



LAND GRANT HISTORY

Several federal laws were enacted to dedicate significant acreages of land to the educational mission of the University of Alaska (UA), parallel to those dedicated to land-grant universities in other states. This was in keeping with a long-standing tradition of providing land to support education, predating even the United States Constitution. Unfortunately, a series of historical circumstances have deprived UA of most of the actual land grants originally intended for it, with the ironic result that, despite the vast areas of land within the State of Alaska, UA has been crippled, historically and presently, by the paucity of lands from which it can generate its own revenues. The largest state in the U.S. has received a smaller land grant for higher education than any other state except Delaware (90,000 acres) and Hawaii (which received no federal land at all, but did get a large monetary grant in-lieu of land). The following is a brief summary.

1862 Morrill Act. The Morrill Act was passed by Congress in 1862 under President Lincoln, and provided more than 11 million acres of land to states and territories to create a system of land grant colleges and universities. Each state received 30,000 acres for each of its Senators and Representatives, and future-admitted states were to receive the same. Proceeds from the lands were used to establish and endow the operation of at least one college in each state, to promote “the liberal and practical education of the industrial classes in the several pursuits and professions of life.” For the first time in American history, higher education became available to millions of working class men and women. Eventually, land grant institutions were established in all fifty states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands, and numerous tribal colleges were given that status as well.

1915 Wickersham Act. In 1915, before Alaska had a college, Congress enacted Delegate Wickersham’s land grant. Section 1 provided that “section thirty-three in each township in the Tanana Valley ... shall be, and the same is hereby, reserved from sale or settlement for the support of a Territorial agricultural college and school of mines when established by the Legislature of Alaska upon the tract granted in section two of this Act.” Section 2 granted the Territory four sections of land in Fairbanks as a site for the to-be-established college. (The public schools were also beneficiaries of the Wickersham Act; two sections of land from each township in the territory were similar reserved for the support of common schools in the Territory.) The section 1 reservations, while they had both present and future effect, were defeasible. If, at the time of survey, it turned out that a particular section 33 contained a homestead or other Congressionally authorized land use, then the reservation would not displace the settlement, but other lands would be reserved for the college in lieu of the lost territory. Also, if at the time of survey the land had been found to be valuable for minerals, then the reservation would not displace the mining activity, but the revenues to the federal government from that mining activity were to be dedicated to the college. This defeasibility components led many to believe that the reservations were to have a future effect only, in spite of the clear “shall be and the same is hereby” language in the statute. The vastness of the Tanana Valley and slow pace of surveys meant that very few of the college’s reservations were surveyed over the decades. As of 1958, only nineteen of the estimated 420 section 33’s had been surveyed (4.5%).

1917 Alaska Agricultural College and School of Mines. In 1917, the Alaska Territorial Legislature formally established the Alaska Agricultural College and School of Mines, which was renamed the University of Alaska in 1935. The Territorial Legislature located the campus on the four sections of land specified in the 1915 Wickersham Act, thereby fulfilling the prerequisites of acceptance of the reservations.

1929 Sutherland Land Grant. In 1929, Congress granted an additional 100,000 acres of land to the Territory of Alaska, for the exclusive use and benefit of the Alaska Agricultural College and School of Mines, under a bill sponsored by Delegate Sutherland. Unlike the Wickersham Act, the Sutherland Act allowed the Territory to locate these selections throughout the state, so long as they were surveyed, unappropriated and unreserved. The University's first selection of lands under this Act was submitted in 1938, for 1,927 acres.

1939 acreage estimates. A 1939 Interior Department nationwide tabulation of land grants included a delineation of the University grants for the Territory of Alaska, setting the acreages at 336,000 acres in "section 33's" reserved under section 1 of the Wickersham Act, plus 2,249.95 acres for the campus under section 2 of the Wickersham Act, plus 100,000 acres under the Sutherland Act, totaling 438,249.95 acres in all. Interior felt this was enough. Delegate Dimond introduced several bills during 1936-1943 to extend the UA's section 33 reservations to the entire Territory (which would have put the university lands up around 10 million acres), but the Interior Department opposed those, opining that the University already had enough, and noting that the University had not made many of its selections under the 1929 Sutherland Act.

