

CS FOR SENATE BILL NO. 217(FIN) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/6/94
Offered: 3/10/94

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.
4 85-508, 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 of Alaska and conveyed**
4 **to it by the commissioner of natural resources under AS 14.40.365.**
5 **except as provided in AS 14.40.368(2):**

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

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

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

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

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

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

26 **(B) that were selected by and conveyed to the University of**
27 **Alaska under AS 14.40.365.**

28 * Sec. 3. AS 14.40.291 is amended to read:

29 Sec. 14.40.291. LAND OF THE UNIVERSITY OF ALASKA NOT PUBLIC
30 DOMAIN LAND. Notwithstanding any other provision of law, university-grant land,
31 state replacement land that becomes university-grant land on conveyance to the

1 university, land selected by and conveyed to the University of Alaska under
2 AS 14.40.365, and any other land owned by the University of Alaska is not and may
3 not be treated as state public domain land. Title to or interest in [TO] land described
4 in this section may not be acquired by adverse possession, prescription, or in any other
5 manner except by conveyance from the university. The land is subject to
6 condemnation for public purpose in accordance with law.

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

8 Sec. 14.40.365. UNIVERSITY LAND FROM STATEHOOD ACT LAND
9 SELECTION CONVEYANCES. (a) The University of Alaska may select and is
10 entitled to receive the conveyance of 500,000 acres of land conveyed to the state under
11 Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) that, on the date of
12 its selection by the university,

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

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

15 (3) is not land

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

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

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

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

22 (B) a timber contract;

23 (C) a mining claim;

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

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

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

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

31 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and

1 management of land from the Department of Natural Resources to the Board of
2 Regents of the University of Alaska under this section includes

3 (1) the interest of the state in the coal, ores, minerals, fissionable
4 materials, geothermal resources, and fossils that may be in or on the land; and

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

8 (c) When the University of Alaska selects the land to which it is entitled under
9 this section, unless the commissioner of natural resources determines under (e) of this
10 section that title to the land should not be conveyed, the commissioner of natural
11 resources shall convey title to the land selected.

12 (d) When a selection has been made by the University of Alaska under (c) of
13 this section, the land selected is closed to entry until the land selected has been
14 conveyed or the selection has been rejected by the commissioner of natural resources.

15 (e) The commissioner of natural resources may not convey title to any land
16 selection made by the University of Alaska under this section if the commissioner
17 determines that the proposed selection

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

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

23 (B) the commissioner reasonably believes may be selected by
24 a municipality under AS 29.65.030, but the commissioner may not withhold
25 under this subparagraph the conveyance of title to land selected by the
26 University of Alaska for more than three years after the date of the
27 municipality's incorporation;

28 (2) is not in the best interests of the state; in making a determination
29 under this paragraph as to whether a selection by the University of Alaska is in the
30 best interests of the state, the commissioner shall consider

31 (A) the interest of the general public in retention of the land in

1 state ownership, including the interest in maintaining and protecting customary
2 and traditional uses of the resources of the land;

3 (B) ensuring an appropriate diversity in the character of land
4 owned by the state and by the University of Alaska;

5 (C) the public benefits achieved by conveyance of the land to
6 the University of Alaska;

7 (D) the probable potential for the development of the land and
8 its resources and the probable income to the University of Alaska from the
9 conveyance of the land;

10 (E) benefits to the University of Alaska from the conveyance
11 of the land to it; and

12 (F) the efficiency of the management of the land resulting from
13 the conveyance of the land.

14 (f) If the Board of Regents of the University of Alaska disagrees with a
15 decision of the commissioner of natural resources not to convey to the University of
16 Alaska land selected by it under this section, the Board of Regents and the
17 commissioner of natural resources shall submit the matter to the governor, who shall
18 make the decision. The decision of the governor is final.

19 (g) When land is conveyed to the University of Alaska under this section, the
20 University of Alaska takes the land subject to any possessory interest held by another
21 person on the effective date of the conveyance. Except as provided in
22 AS 14.40.368(1), the University of Alaska is entitled to receive the consideration due
23 under that interest for the duration of the interest.

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

28 (i) Land transferred or conveyed to the University of Alaska under this section

29 (1) is subject to

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

1 (B) art. IX of the state constitution;
2 (C) AS 19.10.010; and
3 (D) the rights of the state under former 43 U.S.C. 932 (sec. 8,
4 Act of July 26, 1866, 14 Stat. 253);
5 (2) excludes any interest transferred to the state by quit claim deed
6 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.
7 141;
8 (3) based on a land selection filed by the University of Alaska on or
9 after the effective date of this section and until the day before the day that is the fifth
10 anniversary of the effective date of this section is subject to reservation by the state
11 in perpetuity of all oil and gas that may be in or on the land, together with the right
12 to explore the land for oil and gas and to remove from the land all oil and gas located
13 in and on it.
14 (j) The University of Alaska shall bear all costs of selection, platting,
15 surveying, and conveyance of the land that it selects under this section and, subject to
16 appropriation, shall reimburse the Department of Natural Resources for the reasonable
17 costs incurred by that department relating to that selection, platting, surveying, and
18 conveyance. As to land due the University of Alaska under (c) of this section because
19 it has not been disapproved under (e) of this section,
20 (1) if the land has been surveyed, the boundaries of the land conveyed
21 must conform to the public land subdivisions established by the approved survey;
22 (2) if the land is unsurveyed, the commissioner shall survey the exterior
23 boundaries of the land to be conveyed without interior subdivision, and shall issue
24 patent in terms of the exterior boundary survey.
25 (k) For land due the University of Alaska under (c) of this section that is
26 unsurveyed, pending the survey of exterior boundaries and issuance of patent, the
27 commissioner of natural resources shall prepare and provide to the University of
28 Alaska a document of interim conveyance for the land to be conveyed.
29 (l) Except as provided in AS 14.40.368(2), management of land conveyed to
30 the University of Alaska by patent or by a document of interim conveyance vests with
31 the University of Alaska from the date of execution of the patent or document of

1 interim conveyance.

