

SB

162

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/24/96

FURTHER:

DATE TURNED INTO OFFICE: 2-9-96
(Delivered to Sen. Sec. 2/13/96)

The Finance Committee considered SB 162

Land and state land used for agricultural purposes or subject to the restriction of use; annulling certain program regulations of the Department of Natural Resources.

and recommends:

- be replaced with _____ CS SB 162 (Fin)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical change
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i> <i>[Signature]</i>	<input checked="" type="checkbox"/>		
			<input checked="" type="checkbox"/>		
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
DNR (Land)	2/9/96		15.0
DNR (Agri)	2/9/96		28.5

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

*Replaced by
note of 1/17/96*

STATE OF ALASKA 1996 LEGISLATIVE SESSION

BILL NO. SB162

Revision Date: 16-Jan-96
 Title: An Act relating to land used for agricultural purposes and to state land classified for agricultural purposes
 Sponsor: Senator Green
 Requestor: _____

Dept Affected: Natural Resources
 BRU: Resource Development
 Component: Land Development
 Component Serial No. 431

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	145.5	28.5	28.5	28.5	28.5	28.5
TRAVEL						
CONTRACTUAL	110.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	255.5	28.5	28.5	28.5	28.5	28.5

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	(20.3)	(40.8)	(60.0)	(81.2)	(101.5)	(121.8)
-------------------------------	---------------	---------------	---------------	---------------	----------------	----------------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	28.5	28.5	28.5	28.5	28.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	28.5	28.5	28.5	28.5	28.5	28.5

Estimate of any current year (FY96) cost: \$ None anticipated

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

The loss of revenue, which assumes no refinancing will be allowed, is partially a result of reducing the current interest rate from 12.5% to 8%.

Per Section 9 of the bill: Based upon the price paid to the State for the agricultural values only, the State will sustain losses ranging from \$0 to \$32.0 million at the time of subdivision, depending on participation.

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 475 land sales would be appealed on economics, at a cost of approximately \$240/appeal.

Prepared by: Jane Angva, Director
 Division: Land
 Approved by Commissioner: _____
 Agency: Natural Resources

Phone: 286-2501
 Date: 16-Jan-96
 Date: 16-Jan-96

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

ENATE COMMITTEE REPORT First Committee of Referral

DATE: 4/20/95

FURTHER: Finance

Date of 5-Day Notice: 10-13-95
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1-23-96

Resources Committee considered SB 162

Land and state land used for agricultural purposes or subject to the restriction of use; annulling certain program regulations of the Department of Natural Resources.

and recommends:

- be replaced with CS SB 162 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR _____

SIGNING DO PASS	DT	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			<input checked="" type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

New FN FORTHCOMING FOR CS			

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

DNR - Ag Dev	11-96		285	SB
DNR - Land Dev	11-96		227	SB

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Bill Version: SB 162 No. 1

Bill (S) Publish Date: 1/24/96

STATE OF ALASKA 1996 LEGISLATIVE SESSION

Revision Date: 17-Jan-96 Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural purposes and to state land classified for agricultural purposes BRU: Agricultural Development
 Sponsor: Senator Green Component: Agricultural Development
 Requestor: _____ Component Serial No. 455

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	28.5	28.5	28.5	28.5	28.5	28.5
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.5	28.5	28.5	28.5	28.5	28.5

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES (1005)	(20.3)	(40.6)	(60.9)	(81.2)	(101.5)	(121.8)
---------------------------	--------	--------	--------	--------	---------	---------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	28.5	28.5	28.5	28.5	28.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	28.5	28.5	28.5	28.5	28.5	28.5

Estimate of any current year (FY96) cost: \$ None anticipated

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 475 land sales would be appealed on economics, at a cost of approximately \$240/appeal.

The loss of revenue, which assumes no refinancing will be allowed, is partially a result of reducing the current interest rate from 12.5% to 8%.

