

# COMMITTEE REPORT

(9)

HOUSE

XXXX  
4/14/76

Mr. Speaker:

Date 5-17-76

The Committee on FINANCE has had HB 654

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR HB 651 AND THAT  
CS FOR HB 654 DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_  
COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

Members NOT concurring in the Majority report:

<u>[Signature]</u>	recommends: <u>[Signature]</u>
<u>[Signature]</u>	recommends:
<u>[Signature]</u>	recommends:
<u>[Signature]</u>	recommends:
<u>[Signature]</u>	recommends:

[Signature] Chairman

Original Sponsor: Rules Committee by  
request of the Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 654 (Finance)  
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 the administration of state  
7 land."

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

9 \* Section 1. AS 38.05.030(e) is amended to read:

10 (e) The sale, lease or other disposal of school lands under the  
11 jurisdiction of the department shall be made by the commissioner in  
12 accordance with the provisions of this chapter. However, disposal of  
13 school lands under this subsection, other than disposal by lease for a  
14 term of years, shall be made only for sites for school facilities or for  
15 residential, public park and public recreation purposes. School lands  
16 may be exchanged for (1) state lands, (2) vacant, unappropriated and  
17 unreserved public lands and (3) lands owned by a city, borough or other  
18 public entity. In the case of unequal values, cash may be used to  
19 equalize land values. When the department determines that it is in the  
20 best interest of the state to dispose of the school lands located within  
21 Sections 16 and 36 in an organized borough or city of any class, the  
22 borough or city is authorized, and has preference for six months after  
23 notice, to acquire the land at the appraised value by purchase or  
24 exchange of land acceptable to the department. No sale, lease, exchange  
25 or other disposal of school lands may be made without the approval of  
26 the State Board of Education.

27 \* Sec. 2. AS 38.05.069 is amended by adding a new subsection to read:

28 (f) Nothing in (c) of this section affects the disposal of minerals  
29 under secs. 135 - 183 of this chapter.

1 \* Sec. 3. AS 38.05 is amended by adding a new section to read:

2 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold  
3 created under secs. 70 - 100 of this chapter is offered for sale or  
4 long-term lease at the termination of the existing leasehold, the  
5 director may, if he finds that it is in the best interest of the state,  
6 allow the holder in good standing of that leasehold to purchase or lease  
7 the land for the amount of the high bid received at public auction.

8 \* Sec. 4. AS 38.05.115 is amended to read:

9 Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The  
10 commissioner, upon recommendation of the director, shall determine the  
11 timber and other materials to be sold, and the limitations, conditions  
12 and terms of sale. The limitations, conditions and terms shall include  
13 the utilization, development and maintenance of the sustained yield  
14 principle, subject to preference among other beneficial uses. The  
15 director may negotiate sales of timber or materials without advertise-  
16 ment and on the limitations, conditions, and terms which he considers  
17 are in the best interests of the state, subject to the approval of the  
18 commissioner. However, not more than 500 M.B.M. or equivalent other  
19 measure of timber or more than \$5,000 [\$2,500] of materials may be sold  
20 by nonadvertised, negotiated sale to the same purchaser within a one-  
21 year period.

22 (b) Negotiated sales for timber or materials not exceeding a value  
23 of \$500 [\$250] are exempt from the provisions of AS 34.15.150.

24 \* Sec. 5. AS 38.05.305 is repealed and re-enacted to read:

25 Sec. 38.05.305. NOTICE AND REVIEW. (a) No land or interest in  
26 land within the boundaries or within six linear miles of the boundaries  
27 of a general law, home rule or unified municipality, as defined under AS  
28 29, may be classified, reclassified, sold or leased, or otherwise  
29 disposed of, including the renewal of a lease entered into after the

1 effective date of this Act, unless the following procedures have been  
2 complied with:

3 (1) A notice of the proposed action shall be sent to the  
4 governing body of each municipality a boundary of which is within six  
5 linear miles of the land involved.

6 (2) The notice shall be sent at the earliest practicable time  
7 but no less than 30 days before the proposed action.

8 (3) The notice must contain a statement of the proposed  
9 action, identifying the land involved and the action proposed in suf-  
10 ficient detail to fairly inform the recipient of the nature of the  
11 proposed action. If the land is not surveyed, a legal description need  
12 not be used; but the land must be described in sufficient detail to  
13 allow the recipient to understand its approximate size, number of tracts  
14 involved, and location. The notice must also contain a statement to the  
15 effect that the municipality is invited to comment on the proposed  
16 action and that, upon the request of the governing body, chief executive  
17 officer, or planning agency, the division will consult with the municipi-  
18 pal officials on the proposed action. Any request by a municipality for  
19 consultation must include the name of the municipal official to be  
20 consulted and be sent no later than 15 days after receipt of the notice  
21 by the municipality, and the notice must contain a statement to this  
22 effect and name the official and address to which the municipality's  
23 request should be sent.

24 (4) In consulting with the municipal officials, the proposed  
25 action and the authority under which it is to be taken shall be explain-  
26 ed and the reason for the proposed action shall be given. A public  
27 hearing need not be held, but the municipal officials may hold a public  
28 hearing or otherwise allow public participation and comment.

29 (5) A municipality having a right to notice or consultation

1 under this section may appeal to the superior court and have set aside  
2 any action taken which does not conform to this section. A municipality  
3 incorporated or established less than 30 days before the action is taken  
4 has no right to notice or consultation under this section.

5 (b) No land or interest in land outside the boundaries of a general  
6 law, home rule, or unified municipality, as defined under AS 29, may be  
7 classified, reclassified, sold or leased, or otherwise disposed of,  
8 including the renewal of a lease entered into after the effective date  
9 of this Act, unless a notice of the proposed action as required by  
10 (a)(3) of this section is made upon the regional corporation organized  
11 under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C.  
12 secs. 1601-1626), within the boundaries of which the land is located.  
13 The president of the affected regional corporation or his designee has  
14 the same rights of notice, consultation, and appeal as those provided  
15 for in (a)(2) - (5) of this section.

16 (c) When notice is given under (b) of this section, the require-  
17 ments of sec. 345 of this chapter relating to notice apply in addition  
18 to any other applicable notice requirements. If requested, the director  
19 shall hold a hearing within the affected area under (b) of this section.  
20 No action proposed by the director which is subject to the notice  
21 requirement specified in (b) of this section is final until at least 30  
22 days after the date the notice was published.

23 \* Sec. 6. AS 38.05.315 is amended by adding a new subsection to read:

24 (e) The lease, sale, or other disposal of state land at appraised  
25 fair market value may be negotiated with a licensed public utility or a  
26 licensed common carrier by the director with the approval of the com-  
27 missioner if the utility or carrier reasonably requires the land for the  
28 conduct of its business under its license.

29 \* Sec. 7. AS 38.05.330 is amended to read:

1           Sec. 38.05.330. PERMITS. The director, without the prior approval  
2 of the commissioner, may issue permits, rights-of-way or easements on  
3 state land for [SECONDARY] roads, trails, ditches, field gathering lines  
4 or transmission and distribution pipelines not subject to AS 38.35,  
5 telephone and transmission lines, log storage, oil well drilling sites  
6 and production facilities for the purposes of recovering minerals from  
7 adjacent lands under valid lease, and other similar uses or improve-  
8 ments, or for the limited personal use of timber or materials. The  
9 commissioner, upon recommendation of the director, shall establish a  
10 reasonable rate or fee schedule to be charged for these uses. In the  
11 granting, suspension or revocation of a permit or easement of lands, the  
12 director shall give preference to that use of the land which will be of  
13 greatest economic benefit to the state and the development of its re-  
14 sources. However, first preference shall be granted to the upland owner  
15 for the use of a tract of tideland, or tideland and contiguous submerged  
16 land, which is seaward of the upland property of the upland owner and  
17 which is needed by the upland owner for any of the purposes for which  
18 the use may be granted.

19 \* Sec. 8. AS 38.05.345 is amended to read:

20           Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or  
21 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330  
22 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND  
23 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

24           (b) Notice shall be published once a week for three consecutive  
25 weeks preceding the time of sale stated in the notice, in at least one  
26 newspaper of general circulation in the vicinity in which the land,  
27 property or interest in it is to be sold, leased or disposed of. Where  
28 there is no newspaper of general circulation in the vicinity, notices  
29 shall be posted in three public places near the land to be sold, leased

1 or otherwise disposed of. The sale, lease or disposal of lands shall be  
2 held not less than 30 days after publication of the first notice and not  
3 [ONE WEEK NOR] more than five [THREE] weeks following the last appear-  
4 ance of the published notice. The notice shall contain a description of  
5 the land and interest to be sold, leased or disposed of and the time,  
6 place, and general terms of the sale, lease or disposal.

7 (c) [PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-  
8 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT  
9 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 and 80  
10 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE  
11 COMMISSIONER.]

12 \* Sec. 9. AS 38.05.100 and 38.05.347 are repealed.

13 \* Sec. 10. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
14 before the effective date of this Act to leaseholders in good standing are  
15 confirmed and ratified.

*This is the correct version  
of Finance CS as adopted by  
the committee Hm*

Original Sponsor: Rules Committee by  
request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 654 (Finance)

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 the administration of state land."

7

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

8

\* Section 1. AS 38.05.030(e) is amended to read:

9

(e) The sale, lease or other disposal of school lands under the jurisdiction of the department shall be made by the commissioner in accordance with the provisions of this chapter. However, disposal of school lands under this subsection, other than disposal by lease for a term of years, shall be made only for sites for school facilities or for residential, public park and public recreation purposes. School lands may be exchanged for (1) state lands, (2) vacant, unappropriated and unreserved public lands and (3) lands owned by a city, borough or other public entity. In the case of unequal values, cash may be used to equalize land values. When the department determines that it is in the best interest of the state to dispose of the school lands located within Sections 16 and 36 in an organized borough or city of any class, the borough or city is authorized, and has preference for six months after notice, to acquire the land at the appraised value by purchase or exchange of land acceptable to the department. No sale, lease, exchange or other disposal of school lands may be made without the approval of the state [STATE] Board of Education. The state Board of Education shall act as a trustee of school lands. The board may retain private counsel when necessary to carry out its duties as a trustee.

28

\* Sec. 2. AS 38.05 is amended by adding a new section to read:

29

Sec. 38.05.032. SCHOOL LAND DISPOSITION PROCEDURES. (a) Before

1 In the sale, lease or other disposal of school land, the director shall

2 (1) cause the preparation of a development plan which ade-  
3 quately describes the manner in which the land will be developed or  
4 utilized; however, no development plan is required for an exchange of  
5 school land to a public entity;

6 (2) make notice under sec. 345 of this chapter of the pro-  
7 posed development plan, stating that a disposal of the land for such use  
8 is under consideration, and that interested persons may make comments  
9 and submit alternative proposals for development and use within 30 days  
10 of the last publication of notice; and

11 (3) notify municipalities as provided in sec. 305 of this  
12 chapter at the same time notice is published or posted under (2) of this  
13 subsection; no further notice to municipalities need be given at the  
14 time of disposal.

