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### PUBLIC LANDS IN THE STATE OF ALASKA

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JUNE 2, 1999.—Ordered to be printed

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Filed under authority of the order of the Senate of May 27, 1999

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

together with

### MINORITY VIEWS

[To accompany S. 744]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 744) to provide for the continuation of higher education through the conveyance of certain lands in the State of Alaska to the University of Alaska, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 9 line 13, strike “April 24, 1997.” and insert “May 17, 1999.”.

#### PURPOSE OF THE MEASURE

S. 744 would provide Alaska’s Federal land grant college, the University of Alaska, with a Federal land grant in support of its educational endeavors. S. 744 would also transfer to the Federal Government 31 individual inholdings within conservation system units in Alaska.

#### BACKGROUND AND NEED

One of the oldest and most respected ways of financing America’s educational system has been through the land grant system. Established in 1785, this practice gives land to schools and universities

for use in supporting educational endeavors. In 1862, Congress passed the Morrill Act which created land grant colleges and universities as a way to underwrite the cost of higher education to more Americans. These colleges and universities received land from the Federal Government for facility location and, more importantly, as a way to provide sustaining revenues.

The University of Alaska received the smallest amount of land of any State, with the exception of Delaware, that has a land grant college. Even the land grant college in Rhode Island received more land from the Federal Government than has the University of Alaska.

Previous efforts in Congress were made to fix this problem. These efforts date back to 1915, less than 50 years after the passage of the Morrill Act, when Alaska's Delegate James Wickersham shepherded a measure through Congress that set aside potentially more than a quarter of a million acres in the Tanana Valley outside of Fairbanks, for the support of an agricultural college and school of mines. Following the practice established in the lower 48 for other land grant colleges, Wickersham's bill set aside every Section 33 of the unsurveyed Tanana Valley for the Alaska Agricultural College and School of Mines.

Before land could be transferred to the Alaska Agricultural College and School of Mines (renamed the University of Alaska in 1935) under the 1915 Act, it had to be surveyed. The sections reserved for education could not be transferred to the College until they had been delineated. According to records of the time it was unlikely, given the incredibly slow speed of surveying, that the land could be completely surveyed before the 21st century. Surveying was and is an extraordinarily slow process in Alaska's remote and unpopulated terrain. In all, only a small amount of section 33's—totaling just under 12,000 acres—were ever transferred to the University. Of this, 2,250 acres were used for the original campus and the remainder was left to support educational opportunities.

Recognizing the difficulties of surveying in Alaska, subsequent legislation was passed in 1929 that simply granted land for the benefit of the University. This grant was in addition to the 1915 lands and totaled approximately 100,000 acres which to this day comprises the bulk of the University's roughly 112,000 acres of Federal land.

During the 74th–78th (1936–1943) Congresses, Alaska Delegate Anthony J. Dimond introduced five identical bills to extend the 1915 grant to all section 33's throughout the State, not just the Tanana Valley, for approximately a 10 million acre grant to the University. In 1943, Bob Bartlett introduced the first of his statehood bills which reserved two sections of every township (20 million acres) for support of public schools and one section of every township (10 million acres) for the University. This was the formula for all statehood bills up to 1949. Realizing that schools would never see any land until it was surveyed—decades into the future—in 1950, Bartlett changed his approach from “in-place grants” to “quantity grants” which would allow the University to select the lands they wanted. He believed this would give the new state greater flexibility. While the final version of the Statehood

Act had no language specifically granting land to the University, many argue the University's land became part of an approximate 3.25 million acre "internal improvement grant" that was rolled into the state's 104 million acre grant. With the passage of the Statehood Act in 1958, the 1915 Act was repealed although it did preserve the previously granted acres. This set the stage for future debates in Congress and in the State of Alaska for disagreements about whether the State or the Federal government should be responsible for providing the University with the balance of land it never received under the 1915 legislation.

S. 744 would grant the University 250,000 acres of Federal land. In order to receive this land, the University must relinquish 13,958 acres of valuable inholdings in Alaska. These inholdings include lands in the Alaska Peninsula and Maritime National Wildlife Refuge, the Kenai Fjords National Park, Wrangell St. Elias National Park and Preserve, and Denali Park and Preserve, and a world class nickel deposit in Glacier Bay National Park. The University would be eligible to receive an additional 250,000 acres of federal land on a matching basis with the State for a total of 500,000 additional acres. An additional provision allows for an agreement to be concluded between the Secretary of the Interior, the State, and the University regarding sharing revenues from the National Petroleum Reserve Alaska.