Per Section 9 of the bill: Based upon the price paid to the State for the agricultural values only, the State will sustain losses ranging from \$0 to \$32.0 million at the time of subdivision, depending on participation.

Prepared by: Jay Mathias, Director Phone: 745-7500
 Division: Agriculture Date: 17-Jan-96
 Approved by Commissioner: _____ Date: 17-Jan-96
 Agency: Natural Resources

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

FISCAL NOTE

 Bill Version: SB 162Bill (S) Publish Date: 1/24/96

STATE OF ALASKA 1996 LEGISLATIVE SESSION

Revision Date: 17-Jan-96 Dept Affected: Natural Resources
 Title: An Act relating to land use for agricultural BRU: Resource Development
purposes and to state land classified for agricultural purposes Component: Land Development
 Sponsor: Senator Green
 Requestor: _____ Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	117.0					
TRAVEL						
CONTRACTUAL	110.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	227.0	0.0	0.0	0.0	0.0	0.0

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	227.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	227.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Section 12 & 13 are estimated to cost \$227.0 to implement.

Prepared by: Jane Angus, Director Phone: 286-8503
 Division: Land Date: 17-Jan-96
 Approved by: Commissioner Date: 17-Jan-96
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB162(FIN)

DRAFT

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to land use for agricultural purposes and to state land classified for agricultural purposes BRU: Resource Development
 Component: Land Development
 Sponsor: Senator Green
 Requestor: Senate Finance Component Serial No. 431

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	10.0	3.0	3.0			
TRAVEL						
CONTRACTUAL	5.0	0.5	0.5			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	15.0	3.5	3.5	0.0	0.0	0.0
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	15.0	3.5	3.5			
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	15.0	3.5	3.5	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

Sections 12 & 13 require the department to issue new conveyance documents to 230 existing patent holders. The bill, as amended, requires the land owner to apply and to provide the department with proof of ownership. This fiscal note will enable the department to attempt to notify all known existing patent holders by mail and to publish display ads at least twice in Delta, Fairbanks, Palmer and Anchorage. We will also develop a fact sheet of what will be required. The personal services costs will cover the costs of verifying title and to issue the new conveyance documents. We anticipate the majority of the applications to be received during the first year, with a smaller number coming in over the next two years.

Prepared by: Jane Angvik Phone: 286-8503
 Division: Land Date: 2-6-96
 Approved by Commissioner: John Kelly Date: 2-6-96
 Agency: Natural Resources

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

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB162(FIN)

Revision Date: 9-Feb-96 Dept Affected: Natural Resources
 Title: An Act relating to land use for agricultural BRU: Resource Development
purposes and to state land classified for agricultural purposes Component: Land Development
 Sponsor: Senator Green
 Requestor: Senate Rules/Senate Finance Component Serial No. 431

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	100	30	30			
TRAVEL						
CONTRACTUAL	50	0.5	0.5			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRAITS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	150	35	35	00	00	00
CAPITAL EXPENDITURES	00	00	00	00	00	00
CHANGE IN REVENUES ()	00	00	00	00	00	00

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	150	35	35			
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	150	35	35	00	00	00

Estimate of any current year (FY96) cost: \$ none

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Sections 12 & 13 require the department to issue new conveyance documents to 230 existing patent holders. The bill, as amended, requires the land owner to apply and to provide the department with proof of ownership. This fiscal note will enable the department to attempt to notify all known existing patent holders by mail and to publish display ads at least twice in Delta, Fairbanks, Palmer and Anchorage. We will also develop a fact sheet of what will be required. The personal services costs will cover the costs of verifying title and to issue the new conveyance documents. We anticipate the majority of the applications to be received during the first year, with a smaller number coming in over the next two years.

