

COMMITTEE REPORT
SENATE

FURTHER:

3/23/83

Date: 5/4/83

Mr. President:

The Committee on FINANCE has had SB 40

Special appropriations and appropriation transfers to carry out a Settlement Agreement between the State and the University of Alaska; eff. date

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 _____ same title
 new title
- and recommends _____
- AND attaches a ^{Judiciary} "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Rep. Jocher

Vic Fisher

John ...

Bob ...

...

Eda ...

CHAIRMAN

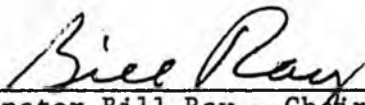
SENATE JUDICIARY COMMITTEE

LETTER OF INTENT

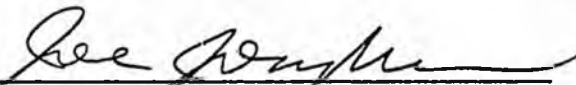
SB 40

It is our intent that the University of Alaska Board of Regents utilize at least 40% of its Land Grant Trust Fund income for the University Land-grant mission of capital projects and teaching support for agricultural, forestry, fishing and mineral development and education.


Furthermore, as indicated by our amendment to the Resources Committee substitute for Senate Bill 41, it is our intent to require annual reports from the Board of Regents, to be submitted within 10 days of the start of each legislative session, setting forth details as to the Board's past, present and future compliance with the above-stated legislative intent.



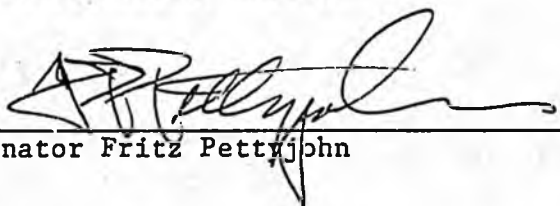
Senator Bill Ray - Chairman



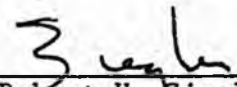
Senator Joe Josephson - Vice Chairman



Senator Richard Eliason



Senator Fritz Pettyjohn



Senator Robert H. Ziegler

Introduced: 1/18/83
Referred: Resources, Health, Education and
Social Services and Finance

Funding Information
General Fund \$4,200,000
Other Funds -0-
\$4,200,000

BY FAHRENKAMP, BENNETT,
MOSS AND STURGULEWSKI

1 IN THE SENATE

2

SENATE BILL NO. 40

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making special appropriations and appropria-
7 tion transfers to carry out a Settlement Agreement
8 between the State and the University of Alaska; and
9 providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. The sum of \$4,200,000 is appropriated from the general
12 fund to the Department of Revenue for deposit in the fund established under
13 AS 14.40.400. The purpose of the appropriation made by this section is the
14 settlement of certain claims of the University of Alaska to certain land of
15 the state under paragraph 10(a) of the "Settlement Agreement between the
16 Department of Natural Resources, the Department of Revenue, and the Depart-
17 ment of Administration and the University of Alaska and the Board of
18 Regents, as trustees for the University of Alaska" that was submitted to
19 the Alaska State Legislature on March 26, 1982.

20 * Sec. 2. Up to the amount of \$148,000 is appropriated from the unex-
21 pended and unobligated balance of the appropriation made to the University
22 of Alaska in ch. 101, SLA 1982 for operating expenses for the fiscal year
23 ending June 30, 1983 that would otherwise lapse into the general fund on
24 June 30, 1983 and is transferred to the Department of Law for expenses
25 related to the implementation of the Settlement Agreement described in
26 sec. 1 of this Act.

27 * Sec. 3. If the funds transferred to the Department of Law under
28 sec. 2 of this Act do not amount to \$148,000, then an amount is appropri-
29 ated from the general fund that, with the amounts transferred under sec. 2

1 of this Act, will provide \$148,000 to the Department of Law for the pur-
2 poses described in sec. 2 of this Act.

3 * Sec. 4. This Act takes effect on the effective date of an Act enti-
4 tled "An Act relating to the transfer of ownership and management of Uni-
5 versity of Alaska trust land from the Department of Natural Resources to
6 the Board of Regents of the University of Alaska; and providing for an
7 effective date."

