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SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *CSHB 455 (Rea)*

BILL NAME: *Relative to defects in the title of the State to land*

SPONSOR(S): *gpc*

DATE INTRODUCED: *3/1/84 - Senate*

REFERRALS: *Resources  
Judiciary*

RELATED BILLS PENDING:

*SB 344  
incorporated in SB 328*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR  
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR  
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE  
SUBSTITUTES DRAFTED:



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Anchorage District Office  
4700 East 72nd Avenue  
Anchorage, Alaska 99507

IN REPLY  
REFER TO:

cc all to Linda Kruger, SLD/Field  
Paul Maki  
Andy Pekovich  
~~Wanda~~  
Barbara Malchick, AGO/As  
2561 (016)  
Sandra Schubert, Sen  
Resources Ct.  
Rep. Groll

APR 26 1984

Mrs. Esther C. Wunnicke  
Commissioner  
State of Alaska  
Dept. of Natural Resources, Pouch M  
Juneau, Alaska 99811

APR 23 1984  
R 5 OFFICE

Dear Mrs. Wunnicke:

Realty specialists from the Peninsula Resource Area will be in Southeast Alaska from April 30 through mid-May. They will be working with the Bureau of Indian Affairs conducting field examinations of lands claimed under the Native Allotment Act of 1906. A list of the parcels presently scheduled for examination is enclosed.

We appreciate your concerns about creating disturbances in the Chilkat Eagle Preserve. According to your letter of December 23, 1983, disturbance would be most critical during fall and winter.

These considerations, the Bureau of Indian Affairs' work schedule, and the hopes of having good weather have led us to select May for our field work in southeast Alaska.

We will minimize potential impacts by making as few trips into the Preserve as possible.

Sincerely yours,

Don Hinrichsen  
Area Manager  
Peninsula Resource Area

Enclosure (1)  
List of Native Allotments

APR 4 1984

COPIES OF NATIVE ALLOTMENT LETTERS SENT TO:

1. A-003821  
Mr. Archie Abbott  
Klukwan, Alaska 99831  
  
1 parcel, T. 26 S., R. 56 E., CRM
2. AA-007953  
Mr. Charles Abbott, Sr.  
407 Erwin Street  
Juneau, AK 99801  
  
1 parcel, T. 31 S., R. 59 E., CRM
3. AA-007033  
Mr. Thomas Abbott  
P.O. Box 339  
Haines, AK 99827  
  
1 parcel, T. 30 S., R. 58 E., CRM
4. AA-007927  
Ms. Ethel Aguilar  
Box 195  
Klukwan, AK 99831  
  
1 parcel, T. 29 S., R. 56 E., CRM
5. AA-006600  
Mr. David F. Berry  
Box 8  
Haines, AK 99827  
  
1 parcel, T. 29 S., R. 59 E., CRM
6. AA-006599  
Mr. Franklin L. Berry  
P.O. Box 1379  
Anchorage, AK 99510  
  
1 parcel, T. 29 S., R. 59 E., CRM
7. AA-008022  
Mr. Fred Chambers  
Box 219  
Haines, Alaska 99827  
  
1 parcel, T. 27 S., R. 55 E., CRM
8. AA-045060  
Mr. Murray Clayton  
P.O. Box 188  
Haines, AK 99827  
  
1 parcel, T. 30 S., R. 58 E., CRM

9. AA-007874  
Ms. Virginia Amy Yester Demmert  
General Delivery  
Kake, AK 99830  
  
1 parcel, T. 68 S., R. 79 E., CRM
10. AA-045063  
Ms. Katherin Clayton Engstrom  
c/o Murray Clayton  
Box 188  
Haines, AK 99827  
  
1 parcel, T. 30 S., R. 58 E., CRM
11. AA-007944  
Mr. Donald Hotch  
Box 195  
Klukwan, AK 99831  
  
1 parcel, T. 29 S., R. 56 E., CRM
12. AA-007928  
Mr. Eimer R. Hotch  
General Delivery  
Klukwan, AK 99831  
  
1 parcel, T. 29 S., R. 56 E., CRM
13. AA-007929  
Ms. Esther L. Hotch  
Box 524  
Klukwan, AK 99831  
  
