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STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

OFFICE OF THE COMMISSIONER

March 3, 1988

The Honorable Sam Cotten
Co-Chair, House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

Subject: SB 16 relating to the disposition of unclaimed real property interests.

Position: CSSB 16 (Res) provides the state may retain historical sites, but precludes state retention for other reasons. However, there are escheated properties in other areas where, for one reason or another, the state may wish to retain ownership, e.g., properties in or adjacent to parks or other designated areas or properties of particularly high public value.

Background: The purpose of escheat is to provide for disposition of unclaimed property, usually after the death of the owner, intestate. If a parcel is located in a park or other legislatively designated area, it may well be less expensive for the state to retain the land, as opposed to selling the property and then asking the Legislature to appropriate funds to repurchase the property for inclusion in the designated area. For example, if a parcel within the Kenai River management area was escheated under this bill, the department would have to dispose of the parcel rather than keeping it for public use. The opportunity to use a parcel of land in an exchange may also be in the best interest of the state.

Recommendation: The Legislature transferred the escheat program from the Department of Revenue to the Department of Natural Resources in 1986. That legislation provides acceptable guidelines for the escheat program. Regulations have been drafted, but are not approved as yet.

Regarding this particular bill, the department has the following technical recommendations:

March 3, 1988

The department recommends that "owner" be better defined. Currently "owner" can be legally undetermined heirs, devisees, assignees and adverse possessors.

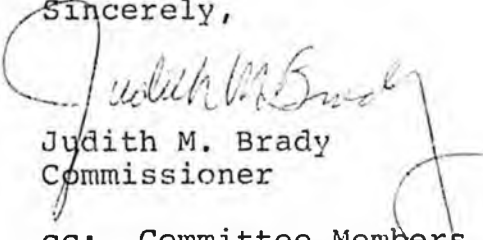
Page 1, lines 10-13 Add "Abandoned" before "Unclaimed Estate"

Page 2, line 13 delete "shall sell"; add "shall offer for sale"

Page 4, lines 5, 6 - Make the bill apply to all escheated real property not sold, including property escheated under predecessor statutes.

We will be pleased to continue working with committee staff as this bill progresses.

Sincerely,



Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
Rod Swope
Bob Evans

FISCAL NOTE

REQUEST:

Revision Date: 3/4/88
Title: Disposition Unclaimed Real Property
Sponsor: Senator Faiks
Requestor: House Resources

Agency Affected: DNR
BRU: LSWM
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		50.0	50.0	50.0	50.0	50.0
TRAVEL		2.0	2.0	2.0	2.0	2.0
CONTRACTUAL		29.0	29.0	29.0	29.0	29.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		82.0	82.0	82.0	82.0	82.0
CAPITAL						
REVENUE		50.0*	50.0*	50.0*	50.0*	50.0*

FUNDING: (Thousands of Dollars)

GENERAL FUND		82.0	82.0	82.0	82.0	82.0
FEDERAL FUNDS						
OTHER						
TOTAL		82.0	82.0	82.0	82.0	82.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

* Improves existing management of unclaimed real property. Under aggressive management the program could yield annual revenues in the neighborhood of \$50,000 and the existing inventory has value of approximately \$215,000. Current level of effort is low.

Prepared by: Janet Burleson Phone: 465-2400
Division: Land and Water Management Date: 3/4/88
Approved by Commissioner: [Signature] Date: 3/4/88
Agency: Department of Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

			<u>89</u>	<u>90</u>
100	<u>Personnel</u>	1 NRM I	50.0	
200	<u>Travel</u>		2.0	
300	<u>Contractual</u> Appraisals, etc.		29.0	
400	<u>Supplies</u>		<u>1.0</u>	
			82.0	

These figures represent a Natural Resource Manager I and the costs to advertise, appraise and convey these parcels.

