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2

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2/2/81  
(11)

Date: March 10, 1982

Mr. Speaker:

The Committee on RESOURCES has had HB 2

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

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 2 (Resources)  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Eric Scholiffe

Rick Halford

Paul ...

...

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CHAIRMAN

March 10, 1982

HB-2

Amendment

Add the following to the first page HB-2.  
as per Ted Smith.

Add line 17

(b) A homestead entry pursuant to section(a) may not exceed 160 acres unless the land is classified as agricultural in which case the entry may not exceed 320 acres, and title shall be restricted pursuant to As38.05.321.

or as per Committee add the following to line 17

and title shall be restricted if required by AS 38.05.321 (a).

**DRAFT**

REP -  
FANNING  
CHANGES  
FROM YESTERDAY -

Original sponsors: Beirne, Bettisworth  
and Randolph

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 2 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

10 CHAPTER 09. HOMESTEAD ENTRY.

11 Sec. 38.09.010. HOMESTEAD ENTRY. (a) The director may designate  
12 and make available for homestead entry under this chapter state land  
13 available

14 (1) under AS 38.05.057; or

15 (2) under AS 38.05.077 unless the director determines that  
16 the land is more suitable for recreational or residential use.

17 (b) A homestead entry made under AS 38.05.057 may not exceed 320  
18 acres.

19 (c) A homestead entry made under AS 38.05.077 may not exceed 160  
20 acres.

21 Sec. 38.09.020. QUALIFICATIONS FOR HOMESTEAD ENTRY. A person is  
22 qualified to apply for a homestead entry under this chapter if the  
23 person is

24 (1) qualified under AS 38.05.057 to participate in the dis-  
25 posal of land by lottery; or

26 (2) qualified under AS 38.05.077 to make an entry under the  
27 remote parcel disposal procedures.

28 Sec. 38.09.030. APPLICATION FOR HOMESTEAD ENTRY. (a) A person  
29 who has staked the exterior boundaries of a homestead entry under

1 AS 38.05.077 and a person who has been selected to purchase land desig-  
2 nated for homestead entry by lottery shall apply for the homestead entry  
3 on a form prepared by the department.

4 (b) The department may charge a fee for filing the application.

5 Sec. 38.09.040. PATENT FOR HOMESTEAD ENTRY. (a) A person who has  
6 made a homestead entry under this chapter and filed an application under  
7 AS 38.09.030(a) is entitled to a patent if, within seven years from the  
8 date of the application, the applicant

9 (1) occupies the land for a total of 35 months;

10 (2) erects a habitable dwelling;

11 (3) clears and prepares for cultivation not less than

12 (A) one-fourth of the land entered if the land is limited  
13 to agricultural use; or

14 (B) one-eighth of the land entered if the land is not  
15 limited to agricultural use;

16 *ADDED*  
*3-9-82* (4) brushes the boundaries of the homestead entry and main-  
17 tains the brushed boundaries so that they are easily visible from the  
18 ground, unless the homestead entry is surveyed;

19 (5) causes a survey of the homestead entry to be made that is  
20 acceptable to the director, unless the homestead entry is surveyed.

21 (b) The director shall require the applicant for homestead entry  
22 to submit proof necessary to establish compliance with the requirements  
23 of (a) of this section.

24 (c) As used in this section, "habitable dwelling"

25 (1) means a permanent dwelling of not less than 200 square  
26 feet and its fixtures and facilities;

27 (2) does not include a mobile home unless it is permanently  
28 attached to a permanent foundation.

29 Sec. 38.09.050. HOMESTEAD APPLICATION VOID. An application for

1 homestead entry and the interest of the applicant under the homestead  
2 entry is void if the applicant fails to comply with a requirement of  
3 AS 38.09.040(a). On the request of the director, the attorney general  
4 shall bring an action to declare the homestead entry void and, if neces-  
5 sary, to eject the homestead applicant.

