

CS FOR HOUSE BILL NO. 333(EDU)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON EDUCATION

Offered: 3/22/04

Referred: Health, Education and Social Services, Finance

Sponsor(s): REPRESENTATIVES OGG, COGHILL AND HOLM, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an endowment for public education and the University of Alaska;**
2 **relating to university land; establishing a trust fund for public education; and providing**
3 **for an effective date."**

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

5 * **Section 1.** AS 14.40.170(a) is amended to read:

6 (a) The Board of Regents shall

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

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

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

12 (4) **except as provided under AS 14.40.507**, have the care, control,
13 and management of

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

1 (B) land

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

7 (ii) SELECTED BY THE UNIVERSITY OF ALASKA
8 AND CONVEYED TO IT BY THE COMMISSIONER OF
9 NATURAL RESOURCES UNDER AS 14.40.365;]

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

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

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

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

20 (9) administer, manage, market, and promote a postsecondary
21 education savings program, including the Alaska Higher Education Savings Trust
22 under AS 14.40.802 and the Alaska advance college tuition savings fund under
23 AS 14.40.803 - 14.40.817.

24 * **Sec. 2.** AS 14.40.291(a) is amended to read:

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
28 UNDER AS 14.40.365,] and any other land owned by the University of Alaska,
29 **except for land transferred under AS 14.40.507,** is not and may not be treated as
30 state public domain land. [LAND CONVEYED TO THE UNIVERSITY OF
31 ALASKA UNDER AS 14.40.365 SHALL BE MANAGED UNDER AS 14.40.365 -

1 14.40.368 AND POLICIES OF THE BOARD OF REGENTS OF THE UNIVERSITY
2 OF ALASKA.]

3 * **Sec. 3.** AS 14.40.400(a) is amended to read:

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

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

8 (2) **receipts transferred to the fund under AS 14.40.505** [NET
9 INCOME DERIVED FROM THE SALE, LEASE, OR MANAGEMENT OF THE
10 LAND SELECTED BY AND CONVEYED TO THE UNIVERSITY OF ALASKA
11 UNDER AS 14.40.365]; and

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

14 * **Sec. 4.** AS 14.40 is amended by adding new sections to read:

15 **Sec. 14.40.495. Education trust and education trust fund established.** (a)

16 The education trust and education trust fund are established as a trust and a separate
17 education trust fund of the state.

18 (b) The education trust corpus is composed of the undivided interest in lands
19 conveyed to it under AS 14.40.507.

20 (c) The principal of the education trust fund consists of

21 (1) sums transferred to the fund under AS 14.40.505; and

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

24 (d) The amount available for appropriation from the education trust fund shall
25 be calculated by the commissioner of revenue under AS 14.40.503.

26 **Sec. 14.40.497. Powers and duties of the commissioner of revenue.** The
27 commissioner of revenue is the treasurer of the education trust fund and has the power
28 and duty, subject to the oversight of the Education Trust Fund Board under
29 AS 14.40.501, to

30 (1) act as official custodian of the cash and investments belonging to
31 the education trust fund by securing adequate and safe custodial facilities;

1 (2) receive all items of cash and investments belonging to the
2 education trust fund;

3 (3) collect the principal and income from investments owned or
4 acquired by the education trust fund and deposit the amounts in the education trust
5 fund;

6 (4) invest and reinvest the assets of the education trust fund as
7 provided in this section and as provided for the investment of funds under
8 AS 37.14.170;

9 (5) exercise the powers of an owner with respect to the assets of the
10 education trust fund;

11 (6) maintain accounting records of the education trust fund in
12 accordance with investment accounting principles and AS 14.40.503;

13 (7) engage an independent firm of certified public accountants to
14 annually audit the financial condition of the education trust fund's investments and
15 investment transactions;

16 (8) enter into and enforce contracts or agreements considered
17 necessary for the investment purposes of the education trust fund;

18 (9) report to the board the condition and investment performance of the
19 education trust fund; and

20 (10) do all acts, whether or not expressly authorized, that the
21 commissioner of revenue considers necessary or proper in administering the assets of
22 the education trust fund.

23 **Sec. 14.40.499. Administration of the education trust fund; Education**
24 **Trust Fund Board established.** (a) The education trust fund shall be administered
25 by the Education Trust Fund Board.

26 (b) The Education Trust Fund Board is established in the Department of
27 Education and Early Development. The board is composed of

28 (1) two members of the State Board of Education and Early
29 Development, selected by the president of the board;

30 (2) the commissioner of education and early development or the
31 commissioner's designee; and

1 (3) two public members appointed by the governor; in appointing the
2 public members, the governor shall give a preference to persons who have experience
3 and expertise in education.

4 (c) Each public member of the board is appointed for a term of four years, and
5 may be reappointed.

