

**SENATE BILL NO. 150**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY SENATOR TAYLOR**

**Introduced: 3/17/03**

**Referred: Resources, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to use and disposal of state land."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 02.20.050(d) is amended to read:

4 (d) Unless closed for public safety reasons by a notice to airmen (NOTAM)  
5 provided to the Federal Aviation Administration or by publication in the appropriate  
6 aeronautical charts and publications published by the Federal Aviation Administration,  
7 unless closed or restricted under the authority provided in AS 16.05.050, 16.05.251,  
8 16.05.255, 16.05.270, AS 16.20.010 - 16.20.162, or 16.20.500 - 16.20.690, or unless  
9 closed or restricted under authority consistent with [AS 38.04.200 OR]  
10 AS 41.21.020(e), navigable water in the state or a suitable landing site on public land  
11 that is not subject to a surface lease, easement, or permit issued by the Department of  
12 Natural Resources is presumed open for operation of aircraft.

13 \* **Sec. 2.** AS 03.09.050 is amended to read:

14 **Sec. 03.09.050. Agricultural land.** The Board of Agriculture and  
15 Conservation may recommend to the commissioner that land [IN THE LAND

1 DISPOSAL BANK ESTABLISHED UNDER AS 38.04.020] be classified as suitable  
 2 for agriculture. The board may identify state land for agricultural disposal and request  
 3 the commissioner to provide for the survey and disposal of the land.

4 \* **Sec. 3.** AS 14.40.365(g) is amended to read:

5 (g) In conveying land to the University of Alaska under this section, the  
 6 commissioner of natural resources shall give public notice that substantially complies  
 7 with notice requirements under AS 38.05.945(b) and (c) and provide for access under  
 8 AS 38.05.127, but other provisions of [AS 38.04 AND] AS 38.05 do not apply.

9 \* **Sec. 4.** AS 16.20.350(c) is amended to read:

10 (c) The Department of Natural Resources may, after consultation with the  
 11 Department of Fish and Game, adopt regulations governing the public use of the area.  
 12 The regulations must include provisions for multiple use, as defined in **AS 38.05.965**  
 13 [AS 38.04.910], and for public multiple uses listed in AS 16.20.340. Regulations  
 14 adopted for the Matanuska Valley Moose Range do not apply to private land within  
 15 the boundary described in AS 16.20.360.

16 \* **Sec. 5.** AS 37.14.009(a) is amended to read:

17 (a) The Alaska Mental Health Trust Authority

18 (1) has a fiduciary obligation to ensure that the assets of the trust are  
 19 managed consistent with the requirements of the Alaska Mental Health Enabling Act,  
 20 P.L. 84-830, 70 Stat. 709 (1956);

21 (2) shall contract with the Department of Natural Resources to manage  
 22 the land assets of the trust; the contract must provide for the recording of at least one  
 23 conveyance to the authority by quitclaim deed of mental health trust land in each  
 24 recording district in the state in which mental health trust land is located; a  
 25 conveyance to the authority is exempt from [THE PLATTING AND SURVEYING  
 26 REQUIREMENTS OF AS 38.04.045(b) AND] municipal ordinances adopted under  
 27 AS 29.40; when the Department of Natural Resources manages land assets of the trust  
 28 under a contract entered into under this paragraph, the department shall

29 (A) manage in conformity with AS 38.05.801;

30 (B) consult with the authority before adopting regulations  
 31 under AS 38.05.801(c);

1 (C) provide notice to, and consult with, the authority regarding  
 2 all proposed actions subject to public notice under AS 38.05.945 before giving  
 3 that public notice;

4 (D) annually provide the authority with a report including

5 (i) a description of all land management activities  
 6 undertaken under this section during the prior year;

7 (ii) an accounting of all income and proceeds generated  
 8 from mental health trust land;

9 (iii) an explanation of the manner in which the income  
 10 and proceeds were allocated between the mental health trust fund and  
 11 the mental health trust settlement income account; and

12 (E) obtain the approval of the authority before exchanging  
 13 mental health trust land under AS 38.05.801(b)(2); and

14 (3) shall contract with the Alaska Permanent Fund Corporation for  
 15 management of the mental health trust fund.

