

SB

375

FISCAL NOTE

STATE OF ALASKA

BILL NO. SB375

1994 LEGISLATIVE SESSION

Revision Date: <u>REVISED ORIGINAL on 4/19/94</u>	Dept Affected: <u>Natural Resources</u>
Title: <u>"An Act relating to general grant land entitlements."</u>	BRU: <u>Resource Development</u>
Sponsor: <u>Senate Judiciary Committee</u>	Component: <u>Land Development</u>
Requestor: <u>Senate Judiciary Committee</u>	Component Serial No. <u>431</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	350.0	350.0	350.0	350.0	350.0	350.0
	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	15.0	15.0	15.0	15.0	15.0	15.0
SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	380.0	380.0	380.0	380.0	380.0	380.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	380.0	380.0	380.0	380.0	380.0	380.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	380.0	380.0	380.0	380.0	380.0	380.0

Estimate of any current year (FY94) cost. \$ None

POSITIONS

FULL-TIME	6	6	6	6	6	6
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

OPPOSED.
SEE ATTACHED.

Prepared by: <u>Ron Swanson, Director</u>	Phone: <u>762-2692</u>
Division: <u>Land</u>	Date: <u>19-Apr-94</u>
Approved by Commissioner: <u>Harry A. Noah</u>	Date: <u>19-Apr-94</u>
Agency: <u>Natural Resources</u>	

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

We oppose this bill because it is not in the best interest of the state.

The present Municipal Land Act limits what lands can be used to calculate municipalities' entitlement and, more importantly, what type of land is suitable to be conveyed to municipalities. The present definition limits this to land classified agricultural, grazing, material, public recreation, or settlement. It does not include land classified for forest, geothermal, heritage resources, oil and gas, reserved use, resource management, transportation corridor, or wildlife habitat.

These land classifications, that could be used to determine entitlements and eventual ownership were carefully decided in 1978, when the Municipal Land Act became law. The classifications were individually looked at and put into categories that were in the states interest to retain, and those that were appropriate for local ownership to support local activities and revenue generation.

If this bill becomes law, municipalities will be able to select and obtain ownership over any state land, including land within legislatively designated areas such as parks, game refuges, sanctuaries, and recreational areas. This will leave the state in a position of not being able to protect the overall interest of all its citizens.

The following chart depicts the additional land that would need to be conveyed, just to boroughs:

Boroughs	State Land	10% State Land	Present Entitlement
Aleutians East Borough	1,184,113	118,411.3	Not Certified
Municipality of Anchorage	543,184	54,318.4	44,893
Bristol Bay Borough	105,213	10,521.3	2,898
Denali Borough	3,017,661	301,766.1	Not Certified
Fairbanks North Star Borough	2,973,355	297,335.5	112,000
Haines Borough	155,171	15,517.1	2,800
City and Borough of Juneau	40,069	4,006.9	19,584
Kenai Peninsula Borough	2,171,394	217,139.4	155,730
Ketchikan Gateway Borough	27,692	2,769.2	11,593
Kodiak Island Borough	628,817	62,881.7	56,500
Lake and Peninsula Borough	4,198,660	419,866.0	Not Certified
Matanuska-Susitna Borough	9,881,324	988,132.4	355,210
North Slope Borough	8,644,282	864,428.2	89,850
Northwest Arctic Borough	3,242,039	324,203.9	285,000
City and Borough of Sitka	15,499	1,549.9	10,500
Yakutat	5,000	500.0	Not Certified

In some cases, such as for the Municipality of Anchorage, the State does own enough land to convey the additional entitlement unless land is removed from legislatively designated areas (Chugiak State Park). In addition, there are 29 cities that presently have an entitlement of 26,810 acres. All of the boroughs, plus all cities that have state land within their boundaries, will have to be recertified. It should also be noted that all entitlements are vested property rights that must be full-filled. It should also be noted that we currently have a back log of unprocessed applications for 20 municipalities that total 620,000 acres.

Current law, AS 29.65.030 (b), requires that municipal entitlements be certified within two years and six months of incorporation, or within six months if a municipality requests certification on an expeditious basis. Current law, AS 29.65.040 (d), also requires that municipalities must select land within one year after certification. Finally, AS 29.65.050(c), requires that all selections must be approved or disapproved within nine months of selection.

This fiscal note reflects these requirements. If a more moderate approach is adopted this fiscal note needs to be amended.

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: "An Act relating to general grant land BRU: _____
entitlements." Component: _____
 Sponsor: Senate Judiciary Committee by Request
 Requestor: Senator Phillips COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson *Remond Henderson* Director Phone: 465-4708
 Division: Administrative Services Date: *4/19/94*
 Approved for the Commissioner by: Bruce Geraghty *Bruce Geraghty* Deputy Commissioner Date: *4-19-94*
 Agency: Community & Regional Affairs

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Bill Amendments

Delete "vacant, unappropriated, unreserved" wherever it occurs and insert "state general grant land".

Section 6, pertaining to AS 29.65.050(b) should be deleted in its entirety. Some amendments are proposed in Section 6 of the bill. This section orders the director to rescind~~ed~~ conveyances that were made for land that was not VUU. Once land is conveyed by tentative approval or interim conveyance title has passed and can not be rescinded by the director.