**STATE OF ALASKA 1987, LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: CSB 16 Red
Publish Date: 3-3-87

Revision Date: _____

Agency Affected: Natural Resources

Title: Unclaimed real property
management

BRU: Land & Water Public Use

Sponsor: Faiks

Components: _____

Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Improves existing management of unclaimed real property.
Under aggressive management the program could yield annual revenues in the neighborhood of \$50,000 and the existing inventory has value of approximately \$215,000. Current level of effort is low.

Prepared by: Tom Hawkins
Division: Land and Water Management

Phone: 762-4355
Date: 1/22/87

Approved by Commissioner: *Justin Bradley*
Agency: Natural Resources

Date: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3715

MEMORANDUM

March 4, 1988

TO: Rep. Sam Cotton, Co-Chair
Rep. Adelheid Herrmann, Co-Chair
Resources Committee members

FROM: Ned Farquhar, staff

SUBJECT: SB 16 (Faiks): Escheat properties

Existing escheat law

Under state law enacted in 1986 (attached), real property for which there is no owner eventually reverts to the ownership of the state. The law requires thorough title research, judicial review, and an effort to locate potential owners.

Why the law was changed in 1986

Until 1986 the Department of Revenue managed escheat lands and sold them to raise revenue for the state. However, the Legislature amended the escheat laws in 1986 because there were cases in which continued state ownership made sense. For instance, properties with historical importance, conservation potential, or community values were being sold even though there was agency and public opposition to selling the property.

SB 16

SB 16 would revert to the previously existing situation: the state would be required to sell all escheated real property to which it gains title. The only exception to this rule would be that the state could (under strict conditions) retain designated historic sites. This reverses the presumption that the state should make an interest finding regarding the best management and ownership of escheat parcels (existing AS 38.95.230).

Characteristics of escheated land

As shown by the Department's inventory of escheat land, escheat parcels vary widely in their character. Often the parcels are remote mining claims. However, sometimes the parcels are highly valuable properties with public interest values.

State land managers believe that several escheat properties have deserved special management or retention by the state or by another party. I requested case histories of three particular parcels (attached). In summary, one is a cabin site at Talkeetna with historical value; a second is Powder Island, near Seldovia, which is a valuable piece of real estate that has been considered as trade stock for land exchanges or for conservation; and a third is the Craig park site, which under the old law had to be sold and eventually was bought by Craig with a legislative appropriation.

The existing escheat properties list

Although it could probably be enhanced if the Department were to initiate an active search for escheat properties, the Department's existing list contains only eight properties (attached). It isn't realistic to expect these properties to bring in substantial revenue, particularly under the conditions set out in SB 16. On the other hand, if the state is in the position of having to appropriate funds to reacquire these lands (as it did at Craig before the Legislature changed the escheat statute), the sell-off could be needlessly and inefficiently expensive.

Questions about SB 16

SB 16 presents the Legislature with a clear policy choice: does it wish to see these properties sold in virtually every case or does it wish to provide the option of retaining the property for special management or conveyance by other means? If SB 16 is enacted, the only escheat properties that may be retained are designated historic sites.

The bill also contains other more technical issues. The central section of the bill (Sec.5 of the Senate Resources CS) requires the Department to sell property within 90 days after a judgement of escheat. What if there is no buyer? Must the sale be competitive, by lottery or auction? Is there a fair-market value requirement, and may the Department establish a minimum bid? Does the requirement to sell within 90 days amount to a marketing constraint that will suppress competition and cause the state to recover lower values?

(1) permits shall be issued for a period of not more than 10 years, with succeeding 10-year renewal options, if periodic use and occupancy is established, and the conditions of (a) of this section continue to be met;

(2) a cabin shall be constructed and maintained according to reasonable specifications established by the director; one cabin constructed under a permit may contain not more than 400 square feet; however, in no case may another cabin constructed under the same permit exceed 192 square feet.

