

**CS FOR SENATE BILL NO. 217(RES)****IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - SECOND SESSION****BY THE SENATE RESOURCES COMMITTEE****Offered: 2/18/94****Referred: Finance****Sponsor(s): SENATORS FRANK, Kerttula, Miller, Rieger, Taylor, Sharp****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the University of Alaska and university land, authorizing the  
2 University of Alaska to select additional state public domain land, and defining  
3 net income from the University of Alaska's endowment trust fund as 'university  
4 receipts' subject to prior legislative appropriation; and providing for an effective  
5 date."

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

7 \* **Section 1. FINDINGS AND PURPOSE.** The legislature finds that

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

12 (2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45  
13 Stat. 1091, the Congress of the United States granted to the Territory of Alaska certain federal

1 land to be held in trust for the benefit of the predecessor of the University of Alaska;

2 (3) the Territory was unable to receive most of the land conveyed by the Act  
3 of March 4, 1915, before repeal of that Act by sec. 6(k) of the Alaska Statehood Act (P.L. 85-  
4 508, 72 Stat. 339);

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

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

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

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

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

19 \* Sec. 2. AS 14.40.170(a) is amended to read:

20 (a) The Board of Regents shall

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

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

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

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

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

28 (B) land

29 (i) conveyed to the Board of Regents by the  
30 commissioner of natural resources in the settlement of the claim of the  
31 University of Alaska to land granted to the state in accordance with the

1 Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance  
2 with the Act of January 21, 1929 (45 Stat. 1091), as amended; **and**  
3 **(ii) selected by the university and conveyed to it by**  
4 **the commissioner of natural resources under AS 14.40.365:**

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

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

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

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

15 (9) report each year within the first 10 days of the convening of a  
16 regular session of the legislature on the expenditures made during the preceding fiscal  
17 year from the funds of the University of Alaska that are derived from sales, leases,  
18 exchanges, or transfers of the land of the university or of interests in land of the  
19 university

20 **(A)** that were conveyed to the University of Alaska in  
21 settlement of the claim of the University of Alaska to land granted to the state  
22 in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended, and  
23 in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended;  
24 **and**

25 **(B) that were selected by and conveyed to the university**  
26 **under AS 14.40.365.**

27 \* Sec. 3. AS 14.40.291 is amended to read:

28 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA NOT PUBLIC  
29 DOMAIN LAND. Notwithstanding any other provision of law, university-grant land,  
30 state replacement land that becomes university-grant land on conveyance to the  
31 university, **land selected by and conveyed to the university under AS 14.40.365,** and

1 any other land owned by the University of Alaska is not and may not be treated as  
2 state public domain land. Title to or interest in [TO] land described in this section  
3 may not be acquired by adverse possession, prescription, or in any other manner except  
4 by conveyance from the university. The land is subject to condemnation for public  
5 purpose in accordance with law.

6 \* Sec. 4. AS 14.40 is amended by adding a new section to read:

7 Sec. 14.40.365. UNIVERSITY LAND FROM STATEHOOD ACT LAND  
8 SELECTION CONVEYANCES. (a) The University of Alaska may select and is  
9 entitled to receive the conveyance of 1,000,000 acres of land conveyed to the state  
10 under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) that, on the  
11 date of its selection by the university,

12 (1) has not been conveyed by the state;

13 (2) has not been reserved by law from the public domain;

14 (3) is not land

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

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

19 (4) is not subject to a possessory interest or encumbrance other than

20 (A) a lease that is not an oil or gas lease;

21 (B) a timber contract;

22 (C) a mining claim;

23 (D) a sale of materials under AS 38.05.110 - 38.05.120;

24 (E) a land use permit or right-of-way issued by the Department  
25 of Natural Resources under AS 38.05;

26 (5) is not necessary to carry out the purpose of an interagency land  
27 management agreement; or

28 (6) is not subject to conveyance under a land exchange or land  
29 settlement agreement.

30 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and  
31 management of land from the Department of Natural Resources to the Board of

1 Regents of the University of Alaska under this section includes the interest of the state  
2 in the oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and  
3 fossils which may be in or on the land.

4 (c) When the University of Alaska selects the land to which it is entitled under  
5 this section, unless the commissioner of natural resources determines under (d) of this  
6 section that title to the land should not be conveyed, the commissioner of natural  
7 resources shall convey title to the land selected.