6 \* Sec. 2. AS 38.04.020(g)(3) is amended to read:

7 (3) Land designated agricultural, commercial, industrial, or  
8 suitable for other disposal may [SHALL] be sold under AS 38.05.055 or  
9 38.05.057. Land designated agricultural or suitable for disposal other  
10 than as commercial or industrial may be sold under AS 38.05.077.

11 \* Sec. 3. AS 38.05.057(a) is amended to read:

12 (a) The commissioner may dispose of land, including land limited  
13 to use for agricultural purposes, by lottery. The purchase price of  
14 land sold by lottery shall be the fair market value of the land as  
15 determined by the commissioner. The commissioner may sell land by  
16 lottery for less than the fair market value of the land if he determines  
17 that scarcity of land for private use in the area of the land to be sold  
18 has resulted in unrealistic land values. Before the commissioner deter-  
19 mines the purchase price for land which is located in a municipality and  
20 which is to be sold under this section, he shall consult with the  
21 assessor of the municipality. The lottery shall be conducted in public  
22 by the commissioner or his representative. An applicant may not be  
23 selected to purchase land unless he is present on the date and at the  
24 place that the lottery is conducted unless medical reasons, attendance  
25 at school, or military service [OUTSIDE THE STATE] prevent attendance.  
26 [AN APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE LOTTERY  
27 IF THE LAND OFFERED FOR SALE IS COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL  
28 LAND.] On the day of the lottery a purchaser selected by lot shall  
29 deposit an amount equal to five percent of the purchase price, or if the

1 purchaser elects to use land discounts granted under AS 38.05.058, five  
2 percent of the purchase price after deduction of the discount. If the  
3 land is designated for homestead entry, the applicant selected by lottery  
4 for homestead entry must file an application under AS 38.09.030(a).

5 \* Sec. 4. AS 38.05.077(a) is amended to read:

6 (a) The commissioner shall designate remote parcel selection areas  
7 and shall dispose of remote parcels in accordance with AS 38.04.020.  
8 The commissioner may set the number of remote parcels that may be  
9 selected in each remote parcel selection area. A remote parcel may be  
10 purchased under AS 38.05.078 or an applicant may receive a patent to a  
11 remote parcel under AS 38.09. A remote parcel purchased under AS 38.05.-  
12 078 may not exceed 40 acres. A remote parcel acquired under AS 38.09  
13 may not exceed 160 acres.

14 \* Sec. 5. AS 38.05.077(b) is amended to read:

15 (b) The commissioner may designate remote parcel selection areas  
16 where staking will be restricted to aliquot parts when parcels are 40  
17 acres or larger and shall prescribe parcel selection procedures for each  
18 remote parcel selection area designated under (a) of this section. The  
19 parcel selection procedures shall include

20 (1) the maximum size of a remote parcel that may be selected  
21 in the parcel selection area;

22 (2) (repealed)

23 (3) the minimum distance between remote parcels in the parcel  
24 selection area;

25 (4) parcel dimensions, configuration, orientation and other  
26 parcel design requirements;

27 (5) a description of land within the area that may not be  
28 included in a parcel;

29 (6) a requirement that landmarks, monuments or other points

HB 2

REP  
FANNING

March 10, 1982

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Amendment

Add the following to the first page HB-2.  
as per Ted Smith.

Add line 17

(b) A homestead entry pursuant to section (a) may not exceed 160 acres unless the land is classified as agricultural in which case the entry may not exceed 320 acres, and title shall be restricted pursuant to AS 38.05.321.

or as per Committee add the following to line 17

and title shall be restricted if required by AS 38.05.321 (a).

Expel line

Do Treaty Indians  
to serve Migratory fowl

C-48

1 be used as points of reference for the measurement of distances within  
2 an area; and

3 (7) specification for the type of stakes to use to mark the  
4 corners of a parcel.

