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COMMITTEE REPORT

SENATE

3/26/82

FURTHER: Judiciary and Finance

Date: 4/1/82

Mr. President:

The Committee on RESOURCES has had SB 875

transfer of ownership and management of University of Alaska trust land from the Dept. of Natural Resources to the Board of Regents of the University of Alaska

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SM 875 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING DO PASS

Steve Johnson (President)
13512-)
Bob Mulcahy

MEMBERS HAVING OTHER RECOMMENDATIONS:

Robert Anderson

Debbie Taberberg
 CHAIRMAN

TO: Billy Berrier
Director Legal Services

DATE: 4/5/82

FROM: Bettye Fahrenkamp
Chairman

RE: Committee Substitute
for SB 875

The Committee would like a final Committee Substitute for SB 875 incorporating the following new section:

Sec. 2. Nothing in this Act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle Case Number 3AN-79-2301 Civil, Third Judicial District, State of Alaska or prejudice or otherwise affect the pursuit or outcome of that litigation or diminish or affect the rights or interests of the University of Alaska or the Municipality of Anchorage in the pending litigation.

Please renumber the following sections accordingly.

If you have any questions please contact Resa King at 466-3834. When the bill is completed please return to Room 211 Capitol Building.

Attachment

I. LEGISLATION SUMMARY

- SB 875: "An Act relating to the transfer of the ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska; and providing for an effective date."
- Sec. 1: The purpose of this Act is to settle certain litigation and to transfer legal title and management of University-grant land from the Department of Natural Resources to the University of Alaska Board of Regents.
- Sec. 2: Directs the Commissioner of Natural Resources to convey all state interests in the described University-grant lands to the University of Alaska Board of Regents, pursuant to the Settlement ("Settlement Agreement Between the Department of Natural Resources, The Department of Revenue, And The Department of Administration and The University of Alaska and The Board of Regents, As Trustees for the University of Alaska"). Ratifies the Settlement, subject to necessary appropriations and legislation to implement it.
- Sec. 3: Amends existing law regarding the duties of the Board of Regents to include the care, control and management of the transferred University-grant lands.
- Sec. 4: Amends existing law regarding the duties of the Board of Regents to direct them to adopt regulations for trust management, and to provide adequate public notices of dispositions of University-grant lands, or interests therein.
- Sec. 5: Immediate effective date.

PRIME SPONSOR: Resources



UNIVERSITY OF ALASKA

FAIRBANKS, ALASKA 99701

BOARD OF REGENTS
RESOLUTION

WHEREAS, The United States Congress reserved land in certain sections 33 located within the Tanana Valley for the University of Alaska by the Act of 1915 (38 Stat. 1214, as amended), and permitted the Territory of Alaska to select 100,000 acres of vacant, non-mineral, unreserved land from the federal public domain for the exclusive use and benefit of the University of Alaska by the Act of 1929 (45 Stat. 1091, as amended) (hereinafter collectively referred to as "University-grant lands"); and

WHEREAS, Congress transferred the University-grant lands to the State of Alaska by Section 6(k) of the Alaska Statehood Act and the State statutorily accepted the benefits and provisions of the federal land grant Acts of 1915 and 1929 by enacting, respectively, AS 14.40.380 and 14.40.390; and

WHEREAS, the University commenced litigation against the State of Alaska on April 23, 1979 (Case No. 3AN-79-2801 Civ., Third Judicial District), seeking compensation for disposals and transactions alleged to be in breach of trust obligations imposed by federal law; and

WHEREAS, representatives of the Alaska Department of Natural Resources and the University of Alaska, after lengthy negotiations, have developed a proposed settlement agreement which would resolve or compromise certain claims and defenses in the pending litigation, to the extent provided by the Agreement; and

WHEREAS, the Board of Regents of the University of Alaska held a special meeting on February 13, 1982, in Fairbanks, Alaska, for the purpose of voting on a motion to approve the proposed settlement agreement; and

WHEREAS, the February 13, 1982, special meeting of the Board of Regents was attended by a quorum consisting of Regents Edward B. Rasmuson (President), Jeffry J. Cook (Vice President), Donald B. Abel, Jr. (Secretary), Herbert C. Lang (Treasurer), Hugh B. Fate, Jr., Margaret J. Hall, Sara Hannan, and John T. Shively; and

WHEREAS, Regent Cook moved, seconded by Regent Lang, that the Board of Regents adopt the following motion:

"The Board of Regents approves the attached settlement agreement dated February 13, 1982. Any subsequent language changes will be reviewed by the Board at the scheduled March 12, 1982, meeting. The Board directs the President to cooperate with the efforts of the Commissioner for Natural Resources to gain legislative endorsement of the Agreement. Inasmuch as the Governor has not yet had an opportunity to review the agreement, no public release of the document will be made until he has had such opportunity. This motion is effective February 13, 1982."