#### LEGISLATIVE HISTORY

S. 744 was introduced by Senator Murkowski on March 25, 1999. On April 15, the Full Committee held a hearing. A similar measure, S. 660, was introduced during the 105th Congress by Senator Murkowski on April 28, 1997. At the business meeting on September 24, 1997, the Committee on Energy and Natural Resources ordered S. 660, as amended, favorably reported by a vote of 12-8. On October 9, 1997, the bill was placed on the Senate Legislative Calendar with a unanimous consent time agreement. No further action was taken during the 105th Congress.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on May 19, 1999, by a majority vote of a quorum present, recommends that the Senate pass S. 744, if amended as described herein.

The roll call vote on reporting the measure was 13 yeas, 7 nays, as follows:

YEAS	NAYS
Murkowski	Bingaman
Domenici	Dorgan
Nickles*	Graham*
Craig	Wyden
Campbell	Johnson
Thomas	Bayh
Smith	Lincoln
Bunning	
Fitzgerald	
Gorton	

Burns  
Akaka  
Landrieu

\*Voted by proxy.

#### COMMITTEE AMENDMENTS

During the consideration of S. 744, the Committee adopted an amendment offered by Senator Murkowski. The amendment clarified, and added to, the lands the University is to relinquish under Section 3 of the bill. The relinquishment document, entitled "The University of Alaska's Inholding Relinquishment Document," is printed in the June 8, 1999 Congressional Record.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* contains congressional findings and sets forth the purposes of the Act.

*Section 2* provides a new land grant for the University of Alaska. Subsection (a) grants the University of Alaska selection rights to 250,000 acres of public lands in or adjacent to Alaska and directs the Secretary of the Interior to promptly convey such lands.

Subsection (b)(1), provides that within 48 months of enactment the University may submit lists of lands tentatively selected under the Act. Such tentative selections may be revoked or changed at any time within the 48 month period. However, at no time may the amount of land tentatively selected exceed 275,000 acres. Paragraph (2) provides that the University may select lands which have been selected by, but not conveyed to, the State of Alaska or Alaska Native corporations. However, such lands may be conveyed to the University only if the State or Native corporation first relinquishes its selection. Paragraph (3) prohibits the University from selecting lands within Conservation System Units (CSUs), as defined in the Alaska National Interest Lands Conservation Act (ANILCA), or within the Tongass National Forest. However, the University may select lands classified as LUD III or LUD IV by the United States Forest Service in areas of second growth timber where timber harvest occurred after January 1, 1952. Paragraph (4) permits the University to make selections within the National Petroleum Reserve-Alaska (NPRa), except as provided in subparagraphs (A)-(C). Subparagraph (A) prohibits the University from selecting land within an area withdrawn for village selection pursuant to the Alaska Native Claims Settlement Act (ANCSA) for the Native villages of Atkasook, Barrow, Nuiqsit, and Wainwright. Subparagraph (B) prohibits the University from making a selection in the Teshekpuk Lake Special Area as depicted on a map dated March 24. Subparagraph (C) bars the University from making a selection in excess of 92,000 acres within those portions of the NPRa north of latitude 69 degrees North. Further, (C) prohibits any selection within that area during the two-year period extending from the date of enactment of the Act. Next, (C) requires the Secretary to attempt to conclude an agreement with the University and the State of Alaska for sharing of NPRa leasing revenues within that two-year period. Such agreement shall provide for the University of Alaska to receive a portion of annual revenues from mineral leases within NPRa in lieu of any land selections within NPRa