Section 7 of the bill should be amended to eliminate the requirement for the director to approve or disapprove each selection for patent within nine months of its selection by a municipality. With these new entitlements, combined with our existing backlog of over 600,000 acres this requirement is impossible to meet.

In section 10, if VUU is deleted the definition for vuu should also be deleted. In Instead AS 29.65.130(3) should be amended to read:

"general grant land"

(A) means land patented or tentatively approved to the state from the United States under Section 6(a) or (b) of the Alaska Statehood Act;

(B) does not include university or mental health land;

(C) has not been set aside by statute for one or more particular uses or purposes; or

(D) has not been approved for conveyance to a municipality under this chapter, AS 38.05.810, or former AS 29.18.190 or 29.18.200.

Alaska State Legislature

Senator Al Adams

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Official Business

TO: Senator Randy Phillips, Chair and members
Senate Community and Regional Affairs Committee

FROM: Senator Al Adams

DATE: April 18, 1994

RE: Senate Bill 375

Thank you for hearing the aforementioned legislation.

The basic premise of this bill is that municipal ownership of up to 10 percent of the state land within municipal boundaries, when it is available, would promote strong local governments as provided for in Alaska's Constitution, would provide municipalities with the opportunity to stimulate economic development, could potentially increase tax revenues through an expanded tax base and an overall improved ability to provide quality public services. By retaining ownership to 90 percent of the state land within municipal boundaries, the state retains the ability to provide for statewide public interests.

The bill sections with most import are sections eight and ten. Section eight deletes the word newly formed from the policy statement regarding the 10 percent designation so that the policy applies across the board to all municipalities. Section 10 changes the designation of VUU land so that it now would include land that had been classified as unobtainable for municipal selection.

This legislation is particularly timely considering the present proposals to decrease municipal assistance and revenue sharing by Governor and certain members of the Alaska Legislature. By increasing the land base available to municipalities, we would be offsetting the negative effects of diminishing the revenue stream flowing from the state to our local governments.

Attached is a sectional summary, a supporting resolution by the Alaska Municipal League, and an approximate breakdown as of March of 1993 of the additional land that would be available to certain municipalities as a result of this legislation.

A fiscal note has been requested and will be forthcoming.

Thank you for your consideration of this bill.

DIVISION OF LEGAL SERVICES

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MEMORANDUM

April 12, 1994

SUBJECT: General grant land entitlements (Work Order 8-LS1883E)

TO: Senator Al Adams

FROM: Tamara Brandt Cook
Director *TBC*

Here is the sectional summary you requested.

Sec. 1. Establishes the general grant land entitlement of a municipality at a level of ten percent of the maximum total acreage of vacant, unappropriated, unreserved land within its boundaries, or, if the municipality is a borough, the amount designated in former AS 29.65.010 (repealed in this bill). This section applies to both cities and boroughs, existing and newly formed.

Sec. 2. Inserts the word "former" in front of two sections repealed in this bill.

Sec. 3. Inserts the word "former" in front of a section repealed in this bill.

Sec. 4. Deletes periods within which selections had to be made under former law and the period within which a new selection had to be made if an original selection was rejected. No time limit is placed on the selection of land to fulfill the entitlements provided for in sec. 1 of this bill.

Sec. 5. The entitlements provided for in sec. 1 are vested property rights that must be fulfilled as provided in AS 29.65.050. This existing section on deficiency payments is repealed in this bill and will not apply to the new entitlements.

Sec. 6. A municipality is not entitled to receive patent to more than its entitlement determined under sec. 1. Patents received under repealed provisions of the general grant land entitlement program shall be credited toward fulfillment of the municipality's entitlement.

Sec. 7. A reference to sections repealed in this bill is replaced with a reference to the section added in sec. 1.

Senator Al Adams

April 12, 1994

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Sec. 8. Deletes the words "newly formed" from the existing statement of policy that the state provide to each municipality no less than 10 percent of vacant, unappropriated, unreserved land within its boundaries thus, this policy now applies to both existing municipalities and those that are organized in the future.

Sec. 9. Provides that general grant land does not include mental health land or school land. The statute now provides that university land is excluded, and that exclusion is retained.

Sec. 10. Changes the definition of vacant, unappropriated, unreserved land to include land classified by the Department of Natural Resources that is now excluded from that definition. This has the effect of increasing the types of state land that will be considered in setting the amount of a municipal entitlement and increasing the types of land that may be selected in fulfillment of that entitlement.

Sec. 11. Makes technical changes to reflect the repeal of sections cited and the addition of a new section.

Sec. 12. Repeals the section setting out the entitlements for boroughs and unified municipalities, the section on determining entitlements for cities, the section on determining entitlements for newly incorporated municipalities (all replaced by the entitlement under sec. 1), subsections dealing with time limits within which selections could be made under former law (there is no time limit for making selections in this bill), the section dealing with school and mental health land (these lands are no longer available for selection), the section dealing with payment for land deficiency, and definitions of university land, school land, and mental health land (these definitions have been rolled into the paragraph defining general grant land).