WHEREAS, upon due deliberation and with the advice of counsel, the Board of Regents unanimously passed the aforestated motion: and

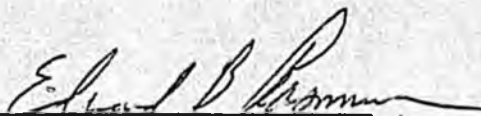
WHEREAS, paragraph twenty-two (22) of the Agreement requires the Board of Regents to pass a resolution signed by all members of the Board approving and adopting the proposed settlement agreement and specifically and irrevocably assuming responsibility as trustees to the University regarding the management and disposition of all lands which are contemplated to be transferred in fee to the University pursuant to the Agreement;

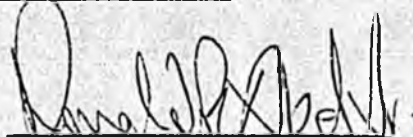
NOW, THEREFORE, BE IT RESOLVED that the Board of Regents approves and adopts the Agreement dated February 13, 1982 and entitled "Settlement Agreement between the Department of Natural Resources, the Department of Revenue, and the Department of Administration, and the University of Alaska, and the Board of Regents as trustees for the University of Alaska," as amended, and


BE IT FURTHER RESOLVED, that the Board of Regents collectively, and each member of the Board of Regents in his or her official capacity individually, specifically and irrevocably assumes responsibility as trustee to the University of Alaska for the management and disposition of all lands which are transferred in fee to the University pursuant to the Agreement, and for the proceeds derived from such lands; and

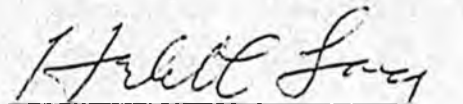
BE IT FURTHER RESOLVED that, this assumption of trusteeship responsibility shall be binding individually upon the successors in the office of regent of the undersigned regents, and collectively upon the Board of Regents, as it may be composed in the future.

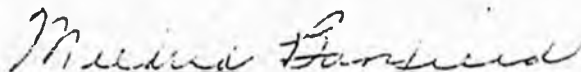
DATED this 12th day of March, 1982.

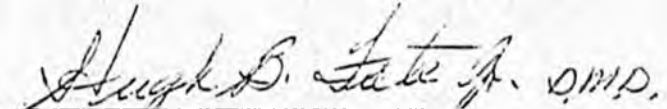

Edward B. Rasmuson
President

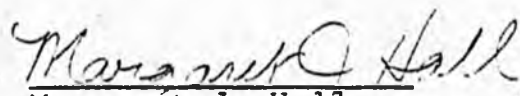

Donald B. Abel, Jr.
Secretary

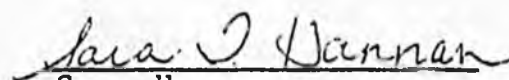

Jeffrey S. Cook
Vice President



Herbert C. Lang
Treasurer

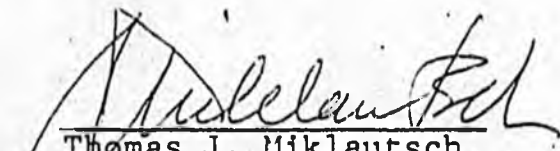

Mildred Banfield


Hugh B. Fate, Jr.


Margaret J. Hall


Sara Hannan


Sam Kitc, Jr.


Thomas J. Miklautsch


John T. Shively

SETTLEMENT AGREEMENT BETWEEN THE
DEPARTMENT OF NATURAL RESOURCES, THE
DEPARTMENT OF REVENUE, AND THE
DEPARTMENT OF ADMINISTRATION AND
THE UNIVERSITY OF ALASKA AND THE BOARD
OF REGENTS, AS TRUSTEES FOR THE
UNIVERSITY OF ALASKA

This Agreement entered into this ____ day of _____, 1982,
between the Department of Natural Resources (hereinafter referred to
as "Department"), the Department of Revenue, and the Department of
Administration, and the University of Alaska (hereinafter referred to
as "University"), acting on its own behalf and through its Board of
Regents, sets forth the understanding of the parties as follows:

WHEREAS, the University commenced litigation against the
Department, the Department of Revenue, and the Department of
Administration on April 23, 1979, Case No. 3AN-79-2801 Civ., Third
Judicial District, seeking compensation for disposals and transactions
alleged to be in breach of trust obligations imposed by federal law;
and

WHEREAS, the Act of 1915 (38 Stat. 1214, as amended) reserved
land in certain Sections 33 located within the Tanana Valley for the
University and the Act of 1929 (45 Stat. 1091, as amended) permitted
the Territory of Alaska to select 100,000 acres of vacant non-mineral
unreserved land from the federal public domain for the exclusive use
and benefit of the University (hereinafter collectively referred to as
"University-grant lands"); and

WHEREAS, Congress transferred the University-grant lands to
the State by Section 6(k) of the Alaska Statehood Act and the State
statutorily accepted the benefits and provisions of the Act of 1915
and the Act of 1929 by enacting respectively AS 14.40.380 and 14.40.390;
and

WHEREAS, the decisions of the Alaska Supreme Court have
interpreted the Acts of 1915 and 1929 and the acceptance by the State

sole benefit of the University (State of Alaska v. University of Alaska, 624 P.2d 807 (Alaska 1981); Wessells v. State of Alaska, 362 P.2d 1042 (Alaska 1977)); and

WHEREAS, the Department of Revenue and the Department of Administration have the duty to account and reserve for the exclusive use and benefit of the University the proceeds produced from University-grant lands; and

WHEREAS, the parties to this agreement believe that it is in the best interest of the State to convey certain University-grant lands and certain state lands which are not University-grant lands in fee to the University; and

WHEREAS, the parties believe that it is desirable to compromise the pending litigation to the extent provided by this Agreement and to complete all actions required or contemplated under it, upon execution of the Agreement and where necessary by enactment of legislation; and

WHEREAS, the parties to this Agreement believe that it is in the best interests of the parties that the University receive title to and management of certain University-grant lands, to be administered, controlled and managed through the Board of Regents, as trustee for the University; and

WHEREAS, the parties acknowledge that it is their intent by this Agreement and such legislation to accomplish the following:

1. Differentiate between state public domain lands and University-grant lands by providing separate and distinct land management to insure the future management of University-grant lands in accordance with recognized trust principles;
2. Resolve conflicts resulting from past management of all lands granted to the State for the benefit of the University by the United States pursuant to the Acts of 1915 and 1929;
3. Fulfill the purpose for which the University-grant lands were originally granted;
4. Convey title in fee to certain University-grant lands and certain other state lands to the University upon authorization by the legislature and transfer money to the University of Alaska Permanent

5. Establish methods of calculation of the dollar amount due, with interest, not collected and allocated to the fund, by the Department, the Department of Revenue or the Department of Administration with regard to the management and disposal of University-grant land, and the dollar amount due, with interest, to the fund for University-grant lands and resources therefrom which have been disposed of at less than then-current fair market value by the State; and

WHEREAS, upon enactment of legislation the Commissioners of the Departments of Natural Resources, Revenue, and Administration, will have the authority to implement this Agreement, and the Board of Regents is empowered to act on behalf of the University pursuant to Article VII, Section 3 of the Alaska Constitution and AS 14.40.170, 14.40.250, 14.40.280, 14.40.350, 14.40.360, and 14.40.400;

NOW THEREFORE, for and in consideration of the terms; covenants and conditions contained herein, the parties agree as follows:

1. Applicable Time Periods. Because of the difficulty in providing an accurate accounting and analysis of long past disposals and transactions, and considering the possible application of the doctrine of laches and statutes of limitation, the parties acknowledge that the calculation of compensation due the University shall be limited to the period from January 1, 1960 forward for certain disposals and transactions as specified in paragraphs 2 and 3 and from January 1, 1968 forward for certain other disposals and transactions as specified in paragraphs 2 and 3.

2. Determination of Dollar Amount for Prior Disposals and Transactions at Less Than Fair Market Value. The dollar amount due for prior disposals and transactions shall be calculated as follows:

a) To determine the dollar amount due for rights-of-way, permits, easements, materials, and fees conveyed other than at appraised value, and legislative and administrative withdrawals and reservations made or executed on or after January 1, 1968, the parties shall mutually select and instruct an independent fee appraiser to determine the fair market value of the land and resources involved in each transaction identified in Appendices A, B and D on the date the disposal or transaction

binding upon the parties, and shall be brought forward with interest from the date of transaction to the date the grand total in Appendix M is determined at nine percent (9%) per year, compounded annually. The total amount due for each transaction shall be entered in Appendix M. No compensation is due for such disposals and transactions made or executed before January 1, 1968.

b) To determine the dollar amount owed to the University for unduly encumbered lands which the University shall convey to the State by quitclaim deed under this Agreement, the parties shall mutually select and instruct an independent fee appraiser to determine the current fair market value of the lands identified in Appendix E. These lands may be removed by the University from Appendix E within 120 days after the date of this Agreement. Additional University-grant lands not listed in any Appendix and which are found to be subject to past disposals may be added to the applicable Appendix by agreement of the University and the Department, not later than February 1, 1983.

c) To determine the dollar amount owed for incomplete land exchanges and leases, excluding mineral leases and oil and gas leases, made or executed after January 1, 1960, on University-grant lands, the parties shall mutually select and instruct an independent fee appraiser to determine the current fair market value of the land which is identified in Appendices C and F. The value determined by the appraiser shall be binding upon the parties. The current fair market value of the leased lands shall be used in conjunction with the provisions set forth in Appendix G to determine the value of each lease. The value of each lease shall be set forth in Appendix H. The total value of all leases shall be entered in Appendix M. No compensation is due for mining locations, mineral leases or oil and gas leases except as provided in paragraphs 3 and 4.

Land exchanges presently incompleated which are completed within one year of the signing of this Agreement shall not be included in the total dollar amount due as identified in Appendix M.

3. Determination of Compensation for All Uncollected or Unallocated Revenues. The Department, the Department of Revenue, and

Department of Administration shall provide the University access to all data, files, accounting and all other information, in whatever form, concerning disposals and transactions on University-grant lands made or executed after January 1, 1960, or January 1, 1968, as appropriate under paragraph 1. All revenues, including revenue from oil and gas leases executed after January 1, 1960, if any, which could have been collected according to the terms of the instrument making the disposal or governing the transaction and which should have been collected for or allocated to the fund but were not, shall be entered into Appendix I and added to the total dollar amount and entered in Appendix M. The amount of uncollected or unallocated revenues shall bear interest at nine per cent (9%) per year, compounded annually from the date of the initial billing period in which each amount was not collected or allocated.

4. Liquidated Damages. In recognition of the difficulty of precisely determining the dollar amount owed the University with regard to the State's management, reservation and disposal of University-grant lands and interests therein at less than their then-current fair market value, including without limitation mineral locations, claims and prospecting, leasing activity including mineral and oil and gas, and preference rights not otherwise addressed in this Agreement, the parties agree that the University should receive, upon proper appropriation by the Legislature, liquidated damages. Liquidated damages shall also include all claims for trespass, non-aggressive and non-productive management, all demands for indemnity against claims made by third parties, and any claim against the state or agent thereof for punitive damages. The parties agree that the University shall have the right without interference from the Department to seek liquidated damages through a legislative appropriation in an amount not more than five million dollars (\$5,000,000.00). The parties acknowledge that the liquidated damages should not constitute a penalty but reflect a reasoned compromise of damages sustained.

5. Supplement to Appendices. Except as otherwise specifically provided herein, the parties shall have one hundred fifty (150) days from the signing of this Agreement to supplement, correct and modify

6. Conveyance by Quitclaim Deed. The Department shall transfer to the Board of Regents, as trustee for the University, all University-grant lands identified in Appendix N and all state lands identified for transfer to the University pursuant to paragraph 12 by quitclaim deed. The University shall convey to the State all lands identified in Appendix E by quitclaim deed.