(3) a permit shall specify the number of cabins allowed to be constructed and indicate their specific geographical location; the director may establish a maximum number of cabins per person or otherwise limit their number because of the probability of adverse consequences;

(4) adequate provision must be made for waste and garbage disposal, as determined by the director;

(5) the payment of a trapping cabin permit fee of \$10.

(d) A permit issued under (a) and (b) of this section entitles its holder to use timber in the immediate vicinity of the cabin for personal noncommercial purposes only. No ownership rights to the land are conveyed by the issuance of a trapping cabin permit under this section.

(e) A person who makes a false statement as to any material fact relating to a permit issued under this section is guilty of a misdemeanor. A person who violates this subsection or any of the terms and conditions of a permit issued under this section may have the permit immediately revoked and is subject to payment of all costs required in dismantling the cabin structure. (1 ch 115 SLA 1976; am § 40 ch 113 SLA 1981; am § 1 ch 41 SLA 1982; am § 76 ch 152 SLA 1984)

Article 5. Real Property Escheated to State.

Section

- 200. Real property subject to escheat
- 210. Enforcement of rights by department
- 220. Judgment of escheat
- 230. Management of escheated real property by department

Section

- 240. Time within which to claim escheated real property
- 250. Proceeds of sale or redemption
- 260. Disposition of sale proceeds seven years after the judgment of escheat
- 270. Definition

Sec. 38.95.200. Real property subject to escheat. (a) Real property in an intestate estate for which no taker can be found and real property devised by will for which no devisee, heir, or other claimant can be found escheats to the state.

(b) Real property of a defunct organization or corporation, for which no proceeding for distribution instituted has been instituted within four years after the organization becomes defunct, escheats to the state. (§ 12 ch 133 SLA 1986)

Sec. 38.95.210. Enforcement

(a) When the Department of Natural Resources has reason to believe that real property has escheated to the state, the department shall bring an action in the superior court to determine whether the property has escheated to the state.

(b) The department may maintain an action in the superior court for the recovery of escheated real property, or for the determination of the title to the property. (§ 12 ch 133 SLA 1986)

Sec. 38.95.220. Judgment of escheat

(a) If the department determines that real property has escheated to the state, the superior court shall issue a judgment of escheat.

(b) A court order approving settlement of real property to the state is a judgment of escheat. (AS 38.95.220, 1986)

Sec. 38.95.230. Management of escheated real property

(a) After a judgment of escheat is entered, the department may sell, lease, exchange, or otherwise dispose of real property that has escheated to the state. The department shall make a written finding that it is in the best interests of the state either to

(1) obtain an appraisal of the fair market value of the property and sell, lease, exchange, assign, or otherwise dispose of the property, including retention in state management; or

(2) retain the real property in state management and obtain an appraisal.

(b) The appraisal value of the property shall be the selling price from a public sale, less the expenses of sale or appraisal. The proceeds of the sale of the property for purposes of redemption under AS 38.95.240 shall be distributed as follows:

(c) Seven years after the judgment of escheat, if the property has not been otherwise disposed of by the department, the state land for classification, disposal, and management.

Sec. 38.95.240. Redemption of escheated real property

(a) Within seven years after the judgment of escheat under AS 38.95.220, a person who is not the defendant in the action may bring an action in the superior court to recover the real property if the plaintiff alleges that the plaintiff had no knowledge of the judgment of escheat. If the court finds that the plaintiff managed under AS 38.95.230(a)(2), the court shall award the plaintiff the real property.

riod of not more than 10 years, conditions, if period lease and occupations of (a) of this section con-

and maintained according to ready the director; the cabin constructed not more than 10 square feet; bin constructed under the same

ber of cabins allowed to be con- geographical location; the director of cabins per permit or otherwise ability of adverse consequences; made for waste and garbage dis-

bin permit fee \$10.

d (b) of this section entitles its ate vicinity of the cabin for per- No ownership rights to the land rapping cabin permit under this

tatement as to a material fact this section is guilty of a misde- subsection or any other terms and this section may give the permit to payment of all costs required in 1 ch 115 SLA 1982; am § 40 ch 1982; am § 76 ch 1982 SLA 1984)

Property Escheated to State.