TBC:gc

94-252.glc

Resolution of the Alaska Municipal League

Resolution No. 94-8

**A RESOLUTION URGING PASSAGE OF
LEGISLATION RELATED TO
GENERAL MUNICIPAL LAND GRANT ENTITLEMENTS**

WHEREAS, the municipal land entitlements provided for in AS 29.65.010 result in an entitlement of as little as one percent of the state land within some municipalities; and

WHEREAS, under the AS 29.65.130 (10) definition of what is Vacant, Unappropriated, and Unreserved (VUU) land available for municipal ownership, the resulting entitlement is as little as one tenth of one percent of the state land within some municipalities; and

WHEREAS, although there are millions of acres of state-selected federal lands within municipalities, when the state receives title to these lands, the municipal land entitlements will not increase accordingly because of certification deadlines, vesting dates, and application deadlines currently contained in AS 29:

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports legislation that would promote strong local government and increase local control by entitling all municipalities to an equitable, standard formula of 10 percent of the VUU state land within their boundaries.

BE IT FURTHER RESOLVED that the Alaska Municipal League supports legislation changing the definition of VUU lands to allow selection of lands by the municipality subject to a final determination by the legislature as to whether the lands are of such importance to statewide interests that they are not available for municipal ownership.

BE IT FURTHER RESOLVED that the Alaska Municipal League supports legislation that would make municipal land entitlements flexible so municipalities' land entitlements would increase when the amount of state land within municipalities increases.

Adopted at Annual Business Meeting on November 12, 1993 in Soldotna, Alaska

PURPOSE OF ADAMS AMENDMENT ON GENERAL GRANT LAW)

MUNICIPAL ENTITLEMENT & EFFECT STATEWIDE ON MUNICIPALITIES

1. Establish a single, simple formula to calculate municipal land entitlements which is applicable to all cities, boroughs and unified municipalities.

2. Make the formula flexible enough for the municipal land entitlement to increase whenever there is an increase in the amount of state owned land within a municipality.

3. Return to the legislature the authority for designating lands which are of such paramount importance to statewide interests that they are not available for municipal ownership.

1. Establish a single, simple formula to calculate municipal land entitlements which is applicable to all cities, boroughs and unified municipalities. This is achieved in the following sections:

Sections - of the legislation repeal the entitlement calculation methods which have evolved to date.

Section establishes municipal entitlements to be 10 % of vacant, unappropriated and unreserved (VUU) lands. The only instance when this 10 % method would not apply is when it equated to be less than the entitlement contained in former AS 29.65.010; this would be the case in the Municipality of Anchorage, The City and Borough of Juneau, City and Borough of Sitka, and the Ketchikan Gateway Borough (based on figures received from Division of Land in March 1991). The entitlement for all other cities and boroughs would be 10 % of VUU lands.

Section establishes that the procedure to be used in fulfilling land entitlements under Section 4 is that contained in AS 29.65.050, and that the municipal land deficiency payment provisions of AS 29.65.080 do not apply to the entitlement created under this legislation.

Section clarifies that the entitlement created under Section 4 is the maximum total entitlement a municipality may receive under AS 29, and that it includes those acres already received under AS 29.

Section applies the 10 % of VUU land policy of the state equally to all municipalities, not just to new municipalities.

The main premise upon which this legislation is based is that municipalities should be entitled to 10 % of the state land within their boundaries. One can look at the resulting entitlements in

the hundreds of thousands of acres that some municipalities with large state land bases would be entitled to and say that amount was too generous. Can it really be considered too generous when the state will still end up owning 90 % of the land?

A standard argument that always comes into play whenever it is proposed to establish municipal land entitlements with a standard 10 % formula is that some municipalities with large populations receive small entitlements, while some municipalities with small populations receive large entitlements. This issue has no easy answer. In general, land is worth more per acre in areas with large populations, and worth less per acre in areas with small populations. This is a tremendous simplification of a complex subject, but to come up a solution that would be completely equitable to every municipality would take many, many years to appraise and adjust. Additionally, the issue is not limited to economic value alone, but also to the fostering of local control and managing lands to enhance local public interests.

It is true that in some municipalities the presence of federal, native and other private lands dictate land use patterns and limit the amount of state land available for municipal entitlements. It is still for the good of their sister municipalities and the state as a whole that municipalities be entitled to 10 % of the state land where it is available.

Other arguments used in the past by the Division of Lands is that municipalities have not demonstrated a need for any more land, and therefore should not be entitled to any more. Is it too much for municipalities to ask for just 10 % of the land on which they can make their own decisions and not be subject to the whims of the Division of Land?

If Alaska is to have strong and independent self governing municipalities as called for in the State Constitution, it should be willing to provide them with a fair and equitable land base when available. Putting 10 % of Alaska's state owned land under local government control is clearly a way to promote strong municipal governments. Municipalities should be given a chance to stimulate their own economies, and should be able to determine the size of their tax bases. Should the state have to initiate all economic development?

Mere municipal or even private ownership of 10 % of state lands does not mean that they will not be protected. They will still be subject to environmental regulation by the state and the federal governments, and fish and game regulation by the state.