7. Termination of Interests Which the State Granted To Itself. The Department shall terminate within ninety (90) days after the effective date of this Agreement those interests in University-grant lands identified in Appendix K which it has granted to itself or other state agencies, departments, or entities and which are, by the terms of the transfer document, terminable at will by the Department. The interests to be terminated under this paragraph may include, but are not limited to, special land use permits (SLUPs), miscellaneous land use permits (MLUPs), free use permits (FUPs), personal use permits (FUPs), temporary use permits (TUPs), land use permits (LUPs), Interagency Land Management Assignments (ILMAs), and Interagency Land Management Transfers (ILMTs).

8. Acknowledgement and Disposition of Third Party Lease Interests. All lease interests granted to third parties listed in Appendix L are acknowledged by the University as binding contracts with the State of Alaska through the Department. The Department shall administer these leases according to the applicable state statutes until the University requests that administrative responsibilities for the leases be transferred to the Board of Regents or the lease term expires, whichever occurs first. In the event of the lessee's default the State shall succeed to the lessee's term of years and may transfer the lease hold interest in the lands to the University or use the lands or re-lease them until the expiration of the original lease term.

The State shall purchase any leased lands identified in Appendix F which the University elects not to retain by February 1, 1983, at their current fair market value as determined by appraisal. The University shall receive the proper amount of rental value from the date of the execution of the lease until February 1, 1983, according to the lease valuation provisions set forth in Appendix G.

9. Other Third Party Interests. The University acknowledges all valid existing third party interests of which it has knowledge or which are a matter of public record in addition to those referred to in paragraph 8 but excluding selections made by municipalities pursuant to AS 29.18.201-213 or any predecessor statute thereto. The University shall not contest the validity of any mining claim on University grant lands or state lands/^{conveyed}to the University pursuant to this Agreement except for failure to record a location certificate or perform annual labor as required by law.

The University shall not impose any royalty or other charge in excess of that currently charged, or to be charged in the future, by the state on state lands, on the right to extract locatable minerals from any mining claims for which a location certificate had been recorded and any required annual labor had been performed at the date this Agreement is signed.

10. Method of Commensation to the University.

a) Cash Settlement. The University may elect to receive a full or partial cash settlement for the total dollar amount owed in the form of a deposit into the fund, dependent only upon appropriations made for such purpose by the Legislature. The University shall have free access to any amount appropriated as monetary compensation for a period of two years from the date of deposit, during which time such money may be used only to purchase real property if statutory authority to purchase real property is enacted. After two years, the balance of the fund not used to purchase real property shall be available for all lawful purposes for which the fund may be used. The parties shall seek, during the 1983 legislative session, an appropriation for the dollar amount the University elects to receive as a cash settlement.

b) Land Settlement. The University may elect no later than October 30, 1983, to receive full or partial settlement of the total dollar amount due through the conveyance of state lands of equal fair market value identified in the pools established pursuant to paragraph 12. Nothing in this agreement requires the value of lands in the pools established pursuant to paragraph 12 to equal or exceed the total dollar amount due. The University shall obtain the surface and subsurface estate of such lands encumbered by the restrictions

11. Interest. The total dollar amount due the University under this Agreement shall bear interest at the rate of 10.5% from the time the grand total in Appendix M is determined until the University has received full compensation as provided in paragraph 10 of this Agreement.

12. Pool of Lands. If the University elects to receive all or part of the total dollar amount due in land pursuant to paragraph 10 it shall be entitled to receive lands from three (3) pools established by the Commissioner of the Department as follows:

a) The first pool shall contain all land owned by the State upon which the University has located improvements and which are identified in Appendix O. The parties shall have thirty (30) days after the signing of this Agreement to correct Appendix O to insure its accuracy. The parties shall mutually select and instruct, by August 1, 1982, an independent fee appraiser to determine the current fair market value of the lands identified in the first pool. The appraiser shall determine the value by February 1, 1983, and such value shall be binding upon the parties. The University shall be required to accept the lands identified in the first pool and shall offset their appraised value against the total dollar amount due.

b) The second pool shall contain the lands identified in Appendix O which the University may select. The parties shall have thirty (30) days after the signing of this Agreement to supplement, correct and modify Appendix O. The parties shall mutually select and instruct, by August 1, 1982, an independent fee appraiser to determine the current fair market value of the lands which the University selects from the second pool. The appraiser shall determine the value by February 1, 1983, and such value shall be binding upon the parties. The University shall identify, by May 30, 1983, any lands which it selects from the second pool. The University reserves the right to independently determine if any of the lands contained in the second pool are a financially prudent or commercially reasonable acquisition for the trust established by the Act of 1915 and the Act of 1929. The Department does not represent that any of the lands in the second pool are suitable for acquisition for the trust. The University shall offset the appraised value of the lands it selects from the second

c) The University shall accept the lands identified in the first pool and shall make its selections from the second pool by May 30, 1983. Lands not selected by the University by May 30, 1983, shall cease to be reserved for selection by the University.

d) By June 30, 1983, the Department will review all lands for which the State receives tentative approval between March 1, 1982, and March 31, 1983. The Department may include any such lands which it, in its sole discretion, chooses in a third pool. The Department may also include in the third pool any of the lands previously within the second pool and not selected by the University. The Department may choose not to include any land in the third pool. The parties shall mutually select and instruct, by July 15, 1983, an independent fee appraiser to determine the current fair market value of the lands, if any, in the third pool. The value shall be determined by September 30, 1983, and shall be binding upon the parties. The University shall identify, by October 30, 1983, those lands which it selects from the third pool. The University reserves the right to independently determine if any of the lands contained in the third pool are a financially prudent or commercially reasonable acquisition for the trust established by the Act of 1915 and the Act of 1929. The Department does not represent that any of the lands in the third pool are suitable for acquisition for the trust. The University shall offset the appraised value of any lands it may select from the third pool against the total dollar amount due. Lands not selected by the University by October 30, 1983, shall cease to be reserved for selection by the University.

e) The Department shall not make any conveyances of land to the University under this Agreement unless statutory authority to make such conveyances is first enacted. The Department shall not be obligated to pay for the appraisals required pursuant to this Agreement.