- Section 240. Time within which to claim escheated real property
- 250. Proceeds of sale and redemption
- 260. Disposition of proceeds seven years after the judgment of escheat
- 270. Definition

subject to escheat (a) Real prop- h no taker can be found and real to devisee, heir, or other claimant organization or corporation, for which instituted has been instituted within becomes defunct, escheats to the

Sec. 38.95.210. Enforcement of rights by department. (a) When the Department of Natural Resources is informed or has reason to believe that real property has escheated to the state, the department shall bring an action in superior court to establish whether the property has escheated to the state.

(b) The department may maintain an action to recover the possession of escheated property, or for the enforcement of the state's right to the property. (§ 12 ch 133 SLA 1986)

Sec. 38.95.220. Judgment of escheat. (a) If the superior court determines that the real property has escheated to the state, the superior court shall issue a judgment of escheat.

(b) A court order approving settlement of an estate that distributes real property to the state is a judgment of escheat. (§ 12 ch 133 SLA 1986)

Sec. 38.95.230. Management of escheated real property by department. (a) After a judgment of escheat under AS 38.95.220, the department may sell, lease, exchange, assign, or otherwise manage real property that has escheated to the state. In determining the proper disposition of escheated real property the department shall, within two years after the judgment of escheat under AS 38.95.220, make a written finding that it is in the best interests of the state either to

(1) obtain an appraisal of the fair market value of the real property and sell, lease, exchange, assign, or otherwise manage the property, including retention in state management; or

(2) retain the real property in state management without obtaining an appraisal.

(b) The appraised value of property handled under (a)(1) of this section, or the selling price from a sale under AS 38.05.055 if it is lower, less the expenses of sale or appraisal, is the established value of the property for purposes of redemption by an heir or other taker under AS 38.95.240(c).

(c) Seven years after the judgment of escheat, real property that has not been otherwise disposed of by the department becomes general state land for classification, disposal, and use. (§ 12 ch 133 SLA 1986)

Sec. 38.95.240. Time within which to claim escheated real property. (a) Within seven years after a judgment of escheat under AS 38.95.220, a person who is not a party to the escheat proceeding may bring an action in the superior court to prove the person's claim to the real property. If the plaintiff establishes the claim and establishes that the plaintiff had no knowledge of the prior escheat proceeding, the court shall award the plaintiff the property if it has been managed under AS 38.95.230(a)(2), or the appraised value of the prop-

erty under AS 38.95.230(b) if the property has been managed under AS 38.95.230(a)(1).

(b) If it is determined that the plaintiff is entitled to the property, the department shall deliver the property to the plaintiff. The rents, profits, interest, or dividends that accrue to the state during its possession of the property are the property of the state and may not be recovered.

(c) If it is determined that the plaintiff is entitled to the appraised value of property that has been disposed of under AS 38.95.230(a)(1), at the department's discretion it may offer to the plaintiff land owned by the state and available for disposal that is of comparable value to the appraised value under AS 38.95.230(a)(1). If the department does not offer land of comparable value, or if the plaintiff refuses the department's offer, the plaintiff is entitled to the established value of the property under AS 38.95.230(b).

(d) The time limitation of seven years does not apply to a minor or an incapacitated person as defined by AS 13.26.005, but such a person must bring an action to prove the person's claim to the real property within one year after the incapacity ceases.