2. Make the formula flexible enough for the municipal land entitlement to increase whenever there is an increase in the amount of state owned land within a municipality. This is achieved in the following sections:

Section 4 is silent on certification deadlines, and also on establishing vesting dates on which to calculate the total amount of available state owned VUU land. Entitlements would therefore increase as the state acquires more land from the federal government within a municipality.

Section 5 deletes deadlines for selection of lands to satisfy entitlements by a municipality. Whenever the amount of state land within a municipality increased, the municipality would then be able to apply for its increased entitlement at that time.

Existing entitlement acreages are based on a vesting date tied to their date of incorporation, or set in 1978. In some municipalities the state has pending selections of federal lands totalling in the millions of acres. Although the state will be acquiring much more land within some municipalities, those municipalities are not able to share in the wealth of this increased state land ownership. When the state receives new lands within municipalities, it would be fair to allow municipalities to correspondingly receive 10 % of that new state land.

3. Return to the legislature the authority for designating lands which are of such paramount importance to statewide interests that they are not available for municipal ownership. This is achieved in the following section:

Section 6 changes the definition of VUU lands (which are not available for municipal selection or ownership) to include only legislatively designated areas, and not include lands classified administratively by the Division of Lands.

Under the existing definition of VUU in AS 29, lands which are administratively classified by the Division of Land into classifications such as wildlife habitat, forestry and resource management are not considered VUU lands and are not available for municipal selection or ownership. The impact of this to some borough's land entitlements is dramatic:

Lake and Peninsula Borough, currently entitled to 10 % of VUU lands under AS 29.65.030, has over 5 million acres of state land within its boundaries, but because of administrative classifications by the Division of Land, it only has 35,000 acres that are considered not VUU lands. 10 % of this 35,000 acres is an entitlement of 3,500 acres in a borough with more than 5 million acres of state lands! This is an entitlement of less than one tenth of one percent of the state land in this municipality!

Not allowing municipal ownership of these lands through the administrative classification process of the Division of Land as non-VUU implies that municipalities are not capable of managing lands in the public interest. This is an insult to local government. Municipal or even private ownership of land does not mean that it will not be protected. The land will still be subject

to environmental regulation by the state and the federal governments, and fish and game regulation by the state.

The Division of Land is given too broad a discretion in determining which lands will be available for municipal ownership; their discretion amounts to a contradiction of the purposes for which the Municipal Entitlement Act was created. Since the amount of land available for municipal ownership determines the effectiveness of the Municipal Entitlement Act, the real authority for determining which lands should not be available for municipal ownership should rest with the legislature. If the statewide interest in keeping state land in state ownership is paramount to allowing the land to be municipally owned, then it should be made not available by the legislature through the creation of a state wildlife refuge, park, forest, etc., and not by the Division of Land through an administrative land classification.

The Division of Land is not responsive to the needs of local government, and they are unwilling to give the Department of Community and Regional Affairs any more than a token opportunity for the input required under AS 29.65.050.

(4)

EFFECT OF THIS LEGISLATION ON MUNICIPALITIES

The figures used to determine the effect of this legislation were taken from a chart prepared by the Division of Land in March 1993. All figures given, with the exception of the municipal entitlements specifically listed in AS 29.65.010, are approximations. With the constant flux in land ownership between the federal, state and local governments, it is understood to be a nearly impossible task to come up with completely accurate acreages. As land status in Alaska becomes more settled through the years, and as computer mapping technologies continue to improve, computations of these acreages can be accomplished with more precision in the future.

Statewide - Entitlements existing under current AS 29.65.010 - .030 for all municipalities statewide are 1.2 million acres, which is 1 % of all state land within the state. Under this legislation, entitlements created for all municipalities statewide at this time would be 3.4 million acres, which is 3 % of all state land within the state. Some day after the state receives its entire 104 million acre entitlement of land from the federal government, and after all currently unorganized areas of the state incorporate, and if the current 10.7 million acres (10 %) of Alaska's legislatively designated areas such as game refuges, forests and parks don't increase, the entitlements created under this legislation would equal 9.3 million acres, which is 9 % of all state land within the state.

1. Aleutians East Borough - Although their entitlement as set out in AS 29.65.030 is 10 % of state VUU land, and their borough contains 1.3 million acres of state land, they have an entitlement of only 7,600 acres, which is one half of one percent of the state land within their boundaries. This is because the Division of Land has classified most of the state land within this borough as non-VUU land and therefore not available for municipal ownership. Under the provisions of this legislation which authorize the legislature, not the Division of Land, to designate what is non-VUU land, their entitlement would increase to 130,000 acres. If the state receives title to the 150,000 acres of state selected federal lands within their boundaries, their 130,000 acre entitlement would increase by another 35,000 acres.