13. Mutual Assistance. The parties agree to cooperate in the following ways in order to effectuate the purposes of this Agreement, and to accomplish the goals set forth in the statement of intent:

a) The parties agree to use their best efforts in a spirit of cooperation to seek introduction in the 1982 session of the Alaska Legislature suitable legislation seeking approval of this

Agreement and authorizing the conveyance of University grant lands as contemplated by this Agreement and appropriating those amounts required for the costs of obtaining appraisals and the expenses necessary to implement this Agreement. The parties agree to work diligently for final passage and enactment of such legislation. A proposed draft of legislation which the parties presently believe will fulfill these objectives is attached to this Agreement as Appendix P.

b) The University plans to seek introduction of suitable legislation in the 1983 Legislative session to authorize conveyance of lands selected by the University from the pools created pursuant to paragraph 12 and/or an appropriation to fund any dollar amount due. After examining the Grand Total as finally determined and set forth in Appendix M, the other parties to this Agreement will decide whether they can support such legislation. If the State determines it can not support the Grand Total as finally determined and set forth in Appendix M, then the University shall also not be bound by the Grand Total, except that the parties agree to use the procedures described in this Agreement. The parties to this Agreement will also seek introduction of suitable legislation in the 1983 legislative session to make statutory references to University-grant lands consistent with this Agreement. The University shall seek appropriate legislation clarifying the duties and responsibilities of the Board of Regents as trustee of University-grant lands and state lands transferred to the University pursuant to this Agreement. If pursuant to Paragraph 10 a cash settlement is elected, the parties shall seek to introduce legislation during the 1983 session appropriating the money required. The University shall seek legislation during the 1983 session permitting the University to invest any money appropriated in real property.

c) In the event that the University successfully petitions the United States Congress for additional federal lands to compensate the University with in-lieu lands for lands reserved under the Acts of 1915 and 1929 but which were not conveyed to the State pursuant to Section 6(k) of the Alaska Statehood Act, the Department shall submit, on behalf of the University, all necessary selection applications, forms and related documentation required by applicable law to perfect the selection and patent for said in-lieu lands to the State and convey those lands to the Board of Regents pursuant to this Agreement.

d) The Department shall assist the University for two years after the University receives title to University-grant lands and other state lands as a result of this Agreement by providing available resource and planning information.

14. Future Management of University-Grant Lands. The Board of Regents, as trustee for the University of Alaska, shall have the responsibility and duty to control, administer, and manage all lands which are transferred to the University pursuant to this Agreement, for the exclusive use and benefit of the University and for its financial enhancement and security. The Board of Regents shall manage such lands for educational purposes and to produce the maximum amount of income for the University. The Board of Regents shall not have responsibility for, or control over, the fish and game on, or the appropriation of water from, University-grant lands, both of which shall be subject to applicable state laws and regulations. The University shall provide legal access to all navigable and public waters on or adjacent to the lands which are the subject of this Agreement. The University recognizes that lands underlying navigable waters are owned in fee by the State, and are not subject to the provisions of this Agreement. The management of such lands shall be coordinated by the State with the Board of Regents' management of adjacent lands which have been conveyed by this Agreement. Nothing in this Agreement shall prevent the University from applying for a permit to appropriate water pursuant to the Alaska Water Use Act, A.S. 46.15.

15. Interim Management. After signing of this Agreement creation of any third party interests in the University grant land or lands reserved for selection by the University pursuant to paragraph 12 shall require approval by the University with the exception of lease conversions pursuant to Section 12, ch 138, SLA 1977 as amended. University-grant lands which are the subject of municipal selections will not be conveyed to the applicant until the University has approved replacement lands as contemplated by AS 29.18.206(d).

16. Resumption of Litigation. In the event that the University does not receive the total dollar amount owed in cash or land as provided in this Agreement by October 30, 1983, the parties shall be deemed not to have waived any right they may have otherwise had to

maintain or resume the pending litigation in Case No. 3AN-79-2801 Civ., Third Judicial District, State of Alaska. In the event the Court requires that this action be dismissed in the interim, such dismissal shall be stipulated by the parties to be without prejudice, and the parties shall further stipulate that it may be re-filed by any of them at a future date.

17. No Waiver of Claims or Defenses. The parties agree that by their voluntary participation in the negotiation, execution and implementation of this Agreement, they shall not have thereby waived any claim, defense, counterclaim, set-off or legal or equitable remedy which each may pursue against the other in the event that full compensation due the University, in money or land, is not transferred to it pursuant to the obligations contained in this Agreement and litigation is thereafter resumed pursuant to paragraph 16. Nothing in this Agreement or any Appendix hereto shall be admissible in pending or future litigation or presented to a court for any purpose except enforcing this Agreement. This prohibition does not extend to proof of actions taken by the Legislature on legislation required by or related to the subject of this Agreement.