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/10/83

Date: 3/2/83

Mr. President:

The Committee on JUDICIARY has had SB 40

Special appropriations and appropriation transfers to carry out a Settlement Agreement between the State and the University of Alaska; eff. date

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 _____ 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

[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Ray
CHAIRMAN

DO PASS

COMMITTEE REPORT
SENATE

1/18/83

FURTHER: HEALTH, ED. SOC. SER.
FINANCE

Date: 1-31-83

Mr. President:

The Committee on RESOURCES has had SENATE BILL NO 40

An Act making special appropriations and appropriation transfers to carry out a Settlement Agreement between the State and the University of Alaska; eff. date.

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

- my* do pass do not pass
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MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

vic | 1 3 Cecil Stangor
1 Paul Fischer
1 Paul Fischer

2 Bob Mulcahy No Rec
2 Paul Fischer No Rec
 PAUL Fischer

1 Letter Fahrerkang No Rec
 CHAIRMAN

Senator Bennett
SB 40/41

**UA Trust Lands Background
Settlement Agreement
Proposed Compensation**

**BRIEFING
PAPER**

LAND SETTLEMENT

THE UNIVERSITY OF ALASKA

Jay Barton, President

Briefing Paper

UNIVERSITY LANDS SETTLEMENT AGREEMENT

November, 1982

For further information contact:

Merry Tuten
Director of Land Management
(Statewide)
474-7421

EXECUTIVE SUMMARY

The Settlement Agreement provides a method for calculating compensation due the University as a result of improper management of University grant land. Compensation is provided for:

- easements and rights of way granted by the State without University approval or compensation
- residential, utility, commercial, agricultural, and private recreation leases let and administered at less than fair market value
- material (gravel/sand) removed for use by state agencies without payment to the University
- uncollected revenues from state sales of resources such as coal, oil and gas, and timber
- free use permits, land management transfers, reserved use requests, and special land use permits issued without University approval or compensation
- legislative withdrawals of University lands for parks and preserves without University approval or compensation
- land exchanges which have only been partially completed without the University receiving its share of the land to be exchanged

To compensate the University for these actions, the Settlement Agreement provides for the transfer of title, management, and control of University grant lands from the State to the University. The State and University agree that the University would more properly manage these lands to produce income and support the University. The Settlement Agreement also provides for the appropriation of funds and/or the conveyance of state "replacement" lands to equal the dollar value of the compensation owed the University. The Settlement Agreement provides a detailed method for calculating the compensation for items above and results in a total dollar amount.

BACKGROUND

The University of Alaska originally received its lands from the Federal Government by two Acts of Congress, in 1915 and 1929. These Acts were extensions into the Territory of Alaska of the Land Grant College concept pioneered by the Morrill Act of 1862 which established Land Grant Universities throughout the Continental United States. Under these two congressional Acts the University was granted 110,000 acres of land which were to be held in trust and were reserved for the exclusive use and benefit of the University of Alaska for the support of higher education in Alaska.

Upon statehood the new State of Alaska accepted the trustee responsibility for these "grant" lands. Since the purpose of the federal grant was to produce income to support the University the State should have actively managed and developed these lands. Instead, the State treated the University Grant Lands as though they were State lands and made them available at less than fair market value. In addition, the legislature passed laws that transferred University lands into nonprofit making uses such as state parks and wildlife withdrawals without compensating the University. As a result of these legislative and administrative actions the University lost considerable acreage and income. During the twenty years of State management only \$2.7 million in income was produced from the entire 110,000 acre federal land grant. These proceeds were deposited into the University of Alaska Permanent Fund and the interest earnings were used to support University programs.

In 1978 the University intervened in litigation between a private company and the State questioning the State's right to withdraw University grant land into state parks without compensating the University. While this lawsuit proceeded through the court system the University filed a second suit against the State in order to clarify the ownership and trustee responsibilities surrounding all University grant lands.

In 1981 the Alaska Supreme Court rendered a decision on the first lawsuit in which the University had intervened. The court reaffirmed that University grant lands are for "the exclusive use and benefit of the University, that such lands cannot be taken without compensation," and

that the State is required by the federal legislation conveying the land grant "to manage said University lands to effect the purpose of the trust, which is the production of income for the benefit of the University."

The second lawsuit is still pending in Superior Court. However, following the Supreme Court's ruling in favor of the University on the first lawsuit, the University entered into negotiations to settle all litigation with the State Departments of Natural Resources, Administration, and Revenue and, after 13 months of negotiation, reached an out-of-court settlement (enclosed).

