selections of land submitted to the legislature a
 3 land selection made by the fund under this section if the commissioner of natural
 4 resources determines that the proposed selection

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

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

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

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

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

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

21 (f) When land is conveyed to the fund under this section, the fund takes the
 22 land subject to any possessory interest held by another person on the effective date of
 23 the conveyance.

24 (g) In conveying land to the fund under this section, the commissioner of
 25 natural resources shall give public notice that substantially complies with notice
 26 requirements under AS 38.05.945(b) and (c) and provide for access under
 27 AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not apply.

28 (h) Land transferred or conveyed to the fund under this section

29 (1) is subject to

30 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
 31 339);

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

2 (C) AS 19.10.010;

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

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

7 (2) excludes any interest transferred to the state by quitclaim deed
8 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.
9 141;

10 (3) based on a land selection filed by the fund on or after the effective
11 date of this section and until the day before the day that is the fifth anniversary of the
12 effective date of this section, is subject to reservation by the Department of Natural
13 Resources in perpetuity of all oil and gas that may be in or on the land, together with
14 the right to explore the land for oil and gas and to remove from the land all oil and gas
15 located in and on it.

16 (i) The fund shall bear all costs of selection, platting, surveying, and, except as
17 provided in (k) of this section, conveyance of the land that it selects under this section
18 and, subject to appropriation, shall reimburse the Department of Natural Resources for
19 the reasonable costs incurred by that department relating to that selection, platting,
20 surveying, and conveyance. As to land due the fund under (c) of this section,

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

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

29 (j) For land due the fund under (c) of this section that is unsurveyed, pending
30 the survey of exterior boundaries and issuance of patent, the commissioner of natural
31 resources shall, within one year of the later of the effective date of the approval by the

1 legislature of the list containing the land or the adjournment of the legislative session
 2 during which the list containing the land was not disapproved by the legislature,
 3 prepare and provide to the fund a document of interim conveyance for the land to be
 4 conveyed.

5 (k) Except as provided in AS 37.14.680(2), management of land conveyed to
 6 the fund by patent or by a document of interim conveyance vests with the fund from
 7 the date of recording of the patent or document of interim conveyance. The
 8 Department of Natural Resources shall pay the cost of recording all patents and
 9 documents of interim conveyance.

10 (l) The board may not make a land selection under this section after
 11 December 31, 2012.

12 **Sec. 37.14.660. Management and disposition of land.** (a) The board shall,
 13 by policy, establish procedures for mineral entry or location and mineral leasing on
 14 land selections made under AS 37.14.650 that are substantially similar to mineral
 15 entry, location, and leasing procedures for state land under AS 38.05.185 - 38.05.275.

16 (b) Notwithstanding other provisions of law, the board shall seek public
 17 comment on proposals for development, exchange, or sale of land selections made
 18 under AS 37.14.650. The board shall adopt policies that provide that the fund shall
 19 prepare an annual plan for management and disposition of fund land under this section
 20 and shall, not less than 60 days before scheduled approval by the board of the plan,

21 (1) make copies of the plan available at all legislative information
 22 offices and at other locations as the board may designate;

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

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

28 (4) seek public comment on the annual plan before action by the board
 29 approving the plan.

30 **Sec. 37.14.670. Confidential records.** Notwithstanding AS 40.25.110 -
 31 40.25.125 and 40.25.220, on a determination that it is in the best interest of the fund or

1 on the request of the person who has provided the information, the board may keep the
2 following confidential:

3 (1) the name of a person applying for the sale, lease, or other disposal
4 of land or an interest in land conveyed to the fund under AS 37.14.650;

5 (2) before the announced time of opening of an offer to purchase,
6 lease, or obtain a disposal of land conveyed to the fund under AS 37.14.650, the
7 names of the participants and the terms of their offers;

8 (3) all geological, geophysical, engineering, architectural, sales,
9 appraisal, gross receipts, net receipts, or other financial information relating to land or
10 an interest in land conveyed to the fund under AS 37.14.650 and considered for or
11 offered for disposal or currently subject to a contract;

12 (4) cost data and financial information submitted by an applicant in
13 support of applications for bonds, leases, or other information in offerings and
14 ongoing operations relating to management of land conveyed to the fund under
15 AS 37.14.650;

16 (5) applications for rights-of-way or easements across land conveyed
17 to the fund under AS 37.14.650; and

18 (6) requests for information about or applications by public agencies
19 for land conveyed to the fund under AS 37.14.650 that is being considered for use for
20 a public purpose.

21 **Sec. 37.14.680. Land subject to encumbrances and trespasses.** Except as
22 provided in AS 37.14.650(b), for the land selected by the board under AS 37.14.650
23 that is subject to a lease, license, contract, prospecting site, claim, sale, permit, right-
24 of-way, or easement, or to trespass,

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

27 (A) existed before the selection of the land by the board, the
28 general fund or permanent fund, as appropriate, the state is entitled to receive
29 the income obtained from the lease, license, contract, prospecting site, claim,
30 sale, permit, right-of-way, easement, or trespass for the duration of the term of
31 the lease, license, contract, prospecting site, claim, sale, permit, right-of-way,

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

4 (B) did not exist before the selection of the land by the board,

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

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

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

26 **Sec. 37.14.690. Customary and traditional uses to be continued.** When
 27 land selected by the fund under AS 37.14.650 has been conveyed to it, before
 28 conveying or disposing of an interest in land to a third party, the fund shall manage the
 29 land in a manner that permits customary and traditional uses of the resources of that
 30 land to the maximum extent practicable.

31 **Sec. 37.14.699. Definitions.** In AS 37.14.600 - 37.14.699,

1 (1) "board" means the Education Fund Board;

2 (2) "fund" means the education fund established in art. IX, sec. 18,
3 Constitution of the State of Alaska.

4 * **Sec. 2.** AS 29.45.030(a) is amended to read:

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

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

10 (A) a private leasehold, contract, or other interest in the
11 property is taxable to the extent of the interest; however, an interest created by
12 a nonexclusive use agreement between the Alaska Industrial Development and
13 Export Authority and a user of an integrated transportation and port facility
14 owned by the authority and initially placed in service before January 1, 1999,
15 is taxable only to the extent of, and for the value associated with, those specific
16 improvements used for lodging purposes;

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, to other land
22 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, **or to land conveyed by the state to the**
25 **education fund under AS 37.14.650**;

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

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

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

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

7 (5) money on deposit;

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

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

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

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

19 * **Sec. 3.** This Act takes effect on the effective date of an amendment to the Constitution of
20 the State of Alaska relating to education proposed by the Twenty-Second Alaska State
21 Legislature that creates an education fund for public elementary and secondary education and
22 for the University of Alaska.