15 (b) In the case of school land to be disposed of within munici-  
16 palities, no disposal may be made until the municipal planning authority  
17 has held a public hearing on development plans and applications relating  
18 to the land to be disposed of. The director shall make development  
19 plans and applications available to municipal planning authorities for  
20 this purpose. No disposition of land may be made sooner than three  
21 weeks after a hearing held under this subsection. No disposition of  
22 land may be made unless the development plan is approved by the munic-  
23 pal planning authority.

24 \* Sec. 3. AS 38.05.035(a)(13) is amended to read:

25 (13) select, administer, and dispose of mental health lands  
26 for the support of the mental health program except that no mental  
27 health lands may be disposed of without the approval of the commissioner  
28 of health and social services;

29 \* Sec. 4. AS 38.05.035(a)(14) is amended to read:

1 (14) when he makes a written finding in a document available  
2 to the public on request [FINDS] that the interests of the state will be  
3 best served, he may, with the consent of the commissioner, approve  
4 contracts for the sale, lease, or other disposal of available lands,  
5 resources, property or interests in them, and in addition to the condi-  
6 tions and limitations imposed by law, he may impose additional condi-  
7 tions or limitations in the contracts as he, with the consent of the  
8 commissioner, determines will best serve the interests of the state; and  
9 no contract for the sale, lease, or other disposal of available lands or  
10 interest in them, is legally binding on the state until the commissioner  
11 formally records his consent to the contract; but if the appraised value  
12 is not greater than \$10,000 in the case of the sale of land or an  
13 interest in land, or \$1,000 in the case of the annual rental of land or  
14 interest in land, the director may approve and issue the contract  
15 without the consent or approval of the commissioner.

16 \* Sec. 5. AS 38.05.069(a) is repealed and re-enacted to read:

17 (a) If the director determines that the highest and best use of  
18 unoccupied land is for agricultural purposes, he shall grant to an  
19 Alaskan resident owning and using or leasing and using land for agri-  
20 cultural purposes a 60-day first option after the date of the auction to  
21 purchase or lease unoccupied land situated adjacent to or in the approxi-  
22 mate vicinity of his presently held land for the amount of the high bid  
23 received at public auction; provided the aggregate number of acres owned  
24 and acquired under the option shall not exceed 320 acres; and further  
25 provided that the land acquired under this section is used for agri-  
26 cultural purposes as required by law.

27 \* Sec. 6. AS 38.05.069(b) is amended to read:

28 (b) If more than one person is eligible for a first option under  
29 (a) of this section, the director shall determine priority by granting

1 precedence first to the person who demonstrates the greatest need for  
2 the unoccupied land in order to establish an economic unit and, second-  
3 ly, to the eligible person who occupies land that is most readily  
4 accessible to the unoccupied land to be sold or leased [LEASE]. In the  
5 event that two or more persons have approximately equal qualifications  
6 for priority under this section, the director shall grant priority to  
7 that person who is a veteran. If more than one person is approximately  
8 equally well qualified under this section, the director shall [MAY]  
9 determine priority by lot.

10 \* Sec. 7. AS 38.05.069 is amended by adding a new subsection to read:

11 (f) Nothing in (c) of this section affects the disposal of minerals  
12 under secs. 135 - 183 of this chapter.

13 \* Sec. 8. AS 38.05 is amended by adding a new section to read:

14 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold  
15 created under secs. 70 - 100 of this chapter is offered for sale or  
16 long-term lease at the termination of the existing leasehold, the  
17 director may, if he finds that it is in the best interest of the state,  
18 allow the holder in good standing of that leasehold to purchase or lease  
19 the land for the amount of the high bid received at public auction.

20 \* Sec. 9. AS 38.05.105 is amended to read:

21 Sec. 38.05.105. PERIODIC RENTAL ADJUSTMENTS. Each lease shall  
22 stipulate that the annual rental payment is subject to adjustment at  
23 five-year intervals and charges or adjustments shall be based primarily  
24 on a reappraised annual rental value. [HOWEVER, WHEN DEVELOPMENT OF THE  
25 LAND IS NOT OTHERWISE POSSIBLE DUE TO SPECIAL CONDITIONS, THE REAP-  
26 PRaisal PERIOD MAY BE LENGTHENED OR WAIVED UNDER REGULATIONS ADOPTED BY  
27 THE COMMISSIONER.]

28 \* Sec. 10. AS 38.05.115 is amended to read:

29 Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The

1 commissioner, upon recommendation of the director, shall determine the  
2 timber and other materials to be sold, and the limitations, conditions  
3 and terms of sale. The limitations, conditions and terms shall include  
4 the utilization, development and maintenance of the sustained yield  
5 principle, subject to preference among other beneficial uses. The  
6 director may negotiate sales of timber or materials without advertise-  
7 ment and on the limitations, conditions, and terms which he considers  
8 are in the best interests of the state, subject to the approval of the  
9 commissioner. However, not more than 500 M.B.M. or equivalent other  
10 measure of timber or more than \$5,000 [\$2,500] of materials may be sold  
11 by nonadvertised, negotiated sale to the same purchaser within a one-  
12 year period.

13 (b) Negotiated sales for timber or materials not exceeding a value  
14 of \$500 [\$250] are exempt from the provisions of AS 34.15.150.

15 \* Sec. 11. AS 38.05.135 is amended by adding a new subsection to read:

16 (b) When minerals are to be leased on a competitive basis, in  
17 addition to any other notice given, notice shall also be given as pro-  
18 vided in secs. 305 and 345 of this chapter. If land is to be made  
19 available for noncompetitive mineral leasing, notice of the proposed  
20 action shall also be given as provided in secs. 305 and 345 of this  
21 chapter. After the notice of noncompetitive leasing has been made as  
22 required in this subsection, notice of the subsequent issuance of a  
23 noncompetitive lease for the land involved shall be made by mail not  
24 less than 30 days before the issuance of the lease only to those who  
25 have requested the notice.

26 \* Sec. 12. AS 38.05.305 is repealed and re-enacted to read:

27 Sec. 38.05.305. NOTICE AND REVIEW. (a) No land or interest in  
28 land within the boundaries or within six linear miles of the boundaries  
29 of a general law, home rule or unified municipality, as defined under

1 AS 29, may be classified, reclassified, sold or leased, or otherwise  
2 disposed of, including the renewal of a lease entered into after the  
3 effective date of this Act, unless the following procedures have been  
4 complied with:

5 (1) A notice of the proposed action shall be sent to the  
6 governing body of each municipality a boundary of which is within six  
7 linear miles of the land involved.

8 (2) The notice shall be sent at the earliest practicable time  
9 but no less than 30 days before the proposed action.

10 (3) The notice must contain a statement of the proposed  
11 action, identifying the land involved and the action proposed in suf-  
12 ficient detail to fairly inform the recipient of the nature of the  
13 proposed action. If the land is not surveyed, a legal descriptor need  
14 not be used; but the land must be described in sufficient detail to  
15 allow the recipient to understand its approximate size, number of tracts  
16 involved, and location. The notice must also contain a statement to the  
17 effect that the municipality is invited to comment on the proposed  
18 action and that, upon the request of the governing body, chief executive  
19 officer, or planning agency, the division will consult with the munici-  
20 pal officials on the proposed action. Any request by a municipality for  
21 consultation must include the name of the municipal official to be  
22 consulted and be sent no later than 15 days after receipt of the notice  
23 by the municipality, and the notice must contain a statement to this  
24 effect and name the official and address to which the municipality's  
25 request should be sent.

26 (4) In consulting with the municipal officials, the proposed  
27 action and the authority under which it is to be taken shall be explain-  
28 ed and the reason for the proposed action shall be given. A public  
29 hearing need not be held, but the municipal officials may hold a public

1 hearing or otherwise allow public participation and comment. A hearing  
2 held under this paragraph shall be attended by the commissioner of  
3 natural resources or his designee.

4 (5) A municipality having a right to notice or consultation  
5 under this section may appeal to the superior court and have set aside  
6 any action taken which does not conform to this section. A municipality  
7 incorporated or established less than 30 days before the action is taken  
8 has no right to notice or consultation under this section.

9 (b) No land or interest in land outside the boundaries of a  
10 general law, home rule, or unified municipality, as defined under AS  
11 29, may be classified, reclassified, sold or leased, or otherwise  
12 disposed of, including the renewal of a lease entered into after the  
13 effective date of this Act, unless a notice of the proposed action as  
14 required by (a)(3) of this section is made upon the regional corporation  
15 organized under the Alaska Native Claims Settlement Act (85 Stat. 688,  
16 43 U.S.C. secs. 1601-1626), within the boundaries of which the land is  
17 located. The president of the affected regional corporation or his  
18 designee has the same rights of notice, consultation, hearing and appeal  
19 as those provided for in (a)(2) - (5) of this section.

20 (c) When notice is given under (b) of this section, the require-  
21 ments of sec. 345 of this chapter relating to notice apply in addition  
22 to any other applicable notice requirements. If requested, the director  
23 shall hold a hearing within the affected area under (b) of this section.  
24 No action proposed by the director which is subject to the notice  
25 requirement specified in (b) of this section is final until at least 30  
26 days after the date the notice was published.

27 \* Sec. 13. AS 38.05.315 is amended by adding a new subsection to read:

28 (e) The lease, sale, or other disposal of state land at appraised  
29 fair market value may be negotiated with a licensed public utility or a

1 licensed common carrier by the director with the approval of the com-  
2 missioner if the utility or carrier reasonably requires the land for the  
3 conduct of its business under its license.

4 \* Sec. 14. AS 38.05.330 is amended to read:

5 Sec. 38.05.330. PERMITS. The director, without the prior approval  
6 of the commissioner, may issue permits, rights-of-way or easements on  
7 state land for [SECONDARY] roads, trails, ditches, field gathering lines  
8 or transmission and distribution pipelines not subject to AS 38.35,  
9 telephone and transmission lines, log storage, oil well drilling sites  
10 and production facilities for the purposes of recovering minerals from  
11 adjacent lands under valid lease, and other similar uses or improve-  
12 ments, or for the limited personal use of timber or materials. The  
13 commissioner, upon recommendation of the director, shall establish a  
14 reasonable rate or fee schedule to be charged for these uses. In the  
15 granting, suspension or revocation of a permit or easement of lands, the  
16 director shall give preference to that use of the land which will be of  
17 greatest economic benefit to the state and the development of its re-  
18 sources. However, first preference shall be granted to the upland owner  
19 for the use of a tract of tideland, or tideland and contiguous submerged  
20 land, which is seaward of the upland property of the upland owner and  
21 which is needed by the upland owner for any of the purposes for which  
22 the use may be granted.