1940s/1950's UA Land Grants during advent of Statehood: As the Statehood movement gained momentum, the Interior Department, while opposing the efforts by the Alaska delegate to grant all public lands to the new state, still supported the "internal improvement" land grants to the state, including allowing UA the "over 438,000 acres" set aside under the 1915 and 1929 Acts. While those debates proceeded, a subcommittee of the Board of Regents during the 1950's greatly accelerated the pace of the UA selections of under the 1929 Sutherland Act. Surveys of the 1915 Act lands still proceeded slowly; a 1954 Territorial Lands Department report indicated that 15,360 acres of the "section 33's" had been surveyed (out of the Interior's estimated 336,000 acres).

1958 Alaska Statehood Act. The Statehood Act partially abandoned the traditional specific land grants for higher education and other "internal improvements" in earlier statehood enactments, instead giving the new State a large 102.55 million acre selection right under section 6(b), from which the new state would be expected to provide on its own for its University. The three prior federal land grant enactments were each dealt with differently.

- As to the 1862 Morrill Act, the Statehood Act specified that the State's large general land grant was to be "in lieu of" the Morrill Act's promise of 90,000 acres the University would otherwise have received upon statehood, which was "declared not to extend to the State of Alaska." (Hawaii, admitted in 1959, was the only other state not given any Morrill Act lands; but the following year, Congress enacted the "Hawaii Omnibus Act" including authorization for an appropriation of \$6 million for a permanent Morrill endowment fund. Alaska had its own Omnibus Act in 1959, but it provided neither Morrill lands nor Morrill money.) Nor did the State grant this to UA out of its own large grant. Thus, the Morrill Act component of UA's land grant remains unfulfilled.
- As to the 1915 Wickersham Act, the section 2 grants (for the campus) were confirmed, and while section 1 (the section 33 reservations provision) was to be repealed effective upon

Statehood, “all lands therein reserved” were to “be granted to said State for the purposes for which they were reserved.” It was the interpretation of the phrase “all lands therein reserved” to mean something less than all lands therein reserved that led to the main component of UA’s land grant gap.

- The 1929 Sutherland Act was left intact by the Statehood Act. There was a subsequent partial repeal of some of its provisions in 1966, which the State of Alaska later argued removed any responsibility on the part of the State to dedicate the lands to UA, but the Alaska Supreme Court rejected that argument in 1981. Thus, the Sutherland Act component of UA’s land grant is the only one that was fulfilled post-Statehood.

1958-1959 initiation of efforts to get State of Alaska and federal government to remedy the missing lands. The University immediately initiated efforts to try to get the state and federal governments to supply those lands jeopardized by the repeal of section 1 of the Wickersham Act and lost through the non-extension of the Morrill Act.

- Since the repeal of the Wickersham Act did not take effect until admission, which occurred by Presidential proclamation January 3, 1959, UA tried to implement its in-lieu rights prior to that repeal. In the week preceding that admission date, UA filed with the BLM for 64,000 acres in lieu of section 33’s that had already been surveyed and found to have pre-survey uses superseding the reservations and triggering those in-lieu rights. Notwithstanding the pre-repeal submission, the Bureau of Land Management (BLM) treated it as if the law had already been repealed, and ignored the in-lieu selections.
- UA asked the state legislature for a land grant. The first Alaska State Legislature passed a bill in the spring of 1959 authorizing the reservation of one million acres for UA, explicitly to replace the grants of certain sections 33 in the Tanana Valley previously allowed under federal law. But Governor Egan vetoed this in May 1959. UA’s President Patty initially expressed optimism that the Governor’s mind could be changed, but by February 1960 he reported that Governor Egan had become “most adamant” and that there seemed no chance to pass a UA land grant bill over his veto.
- UA also inquired of Senator Bartlett about the impact of the Statehood Act on UA’s Tanana Valley lands. The Senator’s legislative assistant replied in November 1959 that Congress intended for new State of Alaska to supply UA’s land grant needs out of its own selections, and that seeking Congressional action to remedy the missing lands would re-open debates over whether Congress had already been too generous in its land grants to the new State.

1960 State administration of University land selections. Still optimistic that UA’s best course to remedy its malnourished land grant lay with the new State, UA’s new President Wood entered into a Memorandum Agreement with the new Department of Natural Resources (DNR) in October 1960, under which DNR’s Division of Lands was “authorized and directed to take such action as may be necessary to process and to complete successfully pending and future University Federal and/or state land acquisition applications under the 100,000 acre land grant [under the 1929 Sutherland Act] and the Tanana Valley section 33 grant [under the 1915 Wickersham Act].” By that point, UA had already submitted its selections for virtually all of the 100,000 acres under the 1929 Act, so the main work concerned the section 33’s. Hearteningly, the DNR Division of Lands in May 1961 announced that it had, “in the management of University lands, applied for all section 33s in the Tanana Valley.” However, DNR subsequently reported only applying for a meager 11,211 acres of section 33’s as UA lands; the other section 33’s were apparently applied for not as UA lands but as a general state selection, with no recognition of any UA interest in or entitlement to those.