north of latitude 69 degrees North, but not to exceed ten percent of such revenues or \$9 million annually, whichever is less. If the Secretary concludes such an agreement, he shall transmit it to the Congress, and no selection may be made within the area covered by the agreement during the three-year period extending from the date of enactment of the Act. If the Congress does not enact legislation approving the agreement within three years of the date of enactment of the Act, the University may make selections within the area. Paragraph (5) directs the Secretary to publish in the Federal Register notice of University selections within 45 days of the receipt of a selection. Such notice must provide for a public comment period not to exceed 60 days. Paragraph (6) provides that the Secretary must notify the University of a decision to accept or reject a tentative selection within six months and that failure to do so constitutes approval. Paragraph (7) permits the Secretary to reject tentative selections if he finds that such a conveyance would either have a significant adverse impact on his ability to comply with the land entitlement provisions of the Alaska Statehood Act or ANCSA or that the selection would have an irreversible adverse effect on a CSU. Paragraph (8) requires prompt publication in the Federal Register of the acceptance or rejection of a selection. Subsection (b)(9) provides that any action taken pursuant to the Act is not a major federal action within the meaning of 102(2)(C) of Public Law 91-190.

Subsection (c), prohibits the University from selecting any federal lands which are reserved for military purposes or for the administration of a Federal agency, unless the Secretary of Defense or the head of the affected agency agrees to relinquish the lands.

Subsection (d) allows the University to select additional lands to replace lands rejected by the Secretary.

Subsection (e) states that any land tentatively selected by the University shall be segregated, and unavailable for selection by the State of Alaska Native corporations and may not be otherwise encumbered or disposed of by the United States during the selection process.

Subsection (f) gives the University the non-exclusive right to enter onto selected lands for the purposes of assessing oil, gas, mineral and other resource potential and exercising due diligence. Assessment techniques permitted include core drilling to assess metalliferous or other values, and surface geological exploration and seismic exploration for oil and gas, but not exploratory drilling of oil and gas wells.

Subsection (g) provides that within one year of the Secretary's approval of a selection, the University may make its final decision whether to accept the lands. Within six months of such final decision, the Secretary must publish notice of an acceptance in the Federal Register. Effective on the date of publication, all right, title and interest of the United States in the lands shall vest in the University.

Subsection (h) provides that lakes, rivers, and streams contained within final selections shall be meandered and lands submerged thereunder shall be conveyed in accordance with the provisions of 43 U.S.C. § 1631.

Subsection (i) provides that the Secretary shall issue a patent to lands once they have been surveyed.

Subsection (j) directs the Secretary of Agriculture and other Federal officials to take any actions necessary to assist the Secretary in implementing the Act.

*Section 3*, (a), provides that, as a condition to receiving the land under section 2, the University must convey to the Secretary certain inholdings in National Park and Wildlife Refuge System units, identified in a document titled "The University of Alaska's Inholding Reconveyance Document," dated May 17, 1999. Subsection (b) states that, the University must convey those inholdings on a basis proportional to its receipt of title of lands under Section 2. The Secretary must accept quitclaim deeds to such lands and the University may not be required to convey any other lands.

*Section 4* gives the University the right of action against the Secretary for violations of the Act or for review of an agency decision thereunder and states that any such action may be brought in the U.S. District Court for the District of Alaska within two years.

*Section 5*, (a), provides the University with an entitlement to an additional 250,000 acres of Federal lands on an acre-for-acre matching basis with the State of Alaska. This additional entitlement is notwithstanding any other provision of law and subject to valid existing rights. Subsection (b) provides that this additional federal entitlement is to be conveyed in minimum increments of 25,000 acres. Subsection (c) makes grants made under this section subject to the terms and conditions applicable to grants made under section 2 of the Act.

#### COST AND BUDGETARY CONSIDERATIONS

On May 20, 1999, the Committee on Energy and Natural Resources requested cost estimates to be prepared by the Congressional Budget Office for S. 744. These reports had not been received at the time the report on S. 744 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 744. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 744, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

On May 20, 1999 the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior, the Department of Agriculture, the Department of Education, and the Office of Management and Budget setting forth Ex-

ecutive agency recommendations on S. 744. Reports from the OMB had not been received at the time the report on S. 744 was filed. When this report becomes available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of the Interior at the Committee hearing follows:

STATEMENT OF DON BARRY, ASSISTANT SECRETARY FOR  
FISH AND WILDLIFE AND PARKS, U.S. DEPARTMENT OF  
THE INTERIOR

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on S. 744, which would require the Secretary to convey to the University of Alaska up to 250,000 acres of Federal lands in Alaska, as selected by the University. S. 744 would further require the Secretary to convey up 250,000 additional acres to the University on a matching basis if the State were to convey an equal amount.