23 \* Sec. 15. AS 38.05.345 is amended to read:

24 Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or  
25 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330  
26 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND  
27 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

28 (b) Notice shall be published once a week for three consecutive  
29 weeks preceding the time of sale stated in the notice, in at least one

1 newspaper of general circulation in the vicinity in which the land,  
2 property or interest in it is to be sold, leased or disposed of. Where  
3 there is no newspaper of general circulation in the vicinity, notices  
4 shall be posted in three public places near the land to be sold, leased  
5 or otherwise disposed of. The sale, lease or disposal of lands shall be  
6 held not less than 30 days after publication of the first notice and not  
7 [ONE WEEK NOR] more than five [THREE] weeks following the last appear-  
8 ance of the published notice. The notice shall contain a description of  
9 the land and interest to be sold, leased or disposed of and the time,  
10 place, and general terms of the sale, lease or disposal.

11 [(c) PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-  
12 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT  
13 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 and 80  
14 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE  
15 COMMISSIONER.]

16 \* Sec. 16. AS 38.05.100 and 38.05.347 are repealed.

17 \* Sec. 17. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
18 before the effective date of this Act to leaseholders in good standing are  
19 confirmed and ratified.

AMEND HB654

AS 38.05.035(a)(14) is amended by adding the following:

Prior to any public hearings on the decision to sell, lease or dispose of available lands or interests therein, the director shall make available to the public, upon adequate notice, information considered by the director regarding economic and environmental impact of the decision on competing renewable and non-renewable resources actually or potentially affected by the decision.

JAN 27 1976

HB 654  
-  
658

The Honorable Mike Bradner  
Speaker of the House  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Speaker:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a package of six bills relating to programs affecting the Department of Natural Resources.

The first bill amends a number of sections in Title 38 of the Alaska Statutes. Section 1 amends AS 38.05.030(e) to remove an unnecessary restriction on the management of school land which prevents the state from maximizing a return on them. It does away with the restriction that school land may be disposed of only for sites for school facilities or for public park and public recreation purposes. The purpose of the congressional grant of school land was to benefit the school system through the use or disposal of that land for value. Under the law as it now reads, this purpose is being frustrated. The amendment retains the requirement that any disposition of this land approved by the State Board of Education. This ensures that the land will be managed and disposed of in such a way as to benefit the school system.

Sections 2 and 3 of the first bill amend AS 38.05.069 which relates to agricultural preference rights. The amendment would change the preference from that of being able to purchase the land at an appraised value to that of being able to meet the high bid received at a public auction for the agricultural interest in the lands. The amendment is necessary because land transactions in agricultural areas are infrequent enough that a fair market value is usually unascertainable with any degree of certainty. The result is that the land goes to the preference right holder at substantially less than it would bring at a public auction. By providing for the auction and giving the preference right holder the right to meet the high bid so as to acquire the land, the amended law would retain the preference but allow the state to receive true market value for its land.

The State has experienced continuing difficulty in preventing real estate speculation under this provision for agricultural preference rights. Accordingly, section 3 repeals and re-enacts AS 38.05.069(c) to limit the preference to an interest in the land for agricultural purposes alone, retaining all other interests in the state. The remaining interests could be conveyed subsequently only at public auction. Under the proposed amendment, the land could be used for non-agricultural purposes only upon the concurrence of the owner, the state, and payment of full value.

Section 4 of the bill amends AS 38.05.070(b) to increase the limit on negotiated leases from the present rental value of \$250 a year to a rental value of \$600 a year. The proposed amendment reflects the changes in the value of money that have taken place in the past few years but reflects no change in policy.

Section 5 adds a new section to AS 38.05 which allows a holder in good standing of a lease to purchase the property at the termination of leasehold by meeting the amount of the high bid received at a public auction. This is a practice that has been followed by regulation for many years now. Section 13 ratifies the regulatory practice.

Section 6 amends AS 38.05.115(a) so as, first, to authorize expressly other than board footage measures in the sales of timber, and second, to increase the limit on the negotiation of material sales from \$2,500 to \$5,000. The first change will simply allow measuring by volumes or cords and the second merely reflects the change in the value of money that has occurred over the years.

Section 7 repeals and re-enacts AS 38.05.305 which relates to giving notice to communities of a sale or lease of state land. The proposed legislation is necessitated by a recent decision of the Alaska Supreme Court (State v. Aleut Corp., Op. No. 1198, Oct. 22, 1975). That decision demonstrated that the existing law is far too vague, that the notice requirements will forever be in doubt, and that future litigation will necessarily result. The situation has, therefore, been created in which the sale or lease of state land may always be clouded when that land is in the vicinity of any organized community in Alaska.

The amendment removes each of the uncertainties existing in the present law and each of the additional uncertainties created by the Supreme Court's recent decision. Because the purpose of the notice requirement is to ensure that those governmental bodies having legal control over land use have

lesser term than it would otherwise, i.e., a lease for five years rather than for ten, if the circumstances warrant. Nevertheless, the blanket right to a single renewal remains overbroad and should be repealed.

Section 12 also repeals AS 38.05.347. That section expired by its own terms in 1967 and is now an anachronism.

Section 13 merely confirms preference rights granted under existing administrative regulations. This is related to the new preference provisions in section 5 of the bill.

The second bill in the package amends AS 34.10.130(a). The effect of the amendment is to provide for the Department of Natural Resources rather than the Department of Revenue to handle the deeds in foreclosures under the land registration law. The reason for the amendment is that the Department of Revenue no longer has any function with respect to land registration. Everything except this one item is now handled by the Department of Natural Resources.

The third bill in the package amends AS 29.63.010 which relates to special assessments. The state has subjected itself to pay special assessments to local governments on the construction of capital improvements which benefit state property. The problem with the existing law on the subject is that, first, it does not specify that the assessment is subject to appropriation by the legislature, and second, it does not specify upon which agency an assessment should be made. The proposed amendments spell out just what is required in this respect.

The fourth bill in the package amends AS 40.15.075 which relates to the platting authority in the unorganized borough and third class boroughs. The present law limits this authority so as to apply it only to changes and vacations of plats. The result is that the public interest in ensuring that the subdivision of land is accomplished with precision and certainty is now totally unprotected. The increase in authority is to ensure that original subdivisions will be legal, valid and conform to acceptable subdivision practices and that persons purchasing subdivided land will be acquiring the benefit of their bargain and not be defrauded.

The fifth and final bill in the package amends the provisions of Title 38 relating to the Joint Federal-State Land-Use Planning Commission. Amendments have been enacted

a voice in state land disposition, the amendment specifies that notice will be given to municipalities. Because state land located near municipalities is that which is generally most desirable to place in private hands, the adoption of this amendment is of the utmost necessity.

Section 8 adds to the existing authority for disposing of state land at appraised fair market value by negotiation to include negotiated leases or sales to licensed public utilities or licensed common carriers. The firms in these categories are required by their licenses to provide certain levels of service to the public. This in turn requires that they have certain facilities available. In many areas the land best suited for these facilities is state land. Under those circumstances, there is no need for a public auction, and indeed, a public auction becomes undesirable insofar as it may lead to a frustration of the licensing requirements which the proper state licensing agency has imposed.

Section 9 amends AS 38.05 to add a new section 321. The section provides for restrictions on changing the use of land sold or leased for agricultural purposes. A bill to achieve substantially the same effect passed the last legislature, but had to be vetoed because of a conflict with the state constitution. The amendment avoids that conflict, achieves the desired result, and has my utmost support.

Section 10 amends AS 38.05.330, which relates to land-use permits, to delete the word "secondary" as it modifies the word "roads." As a practical matter, there is no reason to distinguish between primary and secondary roads in the issuance of permits from the Department of Natural Resources to the Department of Highways. The permit process gives the highway builder every interest that he needs, and protects the state's interest in the lands to the extent required.

Section 11 amends AS 38.05.345, which relates to public notice on matters affecting the state lands. Its purpose is to make the notice requirement apply generally to all transactions and to establish a more certain means of determining the timing of notice to be given.

Section 12 of the bill repeals AS 38.05.100. That section gives every state lessee an absolute right to a single renewal of a land lease as long as he is not in default. Such an absolute right should never properly be given in every instance but rather should be based on the term of the original lease, the use to be made of the leased lands, and the circumstances surrounding the lease. To protect the state's interest, the division of lands offers leases for a

by Congress, which extend the life of the commission into 1979. The bill is designed to conform the state law to the federal law.

Sincerely,

Jay S. Hammond  
Governor

Original Sponsor: Rules Committee by  
request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 654 (Finance)

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 the administration of state  
land."

7

8

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

9

\* Section 1. AS 38.05.030(e) is amended to read:

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\* Sec. 2. AS 38.05.069 is amended by adding a new subsection to read:

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(f) Nothing in (c) of this section affects the disposal of minerals  
under secs. 135 - 183 of this chapter.

1 \* Sec. 3. AS 38.05 is amended by adding a new section to read:

2       Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold  
3       created under secs. 70 - 100 of this chapter is offered for sale or  
4       long-term lease at the termination of the existing leasehold, the  
5       director may, if he finds that it is in the best interest of the state,  
6       allow the holder in good standing of that leasehold to purchase or lease  
7       the land for the amount of the high bid received at public auction.

8 \* Sec. 4. AS 38.05.115 is amended to read:

9       Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The  
10       commissioner, upon recommendation of the director, shall determine the  
11       timber and other materials to be sold, and the limitations, conditions  
12       and terms of sale. The limitations, conditions and terms shall include  
13       the utilization, development and maintenance of the sustained yield  
14       principle, subject to preference among other beneficial uses. The  
15       director may negotiate sales of timber or materials without advertise-  
16       ment and on the limitations, conditions, and terms which he considers  
17       are in the best interests of the state, subject to the approval of the  
18       commissioner. However, not more than 500 M.B.M. or equivalent other  
19       measure of timber or more than \$5,000 [\$2,500] of materials may be sold  
20       by nonadvertised, negotiated sale to the same purchaser within a one-  
21       year period.

22       (b) Negotiated sales for timber or materials not exceeding a value  
23       of \$500 [\$250] are exempt from the provisions of AS 34.15.150.

24 \* Sec. 5. AS 38.05.305 is repealed and re-enacted to read:

25       Sec. 38.05.305. NOTICE AND REVIEW. (a) No land or interest in  
26       land within the boundaries or within six linear miles of the boundaries  
27       of a general law, home rule or unified municipality, as defined under AS  
28       29, may be classified, reclassified, sold or leased, or otherwise  
29       disposed of, including the renewal of a lease entered into after the

1 effective date of this Act, unless the following procedures have been  
2 complied with:

3 (1) A notice of the proposed action shall be sent to the  
4 governing body of each municipality a boundary of which is within six  
5 linear miles of the land involved.

6 (2) The notice shall be sent at the earliest practicable time  
7 but no less than 30 days before the proposed action.