1 parcel, T. 29 S., R. 56, 57 E., CRM
14. A-062053  
Ms. Helen Hotch (deceased)  
c/c Norman L. Hotch  
Box 33  
Haines, AK 99827  
  
1 parcel, T. 28 S., R. 54 E., CRM
15. AA-007020  
Mr. William J. Hotch  
Box 195  
Klukwan, AK 99831  
  
1 parcel, T. 29 S., R. 57 E., CRM

16. AA-047636  
Mr. Johnny C. Jackson  
General Delivery  
Kake, AK 99830  
  
1 parcel, T. 57 S., R. 72 E., CRM
17. AA-06619  
Mr. Samuel Johnson  
B-7 Cedar Park  
Juneau, AK 99801  
  
1 parcel, T. 31 S., R. 59 E., CRM
18. AA-006603  
Mr. George J. Katzeek  
421 West 10th Street  
Juneau, AK 99801  
  
1 parcel, T. 29 S., R. 56 E., CRM
19. AA-006602  
Mr. John D. Katzeek  
Box 346  
Haines, AK 99827  
  
1 parcel, T. 29 S., R. 56 E., CRM
20. AA-007946  
Mr. Smith J. Katzeek, Sr.  
General Delivery  
Klukwan, AK 99831  
  
1 parcel, T. 29 S., R. 56, 57 E., CRM
21. A-004612  
Mr. Jim King (deceased)  
Klukwan, AK 99831  
  
1 parcel, T. 28 S., R. 55 E., CRM
22. AA-007011  
Mr. Robert R. Martin, Sr.  
Box 112  
Juneau, AK 99801  
  
1 parcel, T. 56 S., R. 68 E., CRM
23. AA-0045069  
Ms. Dorothy M. Meyers  
P.O. Box 188  
Haines, AK 99827  
  
1 parcel, T. 30 S., R. 58 E., CRM

24. AA-045068  
Ms. Mary Clayton Paddock  
c/o Murray Clayton  
P.O. Box 188  
Haines, AK 99827
- 1 parcel, T. 30 S., R. 58 E., CRM
25. A-012638  
Mr. Louis F. Paul  
General Delivery  
Wrangell, AK 99929
- 1 parcel, T. 64 S., R. 75 E., CRM
26. AA-045066  
Ms. Nellie L. Pettit  
Box 188  
Haines, AK 99827
- 1 parcel, T. 30 S., R. 58 E., CRM
27. AA-006601  
Mr. Paul Eli Philips  
Box 165  
Haines, AK 99827
- 1 parcel, T. 31 S., R. 59 E., CRM
28. AA-45065  
Ms. Mae Philpott  
Box 188  
Haines, AK 99827
- 1 parcel, T. 30 S., R. 58 E., CRM
29. AA-045064  
Mr. Patrick L. Philpott  
Box 188  
Haines, AK 99827
- 1 parcel, T. 30 S., R. 58 E., CRM
30. A-001717  
Mr. Aaron Sharp (deceased)  
HJoonah, AK 99829
- 2 parcels, Parcel A: T. 40 S., R. 59 E., CRM  
Parcel B: T. 40 S., R. 59 E., CRM

31. A-002888  
Mr. Louis Shotridge  
General Delivery  
Haines, AK 99827  
  
1 parcel, T. 30 S., R. 59 E., CRM
32. A-004489  
Mr. Harry Shukdake  
General Delivery  
Hoonah, AK 99829  
  
1 parcel, T. 40 S., R. 55 E., CRM
33. J-011108  
Ms. Alice L. Tagg (deceased)  
c/o Bureau of Indian Affairs  
Juneau, AK 99801  
  
1 parcel, T. 30 S., R. 59 E., CRM

December 23, 1983

Mr. Curt McVee, State Director  
Bureau of Land Management  
U.S. Department of the Interior  
701 C Street  
Box 13  
Anchorage, Alaska 99513

Dear Mr. McVee:

The Chilkat Bald Eagle Preserve Advisory Council has recommended that the State ask the federal government to conduct Native allotment surveys within the preserve during summer months (July, August, September).

Several allotments are in critical locations, and the Council is concerned that the eagles be disturbed as little as possible in the fall, the winter, and sometimes the spring, when the eagles are concentrated in the area.