16 \* **Sec. 6.** AS 38.05.050 is amended to read:

17 **Sec. 38.05.050. Disposal of land for private ownership.** The commissioner  
 18 shall determine the land to be disposed of for private use. The commissioner shall  
 19 determine the time and place of disposal. An auction sale, a lottery sale, or a disposal  
 20 of land for homesites may be held in a community that is near the land to be sold or  
 21 disposed of. **The commissioner shall, during each state fiscal year beginning**  
 22 **July 1, 2003, make available for sale at least 250,000 acres of land for private use**  
 23 **at a minimum price of \$1,000 an acre.**

24 \* **Sec. 7.** AS 38.05.073(a) is amended to read:

25 (a) To identify land suitable for recreational facilities development leasing, the  
 26 commissioner shall make the identification through a regional land use plan or a site-  
 27 specific land use plan [ADOPTED UNDER AS 38.04.065]. The identification of land  
 28 for leasing under this section shall be consistent with any existing regional recreational  
 29 management plan. The commissioner may request proposals from potential lessees  
 30 under this section if consistent with an adopted land use plan that expressly allows the  
 31 specific type of development under consideration. **The** [CONSISTENT WITH

1 AS 38.04.065, THE] development of a land use plan used to identify land suitable for  
 2 recreational facilities development leasing must consider the supply of recreational  
 3 opportunities and alternatives, economic and social factors, and fish, wildlife, and  
 4 other resources affected by the specific type and location of recreational facilities  
 5 development under consideration.

6 \* **Sec. 8.** AS 38.05.075(a) is amended to read:

7 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.082,  
 8 38.05.083, 38.05.087, 38.05.102, 38.05.600, 38.05.810, and this section, leasing shall  
 9 be made at public auction to the highest qualified bidder as determined by the  
 10 commissioner. In the public notice of a lease to be offered at public auction, the  
 11 commissioner shall specify a minimum acceptable bid and the lease compensation  
 12 method. The lease compensation method shall be designed to maximize the return on  
 13 the lease to the state and shall be a form of compensation set out in AS 38.05.073(m).  
 14 An aggrieved bidder may appeal to the commissioner within five days for a review of  
 15 the determination. The leasing shall be conducted by the commissioner, and the  
 16 successful bidder shall deposit at the auction the first year's rental or other lease  
 17 compensation as specified by the commissioner, or that portion of it that the  
 18 commissioner requires in accordance with the bid. The commissioner shall require,  
 19 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or  
 20 appraisal costs reasonably incurred by another qualified bidder acting in accordance  
 21 with the regulations of the commissioner or incurred by the department under  
 22 [AS 38.04.045 AND] AS 38.05.840. If a bidder making a deposit of survey or  
 23 appraisal costs is determined by the commissioner to be the highest qualified bidder  
 24 under this subsection, the deposit shall be paid to the unsuccessful bidder who  
 25 incurred those costs or to the department if the department incurred the costs. All  
 26 costs for survey and appraisal shall be approved in advance in writing by the  
 27 commissioner. The commissioner shall immediately issue a receipt containing a  
 28 description of the land or interest leased, the price bid, and the terms of the lease to the  
 29 successful qualified bidder. If the receipt is not accepted in writing by the bidder  
 30 under this subsection, the commissioner may offer the land for lease again under this  
 31 subsection. A lease, on a form approved by the attorney general, shall be signed by

1 the successful bidder and by the commissioner within the period specified in the  
2 auction notice.

3 \* **Sec. 9.** AS 38.05.075(c) is amended to read:

4 (c) The owner or lessee of land that fronts on shoreland, tideland, or  
5 submerged land of the state may be granted a preference right to a lease for the  
6 shoreland, tideland, or submerged land without competitive bidding if the director  
7 determines that

8 (1) the lease of the shoreland, tideland, or submerged land is necessary  
9 to facilitate water transportation of goods, services, or resources to or from the owned  
10 or leased upland or for another water-dependent purpose;

11 (2) the proposed use of the shoreland, tideland, or submerged land is  
12 compatible with the classification of the land and with any applicable land use plan  
13 [ADOPTED UNDER AS 38.04.065]; and

14 (3) issuance of the lease to the shoreland, tideland, or submerged land  
15 will not interfere with prior existing rights to the leased land.

16 \* **Sec. 10.** AS 38.05.112(a) is amended to read:

17 (a) The department may not authorize the harvest of timber, except for  
18 harvests of 10 acres or less or timber salvaged from land cleared for a nonforest use,  
19 until a site-specific forest land use plan has been adopted. A forest land use plan is  
20 required whether or not a regional or area land use plan [UNDER AS 38.04.065(a)] or  
21 a forest management plan under AS 41.17.230 has been adopted.