(e) This section does not prevent the state from transferring escheated real property to a person who provides proof satisfactory to the department that the person is the owner of the real property when the department determines the transfer to be appropriate. (§ 12 ch 133 SLA 1986)

Sec. 38.95.250. Proceeds of sale or redemption. The department shall deposit the proceeds of real property sold under AS 38.95.230(a)(1) less the expenses of sale, including attorney fees and appraisal and publication costs in an escheated real property trust account. The department shall maintain the proceeds in the account for a period of at least seven years after the date of the judgment of escheat. The department may use money in the trust account to pay claims made under AS 38.95.240. (§ 12 ch 133 SLA 1986)

Sec. 38.95.260. Disposition of sale proceeds seven years after the judgment of escheat. Seven years after the judgment of escheat, net proceeds from the sale of escheated real property may be transferred from the escheated real property trust account to the general fund and credited to the land disposal income account under AS 38:04.022, unless a person who was the owner or one of the owners of the property when the property escheated to the state has outstanding child support obligations, in which case the proportion of the net proceeds that is attributable to the ownership interest of the person shall be applied to the satisfaction of the child support obligations and the

balance remaining after the satisfaction of the land disposal income account. (§ 12 ch 133 SLA 1986)

Sec. 38.95.270. Definition. In this section, "Department of Land Disposal" means the Department of Land Disposal. (AS 38.95.270, 1986)

property has been managed under

plaintiff is entitled to the property, property to the plaintiff. The rents due to the state during its possession of the state and may not be

plaintiff is entitled to the appraised value of under AS 38.95.230(a)(1), offer to the plaintiff land owned land that is of comparable value to 38.95.230(a)(1). If the department does not if the plaintiff refuses the deed to the established value of the

department does not apply to a minor or AS 13.26.005, such a person's claim to real property ceases. The department shall prevent the state from transferring escheated property to a person who does not provide proof satisfactory to the owner of the real property when the transfer to be appropriate. (§ 12 ch 133 SLA 1986)

or redemption. The department shall pay the proceeds of real property sold under AS 38.95.230, including attorney fees and costs, to the property trust account. The department shall maintain the proceeds in the account until the date of the judgment of escheat. After the date of the judgment of escheat, the department shall pay the proceeds to the trust account to pay the proceeds to the trust account. (§ 12 ch 133 SLA 1986)

The proceeds shall be paid within ten years after the judgment of escheat, unless the real property may be transferred to a trust account to the general escheated property trust account under AS 38.95.230. The owner or one of the owners of the real property has outstanding obligations to the state shall use the proceeds of the net proceeds of the real property to the person shall hold support obligations and the

balance remaining after the satisfaction shall be credited to the land disposal income account. (§ 12 ch 133 SLA 1986)

Sec. 38.95.270. Definition. In AS 38.95.200 — 38.95.270, "department" means the Department of Natural Resources. (§ 12 ch 133 SLA 1986)

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES, DIVISION OF LAND AND WATER MANAGEMENT

Reference: Escheat lands Background information for testimony on CSSS 1E

Date: March 1, 1988

This is a very brief compilation of some background information on three escheat parcels.

ESCHEAT 43, HARRY C. ROBB Estate :

Location: Talkeetna Townsite, Lot 14, Block 10, USS 1260
(T26N, R5W, Seward Meridian)

Total acres: 0.11

Date of Final Judgement of Escheat to State: Feb 6, 1978.

Date parcel removed from trust status (7 years from Judgement):
Feb 6, 1985.

Estimate of Value: \$9,200.00 (Matanuska-Susitna Borough assessment July 1987)

Other associated actions:

1. ADL 203861 is a management agreement application, not finalized. The application is for a proposed cooperative management agreement between Talkeetna Historical Society and Department of Natural Resources (Parks). The Society proposed to maintain the Robb log cabin to prevent further deterioration. The application was initiated Oct 2, 1979.
2. The property was rejected for registry by the Historic Site Advisory Commission in 1979.

ESCHEAT 46, FRANK PASTOR MANTON Estate (Powder Island) :

Location: Lot 4, Section 6, T9S, R14W, Seward Meridian, 1/2 mile south of Seldovia in Seldovia Bay.