Neither the Council nor the Department wishes to impede the progress of surveying Native allotments in any way, but we hope to make the Bureau aware of the sensitivity of the area.

Thank you for considering this request. Please contact me if I can be of any assistance.

Sincerely,

*Esther C. Wunnicke*

Esther C. Wunnicke  
Commissioner

# HAINES-SKAGWAY NATIVE ALLOTMENT INHOLDERS ASSN.

P.O. Box 282

Skagway, Alaska 99840

March 2, 1984

## EXPLANATION OF HOUSE BILL 455

Several years ago, a lawsuit was filed on behalf of Native Allotment applicants whose land had been patented to the State of Alaska. The Department of the Interior refused to consider the applications because the land had already been conveyed to the State and was no longer within the Department's jurisdiction.

In Aguilar v. United States, 474 F. Supp. 840 (D. Alaska 1979), the United States District Court held that where the Native Allotment applicant could prove that he or she was using and occupying the land before it was conveyed to the State, the United States was obligated to recover the land from the State so that it could be conveyed to the Native Allotment applicant. Unfortunately, however, the Court did not set forth procedures by which the land was to be recovered. It was not until February, 1983, that Alaska Legal Services Corporation, counsel for the class members, and the United States agreed upon stipulated procedures to implement the Aguilar decision. The procedures state how the United States will retrieve patent from the State of Alaska.

One paragraph in the procedures allows the State of Alaska to voluntarily convey an allotment back to the United States, and avoid further litigation. The State has indicated its willingness to convey title to several Native Allotments back to the United States. However, the Attorney General for the State of Alaska has decided that the State constitution and statutes may not allow it to implement the Aguilar settlement procedures. Therefore, the Department of Natural Resources (DNR) drafted a bill which would give the State authority to settle the Aguilar allotment claims.

Such a bill was introduced in House Bill 455, Senate Bill 796 provided for an act establishing the Alaska Chilkat Bald Eagle Preserve and the Haines State Forest Resource Management Area, and providing for an effective date.

The principals involved in the passage of this legislation recognized the needs and concerns of those holding native allotments in the Haines-Skagway area and a meeting was called for April 1 & 2, 1982, to be held in Juneau. Among those in attendance for the State were then Commissioner of DNR Katz and Deputy Commissioner Reed Stoops, as well as high ranking officials from D.O.T., Parks, Highways and Forestry. At these hearings the parties went through each allotment and cataloged the allotments in various degrees of State interest.

Many promises were made to the allottee delegation at these meetings. One of which Commissioner Katz made a firm commitment to transfer lands wrongfully conveyed to the State back to the Federal Government within a time frame of 30 days. In return, the allottees promised to withdraw objections to Senate Bill 796, which they did and Senate Bill 796 was subsequently passed and put into legislation.

Now after two more frustrating years of countless meetings with various legislators and officials from DNR, it is the opinion of the State Attorney General's office that willing as the State and DNR might be, it cannot reconvey lands without legislation such as House Bill 455.

Passage of this bill would not mandate the lands be conveyed as it allows discretion on the Commissioner's part.

The State would not lose these lands as in most all cases the Federal Government would allow the State to re-select federal lands of equal acreage.

Much time and expense would be adverted in costly litigation.

Hopefully passage of this bill would permit the State to fulfill promises made some two years ago. Therefore, the Haines-Skagway Native Allotment Assn. respectfully requests your consideration on this legislation.

Sincerely,

Larry Jacquot / Jack-01  
Haines-Skagway Allotment Inholders Assn.

LJ:jb

Aguilar

Procedures  
By U.S. District Court  
2-9-83

Briefly - Aguilar vs. U.S.

Allotment applications rejected that are on state lands; application alleges occupancy prior to the state selection.

Southeast Alaska: Haines there are - approximately 90 applications.