5 \* Sec. 6. AS 38.05.077(d) is amended to read:

6 (d) Not later than 15 days after staking the exterior boundaries  
7 of a remote parcel, the person who staked the parcel shall file a sketch  
8 plat with the department which shows the location of the remote parcel.  
9 At the time of filing the sketch plat, the person who staked the parcel  
10 shall apply to lease the land or apply for homestead entry under AS 38.-  
11 09. An application [TO LEASE THE LAND] shall be on a standard form  
12 prepared by the department. The annual rental payment for the first  
13 year of the lease shall be submitted to the department with the applica-  
14 tion. After the application to lease a remote parcel is approved, the  
15 commissioner shall offer to lease the land to the person who staked the  
16 remote parcel. A lease granted under this section shall contain the  
17 following terms:

18 (1) a remote parcel may be leased for five years;

19 (2) a remote parcel lease may be renewed at the option of the  
20 lessee for a second five-year period under the same terms as provided  
21 for the first five-year period of the remote parcel lease;

22 (3) a rental payment shall be paid annually and shall be \$10  
23 for each acre;

24 (4) unless the land is surveyed, the lessee shall, within one  
25 year of approval of the lease application and continuously for the lease  
26 period, physically delineate the boundaries of the parcel by brushing a  
27 line so that they are readily visible from the ground.

28 \* Sec. 7. AS 38.05.077(1)(3) is amended to read:

29 (3) certify that he has not previously leased a remote parcel

1 from the state nor made application for a homestead entry on state land  
2 within eight years immediately preceding the date of staking a remote  
3 parcel.

4 \* Sec. 8. This Act takes effect July 1, 1982.  
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*Moved by Halford -  
Adopted as Committee Substitute*

Bradley ✓

Original sponsors: Beirne, Bettisworth  
and Randolph

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2 CS FOR HOUSE BILL NO. 2 (Resources)

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10 CHAPTER 09. HOMESTEAD ENTRY.

11 Sec. 38.09.010. HOMESTEAD ENTRY. (a) The director may designate  
12 and make available for homestead entry under this chapter state land  
13 available

REDUNDANT

14 (1) under AS 38.05.057 if the director has classified the  
15 land for agricultural purposes under AS 38.05.062; or  
*and the title will be agriculture rights only*

16 *ford* - (2) under AS 38.05.077 unless the director determines that  
17 the land is more suitable for recreational or residential use.

18 (b) A homestead entry made under AS 38.05.057 may not exceed 320  
19 *Halford* acres, and title shall be restricted <sup>if</sup> ~~as~~ required by AS 35.05.321.

20 (c) A homestead entry made under AS 38.05.077 may not exceed 160  
21 acres.

22 Sec. 38.09.020. QUALIFICATIONS FOR HOMESTEAD ENTRY. A person is  
23 qualified to apply for a homestead entry under this chapter if the  
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25 (1) qualified under AS 38.05.057 to participate in the dis-  
26 posal of land by lottery; or

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28 remote parcel disposal procedures.

29 Sec. 38.09.030. APPLICATION FOR HOMESTEAD ENTRY. (a) A person

(5) causes a survey acceptable to the director to be made if the land is unsurveyed

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1 who has staked the exterior boundaries of a homestead entry under  
2 AS 38.05.077 and a person who has been selected to purchase land desig-  
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7 made a homestead entry under this chapter and filed an application under  
8 AS 38.09.030(a) is entitled to a patent if, within seven years from the  
9 date of the application, the applicant

10 (1) occupies the land for a total of 35 months;

11 (2) erects a habitable dwelling;

12 (3) clears and prepares for cultivation not less than

13 (A) one-fourth of the land entered if the land is limited  
14 to agricultural use; or

15 (B) one-eighth of the land entered if the land is not  
16 limited to agricultural use.

Handwritten note: "Hand"

17 (b) <sup>(4) [BRUSHING] (5) [SURVEY]</sup> the director shall require the applicant for homestead entry  
18 to submit proof necessary to establish compliance with the requirements  
19 of (a) of this section.