8 (d) The commissioner of natural resources may not convey title to any land  
9 selection made by the university under this section if the commissioner determines that  
10 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 may be selected by  
17 a municipality under AS 29.65.030, but the commissioner may not withhold  
18 under this subparagraph the conveyance of title to land selected by the  
19 university for more than three years after the date of the municipality's  
20 incorporation;

21 (2) is not in the best interests of the state; in making a determination  
22 under this paragraph as to whether a selection by the university is in the best interests  
23 of the state, the commissioner shall consider

24 (A) the interest of the general public in retention of the land in  
25 state ownership;

26 (B) ensuring an appropriate diversity in the character of land  
27 owned by the state and by the university;

28 (C) the public benefits achieved by conveyance of the land to  
29 the university;

30 (D) the probable potential for the development of the land and  
31 its resources and the probable income to the university from the conveyance of

1                   the land;

2                                   (E) benefits to the university from the conveyance of the land

3                   to it; and

4                                   (F) the efficiency of the management of the land resulting from

5                   the conveyance of the land.

6                   (e) The Board of Regents may appeal to the superior court a decision of the

7                   commissioner of natural resources not to convey to the university land selected by it

8                   under this section.

9                   (f) When land is conveyed to the university under this section, the university

10                  takes the land subject to any possessory interest held by another person on the

11                  effective date of the conveyance. Except as provided in AS 14.40.368, the university

12                  is entitled to receive the consideration due under that interest for the duration of the

13                  interest.

14                  (g) In conveying land to the university under this section, the commissioner

15                  of natural resources shall give public notice under AS 38.05.945(b) and (c) and provide

16                  for access under AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not

17                  apply.

18                  (h) Land transferred or conveyed to the university under this section

19                               (1) is subject to

20                                   (A) section 6(i) of the Alaska Statehood Act (P.L. 85-508, 72

21                               Stat. 339);

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

23                                   (C) AS 19.10.010; and

24                                   (D) the rights of the state under former 43 U.S.C. 932 (sec. 8,

25                               Act of July 26, 1866, 14 Stat. 253);

26                               (2) excludes any interest transferred to the state by quit claim deed

27                               dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.

28                               141.

29                  (i) The university shall bear all costs of selection and conveyance of the land

30                  that it selects under this section and, subject to appropriation, shall reimburse the

31                  Department of Natural Resources for the reasonable costs of expenses incurred by that

1 department relating to that selection and conveyance. If land selected by the university  
2 is unsurveyed at the time of conveyance, the commissioner shall survey, or may  
3 approve the university's survey of, the exterior boundaries of an approved selection  
4 without interior subdivision, and shall issue patent in terms of the exterior boundary  
5 survey. If land selected by the university has been surveyed at the time of  
6 conveyance, the boundaries must conform to the public land subdivisions established  
7 by the approved survey.

8 \* Sec. 5. AS 14.40.365(d) is repealed and reenacted to read:

9 (d) The commissioner of natural resources may not convey title to any land  
10 selection made by the university under this section if the commissioner determines that  
11 the proposed selection

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

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

17 (B) the commissioner reasonably believes the land may be  
18 selected by a municipality under AS 29.65.030, but the commissioner may not  
19 withhold under this subparagraph the conveyance of title to land selected by the  
20 university longer than three years after the date of the municipality's  
21 incorporation;

22 (2) includes land that, at the time of its selection under this section, is  
23 subject to an oil and gas exploration license, or that the commissioner reasonably  
24 believes will be made part of, an oil and gas exploration license issued under  
25 AS 38.05.131 - 38.05.134;

26 (3) is not in the best interests of the state; in making a determination  
27 under this paragraph as to whether a selection by the university is in the best interests  
28 of the state, the commissioner shall consider

29 (A) the interest of the general public in retention of the land in  
30 state ownership;

31 (B) ensuring an appropriate diversity in the character of land

1 owned by the state and by the university;  
2 (C) the public benefits achieved by conveyance of the land to  
3 the university;  
4 (D) the probable potential for the development of the land and  
5 its resources and the probable income to the university from the conveyance of  
6 the land;  
7 (E) benefits to the university from the conveyance of the land  
8 to it; and  
9 (F) the efficiency of the management of the land resulting from  
10 the conveyance of the land.