1960's-1970's. Throughout the 1960's and 1970's, the University's land entitlement took a back seat while the State of Alaska and its Congressional delegation wrestled with the larger issues that accompanied state selections. Governor Egan remained opposed to a State land grant to UA, and remained in office until 1967, by which point the Department of Interior had imposed its "land freeze" on State selections pending resolution of Alaska Native land claims. By the time of passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971, Governor Egan was back in office. While it was obviously crucial to achieve a just resolution of all the issues presented by ANCSA, and the Trans-Alaska Pipeline Authorization Act of 1973, and the Alaska National Interest Lands Conservation Act (ANILCA) of 1980, the subject of UA's land entitlement remained unresolved, and many of the most valuable lands UA might otherwise have been able to choose were selected by the State, the ANCSA corporations, or other parties, or subjected to new federal encumbrances intended to block or slow the type of development UA's land grant had been intended to facilitate in support of the University. With each passing year, the remaining lands that might eventually be made available to UA became narrower and narrower. President Wood kept importuning both state and federal authorities, who always agreed that UA should receive additional land and further agreed that the other should provide it.

1970's-1980's. Disputes emerged about DNR's administration of UA's lands under the 1960 MOA. DNR also engendered disagreements with respect to two other sets of trust lands under pre-Statehood Congressional enactments: the public school lands under the 1915 Wickersham Act, and the Mental Health lands under the 1956 Mental Health Enabling Act. State government tended to lose sight of the distinctions between those federal trust lands and the larger general State selections, with the result that trust lands could get diverted into state parks, or offered up for municipal land selections. Many of UA's most valuable land selections (and those of the public schools and the Mental Health Trust) were eroded as a result. The Alaska Supreme Court over time judicially recognized the State's trust responsibilities to the beneficiaries under all three of these categories, in a 1977 case involving public school lands, a 1981 case involving UA lands, and a 1985 case involving Mental Health lands.

1977-1981 University litigation. In 1977, the State and UA found themselves at odds over the State's creation of the Chugach State Park including some (1929 Act) UA lands. A private party wanting to access his inholding within the Park sought permission to widen a road crossing over the UA lands. UA assented, but DNR sued the private party to stop the road improvement. While the case was pending, the state legislature in 1978 enacted a bill that essentially turned the trust lands into general state selection lands, with each set of beneficiaries getting a dedicated revenue stream in place of the trust lands. The legislation gave the option to the Regents to accept or reject this reclassification. The Regents in May 1978 voted to rescind the 1960 Memorandum of Understanding with DNR, and in September 1978 voted to disapprove the inclusion of UA lands with State general selection lands. (While the Mental Health Lands beneficiaries were not given the same option, they subsequently sued the State, leading to the 1985 decision finding that the 1978 legislation had constituted a breach of the State's trust responsibility). The lawsuit over the Chugach Park lands was eventually resolved by the Alaska Supreme Court in 1981, ruling that, while the legislature could validly include the parcel in the park, it had a federally-imposed trust responsibility to compensate the University for the fair market value thereof.

1980-1995 title transfer agreements. The 1981 ruling led UA and DNR to painstakingly negotiate their divorce from the 1960 MOA, in a series of agreements starting in 1982 and stretching into 1995. Those lands which DNR acknowledged it held in trust for UA were conveyed directly to UA, which would administer its own lands henceforward. The full complement of UA

lands under the 1929 Sutherland Act were now in UA's hands (in fact, since UA eventually agreed to let the municipalities keep those high-value UA lands the DNR had already conveyed to those municipalities, and the State agreed to provide UA with replacement lands located elsewhere in the state on a dollar-for-dollar basis, UA wound up getting larger acreages of lower-valued lands). Similarly, the campus lands grant under section 2 of the 1915 Wickersham Act was now in UA's ownership. Less satisfactory was the State transfer of the reservation-into-grant lands under section 1 of the Wickersham Act; of the 336,000 acres estimated in this category in 1939, only 11,211 acres wound up in UA's ownership. And left completely unaddressed was any State effort under the Statehood Act to fulfill the 90,000-acre Morrill Act gap in UA's land grant.