20 (c) As used in this section, "habitable dwelling"

21 (1) means a permanent dwelling of not less than 200 square  
22 feet and its fixtures and facilities;

23 (2) does not include a mobile home unless it is permanently  
24 attached to a permanent foundation.

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26 homestead entry and the interest of the applicant under the homestead  
27 entry is void if the applicant fails to comply with a requirement of  
28 AS 38.09.040(a). On the request of the director, the attorney general  
29 shall bring an action to declare the homestead entry void and, if neces-

sary, to eject the homestead applicant.

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(3) Land designated agricultural, commercial, industrial, or suitable for other disposal may [SHALL] be sold under AS 38.05.055 or 38.05.057. Land designated agricultural or suitable for disposal other than as commercial or industrial may be sold under AS 38.05.077.

\* Sec. 3. AS 38.05.057(a) is amended to read:

(a) The commissioner may dispose of land, including land limited use for agricultural purposes, by lottery. The purchase price of land sold by lottery shall be the fair market value of the land as determined by the commissioner. The commissioner may sell land by lottery for less than the fair market value of the land if he determines that scarcity of land for private use in the area of the land to be sold has resulted in unrealistic land values. Before the commissioner determines the purchase price for land which is located in a municipality and which is to be sold under this section, he shall consult with the assessor of the municipality. The lottery shall be conducted in public by the commissioner or his representative. An applicant may not be selected to purchase land unless he is present on the date and at the place that the lottery is conducted unless medical reasons, attendance at school, or military service [OUTSIDE THE STATE] prevent attendance. [AN APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL LAND.] On the day of the lottery a purchaser selected by lot shall deposit an amount equal to five percent of the purchase price, or if the purchaser elects to use land discounts granted under AS 38.05.058, five percent of the purchase price after deduction of the discount. ~~Notwithstanding any other provision of this section~~ The commissioner may offer land classified under AS 38.05.<sup>300</sup>362 for agricultural purposes under this section for homestead entry under AS 38.09. If the land is designated

1 for homestead entry, the applicant selected by lottery for homestead  
2 entry must file an application under AS 38.09.030(a).

3 \* Sec. 4. AS 38.05.077(a) is amended to read:

4 (a) The commissioner shall designate remote parcel selection areas  
5 and shall dispose of remote parcels in accordance with AS 38.04.020.  
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13 (b) The commissioner may designate remote parcel selection areas  
14 where staking will be restricted to aliquot parts when parcels are 40  
15 acres or larger and shall prescribe parcel selection procedures for each  
16 remote parcel selection area designated under (a) of this section. The  
17 parcel selection procedures shall include

18 (1) the maximum size of a remote parcel that may be selected  
19 in the parcel selection area;

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21 (3) the minimum distance between remote parcels in the parcel  
22 selection area;

23 (4) parcel dimensions, configuration, orientation and other  
24 parcel design requirements;

25 (5) a description of land within the area that may not be  
26 included in a parcel;

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28 be used as points of reference for the measurement of distances within  
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7 At the time of filing the sketch plat, the person who staked the parcel  
8 shall apply to lease the land or apply for homestead entry under AS 38  
9 09. An application [TO LEASE THE LAND] shall be on a standard form  
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13 commissioner shall offer to lease the land to the person who staked the  
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15 following terms:

16 (1) a remote parcel may be leased for five years;

17 (2) a remote parcel lease may be renewed at the option of the  
18 lessee for a second five-year period under the same terms as provided  
19 for the first five-year period of the remote parcel lease;

20 (3) a rental payment shall be paid annually and shall be \$1  
21 for each acre;

22 (4) unless the land is surveyed, the lessee shall, within one  
23 year of approval of the lease application and continuously for the lease  
24 period, physically delineate the boundaries of the parcel by brushing  
25 line so that they are readily visible from the ground.