2 (m) The University of Alaska may not make a land selection under this section
3 after December 31, 2009.

4 * Sec. 5. AS 14.40.365(e) is repealed and reenacted to read:

5 (e) The commissioner of natural resources may not convey title to any land
6 selection made by the University of Alaska under this section if the commissioner
7 determines that the proposed selection

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

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

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

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

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

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

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

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

30 (B) ensuring an appropriate diversity in the character of land
31 owned by the state and by the University of Alaska;

1 (C) the public benefits achieved by conveyance of the land to
2 the University of Alaska;

3 (D) the probable potential for the development of the land and
4 its resources and the probable income to the University of Alaska from the
5 conveyance of the land;

6 (E) benefits to the University of Alaska from the conveyance
7 of the land to it; and

8 (F) the efficiency of the management of the land resulting from
9 the conveyance of the land.

10 * Sec. 6. AS 14.40 is amended by adding new sections to read:

11 Sec. 14.40.366. MANAGEMENT AND DISPOSITION OF UNIVERSITY
12 LAND. Notwithstanding other provisions of law, the University of Alaska shall seek
13 public comment on proposals for development or sale of university selections made
14 under AS 14.40.365. The Board of Regents shall adopt policies which provide that
15 the university shall prepare an annual plan for management and disposition of
16 university land under this section and shall, not less than 30 days prior to scheduled
17 approval by the Board of Regents of the plan

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

20 (2) publish a notice in newspapers of general circulation in the state
21 which provides the public with information on the locations where the plan is available
22 for public inspection;

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

25 (4) seek public comment on the annual plan prior to action by the
26 Board of Regents approving the plan.

27 Sec. 14.40.368. MANAGEMENT AND DISPOSITION OF INCOME FROM
28 EXISTING ENCUMBRANCES. For the land selected by and conveyed to the
29 University of Alaska under AS 14.40.365 that is subject to a lease, contract, claim,
30 sale, permit, or right-of-way identified in AS 14.40.365(a)(4)

31 (1) the state is entitled to receive the income obtained from the lease,

1 contract, claim, sale, permit, or right-of-way for the duration of the term of the lease,
2 contract, claim, sale, permit, or right-of-way, and during any renewal of it that is
3 authorized by the lease, contract, claim, sale, permit, or right-of-way, or by law;

4 (2) the responsibility for the management of the land vests with the
5 University of Alaska only upon conclusion of the term of the lease, contract, claim,
6 sale, permit, or right-of-way, and any renewal authorized by the lease, contract, claim,
7 sale, permit, or right-of-way, by law.

8 Sec. 14.40.369. CUSTOMARY AND TRADITIONAL USES TO BE
9 CONTINUED. When land selected by the University of Alaska under AS 14.40.365
10 has been conveyed to it, the University of Alaska shall manage the land in a manner
11 that permits customary and traditional uses of the resources of that land to the
12 maximum extent possible.

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

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

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

21 (e) Subject to legislative appropriation, the [THE] Department of
22 Administration shall disburse the net income from the trust fund upon vouchers
23 approved by the president and treasurer of the University of Alaska specifying the
24 purpose for which the money is to be used and showing it is to be used in conformity
25 with this section.

26 * Sec. 9. AS 14.40.491 is amended to read:

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

- 29 (1) student fees, including tuition;
30 (2) receipts from university auxiliary services;
31 (3) recovery of indirect costs of university activities;

- 1 (4) the net income of the trust fund established in AS 14.40.400 and
2 receipts from sales and rentals of university property;
3 (5) federal receipts;
4 (6) gifts, grants, and contracts; and
5 (7) receipts from sales, rentals, and the provision of services of
6 educational activities.

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

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

9 (1) municipal property, including property held by a public corporation
10 of a municipality, or state property, 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 land
18 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 of Alaska 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.

14 * Sec. 11. APPLICABILITY OF UNIVERSITY SELECTION RIGHTS UNDER
15 AS 14.40.365 TO LAND. In addition to the land that, under AS 14.40.365(e), the
16 commissioner of natural resources may not convey to the University of Alaska, the
17 commissioner of natural resources may not convey land that, at the time of its selection by
18 the university,

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

21 (2) is land that the commissioner of natural resources reasonably believes
22 should be designated for conveyance or conveyed to the Alaska Mental Health Trust Authority
23 under sec. 55, ch. 66, SLA 1991, as compensation to that trust for original mental health trust
24 land not available for return to the corpus of the trust; or

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

31 * Sec. 12. LEGISLATIVE INTENT. It is the intent of the legislature that, if sec. 11 of

1 this Act has not taken effect on or before the effective date of secs. 1 - 4 and 6 - 10 of this
2 Act, the commissioner of natural resources reject, as inconsistent with the best interests of the
3 state, selections of land by the University of Alaska under AS 14.40.365, added by sec. 4 of
4 this Act, of land described in sec. 11 of this Act.

5 * **Sec. 13.** Section 5 of this Act takes effect on the effective date of a version of House Bill
6 199 or Senate Bill 150 of the Eighteenth Alaska State Legislature authorizing oil and gas
7 exploration licensing on state land that is passed by the Eighteenth Alaska State Legislature.

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