The Secretary of the Interior and the Secretary of Agriculture strongly oppose this bill and will recommend a veto if it passes the Congress.

The United States has fully discharged its responsibilities to the State of Alaska with regard to any university lands entitlement. Further, pursuant to the terms of the bill, the University would be able to select some of the most valuable 500,000 acres of Federal land in the State, including lands from the National Petroleum Reserve-Alaska, the Tongass National Forest, Chugach National Forest, the outer continental shelf, or other areas of great financial and environmental value to the citizens of the United States. The impact of university selections on important and sensitive Federal lands could be profound.

A bill could pit Alaska landowners and users against one another; it could spawn conflicts and litigation between the University, local governments, and Native interests over priorities for as yet unselected federal lands; its significant ambiguities would likely cause years of litigation over interpretation; and it could result in undue pressure for lands to be developed for timber, mining, and oil and gas uses, at the expense of other uses such as hunting, fishing, subsistence, tourism, recreation, and other values of importance to Alaskans and other Americans. Many organizations such as Native groups, environmental groups, local governments, fishing groups, mining groups, and others have expressed concerns in the past over this legislation.

LEGISLATION TO COMPENSATE ALASKA FOR THE ORIGINAL  
SCHOOL LAND GRANT

The underlying premise of this bill is faulty. The bill presumes that the University of Alaska never received the quantity of land that Congress intended to bestow upon it. It implies that the Federal government failed to provide an

adequate land base, and as a result the University has failed to achieve its full potential.

Contrary to the claims asserted in S. 744, Congress has already enacted legislation to fully compensate Alaska for original university land grants. The United States granted the State of Alaska the amount of 102.5 million acres of land at statehood, more than four times the amount of Federal land provided to any other state, in part to provide for higher education, and yet another 75,000 acres of land under the Alaska National Interest Lands Conservation Act, in final relinquishment of all State claims for school lands that may have failed to vest under earlier statutes.

The Act of March 4, 1915 set aside each surveyed section 33 in the Tanana Valley for the support of a Territorial agricultural college. Twenty-six of these sections were surveyed and 11,850.60 acres were transferred to the Territory for the benefit of an agricultural college and school of mines.

On January 21, 1929, while survey and transfer under the Act of March 4, 1915, was ongoing, Congress provided an additional 100,000-acre grant to the Territory on behalf of the University. The 1929 Act did not restrict the land grants to sections in place, but instead allowed Alaska to select vacant, unappropriated, and unreserved land anywhere within the Territory's boundaries. This gave the Territory the opportunity to choose the highest value land from all lands meeting the selection criteria. To date, 99,417 acres of this grant have been transferred to the State.

The Act of March 4, 1915 was repealed by the Alaska Statehood Act in 1959, although the sections that had already been surveyed continued to be reserved for future conveyance to the State. There was a lingering dispute in 1980 between Alaska and the Federal government concerning which land grant sections vested in the State at the time of Statehood and which sections were revoked in the Alaska Statehood Act. To resolve this, Congress passed section 906(b) of the Alaska National Interest Lands Conservation Act, granting the State 75,000 additional acres of land and clearly stating that any and all Federal obligations under the Act of March 4, 1915, had been extinguished. Section 906(b) states that:

In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 . . . as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time

Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

#### THE ALASKA STATEHOOD ACT

In the Alaska Statehood Act, Congress rejected the previous methods used to provide for state institutions (i.e., making specific sections available or setting aside specific acreage for categories of state institutions). Congress opted instead to give the new state a general purpose land grant of 102,550,000 acres.

This provided Alaska with the needed flexibility to chart its own course. Subsequent decisions made by the State concerning the funding of its university system were to be freely made in Alaska, by Alaskans.

Alaska was never short-changed in the amount of land it received to support its university system. The original land grant formula to states in support of higher education is known as the Morrill Act. The amount of land awarded each state under the Morrill Act was based on the state's population, not its size. Had Alaska been a state in 1862 when the original Morrill Act passed, it would have received a total of 90,000 acres (30,000 acres each for one Representative and two Senators). Although Alaska was not a state and did not fall under the purview of the Morrill Act, it actually received more land through the Act of March 4, 1915, and the Act of January 21, 1929, described above.