Total acres: 11.91

Date of Final Judgement of Escheat to State: Jan 3, 1980.

Date parcel removed from trust status (7 years from Judgement): Jan 3, 1987

Estimate of Value: \$298,200.00 (Jan 6, 1986).

Other associated actions:

1. Trespassers have been removed.
2. One of several parcels (40,000 acres) involved with the Seldovia Native land exchange application ADL 221933. This proposed exchange is no longer an active proposal.

ESCHEAT 49, Tennes Aarstad Estate :

Location: Townsite, Homesite Survey 591, US Survey 2811,
(T74S, R81E, Copper River Meridian)

Total acres: 2.5.

Date of Final Judgement of Escheat to State: Oct 2, 1981.

Parcel sold May 8, 1985 to City of Craig, \$100,000.00 (cash is being held in trust until Oct 2, 1988).

Other associated actions:

Cooperative Management Agreement signed July 3, 1982 (prior to sale) between Department of Revenue and Department of Natural Resources which permitted DRN to manage the land and DNR to contract with City of Craig to permit Craigs use of the property.

ESCHEAT CASEFILES-TITLE ADMIN UNIT-LAND & WATER MGNT

FILE #	ACRES	END 7 YEARS	LAND VALUE	COMMENTS
ESC 17	0	1952	MINIMAL	NENANA SMALL UNRESOLVED AC, FLOOD P
ESC 18	16	1944	UNKN	FED. MINING CLAIM, NEAR NOME
ESC 36	15	1971	UNKN	FED. MINING CL W/MCO, FBKS AREA
ESC 32	0.04	1972	520	APPROX VALUE, SUBSTANDARD LOT
ESC 43	0.25	FEB1985	3500	IMPROV W/HIST BLDG, HIST SOC WANTS'
ESC 46	11.00	MAR187	298000	APPRAISAL 1986, POWDER ISL.
ESC 51	60.00	MAR632	58700	TAX ASSESSMENT, WILDLF HAB CL.
ESC 53	8.00	DEC1193	16800	MINING CL, 2 LOTS, TURNAGAIN PASS
TOTALS	130.2		381500	

DNR MAY SELL THE PARCELS AFTER OBTAINING TITLE, BUT MUST PLACE THE PROCEEDS IN THE EXISTING TRUST ACCOUNT UNTIL 7 YEARS FROM THE COURT JUDGEMENT.

DELIVER TO: <u>Janet Burleson</u>	LOCATION: <u>Juneau</u>
FROM: <u>Carol Shobe</u>	LOCATION: <u>Anchorage</u>
TELEPHONE/TELECOPIER # <u>586-2254</u>	TOTAL NUMBER OF PAGES _____
TRANSMITTING ON/SPEED _____	DATE <u>3-1-88</u> TIME <u>2:20</u>
PHONE FOR PROBLEMS-NAME/NUMBER <u>262-2351 Helen</u>	
COMMENTS _____	

Alaska State Legislature

file

PRESIDENT
907-465-3755



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

May 9, 1987

MEMORANDUM

TO: All Senators

FROM: Jan Faiks
President of the Senate

SUBJECT: Background on Senate Bill 16
An Act relating to the disposition of unclaimed
real property

The Resource Committee CS to Senate Bill 16 is now before the Senate for consideration.

This bill, and the statutes it seeks to replace, concern escheated real property. "Escheat" refers to property which reverts to the State in situations where there is no one to inherit it.

SB 16 seeks to simplify the procedures for the disposition of escheated real property by requiring the State to sell such property, thereby creating revenue for the State and returning property to the private sector.

The Fourteenth Legislature adopted House Bill 182 relating to a Uniform Unclaimed Property Act. The Governor subsequently signed the bill and it became Chapter 133 of the Session Laws of 1986. This legislation is now codified in AS 13.16.381, and AS 38.95.200-270.