22 \* **Sec. 11.** AS 38.05.112(c) is amended to read:

23 (c) ▲ [IF A REGIONAL OR AREA LAND USE PLAN UNDER  
24 AS 38.04.065(a) OR A FOREST MANAGEMENT PLAN UNDER AS 41.17.230,  
25 THAT INCLUDES THE AREA TO BE COVERED BY THE FOREST LAND USE  
26 PLAN REQUIRED UNDER (a) OF THIS SECTION, HAS BEEN ADOPTED, THE  
27 REQUIREMENTS OF AS 38.04.065(b) DO NOT APPLY TO A FOREST LAND  
28 USE PLAN UNDER (a) OF THIS SECTION. IF A REGIONAL OR AREA LAND  
29 USE PLAN UNDER AS 38.04.065(a) OR A FOREST MANAGEMENT PLAN  
30 UNDER AS 41.17.230, THAT INCLUDES THE AREA TO BE COVERED BY THE  
31 FOREST LAND USE PLAN UNDER (a) OF THIS SECTION, HAS NOT BEEN

1 ADOPTED, THE REQUIREMENTS OF AS 38.04.065(b) APPLY TO A LAND USE  
 2 PLAN UNDER (a) OF THIS SECTION. REGARDLESS OF WHETHER  
 3 AS 38.04.065(b) APPLIES TO A FOREST LAND USE PLAN UNDER (a) OF THIS  
 4 SECTION, A] forest land use plan must consider

- 5 (1) commercial timber harvesting, including related activities;
- 6 (2) harvesting of forest products for personal use;
- 7 (3) fish and wildlife habitat, including
  - 8 (A) identification and protection of important wildlife habitat;
  - 9 (B) retention of riparian, wetland, and ocean-shoreline  
 10 vegetation critical for fish and wildlife habitat;
  - 11 (C) classification of water bodies according to physical  
 12 characteristics; and
  - 13 (D) the use of silvicultural practices, commercial timber  
 14 harvest, and related activities to maintain and enhance the quality of fish and  
 15 game habitat;
- 16 (4) uses of forest land for nontimber purposes, including
  - 17 (A) recreation, tourism, and related activities;
  - 18 (B) mining, mining claims, mineral leaseholds, and material  
 19 extraction;
  - 20 (C) uses of fish and wildlife;
  - 21 (D) agriculture, including grazing; and
  - 22 (E) other resources and uses appropriate to the area, including  
 23 compatible traditional uses;
  - 24 (5) soil characteristics and productivity;
  - 25 (6) water quality; and
  - 26 (7) watershed management.

27 \* **Sec. 12.** AS 38.05.123(d) is amended to read:

- 28 (d) Before a sale may be negotiated under this section,
- 29 (1) the area of the sale must be designated for forestry purposes by a  
 30 valid existing area plan [ADOPTED UNDER AS 38.04]; and
- 31 (2) the requirements of AS 38.05.112 and 38.05.113 must be met.

1 \* **Sec. 13.** AS 38.05.965(12) is amended to read:

2 (12) "multiple use" means the management of state land and its  
 3 various resource values so that they are used in the combination that will best  
 4 meet the present and future needs of the people of Alaska and make the most  
 5 judicious use of the land for some or all of those resources or related services over  
 6 areas large enough to provide sufficient latitude for periodic adjustments in use  
 7 to conform to changing needs and conditions; "multiple use" includes

8 (A) the use of some land for less than all of the resources;

9 and

10 (B) a combination of balanced and diverse resource uses  
 11 that takes into account the short-term and long-term needs of present and  
 12 future generations for renewable and nonrenewable resources, including  
 13 recreation, range, timber, minerals, watershed, wildlife and fish, and  
 14 natural scenic, scientific, and historic values [HAS THE MEANING  
 15 GIVEN IN AS 38.04.910];

16 \* **Sec. 14.** AS 38.08.010(a) is amended to read:

17 (a) The director shall designate, classify, and make state land available for  
 18 homestead entry [STATE LAND IN AMOUNTS AND AT TIMES AS REQUIRED IN  
 19 AS 38.04.020 OR AS MAY OTHERWISE BE REQUIRED BY LAW].

20 \* **Sec. 15.** AS 38.09.010(b) is amended to read:

21 (b) The commissioner shall complete a rectangular survey grid of homestead  
 22 entry state land [UNDER AS 38.04.045] before disposing of state land for homestead  
 23 entry. A homestead entry parcel shall be established in aliquot parts of a surveyed  
 24 section or as lots or tracts that are fractions of aliquot parts of a surveyed section. The  
 25 commissioner shall ensure practical access to each homestead entry parcel, but the  
 26 commissioner may waive the rectangular survey grid if no more than one conveyance  
 27 is made for each section within a township.