Section 6(1) of the Alaska Statehood Act explicitly states that Alaska will not be entitled to receive any additional lands under the Morrill Act, making it clear that Congress did not overlook the university in the Statehood Act, but concluded that it had adequately provided for the needs of all State institutions through the general purpose grant of 102.5 million acres in section 6(b).

The responsibility for providing the remaining land endowment for the Alaska university system clearly passed to the State of Alaska with passage of the Alaska Statehood Act. Congress made it clear that in giving the State a land entitlement of 102.5 million acres, it was extinguishing and fully satisfying previous university land entitlements. In other words, Alaska was given a block land grant with a proviso that the grant was "in lieu" of previous of previous and future grants for internal improvement.

The specific Alaska Statehood bills passed by the houses of Congress addressed the "in lieu" issue. Those bills were HR. 7999 and S. 49. HR. 7999 read as follows:

The grants provided for in this Act *shall be in lieu of the grant of land* (emphasis added) for purposes of internal improvements made to new States by section 8 of the Act of September 4,

1841, (5 Stat. 455), and sections 2378 and 2379 of the Revised Statutes (43 U.S.C. sec. 857), and in lieu of the swampland grant made by the Act of September 28, 1850, (9 Stat. 520), and section 2479 of the Revised Statutes (43 U.S.C. sec. 982), and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress made by the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C., secs. 301-308 (The Morrill Act)), which grants are hereby declared not to extend to the State of Alaska.

S. 49 provided for a general grant of 102,550,000 acres and an "in lieu" subsection which was identical to H.R. 7999 above.

Due to differences in the two bills, conferees met and agreed upon H.R. 7999 with certain concessions to S. 49, including a quantity grant of 102,500,000 acres. Both houses passed the bill as amended by the conferees. The final versions, as reflected by section 6(b) of the Alaska Statehood Act, provided a quantity land grant of 102,550,000 acres with only a very few internal improvement grants, namely: 6(a) for community expansion; 6(c) for government buildings in Juneau; and 6(e) for improvements used in fish and wildlife conservation and protection.

Congress intended the larger quantity land grant to expunge any further federal responsibility for any specialized internal improvements grants and uses such as to the University of Alaska. The tenor of both the House and Senate versions of the statehood bills was that the State of Alaska would have the discretion and responsibility for deciding for itself which internal improvements to undertake, and how to allocate those lands. S. 744 must be rejected because it is entirely inconsistent with the legislation and legislative histories discussed above.

#### COSTS TO THE AMERICAN TAXPAYERS AND IMPACTS TO RESOURCE VALUES UNDER THIS LEGISLATION

In addition to the ban on any selection within a Conservation System Unit, as defined in the Alaska National Interests Lands Conservation Act, which was contained in S. 660 in the 105th Congress, S. 744 adds a limitation on land selection within the Tongass National Forest. While the language in section 2(b)(3) is not clear, it appears to limit Tongass selection to cut over second growth areas within areas classified as LUD III [moderate development] or LUD IV [intensive development] by the Forest Service. It should be noted that LUD [land use designation] III and IV are from the 1979 forest management plan and are not current terminology. It is likely that the University would pursue multiple tracts of high value timber producing lands from the Tongass National Forest, the United States' premier temperate rain forest located in southeastern

Alaska. The effect could be to fatally undermine the Tongass National Forest Land Management Plan, which was revised in 1997, and require another planning effort.

The additional limitation on university selection in S. 744 are still grossly insufficient to protect the many resource values. S. 744 allows the University to select lands of tremendous value to the American taxpayers, e.g., the pipeline corridor, the National Petroleum Reserve-Alaska, and outer continental shelf interests. There is no prohibition on university selection within areas with unique values like the Colville River Special Area with nesting peregrine falcons, Steese National Conservation Area or the White Mountains National Recreation Area. Further, there are no limits to selection within the Chugach National Forest.

Depending upon the tracts selected, the costs of the proposed legislation in terms of future lost revenue to the Federal treasury could be very significant. Onshore and offshore leasable minerals, including the outer continental shelf, could be selected.