Under the current statutes, AS 38.95.200-270 enumerate the steps which must be followed by the Department of Natural Resources (herein after referred to as the Department) when it has received escheated real property. My concern is that

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611

these steps are inefficient and costly. The steps are as follows:

1. The Department must first be informed or have reason to believe that real property has escheated to the State. (AS 38.95.210)
2. The Department must then bring an action in Superior Court to establish whether the property has escheated to the State, or it may maintain an action to recover the possession of escheated property, or the enforcement of the State's right to the property. (AS 38.95.210)
3. The Department must then get a court judgment of escheat. (AS 38.95.220)
4. The Department has two years from the judgment of escheat to determine the proper disposition of the property by making a "best interest finding". The Department may, at its option, sell, lease, exchange, assign, or otherwise manage the property. (AS 38.95.230) The method of disposition selected determines the procedures to be followed by the Department.
5. A series of procedural and valuation steps must then be consulted in the event that a claim to the property is filed within seven years from the judgment of escheat. (AS 38.95.240)

Senate Bill 16 has two significant effects on these statutes. First, it facilitates the disposition of escheated real property by requiring the Department to sell it, unless the property could be considered as an historic site. By eliminating the other disposition options currently available, several procedural and valuation steps are also eliminated. Specifically, the two-year lag period for disposition, need for a written "best interest" finding, and the property appraisal requirements of AS 38.95.230 would be eliminated. Awards to plaintiffs would also be simplified by eliminating the present variables of AS 38.95.240, since the courts would award the property or an amount equal to the net proceeds of the sale.

Additionally, since the Department must then sell the escheated property by public auction, the property is returned to the private sector and revenue is created for the State.

The current statutes allow the State, at its option, to sell, lease, exchange, assign, or otherwise manage the property, thus taking more time for disposition, costing more money to maintain, and not effectively utilizing the property.

This bill contains the following provisions:

Section 1. DISPOSITION OF UNCLAIMED ESTATE BY PERSONAL REPRESENTATIVE. Amends AS 13.16.381 by requiring the personal representative of an intestate estate to handle the unclaimed real property of the estate in accordance with AS 38.95 (Miscellaneous Provisions under Public Lands).

Section 2. NOTICE. Amends AS 38.05.945 (a) by requiring that notice be given under the procedures of that statute of a proposed sale of escheated real property by the department under AS 38.95.230 (Disposal of escheated real property by the department).

Section 3. Notice of the proposed sale of land which the department has leased for mineral rights must be given, as required by AS 38.05.945 (a).

Section 4. Notice of the proposed sale of land for which the department has issued a production license must be given, as required by AS 38.05.945 (a).

Section 5. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPARTMENT. Repeals and reenacts AS 38.95.230. Within 90 days after a judgement of escheat, and after notice has been given, the department must sell the escheated real property unless it issues a written finding that the designation of the property as an historic site would be in the best interest of the state. If so, the department must request the Historic Sites Advisory Committee to determine if the property should be designated an historic. If the committee decides not to recommend the designation or if the governor decides not to make the designation, the department shall make arrangements to sell the property as soon as possible after receiving notice of the decision.

Section 6. CLAIMS TO ESCHEATED REAL PROPERTY. Repeals and reenacts AS 38.95.240. Within seven years from the judgment of escheat, a person who was not a party to the escheat proceeding may bring an action in superior court to prove the person's claim to the real property, or may bring the claim directly before the department. If it is determined that the claim is valid, the department must transfer the property if the state still owns it, or must transfer an amount equal to the net proceeds from the sale of the real property.

Section 7. PROCEEDS OF SALE. The department must maintain the net proceeds from the sale of escheated real property in a trust account. The department may use that money to pay successful claimants under AS 38.95.240.

Section 8. DEFINITIONS.