2. Municipality of Anchorage - contains over one half million acres of state land, most of which is not vacant, unappropriated, unreserved (VUU) land because it is in Chugach State Park. Since 10 % of VUU lands in this municipality would be less than the acreage contained in their original AS 29.65.010 entitlement amount of 44,893 acres, their entitlement under this legislation would be an amount equal to the AS 29.65.010 entitlement of 44,893 acres. With about 20,000 acres already conveyed to them, they were not able to find any additional VUU state land within their boundaries to satisfy their remaining entitlement. They entered an agreement with the state to zero out their unfulfillable entitlement, and in return receive of up to 1,000 acres of national forest land if the state ever acquired it. The state recently received title to

20,000 acres of national forest land in Girdwood and Portage. This legislation would create a new entitlement equal to their previous entitlement of 44,893 acres, allowing them to acquire most, if not all, of that 20,000 acres. When added to the 20,000 acres they have previously received, this legislation makes enough new lands available at Girdwood and Portage to nearly satisfy their 44,893 acre entitlement, which equals about 7 % of all the state land within their boundaries, inclusive of Chugach State Park. Furthermore, the provisions of this legislation which do away with certification deadlines, vesting dates and application deadlines will allow this municipality to receive title to any national forest land the state may acquire within their boundaries at any time in the future to use in fulfilling their entitlement.

3. Bristol Bay Borough - Their entitlement as set out in AS 29.65.010 is 2,898 acres. With 86,000 acres of state land within their boundaries, their entitlement as provided by the 10 % formula in this legislation would increase to 8,600 acres. If the state receives title to the 86,000 acres of state selected federal land within their boundaries, their 8,600 acre entitlement would increase by an additional 8,500 acres.

4. Denali Borough - Although their entitlement as set out in AS 29.65.030 is 10 % of state VUU land, and their borough contains 3.1 million acres of state land, they have an entitlement of only 15,000 acres, which is one half of one percent of the state land within their boundaries. This is because the Division of Land has classified most of the state land within this borough as non-VUU land and therefore not available for municipal ownership. Under the provisions of this legislation which authorize the legislature, not the Division of Land, to designate what is non-VUU land, their entitlement would increase to 310,000 acres. If the state receives title to the 575,000 acres of state selected federal lands within their boundaries, their 310,000 acre entitlement would increase by another 57,500 acres.

5. Fairbanks North Star Borough - Their entitlement as set out in AS 29.65.010 is 112,000 acres. However, even with the 1.8 million acre Tanana Valley State Forest, there are still another 1.7 million acres of other state lands. Their entitlement as provided by the 10 % formula in this legislation would increase to 170,000 acres. If the state receives title to the 1 million acres of state selected federal lands within their boundaries, their 170,000 acre entitlement would increase by another 100,000 acres.

6. Haines Borough - Their entitlement as set out in AS 29.65.010 is 2,800 acres. However, even with the 250,000 acre Haines State Forest, there are still another 185,000 acres of other state lands. Their entitlement as provided by the 10 % formula in this legislation would increase to 18,500 acres. If the state receives title to the 420,000 acres of state selected federal lands within their boundaries, their 18,500 acre entitlement would increase by another 42,000 acres.

7. City and Borough of Juneau - Since 10 % of VUU lands in this municipality would be less than the acreage contained in their original AS 29.65.010 entitlement amount of 19,584 acres, their entitlement under this legislation would be an amount equal to the AS 29.65.010 entitlement of 19,584 acres. Thus the total entitlement for this borough under all past and present provisions of AS 29 would continue to be 19,584 acres. The provisions of this legislation which do away with certification deadlines, vesting dates and application deadlines will allow this municipality to receive title to any state land contained within any expanded municipal boundaries, or to receive title to any national forest land the state may acquire within their boundaries at any time in the future, to use in fulfilling their entitlement.

8. Kenai Peninsula Borough - Their entitlement as set out in AS 29.65.010 is 155,780 acres. Even with over a million acres of legislatively created game refuges, sanctuaries, critical habitat areas and state parks, there are still another 1.6 million acres of other state lands. Their entitlement as provided by the 10 % formula in this legislation would increase to 160,000 acres. If the state receives title to the 1.6 million acres of state selected federal lands within their boundaries, their 160,000 acre entitlement would increase by another 150,000 acres.

9. Ketchikan Gateway Borough - Since 10 % of VUU lands in this municipality would be less than the acreage contained in their original AS 29.65.010 entitlement amount of 11,593 acres, their entitlement under this legislation would be an amount equal to the AS 29.65.010 entitlement of 11,593 acres. Thus the total entitlement for this borough under all past and present provisions of AS 29 would continue to be 11,593 acres. While the predominance of federal land in the vicinity makes it unlikely that this entire entitlement will be fulfilled any time soon, the provisions of this legislation which do away with certification deadlines, vesting dates and application deadlines will allow this municipality to receive title to any national forest land the state may acquire within their boundaries in the future to use in fulfilling their entitlement.

10. Kodiak Island Borough - Their entitlement as set out in AS 29.65.010 is 56,500 acres. With 370,000 acres of state land within their boundaries, their entitlement as provided by the 10 % formula in this legislation would increase to 37,000 acres. Although the borough entered an agreement with the state to zero out its entitlement in return for lands selected by ANCSA corporations if the state ever acquired them, this legislation would create a new entitlement of 37,000 acres. The provisions of this legislation which do away with certification deadlines, vesting dates and application deadlines will allow this borough to receive title to any federal wildlife refuge lands, ANCSA corporation selected lands, that the state may acquire within their boundaries at any time in the future to use in fulfilling their entitlement.