1990's and legislative remedial proposals: An increasing realization on the part of legislators that UA's anemic land grant was seriously hampering its vitality and financial health led to proposals for legislative remedies, which gathered momentum as the decade progressed. Starting around 1992, the Alaska Legislature kept introducing bills to provide a state land grant and resolutions to urge the U.S. Congress to provide an additional federal land grant. Such bills came closer to passage over time, sometimes passing each House but with different acreage amounts not reconciled prior to adjournment, sometimes passing both Houses but vetoed, sometimes with unsuccessful attempts to override those vetoes. On the federal level, in April 1997, U.S. Senator Frank Murkowski introduced legislation (S.660) to rectify UA's unfulfilled and disproportionately small land grant entitlement. The 1997 legislation would have granted the University the right to select 250,000 acres of unreserved federal lands in Alaska. The bill also provided for an additional matching grant of up to 250,000 acres of federal land, if the University received a state land grant of that size, thus providing up to 500,000 acres of federal land plus 250,000 acres of state land to UA. Senator Frank Murkowski's 1997 legislation, and legislation introduced by Senator Frank Murkowski and Representative Don Young in 1999 (S.744, H.R.2958), by Senator Frank Murkowski in 2001 (S.1816), and by Senator Lisa Murkowski in 2005 (S.293), all failed to pass (although S.1816 did pass the Senate in November 2002, it failed to pass the House).

2000 and 2005 State Land Grants. UA finally got a land grant remedy in 2000, when the Alaska Legislature enacted Senate Bill 7 ("SB 7") authorizing UA to select up to 250,000 acres of state land. While Governor Knowles vetoed the bill, the legislature overrode that veto, 41-19. Governor Knowles rejected the override vote, asserting that it only reached a 2/3 majority and not the 3/4 needed to override a veto of appropriation legislation. The legislature brought suit to force the Governor to implement the bill, asserting that it was not an appropriations bill. That litigation was resolved by a 2004 Alaska Supreme Court decision finding that the bill was not an appropriations measure and upholding the legislative override. The 2000 enactment was amended by the legislature in 2005, this time with the support of then-Governor Murkowski, listing the properties to be conveyed, and adding a University research forest.

2009 Supreme Court Decision. On March 13, 2009, the Alaska Supreme Court issued an opinion in a lawsuit brought by the Southeast Alaska Conservation Council ("SEACC"), concluding that the 2000/2005 legislation, by committing the land proceeds to the University's Endowment Trust Fund, violated the anti-dedication clause (Article IX, Section 7) of the Alaska Constitution. This invalidated the entire law (except those portions that created the University Research Forest) and required the University to reconvey to the State all lands acquired under the legislation. This included several critical educational and research parcels, including UA's Sitka Campus; the Delta Agricultural and Forestry Experimental Station; the Poker Flat Special Use Area; and the Tok Research Forest. The parcels were reconveyed back to the State in April 2010, and UA's land grant sunk back into its prior malnourished state.

University Lands Status. Currently, the University owns approximately 150,000 acres of land. This consists primarily of federal grant lands, but also includes other lands acquired from local, state or federal governments for restricted educational purposes, purchased lands, and private lands donated to the University. The 150,000 acres is divided between approximately 12,000 acres for educational uses and 138,000 acres for investment/ revenue purposes.

University Land Receipts. As of FY2017, University land and resource sales have generated over \$210 million in receipts for the University since 1987. This figure obviously could have been much larger had the University had ownership over the past several decades of the 1,000,000 acres the first Alaska Legislature tried to convey in 1959, or the up to 750,000 acres of state/federal lands the U.S. Senate approved in 2002, or the 260,000 acres the State of Alaska tried to convey in 2005.

The net income from the sale, lease, development and other income generated from the University's federal grant lands is deposited into a fund managed by the University of Alaska Foundation, in accordance with generally accepted management practices. Earnings are used to fund, among other vital UA initiatives, the Alaska Scholars Program, which awards a \$12,000 scholarship to the top 10 percent of the graduates from every Alaska high school each year for use at a UA System campus. This program is the cornerstone of the University's effort to educate Alaska's brightest graduating high school seniors in Alaska.