8 (3) The notice must contain a statement of the proposed  
9 action, identifying the land involved and the action proposed in suf-  
10 ficient detail to fairly inform the recipient of the nature of the  
11 proposed action. If the land is not surveyed, a legal description need  
12 not be used; but the land must be described in sufficient detail to  
13 allow the recipient to understand its approximate size, number of tracts  
14 involved, and location. The notice must also contain a statement to the  
15 effect that the municipality is invited to comment on the proposed  
16 action and that, upon the request of the governing body, chief executive  
17 officer, or planning agency, the division will consult with the municipi-  
18 pal officials on the proposed action. Any request by a municipality for  
19 consultation must include the name of the municipal official to be  
20 consulted and be sent no later than 15 days after receipt of the notice  
21 by the municipality, and the notice must contain a statement to this  
22 effect and name the official and address to which the municipality's  
23 request should be sent.

24 (4) In consulting with the municipal officials, the proposed  
25 action and the authority under which it is to be taken shall be explain-  
26 ed and the reason for the proposed action shall be given. A public  
27 hearing need not be held, but the municipal officials may hold a public  
28 hearing or otherwise allow public participation and comment.

29 (5) A municipality having a right to notice or consultation

1 under this section may appeal to the superior court and have set aside  
2 any action taken which does not conform to this section. A municipality  
3 incorporated or established less than 30 days before the action is taken  
4 has no right to notice or consultation under this section.

5 (b) No land or interest in land outside the boundaries of a general  
6 law, home rule, or unified municipality, as defined under AS 29, may be  
7 classified, reclassified, sold or leased, or otherwise disposed of,  
8 including the renewal of a lease entered into after the effective date  
9 of this Act, unless a notice of the proposed action as required by  
10 (a)(3) of this section is made upon the regional corporation organized  
11 under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C.  
12 secs. 1601-1625), within the boundaries of which the land is located.  
13 The president of the affected regional corporation or his designee has  
14 the same rights of notice, consultation, and appeal as those provided  
15 for in (a)(2) - (5) of this section.

16 (c) When notice is given under (b) of this section, the require-  
17 ments of sec. 345 of this chapter relating to notice apply in addition  
18 to any other applicable notice requirements. If requested, the director  
19 shall hold a hearing within the affected area under (b) of this section.  
20 No action proposed by the director which is subject to the notice  
21 requirement specified in (b) of this section is final until at least 30  
22 days after the date the notice was published.

23 \* Sec. 6. AS 38.05.315 is amended by adding a new subsection to read:

24 (e) The lease, sale, or other disposal of state land at appraised  
25 fair market value may be negotiated with a licensed public utility or a  
26 licensed common carrier by the director with the approval of the com-  
27 missioner if the utility or carrier reasonably requires the land for the  
28 conduct of its business under its license.

29 \* Sec. 7. AS 38.05.330 is amended to read:

1           Sec. 38.05.330. PERMITS. The director, without the prior approval  
2 of the commissioner, may issue permits, rights-of-way or easements on  
3 state land for [SECONDARY] roads, trails, ditches, field gathering lines  
4 or transmission and distribution pipelines not subject to AS 38.35,  
5 telephone and transmission lines, log storage, oil well drilling sites  
6 and production facilities for the purposes of recovering minerals from  
7 adjacent lands under valid lease, and other similar uses or improve-  
8 ments, or for the limited personal use of timber or materials. The  
9 commissioner, upon recommendation of the director, shall establish a  
10 reasonable rate or fee schedule to be charged for these uses. In the  
11 granting, suspension or revocation of a permit or easement of lands, the  
12 director shall give preference to that use of the land which will be of  
13 greatest economic benefit to the state and the development of its re-  
14 sources. However, first preference shall be granted to the upland owner  
15 for the use of a tract of tideland, or tideland and contiguous submerged  
16 land, which is seaward of the upland property of the upland owner and  
17 which is needed by the upland owner for any of the purposes for which  
18 the use may be granted.

19 \* Sec. 8. AS 38.05.345 is amended to read:

20           Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or  
21 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330  
22 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND  
23 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

24           (b) Notice shall be published once a week for three consecutive  
25 weeks preceding the time of sale stated in the notice, in at least one  
26 newspaper of general circulation in the vicinity in which the land,  
27 property or interest in it is to be sold, leased or disposed of. Where  
28 there is no newspaper of general circulation in the vicinity, notices  
29 shall be posted in three public places near the land to be sold, leased

1 or otherwise disposed of. The sale, lease or disposal of lands shall be  
2 held not less than 30 days after publication of the first notice and not  
3 [ONE WEEK NOR] more than five [THREE] weeks following the last appear-  
4 ance of the published notice. The notice shall contain a description of  
5 the land and interest to be sold, leased or disposed of and the time,  
6 place, and general terms of the sale, lease or disposal.

7 (c) [PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-  
8 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT  
9 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 and 80  
10 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE  
11 COMMISSIONER.]

12 \* Sec. 9. AS 38.05.100 and 38.05.347 are repealed.

13 \* Sec. 10. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
14 before the effective date of this Act to leaseholders in good standing are  
15 confirmed and ratified.

*This copy in  
master file*

MEMORANDUM

TO: Hugh Malone  
Chairman  
House Finance Committee

FROM: Ted Smith *TS*  
Chairman  
House Labor & Management Committee

I recommend the following proposed amendments to HB 654.

Page 6 after line 3 add new subsection as follows:

AS 38.05.305 (d) The initial opening of lands which had been unavailable for mineral rights acquisition under the provisions of sections 135-280 of this chapter and for competitive mineral lease sales after the effective date of this act shall be subject to the review provisions of paragraphs (a)-(c) of this section.

After the initial opening, there shall be given by mailing to persons who file a written request with the director, a notice of the proposed issuance of any noncompetitive mineral lease or permit at least thirty days but not more than three months prior to the proposed issuance date of the lease or permit.

*Also see 2 should be deleted due  
to passage of HB ~~435~~  
411*

A M E N D M E N T

TO: CSHB 654 (Finance)

Page 1, between lines 26 and 27: Insert the following new material and renumber remaining sections accordingly:

"\* Sec. 2. AS 38.05.035(b) is amended by adding a new paragraph to read:

(6) with the consent of the commissioner and upon written finding that the interests of the state will best be served, approve contracts for the sale, lease, or other disposal of available lands, resources or interests in them; in addition to the conditions and limitations imposed by law he may impose additional conditions or limitations in the contract as he, with the consent of the commissioner, determines will best serve the interests of the state; no contract for the sale, lease or disposal of available lands or interests in them is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$10,000 in the case of the sale of land or an interest in land, or \$1,000 in the case of the annual rental of land or interest in land, the director may approve and issue the contract without the consent or approval of the commissioner; before making a determination as to whether the sale, lease or disposal will best serve the interests of the state, the director shall compile and review information regarding the economic and environmental impact of the sale, lease, or disposal on competing renewable and nonrenewable resources actually or potentially affected by the decision; before public hearings on the decision, the director shall make available to the public the information compiled; adequate notice to the public of the information availability shall be made; the department may adopt regulations under the Administrative

Procedure Act (AS 44.62), to effectuate the purposes of this paragraph."

Page 6, line 12: Delete "and", and insert a comma. After "38.05.347", insert "and 38.05.035(a)(14)".

AS 38.05.035(b) is amended by adding a new section to read something like this:

(b)(6) with the consent of the commissioner and upon written findings that the interests of the state will best be served, approve contracts for the sale, lease or other disposal of available lands, resources, or interests therein, in accordance with the procedures set out in AS 38.05.035(a)(14). In addition to the conditions and limitations imposed by law, he may impose additional conditions or limitations in the contracts as he, with the consent of the commissioner, determines will best serve the interests of the state; and no contract for the sale, or disposal of available lands or interests therein, is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$10,000 in the case of the sale of land or an interest therein, or \$1,000 in the case of the annual rental of the land or interest therein, the director may approve and issue the contract without the consent or approval of the commissioner.

~~AS 38.05.035(a)(14) is repealed and re-enacted to read something like this:~~

~~(a)(14) prior to a finding that the ~~interests~~ sale, lease or disposal of available lands or interests therein pursuant to the provisions of AS 38.05.035(b)(6) will best serve the interests of the State, shall compile and review information including but not limited to (i) economic and environmental impact of the disposal on competing renewable and non-renewable resources ~~affected~~ actually or potentially affected by the decision to sell, lease or dispose, (ii) the net energy result of the decision to sell, lease, or dispose, where applicable. Prior to public hearings on the sale, lease or disposal of available lands or interests therein, the director shall make available to the public the information ~~compiled~~ compiled and the findings. The department may promulgate regulations and rules under the Administrative Procedure Act to carry out the provisions of this section.~~

(1)

Lisa Ridd ✓  
adopted  
clean up redundancies

Amendment:

Page 1, line 27: Insert the following

Sec. 38.05.032. SCHOOL LAND DISPOSITION PROCEDURES. <sup>(a)</sup> The sale, lease or other disposal of school land under sec. 30(e) of this chapter shall be made by the department in accordance with the provisions of this chapter, except that the director shall

(1) prepare or require the preparation of a development plan describing the proposed development or use of the land; provided, however, that in the case of an exchange of school land a development plan is required only if the land is to be exchanged to a non-public entity;

(2) give notice as required by sections 030(e) and 305 of this chapter at substantially the same time notice is published or posted in accordance with the provisions of (3) of this ~~sub-~~ section;

(3) give notice as required by section 345 of this chapter; the notice shall include a summary of the proposed development or use and a solicitation for submission within 15 days after completion of the publication or posting of alternative proposals for development or use of the land, and shall state that the time of disposal may be amended by supplemental notice to conform with other pre-sale procedures.

~~(4)~~ In the case of school land to be disposed of within a municipality, no disposal may be made until the municipal planning authority has held a public hearing on the development plans which have been submitted for the land to be disposed of.

In the case of school land to be exchanged to a public entity, the planned use of the land will be presented by the entity. No disposition of land may be made less than 30 days after approval of one or more development plans by the municipal planning authority.

②

adopted with  
inclusion of  
.345

38.05.135

Amend present 38.05.135 to make it subsection

(a). Then add a new subsection (b) as follows:

(b) Notice. When minerals are to be leased on a competitive basis, in addition to any other notice made, notice shall also be made as provided by sec. 305 of this chapter. If lands are to be made available for noncompetitive mineral leasing, notice of the proposed action shall also be made as provided by sec. 305 of this chapter. Thereafter, 30-day notice of the proposed issuance of any noncompetitive lease for those lands shall be made by mail only to those who have requested such notice.

.345

2

A M E N D M E N T

TO: CSHB 654 (Finance)

BY SMITH

Page 4, between lines 22 and 23 insert the following new material:

"(d) Lands opened for mineral rights acquisition under the provisions of secs. 135 - 280 of this chapter and for competitive mineral leasing after the effective date of this Act are subject to the notice and hearing provisions of (a) - (c) of this section. After the initial opening of lands for a noncompetitive mineral lease or permit as specified in this subsection, upon written request to the director by a person, notice of any proposed issuance of a noncompetitive mineral lease or permit shall be given by mail to the person at least 30 days but not more than three months before the proposed issuing of the lease or permit."

