

Original sponsor: Resources Committee

Offered: 4/26/76

Referred: Rules

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 726

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to exchange of land; and providing
7 for an effective date."

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

9 * Section 1. AS 38 is amended by adding a new chapter to read:

10 CHAPTER 100. EXCHANGE OF LAND.

11 Sec. 38.100.010. EXCHANGE AUTHORIZED. The state may exchange land
12 or an interest in land with the United States or, to the extent permitted
13 by the Alaska Statehood Act (72 Stat. 339) as now in effect or hereafter
14 amended, with other persons without the reservation of mineral estate as
15 provided in AS 38.05.125 only in accordance with the provisions of this
16 chapter and may exchange land with any person in accordance with the pro-
17 visions of this chapter if the mineral estate is reserved to the state.

18 Sec. 38.100.020. NOTICE OF PROPOSED EXCHANGE. Not more than 60
19 days and at least 30 days before the public hearing on a proposed ex-
20 change of land, notice of the proposed exchange shall be

21 (1) published in a newspaper of general circulation in the
22 area in which the land to be exchanged is located and in newspapers of
23 general circulation in the five largest municipalities in the state once
24 a week for three consecutive weeks;

25 (2) mailed to every person who has filed a request for notice
26 of proposed exchanges with the department;

27 (3) mailed to each member of the legislature;

28 (4) mailed to each municipality within 10 miles of the land
29 to be exchanged and to the Native regional corporation within whose

1 boundaries the land to be exchanged is located;

2 (5) when appropriate, in the judgment of the department, pub-
3 lished in trade or industry publications or in the additional form and
4 manner the department considers appropriate and mailed to a person or
5 group of persons the department believes is interested in the proposed
6 exchange.

7 Sec. 38.100.030. CONTENTS OF NOTICE. The notice of proposed ex-
8 change shall include

9 (1) a statement of the time and place the public hearing on
10 the proposed exchange will be held;

11 (2) the nature of the interest in land proposed to be ex-
12 changed;

13 (3) the names and addresses of the parties to the proposed
14 exchange;

15 (4) a map of the land proposed to be exchanged in sufficient
16 detail and on a scale that will allow identification of the particular
17 parcels and a vicinity map on a scale that will allow location of the
18 land in relationship to easily identified places in the state;

19 (5) a legal description of the land proposed to be exchanged
20 and a general description sufficient to identify the important features
21 and potential uses of the land;

22 (6) the appraised value of each parcel of land proposed to be
23 exchanged.

24 Sec. 38.100.040. PUBLIC HEARING. (a) On the date and at the
25 place designated in the notice the department shall give each interested
26 person or his authorized representative or both and each other person
27 who desires to be heard the opportunity to present statements orally or
28 in writing. The department shall consider all relevant matter presented
29 to it before proceeding with an exchange.

1 (b) The department shall hold the record open for at least two
2 weeks after the conclusion of the hearing to receive supplemental state-
3 ments or additional statements from a person who appeared at the hearing
4 or who shows good cause for being allowed to present an additional
5 statement.

6 Sec. 38.100.050. APPRAISAL AND REPORT. (a) No land or interest
7 in land may be exchanged unless appraised before the date fixed for
8 public hearing and unless the land or interest in land to be acquired
9 has been appraised before the date fixed for the public hearing. The
10 appraisal shall be by an independent appraiser, and shall be based on
11 the fair market value of the land or interest in land proposed to be
12 exchanged. If the date of the appraisal is more than 90 days before the
13 date of the public hearing, the appraisal must be accompanied by a
14 certificate from a professional appraiser employed by the Department of
15 Natural Resources dated not more than 90 days before the date of the
16 hearing that the appraisal in his professional opinion accurately
17 reflects the current fair market value.

18 (b) The Department of Natural Resources shall provide an economic
19 impact report based on its report and on the reports of each other
20 department in the executive branch of state government showing the
21 economic impact of the proposed exchange.

22 Sec. 38.100.060. RECOMMENDATION TO GOVERNOR. After the conclusion
23 of the period in which statements concerning the proposed exchange may
24 be filed the department shall recommend to the governor in writing
25 whether the proposed exchange or a portion of the proposed exchange
26 should be made. The recommendation shall include the specific facts on
27 which the recommendation is based and a summary of the public hearing.
28 A copy of the recommendation shall be mailed to each member of the
29 legislature.