11. Lake and Peninsula Borough - Although their entitlement as set

out in AS 29.65.030 is 10 % of state VUU land, and their borough contains 5 million acres of state land, they have an entitlement of only 3,500 acres, which is less than one tenth of one percent of the state land within their boundaries. This is because the Division of Land has classified most of the state land within this borough as non-VUU land and therefore not available for municipal ownership. Under the provisions of this legislation which authorize the legislature, not the Division of Land, to designate what is non-VUU land, their entitlement would increase to 500,000 acres. If the state receives title to the 1.5 million acres of state selected federal lands within their boundaries, their 500,000 acre entitlement would increase by another 150,000 acres.

12. Matanuska-Susitna Borough - Their entitlement as set out in AS 29.65.010 is 155,210 acres. Even with over 3.5 million acres of legislatively created game refuges, public use areas and state parks, there are still another 6.8 million acres of other state lands. Their entitlement as provided by the 10 % formula in this legislation would increase to 680,000 acres. If the state receives title to the 3.3 million acres of state selected federal land within their boundaries, their 680,000 acre entitlement would increase by another 330,000 acres.

13. North Slope Borough - Their entitlement as set out in AS 29.65.010 is 89,850 acres. With 8.9 million acres of state lands, this is an entitlement of 1 % of the state land within their boundaries. Furthermore, their entitlement is only one tenth of one percent of all the land within their boundaries when the large federal holdings in NPRA, ANWR and the national parks are factored in. Their ability to acquire state lands with any chance of economic potential is further limited because the Division of Land has classified all of the state land in the Prudhoe/Kuparuk industrial development area as non-VUU land and therefore not available for municipal ownership. Their entitlement as provided by the 10 % formula in this legislation, and also including the provisions of this legislation which authorize the legislature, not the Division of Land, to designate what is non-VUU land, would increase to 890,000 acres, which would still be less than 2 % of all the land within their boundaries including federal holdings. If the state receives title to the 5.3 million acres of state selected federal lands within their boundaries, their 890,000 acre entitlement would increase by another 530,000 acres.

14. Northwest Arctic Borough - Their entitlement as set out in AS 29.65.030 is 10 % of state VUU land, their borough contains 3.3 million acres of state land, and they have an entitlement of 285,000 acres, or 8 % of the state land within their borough. Under the provisions of this legislation which authorize the legislature, not the Division of Land, to designate what is non-VUU land, their entitlement would increase to 330,000 acres. If the state receives title to the 3.1 million acres of state selected federal lands within their boundaries, their 330,000 acre entitlement would increase by another 310,000 acres.

15. City and Borough of Sitka - Since 10 % of VUU lands in this municipality would be less than the acreage contained in their original AS 29.65.010 entitlement amount of 10,500 acres, their entitlement under this legislation would be an amount equal to the AS 29.65.010 entitlement of 10,500 acres. Thus the total entitlement for this borough under all past and present provisions of AS 29 would continue to be 10,500 acres. While the predominance of federal land in the vicinity makes it unlikely that this entire entitlement will be fulfilled any time soon, the provisions of this legislation which do away with certification deadlines, vesting dates and application deadlines will allow this municipality to receive title to any national forest land the state may acquire within their boundaries at any time in the future to use in fulfilling their entitlement.

16. Yakutat Borough - Their entitlement as set out in AS 29.65.030 is 10 % of state VUU land, however, most of the state land within their boundary has already gone to the City of Yakutat. At this time, the entitlement created under this legislation does not have much effect on this borough. However, the provisions of this legislation which do away with certification deadlines, vesting dates and application deadlines will allow this municipality to receive title to state lands contained within any future expansion of municipal boundaries.

Resolution of the Alaska Municipal League**Resolution No. 94-8****A RESOLUTION URGING PASSAGE OF
LEGISLATION RELATED TO
GENERAL MUNICIPAL LAND GRANT ENTITLEMENTS**

WHEREAS, the municipal land entitlements provided for in AS 29.65.010 result in an entitlement of as little as one percent of the state land within some municipalities; and

WHEREAS, under the AS 29.65.130 (10) definition of what is Vacant, Unappropriated, and Unreserved (VUU) land available for municipal ownership, the resulting entitlement is as little as one tenth of one percent of the state land within some municipalities; and

WHEREAS, although there are millions of acres of state-selected federal lands within municipalities, when the state receives title to these lands, the municipal land entitlements will not increase accordingly because of certification deadlines, vesting dates, and application deadlines currently contained in AS 29;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports legislation that would promote strong local government and increase local control by entitling all municipalities to an equitable, standard formula of 10 percent of the VUU state land within their boundaries.

BE IT FURTHER RESOLVED that the Alaska Municipal League supports legislation changing the definition of VUU lands to allow selection of lands by the municipality subject to a final determination by the legislature as to whether the lands are of such importance to statewide interests that they are not available for municipal ownership.

BE IT FURTHER RESOLVED that the Alaska Municipal League supports legislation that would make municipal land entitlements flexible so municipalities' land entitlements would increase when the amount of state land within municipalities increases.