4

adopted

A M E N D M E N T

TO: CSHB 654 (Finance)

Page 6, between lines 11 and 12, insert the following new material and renumber the remaining sections accordingly:

"§ Sec. 9. AS 38.05.035(a)(13) is amended to read:

(13) select, administer, and dispose of mental health lands for the support of the mental health program except that no mental health lands may be disposed of without the approval of the Mental Health Advisory Council: *Comm of HHS*

A M E N D M E N T

TO: CSHB 654 (Finance)

Page 6, line 16: add the following new language:

• Sec. 11. AS 38.05.069(b) is amended to read:

(b) If more than one person is eligible for a first option under (a) of this section, the director shall determine priority by granting precedence first to the person who demonstrates the greatest need for the unoccupied land in order to establish an economic unit and, secondly, to the eligible person who occupies land that is most readily accessible to the unoccupied land to be sold or leased [LEASE]. In the event that two or more persons have approximately equal qualifications for priority under this section, the director shall grant priority to that person who is a veteran. If more than one person is approximately equally well qualified under this section, the director shall [MAY] determine priority by establishing which application to exercise the option was received first by the director [LOT].

A M E N D M E N T

5  
adopted

TO: CSHB 654 (Finance)

(a) change necessary in HB 411

Page 6, line 16: add the following new language:

\* Sec. 11. AS 38.05.069(b) is amended to read:

(b) If more than one person is eligible for a first option under (a) of this section, the director shall determine priority by granting precedence first to the person who demonstrates the greatest need for the unoccupied land in order to establish an economic unit and, secondly, to the eligible person who occupies land that is most readily accessible to the unoccupied land to be sold or leased [LEASE]. In the event that two or more persons have approximately equal qualifications for priority under this section, the director shall grant priority to that person who is a veteran. If more than one person is approximately equally well qualified under this section, the director shall [MAY] determine priority by establishing which application to exercise the option was received first by the director [LOT].

#6 have amendment

#6  
adopted

A M E N D M E N T

TO: CSHB 654

Page 1, line 26: After the period, insert the following new material.

"The state Board of Education shall act as a trustee of school lands to ensure that the school lands are administered in a prudent manner to protect the land and to assure that the land produces reasonable profit. The state Board of Education may retain private counsel and use trust funds when necessary to carry out its duties, under this subsection."

↓  
funds from sale?

if already has counsel  
a member to

The Board may retain counsel and take such action as it deems appropriate to protect the trust.

A M E N D M E N T

⑦  
adopted

TO: CSHB 654 (Finance)

Page 1, between lines 26 and 27: Insert the following new material and renumber remaining sections accordingly:

"\* Sec. 2. AS 38.05.035<sup>(a) (14)</sup>(b) is amended by adding a new paragraph to read:

(6) with the consent of the commissioner and upon written finding that the interests of the state will best be served, approve contracts for the sale, lease, or other disposal of available lands, resources or interests in them; in addition to the conditions and limitations imposed by law he may impose additional conditions or limitations in the contract as he, with the consent of the commissioner, determines will best serve the interests of the state; no contract for the sale, lease or disposal of available lands or interests in them is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$10,000 in the case of the sale of land or an interest in land, or \$1,000 in the case of the annual rental of land or interest in land, the director may approve and issue the contract without the consent or approval of the commissioner; ~~before making a determination as to whether the sale, lease or disposal will best serve the interests of the state, the director shall compile and review information regarding the economic and environmental impact of the sale, lease, or disposal on competing renewable and nonrenewable resources actually or potentially affected by the decision; before public hearings on the decision, the director shall make available to the public the information compiled; adequate notice to the public of the information availability shall be made; the department may adopt regulations under the Administrative~~

Procedure Act (AS 44.62) to effectuate the purposes of this paragraph."

Page 6, line 12: Delete "and", and insert a comma. After "38.05.347", insert "and 38.05.035(a)(14)".

THE LEGISLATURE OF THE STATE OF ALASKA  
FISCAL NOTE  
Second Session - Ninth Legislature

I. REQUEST

Bill No. Unnumbered House Bill  
 Title: Relation to administration of state funds  
 Requested by: Legislative Request to the Governor Date: Dec 15, 1975  
 Return Date Requested: Dec 30, 1975  
 Agency: Natural Resources Program: Land and water management

II. FISCAL DETAIL

Budget Request Unit(s) Affected: None

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. ATTACHMENTS

V. DATE: Dec 26, 1975 PREPARED BY: Dale G. T. Colton  
*Deputy Director, Division of Land*

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

Original sponsor: Gardiner

Offered: 4/30/76

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 411 (Rules)

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 land sales or leases for agri-  
7 cultural purposes."

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

9 \* Section 1. AS 38.05.069(a) is amended to read:

10 (a) If the director determines that the highest and best use of  
11 unoccupied land is for agricultural purposes, he shall grant to an  
12 Alaskan resident owning and using or leasing and using land for agri-  
13 cultural purposes a 60-day first option after [FROM] the date of the  
14 auction [THE LAND BECOMES AVAILABLE TO THE PUBLIC OR 90 DAYS FROM THE  
15 EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER,] to purchase or  
16 lease unoccupied land situated adjacent to or in the approximate  
17 vicinity of his presently held land for the amount of the high bid  
18 received at public auction; provided the aggregate number of acres  
19 owned and acquired under the option shall not exceed 320 [640] acres;  
20 and further provided that the land acquired under this section is used  
21 for agricultural purposes as required by law. Offers to exercise an  
22 option to purchase or lease for the amount of the high bid shall be  
23 accorded priority in order of time received by the director [FOR AT  
24 LEAST ONE YEAR FOLLOWING PURCHASE].

25 \* Sec. 2. AS 38.05.069(c) is repealed and re-enacted to read:

26 (c) Under this section

27 (1) the director may convey or lease an interest in the land  
28 only for agricultural purposes, and all other interests in the land  
29 remain in the state; the sale or lease shall be at public auction;

1 (2) the remaining interests may subsequently be conveyed or  
2 leased by the director only upon the request of the grantee or lessee or  
3 his assigns and the determination of the director, with the written  
4 concurrence of the commissioner, that the conveyance or lease is in the  
5 public interest;

6 (3) the conveyance or lease of the remaining interests shall  
7 be at public auction; the original grantee or lessee or his assigns have  
8 a preference right to meet the high bid within 30 days after the day of  
9 the auction; if the right is exercised, the value of improvements owned  
10 by the holder of the preference right, included with the remaining  
11 interests sold, shall be deducted from the purchase price;

12 (4) by requesting the conveyance or lease of the remaining  
13 interest, the original grantee or lessee or his assigns

14 (A) consents to the sale or lease, and

15 (B) if the preference right provided by (3) of this  
16 subsection is not exercised, consents to sell at fair market value  
17 the improvements related to the remaining interest, as appraised by  
18 the director;

19 (5) the remaining interests in the land may not be conveyed  
20 or leased for less than their appraised value together with improvements  
21 except for the deduction allowed by (3) of this subsection.

22 \* Sec 3. AS 38.05 is amended by adding a new section to read:

23 Sec. 38.05.321. RESTRICTION ON SALE OR LEASE OR OTHER DISPOSAL OF  
24 AGRICULTURAL LAND. No state land classified as agricultural land may be  
25 sold, leased or otherwise disposed of in a manner inconsistent with sec.  
26 69 of this chapter.  
27  
28  
29

Original Sponsor: Rules Committee by  
request of the Governor

Offered: 4/14/76  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 654

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 the administration of state  
7 land."

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

9 \* Section 1. AS 38.05.030(e) is amended to read:

10 (e) The sale, lease or other disposal of school lands under the  
11 jurisdiction of the department shall be made by the commissioner in  
12 accordance with the provisions of this chapter. However, disposal of  
13 school lands under this subsection, other than disposal by lease for a  
14 term of years, shall be made only for sites for school facilities or for  
15 residential, public park and public recreation purposes. School lands  
16 may be exchanged for (1) state lands, (2) vacant, unappropriated and  
17 unreserved public lands and (3) lands owned by a city, borough or other  
18 public entity. In the case of unequal values, cash may be used to  
19 equalize land values. When the department determines that it is in the  
20 best interest of the state to dispose of the school lands located within  
21 Sections 16 and 36 in an organized borough or city of any class, the  
22 borough or city is authorized, and has preference for six months after  
23 notice, to acquire the land at the appraised value by purchase or  
24 exchange of land acceptable to the department. No sale, lease, exchange  
25 or other disposal of school lands may be made without the approval of  
26 the State Board of Education.

27 \* Sec. 2. AS 38.05.069(a) is amended to read:

28 (a) If the director determines that the highest and best use of  
29 unoccupied land is for agricultural purposes and if he determines that

1 it is in the best interest of the state to sell or lease that land, he  
2 shall grant to an Alaskan resident owning and using or leasing and using  
3 land for agricultural purposes a 60-day first option after [FROM] the  
4 date of the auction [THE LAND BECOMES AVAILABLE TO THE PUBLIC OR 90 DAYS  
5 FROM THE EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER,] to pur-  
6 chase or lease the unoccupied land situated adjacent to or in the approxi-  
7 mate vicinity of his presently held land for the amount of the high bid  
8 received at public auction; provided the aggregate number of acres owned  
9 and acquired under the option shall not exceed 640 acres; and further  
10 provided that the land acquired under this section is used for agricul-  
11 tural purposes as required by law [FOR AT LEAST ONE YEAR FOLLOWING  
12 PURCHASE].

13 \* Sec. 3. AS 38.05.069(c) is repealed and re-enacted to read:

14 (c) Under this section:

15 (1) the director may convey only an interest in the land for  
16 agricultural purposes, and all other interests in the land remains in  
17 the state; the sale or lease shall be at public auction;

18 (2) the remaining interests may subsequently be conveyed by  
19 the director only upon the request of the grantee or lessee or his  
20 assigns and the determination of the director that the conveyance is in  
21 the public interest;

22 (3) the conveyance of the remaining interests shall be at  
23 public auction; the original grantee or lessee or his assigns have a  
24 preference right to meet the high bid within 30 days after the day of  
25 the auction; if the right is exercised, the value of improvements owned  
26 by the holder of the preference right as appraised by the director is  
27 deducted from the purchase price;

28 (4) by requiring the conveyance of the remaining interest,  
29 the grantee or lessee or his assigns consent to the sale at auction and,

1 if the preference right provided by (3) of this subsection is not exer-  
2 cised, agree to accept as payment in full for their interest in the  
3 land, including improvements, the value of those improvements and the  
4 value of their interest as appraised by the director;

5 (5) the remaining interests in the land may not be conveyed  
6 for less than their appraised value together with improvements except  
7 for the deduction allowed by (3) of this subsection;

8 \* Sec. 4. AS 38.05.069 is amended by adding a new subsection to read:

9 (f) Nothing in (c) of this section affects the disposal of min-  
10 erals under secs. 135 - 183 of this chapter.