SECTION 9. This act applies to real property which is the subject of an escheat proceeding begun on or after the effective date of this act.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

403 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1756
PHONE: (907) 465-2400

March 3, 1988

The Honorable Sam Cotten
Co-Chair, House Resources Committee
P.O. Box 7
Juneau, AK 99811

Dear Representative Cotten:

Subject: SB 16 relating to the disposition of unclaimed real property interests.

Position: CSSB 16 (Res) provides the state may retain historical sites, but precludes state retention for other reasons. However, there are escheated properties in other areas where, for one reason or another, the state may wish to retain ownership, e.g., properties in or adjacent to parks or other designated areas or properties of particularly high public value.

Background: The purpose of escheat is to provide for disposition of unclaimed property, usually after the death of the owner, intestate. If a parcel is located in a park or other legislatively designated area, it may well be less expensive for the state to retain the land, as opposed to selling the property and then asking the Legislature to appropriate funds to repurchase the property for inclusion in the designated area. For example, if a parcel within the Kenai River management area was escheated under this bill, the department would have to dispose of the parcel rather than keeping it for public use. The opportunity to use a parcel of land in an exchange may also be in the best interest of the state.

Recommendation: The Legislature transferred the escheat program from the Department of Revenue to the Department of Natural Resources in 1986. That legislation provides acceptable guidelines for the escheat program. Regulations have been drafted, but are not approved as yet.

Regarding this particular bill, the department has the following technical recommendations:

March 3, 1988

The department recommends that "owner" be better defined. Currently "owner" can be legally undetermined heirs, devisees, assignees and adverse possessors.

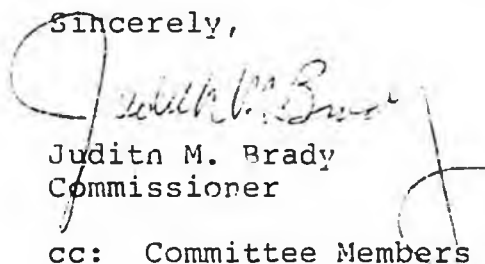
Page 1, lines 10-13 Add "Abandoned" before "Unclaimed Estate"

Page 2, line 13 delete "shall sell"; add "shall offer for sale"

Page 4, lines 5, 6 - Make the bill apply to all escheated real property not sold, including property escheated under predecessor statutes.

We will be pleased to continue working with committee staff as this bill progresses.

Sincerely,


Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
Rod Swcpe
Bob Evans

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 16 (Res)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 3/4/88
Title: Disposition Unclaimed Real Property
Sponsor: Senator Faiks
Requestor: House Resources

Agency Affected: DNR
BRU: L&WM
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		50.0	50.0	50.0	50.0	50.0
TRAVEL		2.0	2.0	2.0	2.0	2.0
CONTRACTUAL		29.0	29.0	29.0	29.0	29.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		82.0	82.0	82.0	82.0	82.0

CAPITAL						
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REVENUE		50.0*	50.0*	50.0*	50.0*	50.0*
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FUNDING: (Thousands of Dollars)

GENERAL FUND		82.0	82.0	82.0	82.0	82.0
FEDERAL FUNDS						
OTHER						
TOTAL		82.0	82.0	82.0	82.0	82.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

* Improves existing management of unclaimed real property. Under aggressive management the program could yield annual revenues in the neighborhood of \$50,000 and the existing inventory has value of approximately \$215,000. Current level of effort is low.

Prepared by: Tarot Bursler Phone: 465-3100
Division: Land and Water Management Date: 3/4/88

Approved by Commissioner: [Signature] Date: 3/4/88
Agency: Department of Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

			<u>89</u>	<u>90</u>
100	<u>Personnel</u>	1 NRM I	50.0	
200	<u>Travel</u>		2.0	
300	<u>Contractual</u> Appraisals, etc.		29.0	
400	<u>Supplies</u>		<u>1.0</u>	
			82.0	

These figures represent a Natural Resource Manager I and the costs to advertise, appraise and convey these parcels.