1. BLM will review each application for defects.
2. Deceased owners' heirs to be determined by Administrative Law Judge before BLM proceeds. (This requires a complete investigation to determine heirs - notices mailed - hearing - order issued - 60 day protest period: The judge is headquartered in Sacramento and only makes one or two trips to Alaska yearly - for all agencies).
3. BLM to examine to determine prior rights, 90 day appeal period.
4. Valid applicants and State of Alaska notified, 90 days for state to appeal.
5. Valid uncontested application referred for settlement.
6. Hearing afforded for sufficient proof of entitlement.
7. Opportunity for BLM to order field report before the hearing.
8. Solicitor to negotiate a settlement.
9. Negotiations fail - recommendation to the Department of Justice to cancel state patent.
10. If state will quit claim back to Government they will issue trust patent. State will be credited for land entitlement.
11. Negotiations for settlement, ei Rights of Way etc.
12. Settlement agreements to court for approval.
13. Notices to all parties.
14. Third party rights - same notices (where the state has sold or deeded the property to a third party).

JM/ae

STATEMENT OF ROBERT D. ARNOLD,  
DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES  
ON HOUSE BILL 455  
BEFORE THE HOUSE RESOURCES COMMITTEE  
JANUARY 30, 1984

Mr. Chairman, members of the Committee, I am pleased to appear in support of House Bill 455, introduced by Representatives Peter Goll and Ben Grussendorf.

This bill would authorize the Department of Natural Resources to correct defects in the State's title to lands received from the federal government. It is designed primarily to allow for the administrative settlement of Native allotment claims on State land.

The bill would authorize our department to reconvey lands that were mistakenly conveyed to the State by the federal government. To insure that the State receives credit for the reconveyed lands in its overall entitlements under the Statehood Act, the bill would also waive the provisions of AS 38.05.125 requiring reservation of the mineral estate.

The primary need for this legislation arises from the fact of more than 200 Native allotment claims on State land. In 1979, a federal district court ruled that land used and occupied by Native allotment applicants should not have been conveyed to the State, even though the allotment applications were not filed until after the State received title. Aguilar v. United States, 474 F. Supp. 840 (D. Alaska 1979). The court also ruled that the federal government has a trust responsibility to recover any such lands it wrongfully conveyed to the State. Id.

The expedited settlement procedures established by the allotment applicants and the federal government provide that the State may reconvey the lands to the federal government and that the reconveyed acreage will be credited to the State's entitlements under the Alaska Statehood Act. The State desires to expedite settlement of the valid allotment claims where possible, but lacks express statutory authority to reconvey.

The State has also received defective title to lands from the federal government in a variety of other contexts. For example, through administrative error the federal government recently conveyed to the State six sections of land underlying the TAPS pipeline. This bill would authorize the department to correct those defects without the need for burdensome quiet title litigation which is now the only available means to do so. The federal government already has this type of authority.

Virtually all of Section 2 of the bill before you makes technical changes to subsection (b) of A.S. 38.05.035. The department has no objection to these changes (through line 15 of page 3). However, the Committee may want to take into account that Senator Bettye Fahrenkamp has introduced a bill that would make a large number of changes to Title 38, including a substantive change in subsection (b).

The substantive changes in the bill before you begin on line 16, page 3.

Subparagraph 9 of the bill would require a determination that the land was "wrongfully or erroneously conveyed to the State." In the case of a Native allotment claim, this would mean determining that Native use and occupancy predated State selection and that the allotment is otherwise valid. In the case of other title defects, this would mean determining that the federal government did not have the authority to transfer a tract of land to the State, owing, for instance to its title being held by others.

The following section of the bill would waive the requirement of AS 38.05.125 to reserve mineral estates. This provision is necessary because the State would not receive credit for the reconveyance if the mineral estate is reserved. Both our attorney general and the Bureau of Land Management regional solicitor are of the opinion that section 6(i) of the Statehood Act (the federal statute requiring reservation of the mineral estate) would not prohibit reconveyances made to the federal government under the bill. This section also waives the provisions of AS 38.05.321 which restricts disposal of State land classified as agricultural land.

The need for this bill has been discussed extensively with representatives from Native groups and various agencies of both the State and federal governments. It has the support of all of them. I hope the Committee will be able to promptly act on this measure.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 2/8/84

REQUEST

Bill/Resolution No.: CSHB 455 (Res)  
Title: defects in the title of  
State land  
Sponsor: Goll & Grussendorf  
Requestor:  
Date of Request:

FISCAL DETAIL

Agency Affected: Natural Resources  
Program Category Affected: Information &  
Record Management - Title Defense  
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES		46.2				
200 TRAVEL		1.2				
300 CONTRACTUAL		4.0				
400 SUPPLIES		2.0				
500 EQUIPMENT		1.5				
600 LAND & STRUCTURES						
700 CRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	54.5	57.7	61.1	64.7	68.5
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0				