11 \* Sec. 5. AS 38.05 is amended by adding a new section to read:

12 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold  
13 created under secs. 70 - 100 of this chapter is offered for sale or  
14 long-term lease at the termination of the existing leasehold, the  
15 director may, if he finds that it is in the best interest of the state,  
16 allow the holder in good standing of that leasehold to purchase or lease  
17 the land for the amount of the high bid received at public auction.

18 \* Sec. 6. AS 38.05.115 is amended to read:

19 Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The  
20 commissioner, upon recommendation of the director, shall determine the  
21 timber and other materials to be sold, and the limitations, conditions  
22 and terms of sale. The limitations, conditions and terms shall include  
23 the utilization, development and maintenance of the sustained yield  
24 principle, subject to preference among other beneficial uses. The  
25 director may negotiate sales of timber or materials without advertise-  
26 ment and on the limitations, conditions, and terms which he considers  
27 are in the best interests of the state, subject to the approval of the  
28 commissioner. However, not more than 500 M.B.M. or equivalent other  
29 measure of timber or more than \$5,000 [\$2,500] of materials may be sold

1 by nonadvertised, negotiated sale to the same purchaser within a one-  
2 year period.

3 (b) Negotiated sales for timber or materials not exceeding a value  
4 of \$500 [\$250] are exempt from the provisions of AS 34.15.150.

5 \* Sec. 7. AS 38.05.305 is repealed and re-enacted to read:

6 Sec. 38.05.305. NOTICE AND REVIEW. (a) No land or interest in  
7 land within the boundaries or within six linear miles of the boundaries  
8 of a general law, home rule or unified municipality, as defined under AS  
9 29, may be classified, reclassified, sold or leased, or otherwise  
10 disposed of, including the renewal of a lease entered into after the  
11 effective date of this Act, unless the following procedures have been  
12 complied with:

13 (1) A notice of the proposed action shall be sent to the  
14 governing body of each municipality a boundary of which is within six  
15 linear miles of the land involved.

16 (2) The notice shall be sent at the earliest practicable time  
17 but no less than 30 days before the proposed action.

18 (3) The notice must contain a statement of the proposed  
19 action, identifying the land involved and the action proposed in suf-  
20 ficient detail to fairly inform the recipient of the nature of the  
21 proposed action. If the land is not surveyed, a legal description need  
22 not be used; but the land must be described in sufficient detail to  
23 allow the recipient to understand its approximate size, number of tracts  
24 involved, and location. The notice must also contain a statement to the  
25 effect that the municipality is invited to comment on the proposed  
26 action and that, upon the request of the governing body, chief executive  
27 officer, or planning agency, the division will consult with the munic-  
28 ipal officials on the proposed action. Any request by a municipality for  
29 consultation must include the name of the municipal official to be

1 consulted and be sent no later than 15 days after receipt of the notice  
2 by the municipality, and the notice must contain a statement to this  
3 effect and name the official and address to which the municipality's  
4 request should be sent.

5 (4) In consulting with the municipal officials, the proposed  
6 action and the authority under which it is to be taken shall be explain-  
7 ed and the reason for the proposed action shall be given. A public  
8 hearing need not be held, but the municipal officials may hold a public  
9 hearing or otherwise allow public participation and comment.

10 (5) A municipality having a right to notice or consultation  
11 under this section may appeal to the superior court and have set aside  
12 any action taken which does not conform to this section. A municipality  
13 incorporated or established less than 30 days before the action is taken  
14 has no right to notice or consultation under this section.

15 (b) No land or interest in land outside the boundaries of a general  
16 law, home rule, or unified municipality, as defined under AS 29, may be  
17 classified, reclassified, sold or leased, or otherwise disposed of,  
18 including the renewal of a lease entered into after the effective date  
19 of this Act, unless a notice of the proposed action as required by  
20 (a)(3) of this section is made upon the regional corporation organized  
21 under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C.  
22 secs. 1601-1626), within the boundaries of which the land is located.  
23 The president of the affected regional corporation or his designee has  
24 the same rights of notice, consultation, and appeal as those provided  
25 for in (a)(2) - (5) of this section.

26 (c) When notice is given under (b) of this section, the require-  
27 ments of sec. 345 of this chapter relating to notice apply in addition  
28 to any other applicable notice requirements. If requested, the director  
29 shall hold a hearing within the affected area under (b) of this section.

1 No action proposed by the director which is subject to the notice  
2 requirement specified in (b) of this section is final until at least 30  
3 days after the date the notice was published.

4 \* Sec. 8. AS 38.05.315 is amended by adding a new subsection to read:

5 (e) The lease, sale, or other disposal of state land at appraised  
6 fair market value may be negotiated with a licensed public utility or a  
7 licensed common carrier by the director with the approval of the com-  
8 missioner if the utility or carrier reasonably requires the land for the  
9 conduct of its business under its license.

10 \* Sec. 9. AS 38.05 is amended by adding a new section to read:

11 Sec. 38.05.321. RESTRICTION ON SALE OR LEASE OR OTHER DISPOSAL OF  
12 AGRICULTURAL LAND. No state land classified as agricultural land may be  
13 sold, leased or otherwise disposed of without provision for, as part of  
14 the terms of the sale or lease agreement, a specific conditional re-  
15 striction or a specific reservation, or both, in the instrument against  
16 subdivision or other uses incompatible with agricultural development,  
17 including the reservation of a scenic, agricultural, or similar easement  
18 as determined by the director. The restriction or easement shall state  
19 that if circumstances change so that subdivision or other uses of the  
20 agricultural land are later determined by the director to be in the best  
21 interest of the state and the person owning, leasing, or having an  
22 interest in the land, the restriction may be terminated or the easement  
23 vacated upon payment of a sum equal to the difference between the amount  
24 originally paid for the land and the value of the land without the  
25 restriction of easement. Notice of a pending determination of the  
26 director to terminate the restriction or to vacate the easement shall be  
27 made as provided for the sale or other disposition of interests in state  
28 land and shall include a statement of findings explaining the reason for  
29 the determination. The termination or vacation may not take effect until

1 expressly approved in writing by the commissioner.

2 \* Sec. 10. AS 38.05.330 is amended to read:

3 Sec. 38.05.330. PERMITS. The director, without the prior approval  
4 of the commissioner, may issue permits, rights-of-way or easements on  
5 state land for [SECONDARY] roads, trails, ditches, field gathering lines  
6 or transmission and distribution pipelines not subject to AS 38.35,  
7 telephone and transmission lines, log storage, oil well drilling sites  
8 and production facilities for the purposes of recovering minerals from  
9 adjacent lands under valid lease, and other similar uses or improve-  
10 ments, or for the limited personal use of timber or materials. The  
11 commissioner, upon recommendation of the director, shall establish a  
12 reasonable rate or fee schedule to be charged for these uses. In the  
13 granting, suspension or revocation of a permit or easement of lands, the  
14 director shall give preference to that use of the land which will be of  
15 greatest economic benefit to the state and the development of its re-  
16 sources. However, first preference shall be granted to the upland owner  
17 for the use of a tract of tideland, or tideland and contiguous submerged  
18 land, which is seaward of the upland property of the upland owner and  
19 which is needed by the upland owner for any of the purposes for which  
20 the use may be granted.

21 \* Sec. 11. AS 38.05.345 is amended to read:

22 Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or  
23 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330  
24 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND  
25 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

26 (b) Notice shall be published once a week for three consecutive  
27 weeks preceding the time of sale stated in the notice, in at least one  
28 newspaper of general circulation in the vicinity in which the land,  
29 property or interest in it is to be sold, leased or disposed of. Where

1 there is no newspaper of general circulation in the vicinity, notices  
2 shall be posted in three public places near the land to be sold, leased  
3 or otherwise disposed of. The sale, lease or disposal of lands shall be  
4 held not less than 30 days after publication of the first notice and not  
5 [ONE WEEK NOR] more than five [THREE] weeks following the last appear-  
6 ance of the published notice. The notice shall contain a description of  
7 the land and interest to be sold, leased or disposed of and the time,  
8 place, and general terms of the sale, lease or disposal.

9 (c) [PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-  
10 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT  
11 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 AND 80  
12 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE  
13 COMMISSIONER.]

14 \* Sec. 12. AS 38.05.100 and 38.05.347 are repealed.

15 \* Sec. 13. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
16 before the effective date of this Act to leaseholders in good standing are  
17 confirmed and ratified.

Introduced: 1/27/76  
Referred: Resources and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 654

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 the administration of state  
7 lands."

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

9 \* Section 1. AS 38.05.030(e) is amended to read:

10 (e) The sale, lease or other disposal of school lands under the  
11 jurisdiction of the department shall be made by the commissioner in  
12 accordance with the provisions of this chapter. [HOWEVER, DISPOSAL OF  
13 SCHOOL LANDS UNDER THIS SUBSECTION, OTHER THAN DISPOSAL BY LEASE FOR A  
14 TERM OF YEARS, SHALL BE MADE ONLY FOR SITES FOR SCHOOL FACILITIES OR  
15 FOR PUBLIC PARK AND PUBLIC RECREATION PURPOSES.] School lands may be  
16 exchanged for (1) state lands, (2) vacant, unappropriated and unreserved  
17 public lands and (3) lands owned by a city, borough or other public  
18 entity. In the case of unequal values, cash may be used to equalize  
19 land values. When the department determines that it is in the best  
20 interest of the state to dispose of the school lands located within  
21 Sections 16 and 36 in an organized borough or city of any class, the  
22 borough or city is authorized, and has preference for six months after  
23 notice, to acquire the land at the appraised value by purchase or  
24 exchange of land acceptable to the department. No sale, lease, exchange  
25 or other disposal of school lands may be made without the approval of  
26 the State Board of Education.

27 \* Sec. 2. AS 38.05.069(a) is amended to read:

28 (a) If the director determines that the highest and best use of  
29 unoccupied land is for agricultural purposes, he shall grant to an

1 Alaskan resident owning and using or leasing and using land for agri-  
2 cultural purposes a 60-day first option after [FROM] the date of the  
3 auction [THE LAND BECOMES AVAILABLE TO THE PUBLIC OR 90 DAYS FROM THE  
4 EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER,] to purchase or  
5 lease unoccupied land situated adjacent to or in the approximate  
6 vicinity of his presently held land for the amount of the high bid  
7 received at public auction; provided the aggregate number of acres  
8 owned and acquired under the option shall not exceed 640 acres; and  
9 further provided that the land acquired under this section is used for  
10 agricultural purposes as required by law [FOR AT LEAST ONE YEAR  
11 FOLLOWING PURCHASE].