During the 1981 - 1982 legislative session the State and University sought the legislature's ratification of this out-of-court settlement. Although both the House and Senate passed the initial bill unanimously, other issues unrelated to the land settlement question were added to the final bill and it was consequently defeated in committee. The legislature did, however, appropriate \$500,000 to the University and the State in order to implement the terms of the Agreement. The State and University will be seeking ratification of the Settlement Agreement during the 13th Alaska Legislature.

ISSUES

1. Why should the University own land and be in the land management business?

The federal government granted trust land for the exclusive use and benefit of the University of Alaska. The Alaska Supreme Court has held that the university's grant lands must be managed "to effect the purposes of the trust, which is the production of income for the benefit of the university." However, the state manages and disposes of its lands for purposes other than to maximize earnings. Accordingly, the purposes for managing university trust lands and state-owned lands are completely different. Furthermore, the state has disposed of university trust land and products therefrom at less than current market value. For these reasons, the university's board of regents has felt compelled to assume direct responsibility for the control and management of university trust lands.

2. What will the University do with the money it receives from its trust lands?

Income produced by the university's lands is deposited into the university's permanent fund which is held and managed by the state Department of Revenue. The state informs the university how much investment income it will receive from its permanent fund and the university informs the state how that income will be used. No change in this procedure or in legislation governing the university permanent fund is required at this time. For further information on the university's permanent fund and its use, the reader's attention is invited to the university briefing paper entitled "University of Alaska Permanent Fund."

3. Does the Settlement Agreement benefit the state?

Yes. The agreement resolves a long standing legal issue at minimal cost to the public, clarifies Department of Natural Resources responsibilities, and provides the university with its original federal endowment. The settlement will also benefit the state by enabling its university to become a better, higher quality university, at lower cost to the state, than would be possible without the federal endowment.

4. Why does the State "owe" the university any compensation since the legislature funds the university every year?

The Alaska Supreme Court held that the university is entitled to compensation for takings by the state of university trust land at less than fair market value. This compensation is a single "one-time" payment stemming from a judicial decision. This payment is necessary to re-establish the land grant trust endowment provided by the Congress to provide financing in perpetuity to help support the university. Congress intended that this endowment funding be provided in addition to, not simply to replace, annual general fund support of the university by the state.

5. If the legislature appropriates funds and land as compensation for past actions, will the university be able to support itself from land revenues?

No, investment earnings will not be large enough in the foreseeable future to have any significant influence on the amount of general funds needed to support the university.

RECOMMENDATIONS

Calculations of compensation due the university under the terms of the settlement agreement are shown on the next page. Accordingly, the university now recommends that: the terms of the out-of-court settlement between the university and the state Department of Natural Resources be ratified by the legislature.* Specifically, the university recommends that:

1. It be granted title, management, and control of its federally granted trust lands.

2. It receive cash and land compensation from the state in accordance with the closing statement shown below.

3. Alaska statutes be corrected to reflect the transfer of university trust lands from public ownership to management by the university's board of regents.

* Under the terms of the settlement agreement, the state Department of Natural Resources must review the university's calculation of compensation to determine whether or not it agrees with the grand total so derived. This review has not, as of this writing, been completed.

12/20/82

CLOSING STATEMENT

Compensation due the University of Alaska computed in accordance with the settlement agreement--

<u>SOURCES OF COMPENSATION</u>	<u>IN LAND*</u>	<u>IN CASH</u>	
Leased Lands	\$ 15,364,693		
Uncollected Revenues		\$ 154,454	
Material Sales		42,418	
Rights of Way		2,177,763	
Liquidated Damages	0		
Back Pay for Leases		2,344,676	
Legislative Withdrawals	6,085,536		
Conveyances & Incomplete Land Exchanges	112,859		
TOTALS:	\$ 21,563,088	\$ 4,719,311	\$ 26,282,399 **

*For land compensation, the university will exchange its previously withdrawn and encumbered lands, for which compensation is due, for unencumbered state lands of equal value placed into replacement pools for this purpose by the Department of Natural Resources.

The university relinquishes:

- Category
- Leased Lands
 - Conveyances and Incomplete Land Exchanges
 - Legislative Withdrawals
 - Municipal Selections (only if agreement is reached with the Municipality)

The university gains:

- Replacement Pool Parcels
- Replacement Pool #1 - All parcels
 - Replacement Pool #2 - (previously approved by BOR on 9/30/82) Parcel as needed to equal the fair market value of lands relinquished to the state

** This number may change slightly during the process of concluding negotiations. However, regardless of the total amount of compensation, the categories to be taken in cash and in land will be as specified above.