FUNDING: (Thousands of Dollars)

GENERAL FUND		54.5	57.7	61.1	64.7	68.5
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		54.5	57.7	61.1	64.7	68.5

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

ANALYSIS: Attach a separate page for analysis

Prepared By: Carol Shobe/Joe Burch Phone: 276-2653  
Division: Technical Services Date: 2/8/84

Approved by Commissioner: *William D. Amundson, Deputy* Date: 2/8/84  
Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

12/1/83

HOUSE RESOURCES  
STANDING COMMITTEE  
January 30, 1984  
3:05 p.m.

Members present: Rep. Ringstad, Co-Chairman  
Rep. Shultz, Co-Chairman  
Rep. Larson  
Rep. Bussell  
Rep. Goll  
Rep. Vaska  
Rep. Liska  
Rep. Cowdery  
Rep. Uehling

Members absent: None

COMMITTEE CALENDAR

HB 455 "An Act relating to defects in the title of the state to land; and providing for an effective date."

WITNESS REGISTER

Representative Peter Goll  
Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99811  
465-4925

Position statement: Prime sponsor of HB 455; favors passage.

Robert Arnold, Deputy Commissioner  
Department of Natural Resources  
State of Alaska  
Pouch M  
Juneau, Alaska 99811  
465-2400

Position statement: Favors passage of HB 455.

Frank Mielke  
Chief of Land Management, DNR  
State of Alaska  
Pouch 7-034  
Anchorage, Alaska 99501  
279-5577

Position statement: Answered technical questions; favors passage.

Tred Eyerly  
Alaska Legal Services  
615 H Street

Anchorage, Alaska 99501  
272-9431

Position statement: Favors passage; represents Aguilar class members.

Larry Jacquot  
P.O. Box 282  
Skagway, Alaska 99840  
983-2389

Position statement: Favors passage; Aguilar class member.

Hank Jacquot  
P.O. Box 412  
Haines, Alaska 99827  
766-2524

Position statement: Favors passage; Aguilar class member.

#### PREVIOUS ACTION

Please refer to bill history.

#### ACTION NARRATIVE

Tape No. 11  
Recording  
Number 0002

Rep. Ringstad called the meeting of the House Resources Committee to order at 3:05 pm, and brought HB 455 before the members.

Number 0014

Rep. Goll gave a brief overview of the history behind the bill.

Number 0062

Rep. Goll mentioned an amendment he will propose at the proper time to cover lands classified as agricultural.

Number 0072

Rep. Uehling asked how many cases we are talking about, and how far back. Rep. Goll responded that it was at least 200.

Number 0095

Rep. Larson asked a question regarding the effect of the problem on municipal selections. Rep. Goll replied that the power created in HB 455 would be discretionary.

Number 0122

Bob Arnold, DNR, supported Rep. Goll's assessment of the situation, and said the state would save time and money by avoiding quiet title actions by the feds.

Number 0145

Arnold addressed Rep. Larson's previous question, saying the state, municipalities and third parties would settle claims on a case-by-case basis.

Number 0165                   Arnold mentioned that other types of title defects could be cleared up by the mechanism in the bill, such as simple errors made by BLM.

Number 0185                   Rep. Ringstad asked if this bill was the same as one he had discussed with Commissioner Wunnicke. Arnold replied that it was, and if Rep. Goll had not introduced it, DNR would have.

Number 0195                   Rep. Shultz asked a question regarding land problems near Mentasta. Arnold responded.

Number 0220                   Rep. Larson asked a question regarding land exchanges. Arnold said DNR hopes to solve many of the allotment claims with exchanges when needed.

Number 0228                   Rep. Larson asked if previous work done by the municipalities on land selection process would be undone by HB 455. Arnold said it would not.

Number 0252                   Rep. Cowdery asked if the state has ever wrongfully conveyed land. Arnold replied that under the definition of wrongfully we had.

Number 0260                   Rep. Cowdery asked if HB 455 would prevent this from happening again. Arnold replied that it wouldn't in the case of BLM defects.

Number 0275                   Rep. Shultz asked if the land exchanges are decided at the state level. Arnold replied that they are.