12 \* Sec. 3. AS 39.05.069(c) is repealed and re-enacted to read:

13 (c) Under this section:

14 (1) the director may convey only an interest in the land for  
15 agricultural purposes, and all other interests in the land remains  
16 in the state; the sale or lease shall be at public auction;

17 (2) the remaining interests may subsequently be conveyed by  
18 the director only upon the request of the grantee or lessee or his  
19 assigns and the determination of the director that the conveyance is  
20 in the public interest;

21 (3) the conveyance of the remaining interests shall be at  
22 public auction; the original grantee or lessee or his assigns have a  
23 preference right to meet the high bid within 30 days after the day of  
24 the auction; if the right is exercised, the value of improvements  
25 owned by the holder of the preference right as appraised by the director  
26 is deducted from the purchase price;

27 (4) by requesting the conveyance of the remaining interest,  
28 the grantee or lessee or his assigns consent to the sale and, if the  
29 preference right provided by (3) of this subsection is not exercised,

1 to accept as payment in full for their interest in the land, including  
2 improvements, the value of those improvements and the value of their  
3 interest as appraised by the director;

4 (5) the remaining interests in the land may not be conveyed  
5 for less than their appraised value together with improvements except  
6 for the deduction allowed by (3) of this subsection.

7 \* Sec. 4. AS 38.05.070(b) is amended to read:

8 (b) The director, with the approval of the commissioner, shall  
9 determine the land to be leased and the limitations, conditions and  
10 terms of the lease. If the appraised value of the transaction is \$500  
11 [\$250] a year or less the director may negotiate a lease without  
12 advertisement for a period not to exceed five years, and on the  
13 limitations, conditions and terms which he considers are in the best  
14 interests of the state.

15 \* Sec. 5. AS 38.05 is amended by adding a new section to read:

16 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold  
17 created under secs. 70--100 of this chapter is offered for sale or  
18 long-term lease at the termination of the existing leasehold, the  
19 director may, if he finds that it is in the best interest of the  
20 state, allow the holder in good standing of that leasehold to purchase  
21 or lease the land for the amount of the high bid received at public  
22 auction.

23 \* Sec. 6. AS 38.05.115(a) is amended to read:

24 (a) The commissioner, upon recommendation of the director, shall  
25 determine the timber and other materials to be sold, and the limitations  
26 conditions and terms of sale. The limitations, conditions and terms  
27 shall include the utilization, development and maintenance of the  
28 sustained yield principle, subject to preference among other bene-  
29 ficial uses. The director may negotiate sales of timber or materials

1 without advertisement and on the limitations, conditions, and terms  
2 which he considers are in the best interests of the state, subject to  
3 the approval of the commissioner. However, not more than 500 M.B.M.  
4 or equivalent other measure of timber or more than \$5,000 [\$2,500] of  
5 materials may be sold by nonadvertised, negotiated sale to the same  
6 purchaser within a one-year period.

7 \* Sec. 7. AS 38.05.305 is repealed and re-enacted to read:

8 Sec. 38.05.305. NOTICE AND REVIEW. No land or interest in land  
9 within the boundaries or within six linear miles of the boundaries of  
10 a general law, home rule or unified municipality, as defined under AS  
11 29, may be classified, reclassified, sold or leased, or otherwise  
12 disposed of, including the renewal of an original lease for more than  
13 one additional term, unless the following procedures have been com-  
14 plied with:

15 (1) A notice of the proposed action shall be sent to the  
16 governing body of each municipality a boundary of which is within six  
17 linear miles of the land involved.

18 (2) The notice shall be sent at the earliest practicable  
19 time but no less than 30 days before the proposed action.

20 (3) The notice must contain a statement of the proposed  
21 action, identifying the land involved and the action proposed in  
22 sufficient detail to fairly inform the recipient of the nature of the  
23 proposed action. If the land is not surveyed, a legal description  
24 need not be used; but the land must be described in sufficient detail  
25 to allow the recipient to understand its approximate size, number of  
26 tracts involved, and location. The notice must also contain a state-  
27 ment to the effect that the municipality is invited to comment on the  
28 proposed action and that, upon the request of the governing body,  
29 chief executive officer, or planning agency, the division will consult

1 with the municipal officials on the proposed action. Any request by a  
2 municipality for consultation must include the name of the municipal  
3 official to be consulted and be sent no later than 15 days after  
4 receipt of the notice by the municipality, and the notice must contain  
5 a statement to this effect and name the official and address to which  
6 the municipality's request should be sent.

7 (4) In consulting with the municipal officials, the proposed  
8 action and the authority under which it is to be taken shall be explain-  
9 ed and the reason for the proposed action shall be given. A public  
10 hearing need not be held, but the municipal officials may hold a  
11 public hearing or otherwise allow public participation and comment.

12 (5) A municipality having a right to notice or consultation  
13 under this section may appeal to the superior court and have set aside  
14 any action taken which does not conform to this section. A munici-  
15 pality incorporated or established less than 30 days before the action  
16 is taken has no right to notice or consultation under this section.

17 \* Sec. 8. AS 38.05.315 is amended by adding a new subsection to read:

18 (e) The lease, sale, or other disposal of state land at appraised  
19 fair market value may be negotiated with a licensed public utility or  
20 a licensed common carrier by the director with the approval of the  
21 commissioner if the utility or carrier reasonably requires the land  
22 for the conduct of its business under its license.

23 \* Sec. 9. AS 38.05 is amended by adding a new section to read:

24 Sec. 38.05.221. RESTRICTION ON SALE OR LEASE OR OTHER DISPOSAL  
25 OF AGRICULTURAL LAND. No state land classified as agricultural land  
26 may be sold, leased or otherwise disposed of without provision for, as  
27 part of the terms of the sale or lease agreement, a specific conditiona  
28 restriction or a specific reservation, or both, in the instrument  
29 against subdivision or other uses incompatible with agricultural

1 development, including the reservation of a scenic, agricultural, or  
2 similar easement as determined by the director. The restriction or  
3 easement shall state that if circumstances change so that subdivision  
4 or other uses of the agricultural land are later determined by the  
5 director to be in the best interest of the state and the person owning,  
6 leasing, or having an interest in the land, the restriction may be  
7 terminated or the easement vacated upon payment of a sum equal to the  
8 difference between the amount originally paid for the land and the  
9 value of the land without the restriction of easement. Notice of a  
10 pending determination of the director to terminate the restriction or  
11 to vacate the easement shall be made as provided for the sale or other  
12 disposition of interests in state land and shall include a statement  
13 of findings explaining the reason for the determination. The termination  
14 or vacation may not take effect until expressly approved in writing by  
15 the commissioner.

16 \* Sec. 10. AS 38.05.330 is amended to read:

17       Sec. 38.05.330. PERMITS. The director, without the prior approval  
18 of the commissioner, may issue permits, rights-of-way or easements on  
19 state land for [SECONDARY] roads, trails, ditches, field gathering  
20 lines or transmission and distribution pipelines not subject to AS  
21 38.35, telephone and transmission lines, log storage, oil well drilling  
22 sites and production facilities for the purposes of recovering minerals  
23 from adjacent lands under valid lease, and other similar uses or  
24 improvements, or for the limited personal use of timber or materials.  
25 The commissioner, upon recommendation of the director, shall establish  
26 a reasonable rate or fee schedule to be charged for these uses. In  
27 the granting, suspension or revocation of a permit or easement of  
28 land, the director shall give preference to that use of the land  
29 which will be of greatest economic benefit to the state and the develop-

1 ment of its resources. However, first preference shall be granted to  
2 the upland owner for the use of a tract of tideland, or tideland and  
3 contiguous submerged land, which is seaward of the upland property of  
4 the upland owner and which is needed by the upland owner for any of  
5 the purposes for which the use may be granted.

6 \* Sec. 11. AS 38.05.345 is amended to read:

7 Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or  
8 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC.  
9 330 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75  
10 AND 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as  
11 follows.

12 (b) Notice shall be published once a week for three consecutive  
13 weeks preceding the time of sale stated in the notice, in at least one  
14 newspaper of general circulation in the vicinity in which the land,  
15 property or interest in it is to be sold, leased or disposed of. Where  
16 there is no newspaper of general circulation in the vicinity, notices  
17 shall be posted in three public places near the land to be sold,  
18 leased or otherwise disposed of. The sale, lease or disposal of lands  
19 shall be held not less than 30 days after publication of the first  
20 notice and not [ONE WEEK NOR] more than five [THREE] weeks following  
21 the last appearance of the published notice. The notice shall contain  
22 a description of the land and interest to be sold, leased or disposed  
23 of and the time, place, and general terms of the sale, lease or disposal.

24 (c) [PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-  
25 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT  
26 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 AND  
27 80 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE  
28 COMMISSIONER.]

29 \* Sec. 12. AS 38.05.100 and 38.05.347 are repealed.

1 \* Sec. 13. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
2 before the effective date of this Act to leaseholders in good standing are  
3 confirmed and ratified.

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Original Sponsor: Rules Committee by  
request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 654 (Finance)

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 the administration of state  
7 land."

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

9 \* Section 1. AS 38.05.030(e) is amended to read:

10 (e) The sale, lease or other disposal of school lands under the  
11 jurisdiction of the department shall be made by the commissioner in  
12 accordance with the provisions of this chapter. However, disposal of  
13 school lands under this subsection, other than disposal by lease for a  
14 term of years, shall be made only for sites for school facilities or for  
15 residential, public park and public recreation purposes. School lands  
16 may be exchanged for (1) state lands, (2) vacant, unappropriated and  
17 unreserved public lands and (3) lands owned by a city, borough or other  
18 public entity. In the case of unequal values, cash may be used to  
19 equalize land values. When the department determines that it is in the  
20 best interest of the state to dispose of the school lands located within  
21 sections 16 and 36 in an organized borough or city of any class, the  
22 borough or city is authorized, and has preference for six months after  
23 notice, to acquire the land at the appraised value by purchase or  
24 exchange of land acceptable to the department. No sale, lease, exchange  
25 or other disposal of school lands may be made without the approval of  
26 the State Board of Education.

27 \* Sec. 2. AS 38.05.069 is amended by adding a new subsection to read:

28 (f) Nothing in (c) of this section affects the disposal of minerals  
29 under secs. 135 - 183 of this chapter.

1 \* Sec. 3. AS 38.05 is amended by adding a new section to read:

2       Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold  
3 created under secs. 70 - 100 of this chapter is offered for sale or  
4 long-term lease at the termination of the existing leasehold, the  
5 director may, if he finds that it is in the best interest of the state,  
6 allow the holder in good standing of that leasehold to purchase or lease  
7 the land for the amount of the high bid received at public auction.