Current prospects for a resolution of the land grant gap. The University remains convinced that there must be a way, consistent with the Alaska Constitution, for the State and Federal Governments to fulfill the Statehood Act commitment to provide UA with the rest of its land grant. UA is on occasion contrasted with land grant institutions in other states which have been able to supply a higher proportion of their funding from those land grants; such criticisms generally come from those unfamiliar with the history and circumstances of UA's under-endowed land grant, unfamiliar with the fact that Alaska ranks dead last in the percentage of total federal land grants dedicated to higher education (see table), unfamiliar with the fact that Alaska received a smaller federal land grant than the State of Rhode Island (see table), and unfamiliar with the fact that, uniquely among the States, Alaska received no entitlement of either money or land under the 1862 Morrill Act. UA is currently working on a joint federal-state initiative to redress its land grant gap that will hopefully prove feasible and pass constitutional muster; but whether this current effort proves successful or not, UA will continue to hammer away at this problem until its land grant is commensurate with the scope of the dreams and duties Alaskans want their University to achieve.

ATTACHMENT 1

UNIVERSITY LAND GRANTS (IN ACRES)

STATE	UNIVERSITY LAND GRANT	TOTAL STATE LAND GRANT	UNIV PERCENT OF TOTAL STATE LAND GRANT
1. New Mexico	1,346,546	12,794,718	10.52%
2. Oklahoma	1,050,000	3,095,760	33.92%
3. New York	990,000	990,000	100.00%
4. Arizona	849,197	10,543,753	8.05%
5. Pennsylvania	780,000	780,000	100.00%
6. Ohio	699,120	2,758,862	25.34%
7. Utah	556,141	7,501,737	7.41%
8. Illinois	526,080	6,234,655	8.44%
9. Indiana	436,080	4,040,518	10.79%
10. Montana	388,721	5,963,338	6.52%
11. Idaho	386,686	4,254,448	9.09%
12. Alabama	383,785	5,006,883	7.67%
13. Missouri	376,080	7,417,062	5.07%
14. South Dakota	366,080	3,435,373	10.66%
15. Massachusetts	360,000	360,000	100.00%
16. Mississippi	348,240	6,097,997	5.71%
17. North Dakota	336,080	3,163,552	10.62%
18. Washington	336,080	3,044,471	11.04%
19. Wisconsin	332,160	10,179,804	3.26%
20. Kentucky	330,000	354,607	93.06%
21. Tennessee	300,000	300,000	100.00%
22. Virginia	300,000	300,000	100.00%
23. Iowa	286,080	8,061,262	3.55%
24. Michigan	286,080	12,142,846	2.36%
25. Georgia	270,000	270,000	100.00%
26. North Carolina	270,000	270,000	100.00%
27. Louisiana	256,292	11,441,955	2.24%
28. Minnesota	212,160	16,422,051	1.29%
29. Maine	210,000	210,000	100.00%
30. Maryland	210,000	210,000	100.00%
31. New Jersey	210,000	210,000	100.00%
32. Arkansas	196,080	11,936,834	1.64%
33. California	196,080	8,825,657	2.22%
34. Florida	182,160	24,214,722	0.75%
35. Connecticut	180,000	180,000	100.00%
36. South Carolina	180,000	180,000	100.00%
37. Texas	180,000	180,000	100.00%
38. Kansas	151,270	7,794,669	1.94%
39. New Hampshire	150,000	150,000	100.00%
40. Vermont	150,000	150,000	100.00%
41. West Virginia	150,000	150,000	100.00%
42. Colorado	138,040	4,471,604	3.09%
43. Oregon	136,165	7,032,847	1.94%
44. Nebraska	136,080	3,458,711	3.93%
45. Nevada	136,080	2,725,226	4.99%
46. Wyoming	136,080	4,342,520	3.13%
47. Rhode Island	120,000	120,000	100.00%
48. Alaska	112,064	104,569,251	0.11%
49. Delaware	90,000	90,000	100.00%

Source: U.S. Dep't of Interior, Bureau of Land Management, Public Land Statistics 1984, Table 4. (BLM ceased publication of that particular table in 1985.) Not reflected herein is Hawaii, which received a monetary permanent endowment (~\$6 million) for its University in 1961-62 in place of Morrill Act land acreages. Similarly not reflected are the District of Columbia (1967 in-lieu appropriation of \$7.24 million); American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands (1972 in-lieu appropriation of \$3 million each); and 29 Tribal colleges (1994 designation as land-grant institutions with provision for in-lieu appropriation of various amounts under a "1994 Institutions Endowment Fund"; amendments have brought the number of "1994 institutions" to 36 as of 2019). What lands the University of Alaska received were granted under statutes other than the Morrill Act, and Alaska was given neither Morrill Act lands nor any monetary endowment in lieu thereof.