26 \* Sec. 7. AS 38.05.077(i) is amended by adding a new paragraph to read:

27 (4) certify that he has not made application for a homestead  
28 entry on state land within the eight years immediately preceding the  
29 date of staking a remote parcel.

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\* Sec. 8. This Act takes effect July 1, 1982.

Land disposal is an unequal give away.

① free simple title to any state lands not ag land.

② designation of land

class I

class II

class III

class IV

③ sweat equity

aliquot -

remote parcel  
clearing but not

eligibility to receive ag loan

Patent: U

pat in "line brushing"

CS HB 2 introduced by Berine

Section by Section Analysis

March 9, 1982

Section 1

The bill amends existing law and sets up a new chapter in Title 38, Chapter 9 entitled Homestead Entry Program.

Sec 38.09.010 Homestead Entry

It establishes a homestead entry program and designates the director to make available state land for homesteading. It also allows the director to exclude land from homesteading if it is more suitable for recreational or residential use. It states that homestead entry land under the remote parcel program (38.05.077) may not exceed 160 acres, and land distributed for homestead entry under the existing lottery program (38.05.057) will not exceed 320 acres.

Sec 38.09.020 Establishes Qualifications for Homestead Entry

A person may qualify for homestead entry if they have qualified under the current remote parcel staking program, or lottery program.

Sec 38.09.030 Application for Homesteading

A simple form is required in addition to qualification by staking or by lottery selection to apply for the homestead entry program. This section authorizes the department to charge a fee for filing.

Sec 38.09.040 Patent for Homestead Entry

Provides that an applicant who applies for homestead entry program is entitled to a patent if, within seven years from the date of application, the following requirements are met:

1. The applicant occupies land for a total of 35 months,
2. erects a habitable dwelling, and
3. clears and prepares for cultivation not less than 1/4 of land entered if it's agricultural, and 1/8 if land is not classified as agricultural.

## Sec 38.09.050 Homestead Application Void

Essentially says the applicant must fulfill all requirements as stated in 38.09.040. This Section also provides that the director shall require proof of compliance with those requirements. Defines "habitable dwelling" as a permanent dwelling of not less than 200 sq. ft. in size, and excludes mobile homes not permanently attached to a permanent foundation.

It also provides a mechanism whereby the director, when he has found that the homesteader is not in compliance and has not met the requirements of the program, may declare the application void, and may enlist the aid of the attorney general to eject the homestead applicant.

### Section 2

Makes a technical amendment to AS 38.04.020(g) (3) to allow DNR to dispose of state lands under the homestead program. Currently state land available for disposal can only be disposed of under AS 38.05.055 (auction) or AS 38.05.057 (lottery). This change will allow disposal by staking of agricultural or lands other than commercial or industrial. Technically, this change should have been made at the time AS 38.05.077 was adopted.

### Section 3

Makes technical amendments to AS 38.05.057(a) to allow homestead disposal of state land by lottery. Additionally, the original language is cleaned up to delete the qualifier "outside the state" on several allowable reasons for not being able to attend a lottery sale. Also, the provision that an agent may represent an applicant at a commercial, industrial, or agricultural land lottery is deleted.

### Section 4

Makes technical changes to AS 38.05.077(a) to allow homestead disposal by remote parcel staking. It also distinguishes between a purchased remote parcel of up to 40 acres (under AS 38.05.078) and a homesteaded remote parcel of up to 160 acres (under AS 38.09).

### Section 5

Amends AS 38.05.077(b) to enable the director to designate remote parcel areas where staking will be by aliquot parts and will be restricted to parcels larger than 40 acres in size.

Section 6

Makes technical amendments to AS 38.05.077(d) to provide for an applicant to apply for homestead entry at the time he or she files a sketch plat of the remote parcel.

Section 7

Disqualifies a person who has participated in the homestead entry program from applying again in the remote parcel program for a period of 8 years.

Section 8

Establishes an effective date of July 1, 1982 for the bill.