

Introduced: 4/24/81
Referred: Resources and Finance

1 IN THE SENATE

BY BRADLEY

2 SENATE BILL NO. 511

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the management and control of
7 certain land in the state; and providing for an effec-
8 tive date."

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

10 * Section 1. FINDINGS AND INTENT. The legislature finds that

11 (1) the intent of the Constitution of the United States was to
12 grant to each of the states sovereignty over all matters within its bound-
13 aries except for those powers specifically granted to the United States as
14 agent of the states;

15 (2) the State of Alaska has strong moral, historical, economic,
16 and legal claims upon the land retained by the federal government within its
17 borders;

18 (3) the requirement in the Statehood Act that the State of Alaska
19 and its people "disclaim all right and title to any lands or other property
20 not granted or confirmed to the state or its political subdivisions by or
21 under the authority of this Act, the right or title to which is held by the
22 United States or is subject to disposition by the United States," as a
23 condition precedent to acceptance of Alaska into the Union, was an act
24 beyond the power of the Congress of the United States and is thus void;

25 (4) Alaska was admitted to statehood in recent times and was
26 forced to renounce any claim to the unappropriated land within its boundaries
27 which violates the "equal footing" doctrine, because Alaska was denied
28 admission to the Union on an equal footing with the original states;

29 (5) the doctrine of admission to statehood on an equal footing

1 with the other states is based on the very character and purpose of the
2 union of the states as established by the Constitution of the United States
3 and is supported by very early case law precedent and other governmental
4 actions;

5 (6) the purported right of ownership and control of the public
6 land in the State of Alaska by the United States is without foundation and
7 violates the clear intent of the Constitution of the United States; and

8 (7) the exercise of domination and control of the public land in
9 the State of Alaska by the United States works a severe, continuous, and
10 debilitating hardship upon the people of the State of Alaska;

11 (8) the state is better equipped than the federal government to
12 make the often difficult policy decisions that are necessary with respect to
13 the appropriate uses of land in the state;

14 (9) state administration of public land in the state will result
15 in more coordinated, efficient, and fair management;

16 (10) state control of public land will lessen the tax burden of
17 state residents;

18 (11) state control over public land within its boundaries will
19 increase the availability of land, which is absolutely essential to accomo-
20 date the rapidly growing population of the state and to enhance the lifestyle
21 of all state residents.

22 * Sec. 2. AS 38.05 is amended by adding new sections to read:

23 Sec. 38.05.500. PROPERTY OF THE STATE. Subject to valid existing
24 rights of applicants for land, all public land in the state and the
25 water appurtenant to it and all minerals not previously appropriated is
26 the exclusive property of the state.

27 Sec. 38.05.510. MANAGEMENT. (a) The department shall manage the
28 land in accordance with this chapter for the purposes of recreation,
29 grazing, mining, forestry, the preservation of historic sites, antiqui-

1 ties, artifacts, and wilderness, the conservation of water and wildlife,
2 and to achieve the best uses of the land as determined by the department
3 for their sustainable economic yield, except insofar as that management
4 is inconsistent with the provisions of AS 38.05.500 - 38.05.580.

5 (b) The department shall manage the land in an orderly and bene-
6 ficial manner.

7 (c) The department may adopt, in accordance with the Administra-
8 tive Procedure Act (AS 44.62), regulations governing the management of
9 the land.

10 (d) The department may sell, lease, exchange, or encumber the
11 land when specifically authorized to do so by law and under the terms
12 and conditions established by law.

13 Sec. 38.05.520. MULTIPLE USE. The land shall be used to the
14 greatest extent possible for recreation, wildlife habitat, agriculture,
15 mineral, and timber production, and for the development, production,
16 and transmission of energy and other public and private services under
17 the principles of multiple use to provide maximum benefit to the people
18 of the state.

19 Sec. 38.05.530. SURVEY. (a) The department shall study the land
20 to determine

- 21 (1) land which should be made available for disposition;
22 (2) land which should be retained by the state as habitat
23 for wildlife or for recreational or other public purposes; and
24 (3) land which should be made available for selection by a
25 municipality.

26 (b) The department shall consider the views of municipalities on
27 the management of land within or near municipalities.

28 (c) The department shall report to the First Session of the
29 Thirteenth Legislature its findings and recommendations under this

1 section.

2 Sec. 38.05.540. EXISTING RIGHTS UNDER FEDERAL LAW. Until equiva-
3 lent measures are enacted by the legislature, the rights and privileges
4 of the people of this state granted under the provisions of existing
5 federal law are preserved under administration by the department.

6 Sec. 38.05.550. TREATIES AND COMPACTS. Land in the state which,
7 on the effective date of this Act, is administered by the United States
8 under international treaties and interstate compacts shall be admin-
9 istered by the department in conformity with those treaties and com-
10 pacts.

11 Sec. 38.05.560. PROCEEDS TO THE GENERAL FUND. The proceeds of
12 sales, fees, rents, royalties, or other receipts from the land paid to
13 the state under the provisions of AS 38.05.500 - 38.05.580 shall be
14 deposited in the general fund.

15 Sec. 38.05.570. EXCLUSIVE ENFORCEMENT. (a) The state has exclu-
16 sive jurisdiction to enforce the provisions of AS 38.05.500 - 38.05.580.

17 (b) An individual may institute a civil action to recover damages
18 on behalf of the state for injury or loss sustained as the result of a
19 violation of the provisions of AS 38.05.500 - 38.05.580 or for the
20 failure of the state to enforce its trust responsibilities to the
21 people of the state.

22 (c) An individual who, under color of federal law, performs
23 management functions allocated to the department under AS 38.05.520 on
24 the land is, upon conviction, guilty of a felony and is punishable by
25 imprisonment for not less than two years nor more than ten years.

26 (d) A corporation which, under color of federal law, performs
27 management functions allocated to the department under AS 38.05.520 on
28 the land is, upon conviction, guilty of a felony and is punishable by a
29 fine of not more than \$5,000.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Sec. 38.05.580. DEFINITIONS. In AS 38.05.500 - 38.05.580 "land" means all land and water within the exterior boundaries of the State of Alaska except land and water

(1) to which title is held by a private person or entity;

(2) to which title is held by the state, a municipality of the state, or the University of Alaska on the effective date of this Act;

(3) which is controlled by the United States Department of Defense or the Alaska Power Administration on the effective date of this Act;

(4) which is within the Annette Island Indian Reserve;

(5) which has been selected by a regional or village corporation under the Alaska Native Claims Settlement Act of 1971;

(6) which is located in Mt. McKinley National Park and national monuments established before January 1, 1977.

* Sec. 3. This Act takes effect July 1, 1983, if an amendment to the Constitution of the State of Alaska revoking the state's disclaimer of rights to land not granted or confirmed to the state under authority of the Act admitting Alaska to the Union is approved by the voters at a general election held in November 1982.