18. Extinguishment of All Claims. The parties agree that upon discharge of the obligations of the State under this Agreement, all claims which are the subject of Case No. 3AN-79-2801 Civ., Third Judicial District, State of Alaska, and all other claims which the University has or had against the State or any agent which are based upon a breach of trust obligations under the Acts of 1915 or 1929, shall be merged in the settlement and finally extinguished, excluding only those claims against the State and the Municipality of Anchorage or any other entity claiming University-grant lands under AS 29.18.201-213, or any predecessor statute thereto.

19. No Waiver of Breach or Defense. No failure by either party to insist upon the strict performance by the other of any term or condition of this Agreement, or to exercise any right or remedy upon a breach thereof, shall constitute a waiver of any such breach or of such term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every term and condition of this Agreement shall continue in full force and effect with respect to any

20. Litigation with the Municipality of Anchorage. This Agreement does not affect the pending litigation by the University against the Municipality of Anchorage in Case No. 3AN-79-2801 Civ., Third Judicial District, State of Alaska. The University retains all causes of action, claims, demands and right to damages, expenses and compensation which it now has or may hereafter have against the State or the Municipality of Anchorage as a result of the Municipality's selection of University-grant lands pursuant to AS 29.18.201-213, or any predecessor statute thereto.

21. Notice. If it becomes necessary as a result of the execution and performance of this Agreement to provide public notice pursuant to Article VIII, Sec. 10 of the Alaska Constitution or to AS 38.50.110, the Department and the University shall cooperate in complying with such notice requirements.

22. Resolution by Board of Regents. The Board of Regents shall, if it approves this Agreement, pass a resolution signed by all members of the Board, approving and adopting this Agreement, and specifically and irrevocably assuming responsibility as trustee to the University regarding the management and disposition of all lands which are contemplated to be transferred in fee to the University pursuant to this Agreement. The State shall have the right to review the form and adequacy of the assumption of the obligations of trustee by the Board, prior to making any land conveyances under this Agreement.

23. Advice of Counsel. Each of the parties acknowledges that it was represented by counsel during the negotiation, drafting, and execution of this Agreement.

24. Good Faith. The parties agree that the performance of all obligations set forth in the terms and conditions herein shall be conducted in good faith.

25. Successors in Interest. Each and all of the terms, covenants and conditions in this Agreement shall inure to the benefit of, and shall be binding upon, the successors in interest of each of the parties to this Agreement.

26. Enforcement. Enforcement of the public trust responsibilities required to be assumed by the Board of Regents as a result of its approval of this Agreement shall be vested in the Office of the Attorney

DATED: 3/12/82

DATED: 3-11-82

By Edward Rasmuson

Edward Rasmuson, President of
of
the Board of Regents

By John W. Katz

John W. Katz, Commissioner
the Department of Natural
Resources

DATED: 3/12/82

DATED: 3-11-82

By Jay Barton
Jay Barton, President of the
University of Alaska

By Thomas Williams
Thomas Williams, Commissioner
of the Department of Revenue

Approved as to Form:

DATED: 3-11-82

By Astrid de Pany
Counsel for the University

By William Hudson
William Hudson, Commissioner
of the Department of
Administration

By Robert P. Peier
Assistant Attorney General

STATE OF ALASKA)

) ss.

THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 12th day of March, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared EDWARD RASMUSON, known to me and to me known to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

Anne M. Stoenaker
Notary Public in and for Alaska
My Commission Expires: 3/14/84

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IT TO CERTIFY that on this 12th day of March, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared JAY BARTON known to me and to me known to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

Anne M. Stoenaker
Notary Public in and for Alaska

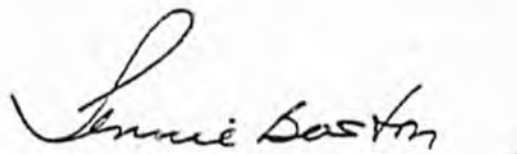
STATE OF ALASKA)

) ss.

THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 11th day of March, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared JOHN W. KATZ known to me and to me known to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.



Notary Public in and for Alaska

My Commission Expires: Nov. 2, 1983

STATE OF ALASKA)

) ss.

THIRD JUDICIAL DISTRICT)

THIS IT TO CERTIFY that on this 11th day of March, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared WILLIAM HUDSON, known to me and to me known to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official

seal the day and year first hereinabove written.

Jennie Boston

Notary Public in and for Alaska

My Commission Expires: Nov. 2, 1983

STATE OF ALASKA)

) ss.

THIRD JUDICIAL DISTRICT)

THIS IT TO CERTIFY that on this 11th day of March, 1982,

before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared THOMAS WILLIAMS, known to me and to me known to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

Jennie Boston

Notary Public in and for Alaska

My Commission Expires: Nov. 2, 1983



Jay Barton
President

UNIVERSITY OF ALASKA

FAIRBANKS, ALASKA 99701


March 31, 1982

Dear Bettye:

I am enclosing some information on the recent agreement reached by the Departments of Natural Resources, Revenue and Administration and the University of Alaska regarding University lands. I think that this thumbnail sketch will help to answer a number of the questions that members of the Legislature have raised. I am most pleased that we have reached this agreement. As you know, I have long felt that discussion and negotiation are far more appropriate than lawsuits - it is far more appropriate to develop trust and mutual respect. This agreement is a milestone in achieving those goals. Merry Tuten and John Katz are to be warmly congratulated for resolving a most difficult problem.