Number 0288                   Rep. Liska asked the nature of the allotment in Chugiak. Frank Mielke described it as a parcel along Peters Creek.

Number 0297                   Rep. Liska asked why these allotments had not been settled by ANCSA. Arnold gave a brief history of the relationship between ANCSA and the Native Allotments.

Number 0319                   Rep. Larson asked what effect the allotments would have on the Alaska Railroad. Meilke replied that none of the allotments are in the right-of-way.

Number 0322                   Rep. Liska asked if the Peters Creek allotment was alongside the rail line. Meilke replied that the claimant had not been born by 1916, and would have trouble proving use prior to establishment of the railroad.

Number 0330                   Rep. Larson asked about the location of a high school campus. Meilke replied that it had been built on Native Corporation Selection land.

- Number 0749 Rep. Ringstad asked a question regarding what the state would get in exchange from the feds. Arnold replied that with statehood entitlement, it would be exchanged 1 to 1, but with mental health lands, federal legislation would be necessary.
- Number 0766 Rep. Ringstad asked about the necessity of legislative oversight. Arnold replied that given the pattern of administrative action, it would not be needed.
- Number 0798 Rep. Bussell asked about proposed federal legislation. Arnold said it had been discussed with the Governor's representative in Washington.
- Number 0810 Rep. Liska made a statement regarding his experiences with BLM.
- Number 0822 Rep. Bussell asked a question regarding 90-day notice letters sent out in 1979. A discussion on the point ensued.
- Number 0885 Rep. Bussell asked why the state could not simply deed the lands over to the allotment claimants. Eyerly responded that the allotment involves a trust relationship with the federal government, which would not exist if the state granted the land.
- Number 0910 Rep. Goll asked why the lands do not automatically return to the federal government if they have been wrongly conveyed. Arnold responded that that would take more time, money and court action.
- Number 0938 Rep. Ringstad announced that further action on HB 455 would take place at a later meeting. He then adjourned the meeting at 4:05 pm.

Number 0340 Tred Eyerly gave Alaska Legal Services view of the bill.

Number 0361 Rep. Larson asked about Natives' legal occupation in the 1950s. Eyerly replied that under ANCSA, they were entitled to it legally.

Number 0372 Rep. Larson asked if there were legal documents on file that proved entitlement. Eyerly replied that most people did not know of the Native Allotment Act until it was about to be repealed by ANCSA.

Number 0408 Rep. Larson asked how a third party would be compensated for improvements made in good faith. Eyerly said the state would not be obligated to automatically give the land to the claimant, and it would be decided on a case-by-case basis.

Number 0445 Rep. Shultz asked how they'd figure compensation for non-construction for fear of arson, as happened in the Mentasta area.

Number 0485 Rep. Liska asked what sort of qualifications the allotment applicants had to meet. Eyerly generally described the program.

Number 0522 Rep. Goll made a statement regarding the ongoing nature of the suits, regardless of action on HB 455.

Number 0554 Rep. Bussell asked a question regarding the fiscal note, saying it did not properly reflect the high cost of land exchanges.

Number 0597 Arnold apologized for the tardy fiscal note, and said that the land actually involved in exchanges could not be calculated.

Number 0635 Rep. Bussell pursued the question of compensation for improvements made by third parties. Arnold admitted that some compensation would probably be forthcoming.

Number 0670 Rep. Bussell asked a question regarding the necessity of the bill. Arnold referred to the AG's opinion on what to do about Aguilar.

Number 0732 Rep. Larson asked if more legislation would be needed to solve municipalities' problems. Arnold said no.

Number 0742 Rep. Larson asked if there were any claims in the middle of Anchorage or Fairbanks. Meilke replied that there weren't any they were aware of.

Offered: 2/9/84  
Referred: Finance

Original sponsors: Goll, Grussendorf  
and Herrmann

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 CS FOR HOUSE BILL NO. 455 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to defects in the title of the state  
7 to land; and providing for an effective date."

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

9 \* Section 1. LEGISLATIVE PURPOSE AND FINDINGS. (a) The purpose of  
10 this Act is to provide a mechanism to correct defects in the title of the  
11 state to land and in doing so, to settle certain claims, including Nat'l  
12 allotment claims, against the state.