#### NPRA SELECTIONS

Section 2(b)(4) is new this year and establishes a framework for land selection within the NPRA, and a possible royalty sharing agreement between the University of Alaska and the Department of the Interior for NPRA lease revenues. The University could select up to 92,000 acres within the NPRA above 69 degrees North latitude, or unlimited amounts below it, and in lieu of any selections above the line, could elect to receive up to 10 percent of annual leasing revenues from the NPRA. The Federal government has no discretion in that election. It is unclear how that 10 percent lease share affects the current 50-50 sharing of lease revenues between the Federal government and the State. The University could apparently take the 10 percent share of revenues for waiving selections above the 69 degree line and still make unlimited land selections in the NPRA below the line.

Any of the various scenarios for this NPRA selection process would reduce future Federal royalties and most likely also the State's share of NPRA production. Private development would exclude the United States and the State of Alaska from any share of royalties.

In addition to list revenue and planning costs, the survey, adjudication and management costs of the proposal could be significant. Litigation risks are high.

#### CONCLUSION

At Statehood, the Congress provided Alaska with 102.5 million acres of land, more than four times the amount of Federal land provided to any other state, in part to provide land for higher education. This is in addition to approximately 185,000 acres that have been specifically assigned or made available to the University under other Federal

statutes. Subsequent decisions made by the State concerning the allocation of lands for the university system were freely made in Alaska, by Alaskans. The United States has fully discharged its responsibilities. It is clearly not appropriate to look to the United States once again to provide additional public lands to the University of Alaska for an entitlement that has been fully satisfied, (and where any shortage the University may claim is the result of allocation decisions made within the State government.)

Mr. Chairman, that concludes my prepared remarks. Thank you again for the opportunity to testify on S. 744. I am now prepared to respond to any questions you may have.

## MINORITY VIEWS OF SENATOR BINGAMAN

The underlying premise of this bill is that the University of Alaska has been treated unfairly by the Federal government and has not received an adequate amount of land as a land grant institution. However, for the reasons stated below, it seems clear that no outstanding Federal obligation exists with respect to the University.

Proponents of this legislation have compared the amount of Federal land given to various States for higher education purposes and note that the University of Alaska, comparably, has received a small amount of Federal land. These comparisons are misleading, however, because at the time of Statehood, the State of Alaska received its Federal land grants in a different manner than other States. Specifically, the State of Alaska was given a general land grant of 104 million acres and was given the ability to determine on its own which State institutions would benefit from the grant. In other Statehood Acts, specific sections or amounts of acres were granted to specific state institutions. Therefore, if the University has been treated unfairly, it is a result of the State of Alaska's failure to adequately provide for the University.

The State of Alaska's land grant of 104 million acres is more than four times the amount received by any other State. In fact, the State of Alaska's land grant is more than the combined amount of land granted to Florida, Minnesota, New Mexico, Michigan, Arkansas, Louisiana, and Arizona.

In addition to the Alaska Statehood Act general land grant of 104 million acres, the Federal government, pursuant to a variety of other laws, has transferred to the University of Alaska between 112,000 and 186,000 acres of Federal land.

Last month I asked the American Law Division of the Congressional Research Service ("CRS") to analyze whether the Federal government has a legal obligation to provide the University of Alaska with additional lands. The CRS report found that "based on the history of relevant land grants to Alaska, we conclude that the United States appears to have no legal obligation to provide additional lands to the University of Alaska."

The other major issue is that, under the bill, the University could select lands within areas containing significant national resources including: Federal lands on the Outer Continental Shelf; national forests in Alaska (including certain areas in the Tongass National Forest); within the National Petroleum Reserve—Alaska (including lands within the Colville River Special Area); and national conservation areas managed by the Bureau of Land Management. The impact of the University's selections on important and sensitive Federal lands could be profound.

Finally, S. 744 specifically waives compliance with the National Environmental Policy Act. This is an extraordinary waiver given

the amount of land involved and the potential impacts associated with the University's selection.

Two changes have been made to this year's bill in response to concerns raised about a similar bill during the 105th Congress. First, the bill prohibits the University from selecting lands within the Tongass National Forest except within certain designated areas. However, the terms used to describe these areas are not consistent with current Forest Service planning documents so the effect of this change is unclear. Second, the bill prohibits any selections within the National Petroleum Reserve-Alaska for two years and directs the Secretary to attempt to conclude an agreement with the Governor to share a portion of the oil and gas leasing revenues with the University rather than transferring land. While both of these changes are improvements from the previous bill, they do not address the underlying major issues raised by the bill.

JEFF BINGAMAN.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 744, as ordered reported.