Prepared by: Jane Angvik, Director Phone: 269-8503
 Division: Land Date: 9-Feb-96
 Approved by Commissioner: [Signature] Date: 9-Feb-96
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB162(FIN)

Revision Date: <u>9-Feb-96</u>	Dept Affected: <u>Natural Resources</u>
Title: <u>An Act relating to land used for agricultural purposes and to state land classified for agricultural purposes</u>	BRU: <u>Agricultural Development</u>
Sponsor: <u>Senator Green</u>	Component: <u>Agricultural Development</u>
Requestor: <u>Senate Rules/Senate Finance</u>	Component Serial No. <u>455</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	28.5	11.4	11.4	11.4	11.4	11.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.5	11.4	11.4	11.4	11.4	11.4

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES (1005)						
---------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	28.5	28.5	28.5	28.5	28.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	28.5	28.5	28.5	28.5	28.5	28.5

Estimate of any current year (FY96) cost: \$ None anticipated

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 475 land sales would be appealed on economics the first year, at 10% in future years, at a cost of approximately \$240/appeal.

Under the assumption that this legislation is not retroactive, there will be no loss of revenue due to interest rate changes.

Prepared by: <u>Jay Kertula, Director</u>	Phone: <u>745-7200</u>
Division: <u>Agriculture</u>	Date: <u>9-Feb-96</u>
Approved by Commissioner: <u>[Signature]</u>	Date: <u>9-Feb-96</u>
Agency: <u>Natural Resources</u>	

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

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB162(ver K)

Revision Date: 24-Jan-98 Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural purposes and to state land classified for agricultural purposes BRU: Agricultural Development
 Sponsor: Senator Green Component: Agricultural Development
 Requestor: _____ Component Serial No. 455

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	28.5	11.4	11.4	11.4	11.4	11.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.5	11.4	11.4	11.4	11.4	11.4
TOTAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (1005)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	28.5	28.5	28.5	28.5	28.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	28.5	28.5	28.5	28.5	28.5	28.5

Estimate of any current year (FY98) cost: \$ None anticipated

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 475 land sales would be appealed on economics the first year, at 10% in future years, at a cost of approximately \$240/appeal.

Per Section 9 of the bill: Based upon the price paid to the State for the agricultural values only, the State will sustain losses ranging from \$0 to \$32.0 million at the time of subdivision, depending on participation.

Under the assumption that this legislation is not retroactive, there will be no loss of revenue due to interest rate changes.

Prepared by: Jay Kertula, Director Phone: 745-7200
 Division: Agriculture Date: 24-Jan-98
 Approved by Commissioner: _____ Date: 24-Jan-98
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB162(ver K)

Revision Date: 24-Jan-96 Dept Affected Natural Resources
 Title: An Act relating to land use for agricultural purposes and to state land classified for agricultural purposes BRU: Resource Development
 Component: Land Development
 Sponsor: Senator Green
 Requestor: _____ Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

	FY97	FY98	FY99	FY00	FY01	FY02
OPERATING EXPENDITURES						
PERSONAL SERVICES	103.4					
TRAVEL						
CONTRACTUAL	139.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	242.4	0.0	0.0	0.0	0.0	0.0
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)

	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	242.4					
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	242.4	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	1	0	0	0	0	0
PART-TIME	2	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Section 12 & 13 are estimated to cost \$242.4 to implement. See attached for cost breakdown.

Prepared by: Jane Angvik, Director Phone: 389-8503
 Division: Land Date: 24-Jan-96
 Approved by Commissioner: [Signature] Date: 24-Jan-96
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Attachment to CSSB162 1/24/96
 Land Development component

Staff would develop data base of all ag interest only patents, legal descriptions and name and address of patentees. Then contract the private sector; Title companies and attorneys to determine the current owner of the land, providing staff with an abstract of title/litigation report documenting the complete chain of title since the State patent was issued, including a diligent search of liens, judgements and tax assessors records. Upon receipt of report determining the current owner on the effective date of the bill, staff would issue a document conveying the remaining land estate interest. An application fee of \$500.00 could be charged to help defray the administrative costs which could provide \$115.0.