13 (b) The legislature finds that the correction of title defects is a  
14 matter of statewide significance, is in the public interest, and will  
15 foreclose possible protracted and divisive litigation.

16 \* Sec. 2. AS 38.05.035(b) is amended to read:

17 (b) The director may

18 (1) delegate the administrative duties, functions or powers  
19 imposed upon the director [HIM] to a responsible employee in the  
20 division;

21 (2) grant preference rights for the lease or purchase of  
22 state land without competitive bid in order to correct the past or  
23 future errors or omissions of a state or federal administrative agency  
24 when inequitable detriment would otherwise result to a diligent claim-  
25 ant or applicant due to situations over which the claimant or appli-  
26 cant had no control; the exercise of this discretionary power operates  
27 only to divest the state of its title to or interests in land and may  
28 be exercised only with the express approval of the commissioner;

29 (3) grant a preference right to a claimant who shows bon

1        fide improvement of state land, or federal land subsequently acquired  
2        by the state, and who has in good faith sought to obtain title to the  
3        land but who, through error or omission of others, has been denied  
4        title to it; upon a showing satisfactory to the commissioner, the  
5        claimant may lease or purchase the land at the price set on the date  
6        of original entry on the land or, if a price was not set at that time  
7        at a price determined by the division to fairly represent the value of  
8        unimproved land at the time the claim was established, but in no event  
9        less than the cost of administration including survey; the error or  
10       omission of a predecessor in interest or an agent, administrator, or  
11       executor which has clearly prejudiced the claimant may be the basis  
12       for granting a preference right:

13                (4) sell land [LANDS] by lottery for less than its [THEIR]  
14       appraised value when, in the director's [HIS] judgment, past scarcity  
15       of land suitable for private ownership in any particular area has  
16       resulted in unrealistic land values;

17                (5) when the director [HE] determines it is in the best  
18       interest of the state and will avoid injustice to a person or the  
19       [HIS] heirs or devisees of the person, dispose of land, by direct  
20       negotiation to that person who presently uses and who used and made  
21       improvements to that land before January 3, 1959 or the [HIS] heirs or  
22       devisees of that person; the amount paid for the land shall be its  
23       fair market value on the date that the person first entered the land,  
24       as determined by the director; a parcel of land disposed of under this  
25       paragraph shall be of a size consistent with the person's prior use,  
26       but may not exceed five acres;

27                (6) dispose of an interest in land limited to use for  
28       agricultural purposes by lottery;

29                (7) convey to an adjoining landowner a parcel of land

1 created by a highway right-of-way alignment or realignment, or a  
2 parcel created by the vacation of a state-owned right-of-way if

3 (A) the director [HE] determines that it is in the  
4 best interests of the state;

5 (B) the parcel does not exceed the minimum lot size  
6 under an applicable zoning code; and

7 (C) the director and the platting authority having  
8 land use planning jurisdiction agree that conveyance of the  
9 parcel to the adjoining landowner will result in boundaries that  
10 are convenient for the use of the land by the landowner and  
11 compatible with municipal land use plans;

12 (8) for good cause extend for up to 90 days the time for  
13 rental or installment payments by a lessee or purchaser of state land  
14 under AS 38.05 if reasonable penalties and interest set by the direc-  
15 tor are paid;

16 (9) quitclaim land or an interest in land to the federal  
17 government on a determination that the land or the interest in land  
18 was wrongfully or erroneously conveyed by the federal government to  
19 the state.

20 \* Sec. 3. AS 38.05.125 is amended by adding a new subsection to read:

*reservation of  
mineral rights*

21 (b) The provisions of (a) of this section do not apply to a  
22 quitclaim of land or an interest in land made under AS 38.05.035-

23 (b)(9).

24 \* Sec. 4. AS 38.05.321(c) is amended to read:

*restriction to  
ag. rights  
only*

25 (c) The provisions of this section do not apply to  
26 (1) state land classified as agricultural land which has  
27 been selected by a municipality under the provisions of AS 29.18.190 -  
28 29.18.200 if the selection is an approved selection before April 1,  
29 1978 and is otherwise valid under AS 29.18.205(b); or

1                   (2) a quitclaim of the interest of the state to the federal  
2                   government under AS 38.05.035(b)(9).

3           \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
4 10.070(c).