8 \* Sec. 4. AS 38.05.115 is amended to read:

9       Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The  
10 commissioner, upon recommendation of the director, shall determine the  
11 timber and other materials to be sold, and the limitations, conditions  
12 and terms of sale. The limitations, conditions and terms shall include  
13 the utilization, development and maintenance of the sustained yield  
14 principle, subject to preference among other beneficial uses. The  
15 director may negotiate sales of timber or materials without advertise-  
16 ment and on the limitations, conditions, and terms which he considers  
17 are in the best interests of the state, subject to the approval of the  
18 commissioner. However, not more than 500 M.B.M. or equivalent other  
19 measure of timber or more than \$5,000 [\$2,500] of materials may be sold  
20 by nonadvertised, negotiated sale to the same purchaser within a one-  
21 year period.

2       (b) Negotiated sales for timber or materials not exceeding a value  
3 of \$500 [\$250] are exempt from the provisions of AS 34.15.150.

4 \* Sec. 5. AS 38.05.305 is repealed and re-enacted to read:

5       Sec. 38.05.305. NOTICE AND REVIEW. (a) No land or interest in  
6 land within the boundaries or within six linear miles of the boundaries  
7 of a general law, home rule or unified municipality, as defined under AS  
8 29, may be classified, reclassified, sold or leased, or otherwise  
9 disposed of, including the renewal of a lease entered into after the

1 effective date of this Act, unless the following procedures have been  
2 complied with:

3 (1) A notice of the proposed action shall be sent to the  
4 governing body of each municipality a boundary of which is within six  
5 linear miles of the land involved.

6 (2) The notice shall be sent at the earliest practicable time  
7 but no less than 30 days before the proposed action.

8 (3) The notice must contain a statement of the proposed  
9 action, identifying the land involved and the action proposed in suf-  
10 ficient detail to fairly inform the recipient of the nature of the  
11 proposed action. If the land is not surveyed, a legal description need  
12 not be used; but the land must be described in sufficient detail to  
13 allow the recipient to understand its approximate size, number of tracts  
14 involved, and location. The notice must also contain a statement to the  
15 effect that the municipality is invited to comment on the proposed  
16 action and that, upon the request of the governing body, chief executive  
17 officer, or planning agency, the division will consult with the munic-  
18 ipal officials on the proposed action. Any request by a municipality for  
19 consultation must include the name of the municipal official to be  
20 consulted and be sent no later than 15 days after receipt of the notice  
21 by the municipality, and the notice must contain a statement to this  
22 effect and name the official and address to which the municipality's  
23 request should be sent.

24 (4) In consulting with the municipal officials, the proposed  
25 action and the authority under which it is to be taken shall be explain-  
26 ed and the reason for the proposed action shall be given. A public  
27 hearing need not be held, but the municipal officials may hold a public  
28 hearing or otherwise allow public participation and comment.

29 (5) A municipality having a right to notice or consultation

1 under this section may appeal to the superior court and have set aside  
2 any action taken which does not conform to this section. A municipality  
3 incorporated or established less than 30 days before the action is taken  
4 has no right to notice or consultation under this section.

5 (b) No land or interest in land outside the boundaries of a general  
6 law, home rule, or unified municipality, as defined under AS 29, may be  
7 classified, reclassified, sold or leased, or otherwise disposed of,  
8 including the renewal of a lease entered into after the effective date  
9 of this Act, unless a notice of the proposed action as required by  
10 (a)(3) of this section is made upon the regional corporation organized  
11 under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C.  
12 secs. 1601-1626), within the boundaries of which the land is located.  
13 The president of the affected regional corporation or his designee has  
14 the same rights of notice, consultation, and appeal as those provided  
15 for in (a)(2) - (5) of this section.

16 (c) When notice is given under (b) of this section, the require-  
17 ments of sec. 345 of this chapter relating to notice apply in addition  
18 to any other applicable notice requirements. If requested, the director  
19 shall hold a hearing within the affected area under (b) of this section.  
20 No action proposed by the director which is subject to the notice  
21 requirement specified in (b) of this section is final until at least 30  
22 days after the date the notice was published.

23 \* Sec. 6. AS 38.05.315 is amended by adding a new subsection to read:

24 (e) The lease, sale, or other disposal of state land at appraised  
25 fair market value may be negotiated with a licensed public utility or a  
26 licensed common carrier by the director with the approval of the com-  
27 missioner if the utility or carrier reasonably requires the land for the  
28 conduct of its business under its license.

29 \* Sec. 7. AS 38.05.330 is amended to read:

1           Sec. 38.05.330. PERMITS. The director, without the prior approval  
2 of the commissioner, may issue permits, rights-of-way or easements on  
3 state land for [SECONDARY] roads, trails, ditches, field gathering lines  
4 or transmission and distribution pipelines not subject to AS 38.35,  
5 telephone and transmission lines, log storage, oil well drilling sites  
6 and production facilities for the purposes of recovering minerals from  
7 adjacent lands under valid lease, and other similar uses or improve-  
8 ments, or for the limited personal use of timber or materials. The  
9 commissioner, upon recommendation of the director, shall establish a  
10 reasonable rate or fee schedule to be charged for these uses. In the  
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12 director shall give preference to that use of the land which will be of  
13 greatest economic benefit to the state and the development of its re-  
14 sources. However, first preference shall be granted to the upland owner  
15 for the use of a tract of tideland, or tideland and contiguous submerged  
16 land, which is seaward of the upland property of the upland owner and  
17 which is needed by the upland owner for any of the purposes for which  
18 the use may be granted.

19 \* Sec. 8. AS 38.05.345 is amended to read:

20           Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or  
21 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330  
22 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND  
23 30 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

24           (b) Notice shall be published once a week for three consecutive  
25 weeks preceding the time of sale stated in the notice, in at least one  
26 newspaper of general circulation in the vicinity in which the land,  
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7 (c) [PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-  
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9 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 and 80  
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11 COMMISSIONER.]

12 \* Sec. 9. AS 38.05.100 and 38.05.347 are repealed.

13 \* Sec. 10. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
14 before the effective date of this Act to leaseholders in good standing are  
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Original Sponsor: Rules Committee by  
request of the Governor

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BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 654 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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13 The president of the affected regional corporation or his designee has  
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6 and production facilities for the purposes of recovering minerals from  
7 adjacent lands under valid lease, and other similar uses or improve-  
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9 commissioner, upon recommendation of the director, shall establish a  
10 reasonable rate or fee schedule to be charged for these uses. In the  
11 granting, suspension or revocation of a permit or easement of lands, the  
12 director shall give preference to that use of the land which will be of  
13 greatest economic benefit to the state and the development of its re-  
14 sources. However, first preference shall be granted to the upland owner  
15 for the use of a tract of tideland, or tideland and contiguous submerged  
16 land, which is seaward of the upland property of the upland owner and  
17 which is needed by the upland owner for any of the purposes for which  
18 the use may be granted.

19 \* Sec. 8. AS 38.05.345 is amended to read:

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6 place, and general terms of the sale, lease or disposal.

7 (c) [PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-  
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10 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE  
11 COMMISSIONER.]

12 \* Sec. 9. AS 38.05.100 and 38.05.347 are repealed.

13 \* Sec. 10. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
14 before the effective date of this Act to leaseholders in good standing are  
15 confirmed and ratified.

A M E N D M E N T

TO: CSHB 654 (Finance)

Page 6, line 16: add the following new language:

\* Sec. 11. AS 38.05.069(b) is amended to read:

(b) If more than one person is eligible for a first option under (a) of this section, the director shall determine priority by granting precedence first to the person who demonstrates the greatest need for the unoccupied land in order to establish an economic unit and, secondly, to the eligible person who occupies land that is most readily accessible to the unoccupied land to be sold or leased [LEASE]. In the event that two or more persons have approximately equal qualifications for priority under this section, the director shall grant priority to that person who is a veteran. If more than one person is approximately equally well qualified under this section, the director shall [MAY] determine priority by establishing which application to exercise the option was received first by the director [LOT].

A M E N D M E N T

TO: CSHB 654 (Finance)

BY SMITH

Page 4, between lines 22 and 23 insert the following new material:

"(d) Lands opened for mineral rights acquisition under the provisions of secs. 135 - 280 of this chapter and for competitive mineral leasing after the effective date of this Act are subject to the notice and hearing provisions of (a) - (c) of this section. After the initial opening of lands for a noncompetitive mineral lease or permit as specified in this subsection, upon written request to the director by a person, notice of any proposed issuance of a noncompetitive mineral lease or permit shall be given by mail to the person at least 30 days but not more than three months before the proposed issuing of the lease or permit."

Director of lands, Mike Smith, recommends that approval be given by the following persons:

- (1) The chairman of the Mental Health Advisory Council;
- (2) The director of Mental Health; and
- (3) The commissioner of revenue.

A M E N D M E N T

TO: CSHB 654 (Finance)

Page 6, between lines 11 and 12, insert the following new material and renumber the remaining sections accordingly:

"\* Sec. 9. AS 38.05.035(a)(13) is amended to read:

(13) select, administer, and dispose of mental health lands for the support of the mental health program except that no mental health lands may be disposed of without the approval of the Mental Health Advisory Council;"

A M E N D M E N T

TO: CSHB 654 (Finance)

BY THE FINANCE COMMITTEE

Page 3, line 26: Delete the last two words and all of lines 27 and 28 and substitute the following new material:

"Except as to municipalities incorporated or established for less than 30 days as specified in (5) of this subsection, a hearing upon reasonable notice shall be held jointly by the division and the municipality or municipalities, allowing full public comment relating to the proposed action. Only one public hearing need be held for each action taken under this section, as long as full and adequate representation is assured."

A M E N D M E N T

TO: CSHB 654 (Finance)

Page 1, between lines 26 and 27: Insert the following new material and renumber remaining sections accordingly:

"\* Sec. 2. AS 38.05.035(b) is amended by adding a new paragraph to read:

(6) with the consent of the commissioner and upon written finding that the interests of the state will best be served, approve contracts for the sale, lease, or other disposal of available lands, resources or interests in them; in addition to the conditions and limitations imposed by law he may impose additional conditions or limitations in the contract as he, with the consent of the commissioner, determines will best serve the interests of the state; no contract for the sale, lease or disposal of available lands or interests in them is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$10,000 in the case of the sale of land or an interest in land, or \$1,000 in the case of the annual rental of land or interest in land, the director may approve and issue the contract without the consent or approval of the commissioner; before making a determination as to whether the sale, lease or disposal will best serve the interests of the state, the director shall compile and review information regarding the economic and environmental impact of the sale, lease, or disposal on competing renewable and nonrenewable resources actually or potentially affected by the decision; before public hearings on the decision, the director shall make available to the public the information compiled; adequate notice to the public of the information availability shall be made; the department may adopt regulations under the Administrative

Procedure Act (AS 44.62) to effectuate the purposes of this paragraph."

Page 6, line 12: Delete "and", and insert a comma. After "38.05.347", insert "and 38.05.035(a)(14)".