Process for Fiscal Impact:

1. Determine all agricultural patents with legal descriptions issued by the State and make copies of documents - approximately 230 patents.

- A. Create a data base and spreadsheet for tracking individual patents and legal descriptions.

- B. Create hard copy file of patents. Process will take approximately six weeks.

NROI	\$4.6 per month x 1.5	\$6.9
Admin Clerk	\$3.1 per month x 1.5	\$4.65
Computers/software and 2 hookups @ 4500		\$ 9.0
	Total	\$20.55

2. Develop bid package and contract for private sector title industry to determine current owner for the 230 Ag patents - time frame 3 weeks.

NRMI	\$6.0 per month x .75	\$4.5
Admin Clerk	\$3.1 per month x .5	\$1.55
	Total	\$6.05

3. Contract to private sector to do title work

- A. Title Abstract/Litigation Report plus all backup documents to determine current owner - copy of current owners title document with recording information. Abstract runs from date ag patent is issued from the State until current.

- B. Since this is a non-mandatory recordation state-check against tax assessors records as to who is current owner and identify any differences

- C. Check for liens, partnerships, security interests, etc.

Assumptions - one-half of original patents have one or more owners from the date of issuance, sale, bankruptcy, foreclosure, divorce, death, (heirs, etc.)

Average cost for multi-owner parcels - \$850.00 per patent.

One owner	\$ 250 x 115 patents	\$28.75
Multi-owner	\$ 850 x 115 patents	\$97.75
	Total	\$126.5

4. Administering contract - accepting litigation reports - review - four weeks

NRMI	\$6.0 per month x 1 month	\$6.0
------	---------------------------	-------

5. Public notice of a disposal of interest - change of covenant. Statewide newspapers - publication costs. \$3.5

6. Issue actual conveyance documents. Approximately 20 per week.

Contracts - NROI	\$4.6 per month x 6 mo.	\$27.6
Titles - NROI	\$4.6 per month x 6 mo.	\$27.6
Admin Clerk	\$3.1 per month x 6 mo.	\$18.6
Review NRMI	\$6.0 per month x 1 mo.	\$6.0
	Total	\$79.8

TOTAL	\$242.4
-------	---------

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB162(FIN)

Revision Date: 9-Feb-96 Dept Affected: Natural Resources
 Title: An Act relating to land use for agricultural purposes and to state land classified for agricultural purposes BRU: Resource Development
 Sponsor: Senator Green Component: Land Development
 Requestor: Senate Rules/Senate Finance Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

	FY97	FY98	FY99	FY00	FY01	FY02
OPERATING EXPENDITURES						
PERSONAL SERVICES	10.0	3.0	3.0			
TRAVEL						
CONTRACTUAL	5.0	0.5	0.5			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	15.0	3.5	3.5	0.0	0.0	0.0
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)

	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	15.0	3.5	3.5			
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	15.0	3.5	3.5	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Sections 12 & 13 require the department to issue new conveyance documents to 230 existing patent holders. The bill, as amended, requires the land owner to apply and to provide the department with proof of ownership. This fiscal note will enable the department to attempt to notify all known existing patent holders by mail and to publish display ads at least twice in Delta, Fairbanks, Palmer and Anchorage. We will also develop a fact sheet of what will be required. The personal services costs will cover the costs of verifying title and to issue the new conveyance documents. We anticipate the majority of the applications to be received during the first year, with a smaller number coming in over the next two years.