TO: Senate CRA Comm
From: Keith Quintaveil, NSB
Re: Attached AML
Resolution # 94-8 in
Support of SB 375
legislation

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 68
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



POSITION OF THE NORTH SLOPE BOROUGH ON SB 375

The General Grant Land Municipal Entitlement Program has had an inequitable effect on Alaska's municipalities. While it may be almost impossible to come up with a formula that treats all municipalities exactly the same, the Alaska Municipal League, through AML Resolution 94-8, has reviewed and unanimously endorsed a proposal that would be the most equitable to Alaska's municipalities. This proposal, which would establish a single, simple formula to calculate municipal land entitlements, has been introduced as SB 375. Since SB 375 would go the farthest toward curing existing inequities to all of Alaska's municipalities, the North Slope Borough strongly supports SB 375.

The problems with the existing municipal land entitlement program are threefold: first - the entitlement acreages called out in AS 29.65.010 result in some municipalities receiving entitlements of only one percent of the state land within their boundaries; second - by allowing the Division of Land through land classifications as defined under AS 29.65.130(10)(C & D) to determine what lands are available for ownership by municipalities, it results in some municipalities receiving entitlements of less than one tenth of one percent of the state land within their boundaries; and third - through a rigid set of certification deadlines, vesting dates and application deadlines, municipalities cannot obtain title to National Forest or Bureau of Land Management lands which the state may obtain in the future.

SB 375 would change these three problem areas as follows: first - it would establish a single, simple formula to calculate municipal land entitlements which is applicable to all cities, boroughs and unified municipalities; second - it would return to the legislature, not the Division of Land, the authority for designating lands which are of such paramount important to statewide interests that they should not be made available for economic development by municipalities but instead should be designated state parks, refuges, etc.;

and third - by deleting certification deadlines, vesting dates and application deadlines, it would make the formula flexible enough for the municipal land entitlement to increase whenever there is an increase in the amount of state owned land within a municipality.

Following is a summary of the North Slope Borough's attempts to obtain land under the General Grant Land Municipal Entitlement Program. This summary clearly demonstrates how the inequities in the program affect one local government.

Upon incorporation in 1972, the NSB was entitled to receive 10% of the state land within its boundaries. On August 10, 1973 the North Slope Borough filed its first municipal land entitlement selection applications with the Alaska Division of Land for the surface estate to lands in the vicinity of the Prudhoe Bay industrial development area. The Division of Land denied these applications as not being in the state's best interests for municipal ownership. The NSB appealed the Division of Land decision through the courts. In 1978 the municipal entitlement act reduced the NSB entitlement to 89,850 acres, or to zero acres if the NSB did not withdraw its litigation; the Division of Land's decision was later upheld in Alaska Supreme Court.

Through the Division of Land's refusal to approve these NSB land claims, the amount of the NSB's entitlement dropped from 10% of state lands, down to 89,850 acres (1% of state land), and then down to zero acres. The Division of Land then went on to sell tens of millions of dollars worth of gravel from these very same lands, even though other municipalities are given title to gravel pits and allowed to sell their own gravel.

In 1987 the legislature restored the NSB entitlement of 89,850 acres. By October 1, 1990 the NSB timely filed another round of land selection applications with the Division of Land. On August 10, 1993 the Division of Land attempted to transfer title to the Prudhoe Bay Landfill to the NSB, even though the NSB never selected it. It is no small coincidence that this attempted transfer of the landfill happened exactly on the 20th anniversary of the day the NSB filed its first land selection applications! More than twenty years has passed and the NSB has yet to receive a single acre from the Division of Land. It is clear to the NSB that the Division of Land is not responsive to the needs of local government.

In conclusion, the three corrective features of SB 375 would serve to correct the following specific inequities of the current General Grant Land Municipal Entitlement Program as it affects the NSB:

First - The NSB entitlement of 89,850 acres contained in AS 29.65.010 equals only one percent of the state land within the NSB, and equals less than one

tenth of one percent of all lands within the NSB when the large federal holdings in NPRA, ANWR and the Brooks Range national parks are included. This is not nearly enough of a land base to provide the economic development necessary to sustain the NSB in the future. SB 375 would cure this problem through the enactment of a single, simple formula which would be applicable not only to the NSB, but to all cities, boroughs and unified municipalities.

Second - Under the definition of Vacant, Unappropriated, Unreserved (VUU) land in AS 29.65.130, the Division of Land is given broad direction to decide what lands are non-VUU and therefore not available for municipal ownership. This also serves to severely restrict the amount of a land base available to the NSB for future economic development. Under SB 375, only those lands which have been designated by the legislature as a state park, refuge, etc. would be unavailable for municipal ownership. This would result in a more equitable entitlement for not only the NSB, but for all municipalities.

Third - There are 5.3 million acres of state selected federal lands within the NSB from which under current AS 29 the NSB cannot receive any entitlement once the state acquires title. These lands, which may be obtained by the state in the future, could likewise provide the NSB with the opportunity for economic development in the future. SB 375 would remove the certification deadlines, vesting dates and application deadlines which currently do not allow municipalities to obtain any of the National Forest or Bureau of Land Management lands which the state may acquire in the future. This would promote future economic development not only in the NSB, but for municipalities around the state.

The North Slope Borough applauds the legislature's actions to restore equity to the General Grant Land Municipal Entitlement program, and supports passage of SB 375.


George N. Akmaogak, Sr.

Mayor 25 April 1994

Date

TEL No.