You may wish to share this letter and its attachments with your colleagues. Please call me if you require more detailed information. We are most pleased with the support you have offered to the University. I hope that we will continue to merit your trust and confidence.

Cordially,


Jay Barton
President

JB:dm

The Honorable Bettye Fahrenkamp
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

March 31, 1982

Take a good look at this

FREQUENTLY ASKED QUESTIONS

Where did the University's land come from?

The land was granted by the Federal Government to provide a stable source of income for the University.

Why did the State manage University grant lands?

The State and University entered into an agreement at Statehood providing for one land management agency to avoid duplication of efforts.

Why did the State DNR have difficulty managing the lands as trustees for the University?

The State DNR did not have adequate funds for many years to manage these lands, and the trustee responsibilities had not been emphasized. It was, and still is, difficult for DNR to favor one interest group over another, which is what trustee responsibilities require.

Why should the University manage these lands and be in the land business?

The University Board of Regents is best able to protect its interests and carry out the duties of a trustee. Many land-grant colleges own land and derive substantial revenue from their holdings. The University will maintain a small core staff, contract specific areas of development to the private sector, and emphasize long term revenue producing projects.

What does the University do with the money it receives from land management?

Income derived from land management is deposited into the UA's Permanent Fund and managed by the Department of Revenue. The University can use only the interest from the fund. So far there has been little income. Some of the income has been used to establish a land management office in the University. In the future the University will produce greater income and must plan for the expenditure of such funds. The Board of Regents is currently addressing this issue and will develop guidelines for the use of the funds within the next few months.

Why did the State and University settle out of court?

All parties agreed that the University was owed compensation and no one wanted to continue to litigate at the public's expense. A comprehensive solution was sought by all parties to lay the issue to rest once and for all.

Why does the State owe the University any money? The legislature funds the University every year.

The Alaska Supreme Court ruled that the University be fully compensated for takings of University trust land at less than fair market value. The University lost income during years of State management and desires to re-establish its original land base by taking a portion of its compensation in land. The intent of Congress was to establish a stable, long term economic base, an "endowment" for the University even though only a partial support.

If the legislature funds the settlement agreement will the University be self sufficient?

The University is a long way from being self sufficient. Since the University hasn't managed its grant lands for 20 years it must start from scratch to produce income. It will take some years before the University receives a significant return. However, the land base will remain an important asset of the University and continue to appreciate through the years. The value of the lands is insufficient to do more than supplement State support (an endowment of approximately one billion dollars would be required for full support!)

What is the value of the University's land?

A rough estimate is \$225 million.

How many acres comprise University grant lands?

108,000 acres.

Does the settlement agreement benefit the State?

YES. The agreement resolves a longstanding legal issue at minimal cost to the public; minimizes DNR's responsibilities; returns management to the University and provides the University with an opportunity to offset State appropriations in the future.

Why didn't the University give up its land in 1978 when the State offered it 1/2 of 1% of all resource revenues?

Because it felt that inasmuch as one legislature can't bind another it would be wiser to keep the trust lands. The University felt State oil revenues might decline. The University would lose its lands with no guarantee that deposits would be made to the fund (cp. Mental Health trust fund).

Except for the conveyance of University grant lands identified in Appendix N of the Agreement, no conveyance or cash payment can be made to the University under the agreement unless and until the University and the Commissioner of ~~Land~~ the Dept. of Natural Resources certify that competing claims of the University and Municipalities to University lands selected by Municipalities under AS 29.18.201.213 or predecessor enactments are fully resolved.

+ Report to 13th legislature by Univ. → Anchorage

Tesch (Muni. Anch)

University of Alaska

March 31, 1982

STATE OF ALASKA/UNIVERSITY OF ALASKA LANDS ISSUE

SB 875 and SB 876

ORIGIN AND PURPOSE OF UNIVERSITY GRANT LANDS

The U.S. Congress reserved 108,000 acres of federal land in Alaska to be held in trust for the exclusive use and benefit of the University of Alaska, a land grant college. The intent of the grant was to endow the University with a land base from which to produce income to support the University in part. The State and University entered into an agreement in 1960 which provided for state management of these lands. Income from the use of the lands is deposited into the University of Alaska's Permanent Fund and managed by the Department of Revenue. The University is able to spend only the interest earnings from the fund.

NEGOTIATION ISSUES BETWEEN THE STATE AND UNIVERSITY

University grant lands were managed by the State as though they were state lands and were transferred to municipalities, leased at less than fair market value, and withdrawn from revenue producing potential by placement in parks. In 1981 the Alaska Supreme Court reaffirmed the State's trustee responsibilities and required the State to compensate the University for certain Chugach State Park land takings. The University and State Departments of Natural Resources, Revenue, and Administration negotiated an out of court settlement which comprehensively addressed compensation due for numerous other takings. The settlement was approved by all parties on March 12, 1982.

SUMMARY OF SETTLEMENT AGREEMENT

All parties to the settlement agreement believe the University should own and manage University grant lands and that the University is entitled to compensation as a result of State management. The agreement transfers title, management, and control of existing University grant lands to the University of Alaska Board of Regents as trustee and outlines a process for determining the compensation due the University. The University is entitled to receive compensation for uncollected revenues; rights of way, easements, gravel sales, park withdrawals, leases and other actions at less than fair market value; and liquidated damages for other losses of revenue. When all the transactions are appraised the University may elect to receive a cash deposit to the University's Permanent Fund or equal value in state land or some combination of both.

LEGISLATIVE ACTION

All parties to the settlement agreement believe the legislature should be informed and involved in the settlement.