Prepared by: Jane Angrak, Director Phone: 289-8503
 Division: Land Date: 9-Feb-96
 Approved by Commissioner: [Signature] Date: 9-Feb-96
 Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSB162(FIN)

1996 LEGISLATIVE SESSION

Revision Date: 9-Feb-96 Dept Affected Natural Resources
 Title: An Act relating to land used for agricultural purposes and to state land classified for agricultural purposes BRU: Agricultural Development
 Sponsor: Senator Green Component: Agricultural Development
 Requestor: Senate Rules/Senate Finance Component Serial No. 455

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	28.5	11.4	11.4	11.4	11.3	11.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.5	11.4	11.4	11.4	11.4	11.4
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (1005)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	28.5	28.5	28.5	28.5	28.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	28.5	28.5	28.5	28.5	28.5	28.5

Estimate of any current year (FY96) cost: \$ None anticipated

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 475 land sales would be appealed on economics the first year, at 10% in future years, at a cost of approximately \$240/appeal.

Under the assumption that this legislation is not retroactive, there will be no loss of revenue due to interest rate changes.

Prepared by: Jay Kartulis, Director Phone: 745-7200
 Division: Agriculture Date: 9-Feb-96
 Approved by Commissioner: John Kelly Date: 9-Feb-96
 Agency: Natural Resources

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

2-9-96 SFC
Adopted
9-LS1021W.1
Chenoweth
1/26/96

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 162(RES)

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: CSSB 162 (Res)
Sponsor: _____ Date: 1-31-96
Logged In By: AK

- 1 Page 4, line 22:
- 2 Delete "shall"
- 3 Insert "may"

2-9-96 JFC
Adopted
9-LS1021M.3- as
Chenoweth amended
1/30/96
on
p. 2
line 14

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 162(RES)

SENATE FINANCE
COMMITTEE
Amendment Number: 2
Bill Number: CSSB 162 (Res)
Sponsor: _____ Date: 1-31-96
Logged In By:

1 Page 7, line 31, through page 8, line 16:

2 Delete all material and insert:

3 * Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR
4 UNDER FORMER AS 38.05.321(a). (a) The provisions of AS 38.05.321(a), as amended
5 by sec. 9 of this Act, apply to state land classified as agricultural land that, under
6 AS 38.05.069(c) or under AS 38.05.321(a) before its amendment by sec. 9 of this Act, was
7 subject to the limitation of the conveyance of only the interest in the land that related to
8 agricultural purposes and that was sold, leased, or disposed of by the state after August 15,
9 1976, and before the effective date of this Act.

10 (b) When the owner of the rights for agricultural purposes in land described in this
11 section applies to the Department of Natural Resources, the commissioner of natural resources
12 shall issue a new instrument of conveyance for the land that conforms to AS 38.05.321(a) and
13 (d), as amended and enacted by secs. 9 and 11 of this Act. The commissioner of natural
14 resources may issue a new instrument of conveyance under this section only if the owner of
15 the rights tenders a deed or other appropriate instrument of conveyance transmitting the
16 owner's interests in the land to the state, accompanied by title insurance coverage for or a
17 title report affirming ownership of the rights in the person making application under this
18 subsection.

19 (c) Until the commissioner of natural resources issues the new instrument of
20 conveyance under (b) of this section, when necessary to enforce a state interest in the land,
21 the state may enforce the interests in the land in the manner authorized by the instrument of
22 conveyance that transferred the rights for agricultural purposes.

23 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).
24 (a) The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
25 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10

1 of this Act, was subject to the limitation of the conveyance of only the interest in the land
2 that related to agricultural purposes and that was conveyed by the state to a municipality after
3 June 30, 1978, and before the effective date of this Act.

4 (b) When a municipality holding the rights for agricultural purposes in land described
5 in this section applies to the Department of Natural Resources, the commissioner of natural
6 resources shall issue a new instrument of conveyance for the land that conforms to
7 AS 38.05.321, as amended by secs. 9 - 11 of this Act. The commissioner of natural
8 resources may issue a new instrument of conveyance under this section only if the
9 municipality tenders a deed or other appropriate instrument of conveyance returning the
10 municipality's interests in the land to the state, accompanied by title insurance coverage for
11 or a title report affirming the municipality's ownership of the rights.