1 Sec. 38.100.070. ACTION BY GOVERNOR. If the governor finds the
2 exchange is in the best interest of the state and will not jeopardize
3 the financial condition of the state and he approves the exchange, he
4 shall submit his recommendation that the exchange be approved to the
5 legislature together with his reasons for approving the exchange.

6 Sec. 38.100.080. APPROVAL OF EXCHANGE. If the legislature by con-
7 current resolution approves the exchange, the director of the division
8 of lands at the direction of the commissioner of the department shall
9 execute the documents necessary to consummate the exchange.

10 Sec. 38.100.090. EQUAL VALUE. Exchanges shall be on the basis of
11 equal market value and either party may pay or accept cash in order to
12 equalize the value of the property exchanged unless the governor waives
13 this requirement on the basis that a waiver would be in the best in-
14 terest of the state and would not jeopardize the financial condition of
15 the state. The difficulties of a realistic fair market value appraisal
16 and the existence of values which are not readily measured in monetary
17 terms are factors to be considered in determining whether a waiver is in
18 the best interest of the state.

19 Sec. 38.100.100. EXEMPTION. (a) Exchanges of land or interest in
20 land of less than 640 acres, of less value than \$50,000 and in which the
21 reservation of mineral estate under AS 38.05.125 is made may be author-
22 ized by the governor upon his finding that a proposed exchange is in the
23 best interest of the state. The requirements of secs. 20 - 40 and 60 -
24 80 of this chapter do not apply to these exchanges.

25 (b) Exchanges of land or an interest in land that do not meet the
26 requirements of (a) of this section made on the basis of equal market
27 value with or without payment or acceptance of cash in order to equalize
28 the value of the property exchanged may be authorized by the governor
29 upon his finding that a proposed exchange is in the best interest of the

1 state. The requirements of secs. 70 and 80 of this chapter do not apply
2 to these exchanges.

3 * Sec. 2. AS 38.05.125 is amended to read:

4 Sec. 38.05.125. RESERVATION. Each contract for the sale, lease or
5 grant of state land, and each deed to state land, properties or interest
6 in state land, made under secs. 315 - 325 of this chapter, [OR] secs.
7 45 - 120 of this chapter, or ch. 100 of this title except as provided
8 in AS 38.100.010 is [EXCEPT FOR THOSE LANDS ORIGINALLY ACQUIRED BY PUR-
9 CHASE, EXCHANGE, CONDEMNATION, GIFT, ESCHEAT OR FORECLOSURE ARE] subject
10 to the following reservations: "The party of the first part, Alaska,
11 hereby expressly saves, excepts and reserves out of the grant hereby
12 made, unto itself, its lessees, successors, and assigns forever, all
13 oils, gases, coal, ores, minerals, fissionable materials, and fossils of
14 every name, kind or description, and which may be in or upon said lands
15 above described, or any part thereof, and the right to explore the same
16 for such oils, gases, coal, ores, minerals, fissionable materials, and
17 fossils, and it also hereby expressly saves and reserves out of the
18 grant hereby made, unto itself, its lessees, successors, and assigns
19 forever, the right to enter by itself, its or their agents, attorneys,
20 and servants upon said lands, or any part or parts thereof, at any and
21 all times for the purpose of opening, developing, drilling, and working
22 mines or wells on these or other lands and taking out and removing
23 therefrom all such oils, gases, coal, ores, minerals, fissionable
24 materials and fossils, and to that end it further expressly reserves out
25 of the grant hereby made, unto itself, its lessees, successors, and as-
26 signs forever, the right by its or their agents, servants and attorneys
27 at any and all times to erect, construct, maintain, and use all such
28 buildings, machinery, roads, pipelines, powerlines, and railroads, sink
29 such shafts, drill such wells, remove such soil, and to remain on said

1 lands or any part thereof for the foregoing purposes and to occupy as
2 much of said lands as may be necessary or convenient for such purposes
3 hereby expressly reserving to itself, its lessees, successors, and as-
4 signs, as aforesaid, generally all rights and power in, to, and over
5 said land, whether herein expressed or not, reasonably necessary or
6 convenient to render beneficial and efficient the complete enjoyment of
7 the property and rights hereby expressly reserved."

8 * Sec. 3. AS 38.95.060 is repealed.

9 * Sec. 4. This Act takes effect July 1, 1976.