SB 875: transfers title, management and control of existing University grant lands to the University of Alaska Board of Regents; ratifies the settlement agreement; and requires the University to adopt reasonable rules providing for prudent trust management and ~~provide~~ adequate public notice.

SB 876 appropriates \$500,000 to the Department of Law to be used by the State and University to research and determine the total dollar amount of compensation due the University.

JB:dm

PROPOSED BUDGET

U of A/DNR SETTLEMENT AGREEMENT - SB 875 and SB 876

TOTAL FUNDS

PERSONAL SERVICES	\$ 172,465
TRAVEL	\$ 20,840
CONTRACTUAL SERVICES	\$ 295,400
COMMODITIES	\$ 6,095
EQUIPMENT	\$ 5,200
	<hr/>
	\$ 500,000

ALLOCATION OF FUNDS

UNIVERSITY OF ALASKA

**Appraisal contracts	\$ 270,000
Operating budget	\$ 120,000

DEPARTMENT OF NATURAL RESOURCES

Operating budget	\$ 110,000
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TOTAL	<hr/>
	\$ 500,000

**University and DNR will jointly hire and instruct appraisers. Contracts will be administered by the University.

LEGISLATION SUMMARY

CS SB 875: "An Act relating to the transfer of the ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska; and providing for an effective date."

Sec. 1: The purpose of this Act is to settle certain litigation and to transfer legal title and management of University-grant land from the Department of Natural Resources to the University of Alaska Board of Regents.

*change
in C.S.*
Sec. 2: Nothing in this act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle their court case, or affects the pursuit or outcome of that litigation, or diminishes or affects the rights or interests of the University or the Municipality in that pending litigation.

Sec. 3: Directs the Commissioner of Natural Resources to convey all state interests in the described University-grant lands to the University of Alaska Board of Regents, pursuant to the Settlement ("Settlement Agreement Between the Department of Natural Resources, The Department of Revenue, And The Department of Administration and The University of Alaska and The Board of Regents, As Trustees for the University of Alaska"). Ratifies the Settlement, subject to necessary appropriations and legislation to implement it.

Sec. 4: Amends existing law regarding the duties of the Board of Regents to include the care, control and management of the transferred University-grant lands.

Sec. 5: Amends existing law regarding the duties of the Board of Regents to direct them to adopt regulations for trust management, and to provide adequate public notices of dispositions of University-grant lands, or interests therein.

Sec. 6: Immediate effective date.

PRIME SPONSOR: Resources

PROPOSED AMENDMENT TO SB. 875

SB 875 is amended by adding a new section to read:

Sec. 2. Nothing in this Act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle Case Number 3AN-79-2801 Civil. Third Judicial District, State of Alaska or prejudice or otherwise affect the pursuit or outcome of that litigation, or diminish or affect the rights or interests of the University of Alaska or the Municipality of Anchorage in the pending litigation.

Letter of Intent to accompany CS SB 875 (Res)

It is the intention of the Resources Committee in passing out this bill that the University and the Municipality of Anchorage negotiate to settle their claims presented in litigation (3AN 79 2801 Civil), Third Judicial District. The Resources Committee intends that the two parties shall report to the legislature by the tenth day of the 1983 session on the results of their [discussions.] *negotiations.*

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 6, 1982

SUBJECT: University trust land
(CSSB 875 (Resources))

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Richard A. Bradley
Legislative Counsel *B*

The committee has not wanted this office to exercise its usual drafting and review function on the enclosed bill. Accordingly, the bill is enclosed essentially as requested. What changes have been made are required by the fact that new material is added and because this is a committee substitute.

In new Sec. 2, I have changed the material only to make the verbs agree with their subject.

It seems difficult to see how it is possible that this legislation will have the effect Sec. 2 is designed to allay; we do not consider that Sec. 2 is within the subject of the bill.

Sec. 3 (former Sec. 2) is amended to recognize that this is a committee substitute and that the Agreement was introduced at the introduction of the bill.

The lead-in to Secs. 4 and 5 (former Secs. 3 and 4) is amended to eliminate the more gross style violations. The material after "section 3" is added to recognize that a reference to "this Act" in the Alaska Statutes is meaningless; a referent is added.

And finally we note that Secs. 4 and 5 have nothing to do with the subject of the bill: the "transfer of the ownership and management" of trust land.

RAB:ljb

Enclosure

LEGISLATION SUMMARY

- CS SB 875: "An Act relating to the transfer of the ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska; and providing for an effective date."
- Sec. 1: The purpose of this Act is to settle certain litigation and to transfer legal title and management of University-grant land from the Department of Natural Resources to the University of Alaska Board of Regents.
- Sec. 2: Nothing in this act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle their court case, or affects the pursuit or outcome of that litigation, or diminishes or affects the rights or interests of the University or the Municipality in that pending litigation.
- Sec. 3: Directs the Commissioner of Natural Resources to convey all state interests in the described University-grant lands to the University of Alaska Board of Regents, pursuant to the Settlement ("Settlement Agreement Between the Department of Natural Resources, The Department of Revenue, And The Department of Administration and The University of Alaska and ne Board of Regents, As Trustees for the University of Alaska"). Ratifies the Settlement, subject to necessary appropriations and legislation to implement it.
- Sec. 4: Amends existing law regarding the duties of the Board of Regents to include the care, control and management of the transferred University-grant lands.
- Sec. 5: Amends existing law regarding the duties of the Board of Regents to direct them to adopt regulations for trust management, and to provide adequate public notices of dispositions of University-grant lands, or interests therein.
- Sec. 6: Immediate effective date.

PRIME SPONSOR: Resources