11 \* Sec. 6. AS 14.40 is amended by adding a new section to read:

12 Sec. 14.40.368. DISPOSITION OF INCOME FROM EXISTING  
13 ENCUMBRANCES. The state is entitled to receive the income from land selected by  
14 and conveyed to the University of Alaska under AS 14.40.365 that is subject to a  
15 lease, contract, claim, sale, permit, or right-of-way identified in AS 14.40.365(a)(4) for  
16 the duration of the term of the lease, contract, claim, sale, permit, or right-of-way, and  
17 during any renewal of it that is authorized by the lease, contract, claim, sale, permit,  
18 or right-of-way, or by law. The equitable title to and responsibility for the  
19 management of the land selected vests with the University of Alaska only upon  
20 conclusion of the term of the lease, contract, claim, sale, permit, or right-of-way, and  
21 any renewal authorized by law.

22 \* Sec. 7. AS 14.40.400(a) is amended to read:

23 (a) The Department of Revenue shall establish a separate endowment trust  
24 fund in which all net income derived from the sale or lease of the land granted under  
25 the Act of Congress approved January 21, 1929, and the land selected by and  
26 conveyed to the university under AS 14.40.365, and in which all monetary gifts,  
27 bequests, or endowments made to the University of Alaska for the purpose of the fund,  
28 shall be held in trust.

29 \* Sec. 8. AS 14.40.400(e) is amended to read:

30 (c) Subject to legislative appropriation, the [THE] Department of  
31 Administration shall disburse the net income from the trust fund upon vouchers

1 approved by the president and treasurer of the University of Alaska specifying the  
2 purpose for which the money is to be used and showing it is to be used in conformity  
3 with this section.

4 \* Sec. 9. AS 14.40.491 is amended to read:

5 Sec. 14.40.491. DEFINITION OF UNIVERSITY RECEIPTS. In AS 14.40.120  
6 - 14.40.491, "university receipts" includes

- 7 (1) student fees, including tuition;
- 8 (2) receipts from university auxiliary services;
- 9 (3) recovery of indirect costs of university activities;
- 10 (4) the net income of the trust fund established in AS 14.40.400 and  
11 receipts from sales and rentals of university property;
- 12 (5) federal receipts;
- 13 (6) gifts, grants, and contracts; and
- 14 (7) receipts from sales, rentals, and the provision of services of  
15 educational activities.

16 \* Sec. 10. AS 29.45.030(a) is amended to read:

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

18 (1) municipal property, including property held by a public corporation  
19 of a municipality, or state property, 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 land  
27 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.

23 \* **Sec. 11. APPLICABILITY OF UNIVERSITY SELECTION RIGHTS UNDER**  
24 **AS 14.40.365 TO LAND.** In addition to the land that, under AS 14.40.365(d), the  
25 commissioner of natural resources may not convey to the University of Alaska, the  
26 commissioner of natural resources may not convey land that, at the time of its selection by  
27 the university,

28 (1) is subject to designation for conveyance or conveyance to the Alaska  
29 Mental Health Trust Authority under sec. 54, ch. 66, SLA 1991;

30 (2) is land that the commissioner of natural resources reasonably believes  
31 should be designated for conveyance or conveyed to the Alaska Mental Health Trust Authority

1 under sec. 55, ch. 66, SLA 1991, as compensation to that trust for original mental health trust  
2 land not available for return to the corpus of the trust; or

3 (3) is land described in sec. 56, ch. 66, SLA 1991, as listed in "Lands  
4 Hypothecated to the Mental Health Trust, May 1991" located in the office of the director of  
5 the division of lands, Department of Natural Resources, in Anchorage, Alaska, that has been  
6 hypothecated to secure reconstitution of the mental health trust; however, as the reconstitution  
7 of the mental health trust is accomplished and the hypothecated land is released on a pro rata  
8 basis, the University of Alaska may select the land and the commissioner may convey it.

9 \* Sec. 12. LEGISLATIVE INTENT. It is the intent of the legislature that, if sec. 11 of  
10 this Act has not taken effect on or before the effective date of secs. 1 - 4 and 6 - 10 of this  
11 Act, the commissioner of natural resources reject, as inconsistent with the best interests of the  
12 state, selections of land by the University of Alaska under AS 14.40.365, added by sec. 4 of  
13 this Act, of land described in sec. 11 of this Act.

14 \* Sec. 13. Section 5 of this Act takes effect on the effective date of a version of House Bill  
15 199 or Senate Bill 150 of the Eighteenth Alaska State Legislature authorizing oil and gas  
16 exploration licensing on state land that is passed by the Eighteenth Alaska State Legislature.

17 \* Sec. 14. Section 11 of this Act takes effect on the effective date of ch. 66, SLA 1991.