28 \* **Sec. 16.** AS 38.95.260 is amended to read:

29 **Sec. 38.95.260. Disposition of sale proceeds seven years after the**  
 30 **judgment of escheat.** Seven years after the judgment of escheat, net proceeds from  
 31 the sale of escheated real property may be transferred from the escheated real property

1 trust account to the general fund [AND CREDITED TO THE LAND DISPOSAL  
 2 INCOME ACCOUNT UNDER AS 38.04.022], unless a person who was the owner or  
 3 one of the owners of the property when the property escheated to the state has  
 4 outstanding child support obligations, in which case the proportion of the net proceeds  
 5 that is attributable to the ownership interest of the person shall be applied to the  
 6 satisfaction of the child support obligations, and the balance remaining after the  
 7 satisfaction shall be credited to the general fund [LAND DISPOSAL INCOME  
 8 ACCOUNT].

9 \* **Sec. 17.** AS 40.15.305(g) is amended to read:

10 (g) Notwithstanding another provision of AS 40.15.300 - 40.15.380, the  
 11 commissioner shall approve, without review under AS 40.15.300 - 40.15.380, a plat  
 12 [UNDER AS 38.04.045] that consists solely of land owned by the state. The  
 13 commissioner may not charge a fee for the approval under this subsection.

14 \* **Sec. 18.** AS 41.17.118(b) is amended to read:

15 (b) The commissioner may impose additional riparian protection standards for  
 16 timber harvest operations through the adoption of land use plans [UNDER  
 17 AS 38.04.065] and under forest management plans and reports under AS 38.05.112  
 18 and AS 41.17.230.

19 \* **Sec. 19.** AS 41.17.210(a) is amended to read:

20 (a) The governor may propose to the legislature the establishment of state  
 21 forests consisting primarily of commercially valuable forest land determined by the  
 22 governor to be necessary for retention in state ownership for management under the  
 23 principles of multiple use and sustained yield [AND CONSISTENT WITH  
 24 AS 38.04.005]. The proposal of the governor must include a report and  
 25 recommendations of the commissioner including

- 26 (1) a preliminary forest inventory;
- 27 (2) a summary of the testimony offered at public hearings held on the  
 28 management of the proposed state forest in communities proximately located to a  
 29 proposed state forest;
- 30 (3) the findings of the commissioner on anticipated incompatibilities of  
 31 uses described in AS 38.05.112(c) under AS 41.17.230;

1 (4) written comments from appropriate state agencies on the  
 2 compatibility of the uses described in AS 38.05.112(c) within the proposed state  
 3 forest;

4 (5) an estimate of the cost of a full implementation of an operational  
 5 level forest inventory and the management plan.

6 \* **Sec. 20.** AS 41.17.230(a) is amended to read:

7 (a) The commissioner shall prepare a management plan consistent with  
 8 [AS 38.04.005 AND] this chapter for each state forest and for each unit of a state  
 9 forest to assist in meeting the requirements of this chapter. An operational level forest  
 10 inventory shall be completed before a management plan for the state forest or the unit  
 11 of a state forest is adopted. The management plan shall be adopted, implemented, and  
 12 maintained within three years of the establishment of a state forest by the legislature.  
 13 The management plan must consider and permit the uses described in  
 14 AS 38.05.112(c). If the commissioner finds that a permitted use is incompatible with  
 15 one or more other uses in a portion of a state forest, the commissioner shall  
 16 affirmatively state in the management plan that finding of incompatibility for the  
 17 specific area where the incompatibility is anticipated to exist and the time period when  
 18 the incompatibility is anticipated to exist together with the reasons and benefits for  
 19 each finding.

20 \* **Sec. 21.** AS 41.23.470(a) is amended to read:

21 (a) The provisions of [AS 38.04,] AS 38.05, AS 38.35, and AS 38.95 apply to  
 22 land described in AS 41.23.500 except to the extent that a provision of AS 41.23.400 -  
 23 41.23.510 is inconsistent.

24 \* **Sec. 22.** AS 37.05.146(c)(46); AS 38.04.005, 38.04.010, 38.04.015, 38.04.020,  
 25 38.04.022, 38.04.030, 38.04.035, 38.04.045, 38.04.050, 38.04.055, 38.04.058, 38.04.060,  
 26 38.04.065, 38.04.070, 38.04.200, 38.04.900, and 38.04.910 are repealed.