6 (d) Members of the board are entitled to per diem and travel allowances as
7 provided by law for members of state boards and commissions.

8 **Sec. 14.40.501. Powers and duties of the Education Trust Fund Board.**

9 When acting as administrator of the education trust fund, the Education Trust Fund
10 Board shall

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

13 (2) keep audio tape recordings of each meeting of the board to be made
14 available on request; and

15 (3) oversee the administration of the education trust fund by the
16 commissioner of revenue;

17 (4) submit to the governor and make available to the legislature by
18 February 1 each year a report describing the annual level of contributions to, income
19 of, and expenses of the education trust fund.

20 **Sec. 14.40.503. Use of education trust fund; percentage of market value.**

21 Up to five percent of the market value of the education trust fund, as established under
22 AS 14.40.495, may be annually appropriated by the legislature equally for the support
23 of public elementary and secondary education.

24 **Sec. 14.40.505. Funding from education trust and university lands.** By

25 November 15 of each year, the commissioner of revenue shall transfer to the principal
26 of the education trust fund created in AS 14.40.495 and to the University of Alaska
27 endowment trust fund created in AS 14.40.400 equal shares of a sum equal to the total
28 receipts derived from the management of the land conveyed under AS 14.40.507,
29 including amounts paid to the state as proceeds of sale or annual rent of surface rights,
30 mineral lease rentals, royalties, or royalty sale proceeds from the previous fiscal year,
31 after deducting contributions to the Alaska permanent fund that are required by law.

1 **Sec. 14.40.507. Education trust and university land endowment.** The
 2 legislature conveys to the University of Alaska as tenant in common with the state,
 3 and subject to the limitations of this section, an undivided two percent interest in land
 4 that constitutes the state public domain, and to the education trust as tenant in common
 5 with the state, and subject to the limitations of this section, an undivided two percent
 6 interest in state land that is managed by the Department of Natural Resources under
 7 AS 38. The conveyance shall be recorded under AS 40.17.020. Notwithstanding
 8 another provision of law,

9 (1) the interest in land conveyed to the University of Alaska and the
 10 education trust is strictly limited to the right to receive income earned and received by
 11 the state as proceeds from royalties, rent, sale, lease, and other disposal of land that
 12 constitutes the state public domain and state land that is managed by the Department
 13 of Natural Resources under AS 38, after deducting contributions to the Alaska
 14 permanent fund required by law and after deducting administrative service fees,
 15 application fees, filing fees, processing fees, or other similar fees;

16 (2) the interest in land conveyed to the University of Alaska and the
 17 education trust does not include a right or interest in possession of land, in the
 18 management or disposal of the land, or in a decision-making process relating to the
 19 use of the land; except where otherwise provided in law and regulation, the
 20 Department of Natural Resources shall be the sole agency to manage or dispose of
 21 land subject to this section;

22 (3) the Department of Natural Resources does not owe the University
 23 of Alaska or the education trust a fiduciary duty with respect to its management or
 24 disposition of the land subject to this section.

25 **Sec. 14.40.509. Definitions.** In AS 14.40.495 - 14.40.509,

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

27 (2) "fund" means the education trust fund established in AS 14.40.495.

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

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

30 (1) municipal property, including property held by a public corporation
 31 of a municipality, state property, property of the University of Alaska, or land that is

1 in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-
2 830, 70 Stat. 709, except that

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

10 (B) notwithstanding any other provision of law, property
11 acquired by an agency, corporation, or other entity of the state through
12 foreclosure or deed in lieu of foreclosure and retained as an investment of a
13 state entity is taxable; this subparagraph does not apply to federal land granted
14 to the University of Alaska under AS 14.40.380 or 14.40.390, to other land
15 granted to the university by the state to replace land that had been granted
16 under AS 14.40.380 or 14.40.390, or to an interest in land conveyed by the
17 state to the university under AS 14.40.507 [AS 14.40.365];

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

22 (2) household furniture and personal effects of members of a
23 household;

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

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

30 (5) money on deposit;

31 (6) the real property of certain residents of the state to the extent and

1 subject to the conditions provided in (e) of this section;

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

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

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

11 * **Sec. 6.** AS 14.40.365, 14.40.366, 14.40.368, and 14.40.461 are repealed.

12 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 **APPLICABILITY.** AS 14.40.505, as enacted in sec. 4 of this Act, applies to receipts
15 derived from the management of state and university land received on or after the effective
16 date of this Act.

17 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **INITIAL TERMS OF PUBLIC MEMBERS.** Of the two public members first
20 appointed under AS 14.40.499(b)(3), added by sec. 4 of this Act,

21 (1) one person shall serve a term of two years; and

22 (2) one person shall serve a term of four years.

23 * **Sec. 9.** This Act takes effect July 1, 2004.