Apr 25,94 17:33 P.01

FAX TRANSMISSION

TO: Senator Randy Phillips Office
Attn: Shirley Armstrong
465-4979

FROM: Sue Flensburg
Bristol Bay CRSA Phone: 842-2666/2667
Box 849 Fax: 842-2438
Dillingham, Ak. 99576

DATE: April 25, 1994

NO. OF PAGES (including cover sheet): 4

Please provide the attached correspondence on HB 259 and SB 375 to the Senate CRA committee members for the hearing on these bills tomorrow morning.

Thank you.



Coastal Resource Service Area

P.O. Box 849, Dillingham, Alaska 99576

(907) 842-2666-842-2167

April 25, 1994

Senator Randy Phillips, Chair
Senate Community & Regional Affairs Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

RE: HB 259 - General Grant Land Entitlement for the Lake and Peninsula Borough
SB 375 - General Grant Land Entitlements

Dear Senator Phillips,

Attached is a copy of the Bristol Bay CRSA's testimony provided at the previous committee hearing on HB 259 last thursday. We would appreciate if this cover letter and written testimony are included in the committee packet for tomorrow's hearing on HB 259 and SB 375.

Both bills are strong statements that the current formula for municipal entitlements is inadequate and needs to be revamped. We agree but do not believe that HB 259 or SB 375 address the substantive concerns tied to this important public policy issue. This issue deserves careful consideration and deliberation to ensure the land entitlement needs of boroughs are met but balanced against the public's interest in protecting critical fish and wildlife habitats and areas important for public access.

We ask that you hold both bills until next session to allow municipalities, resource agencies, and the general public the time to recommend statutory criteria that provides clear guidance on (1) evaluating the entitlement needs of boroughs, (2) determining what lands are suitable for private ownership, and (3) of the state's land base, what lands have important resource and public values that should be retained in state ownership.

Sincerely,

Susan Flensburg, Director
Bristol Bay CRSA

Enclosure: Bristol Bay CRSA Testimony Dated April 21, 1994

**ALICE RUBY/BRISTOL BAY CRSA TESTIMONY ON HB 259
SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE HEARING
April 21, 1994**

Good morning Chairman Phillips and committee members. My name is Alice Ruby; I am testifying on behalf of the Bristol Bay Coastal Resource Service Area (CRSA) Board which oversees the coastal management program for ten communities, including Dillingham, that are located within the Nushagak and Toglak drainages. As I mentioned in my testimony on Tuesday (4/19), I also serve on the Dillingham City Council and have been the Land Manager for Chogglung Ltd, one of the larger and more successful ANSCA village corporations with an active land management program in place.

My previous testimony centered on the fact that people in the region have had virtually no opportunity to find out about this bill and future implications it will have on this area, including the lawsuit currently pending before the Supreme Court over the northwest boundary of the LPB. I trust the committee has a copy of the April 13 and April 20 letters on this matter which I faxed to Senator Phillips office last night. We also noted that residents of the entire Bristol Bay region fought hard to get the land use management protections in the state's Bristol Bay Area Plan and Nushagak Mulchatna Rivers Recreation Management Plan, and our concern that this bill along with SB 217, the Mental Health Trust Settlement, a prospective borough for this area and other potential land exchanges could fragment landownership and management of important resource values in Bristol Bay.

We would like to explain today how this bill affects our area and why we believe the legislature needs to consider the bigger picture of what this legislation means.

The northwest boundary of the Lake & Peninsula Borough dissects the Mulchatna River and important salmon spawning tributaries that support the Nushagak commercial fishing district. As you know, the commercial fisheries of Bristol Bay are the economic mainstay of this region. Any development on the Mulchatna within the borough has great potential for impacting the Nushagak drainage and our commercial fishery, as well as subsistence and recreation activities. The Lake and Peninsula Borough has identified a 22 mile corridor of the Mulchatna River corridor which is of great concern to us, and one of several tracts that the Departments of Natural Resources and Fish and Game have also objected to. Again, I think it is important for this committee to understand that while the upper Mulchatna is located in the LPB, what happens in the way of future development up there will have a direct affect on the residents in the Nushagak and others that fish the Nushagak commercial fishing district.

We also concur with the statements made by Ron Swanson with the Department of Natural Resources and others last Tuesday that the current formula for determining municipal land entitlements is inadequate and does not work well for rural boroughs. Both SB 375 and HB 295 are strong statements that the 10% VUU formula doesn't work in every case and that the municipal entitlement program needs to be revamped.

HOWEVER, we strongly recommend that this committee delay action on both bills until next session. If municipal entitlements are to be set in statute, similar to what HB 259

Alice Ruby/BBCRSA Testimony on HB 259

April 21, 1994

does, there also needs to be broad criteria established in statute for determining what this entitlement should be based on. Statutory criteria should be developed that provides guidance on (1) evaluating the entitlement needs of boroughs, (2) what lands are suitable for private ownership, and (3) of the state's land base, what lands have important resource and public values that should be retained in state ownership.

HB 259 will set a precedent that will be difficult to reverse. We encourage this committee to delay action on HB 259 and work with municipalities, the resource agencies, and the public on developing sound policy in statute that more appropriately addresses this important issue.

Thank you for the opportunity to testify.