12 (c) Until the commissioner of natural resources issues the new instrument of
13 conveyance under (b) of this section, when necessary to enforce a state interest in the land,
14 the state ^{may} ~~shall~~ enforce the interests in the land in the manner authorized by the instrument of
15 conveyance that transferred the rights for agricultural purposes."

Amend. #3
p. 6
Adopted
9-LS1021UM
2/9/96

FIN
CS FOR SENATE BILL NO. 162(RFS)

IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 1/24/96
Referred: Finance

Sponsor(s): SENATORS GREEN, Torgerson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to land used for agricultural purposes and to state land
2 classified for agricultural purposes or subject to the restriction of use for
3 agricultural purposes only; and annulling certain program regulations of the
4 Department of Natural Resources that are inconsistent with the amendments made
5 by this Act."

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

7 * Section 1. LEGISLATIVE INTENT. It is the intent of the legislature in amending
8 AS 38.05.321(a) in sec. 9 of this Act that, for state land classified as agricultural land, the
9 state convey fee title subject to a covenant running with the land that limits use of the land
10 to agricultural purposes.

11 * Sec. 2. AS 38.04.045(b) is amended to read:

12 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
13 for state land, an official cadastral survey shall be accomplished, unless a comparable,

1 approved survey exists that has been conducted by the federal Bureau of Land
2 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
3 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
4 except land that is classified for agricultural uses, an official rectangular survey grid
5 shall be established. The rectangular survey section corner positions shall be
6 monumented and shown on a cadastral survey plat approved by the state. For those
7 areas where the state may wish to convey surface estate outside of an official
8 rectangular survey grid, the commissioner may waive monumentation of individual
9 section corner positions and substitute an official control survey with control points
10 being monumented and shown on control survey plats approved by the state. The
11 commissioner may not issue more than one conveyance for each section within a
12 township outside of an official rectangular survey grid. Land [NO PORTION OF
13 LAND] to be conveyed may not be located more than two miles from an official
14 survey control monument except that the commissioner may waive this requirement
15 on a determination that a single purpose use does not justify the requirement if the
16 existing status of the land is known with reasonable certainty. The lots and tracts in
17 state subdivisions shall be monumented and the cadastral survey and plats for the
18 subdivision shall be approved by the state. Where land is located within a
19 municipality with planning, platting, and zoning powers, plats for state subdivisions
20 shall comply with local ordinances and regulations in the same manner and to the same
21 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
22 and recorded in the district recorder's office. The requirements of this section do not
23 apply to land made available through a cabin permit system, for material sales, for
24 short-term leases, for parcels adjoining a surveyed right-of-way, or for land that has
25 been open to random staking under the remote parcel program or homestead program
26 in the past; however, for short-term leases, the lessee shall [MUST] comply with local
27 subdivision ordinances unless waived by the municipality under procedures specified
28 by ordinance. In this subsection, "a single purpose use" includes a communication site,
29 an aid to navigation, and a park site.

30 * Sec. 3. AS 38.04.005(h) is amended to read:

31 (h) Before the commissioner adopts a regional land use plan, a land

1 classification may be made on the basis of a site-specific land use plan, except a
2 classification for a land disposal under AS 38.05.057, AS 38.08, or AS 38.09 [, OR
3 A NEW COMMERCIAL AGRICULTURE PROJECT UNDER AS 38.05.020(b)(6)].
4 After adoption of a regional land use plan, land classifications shall be made under the
5 plan.

6 • Sec. 4. AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
10 to the director to carry out specific functions and duties; regulations adopted by the
11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders
12 by the commissioner classifying land, issued after January 3, 1959, are not required
13 to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the purposes
15 of this chapter, including agreements with federal and state agencies;

16 (3) review any order or action of the director;

17 (4) exercise the powers and do the acts necessary to carry out the
18 provisions and objectives of this chapter;

19 (5) notwithstanding the provisions of any other section of this chapter,
20 grant an extension of the time within which payments due on any exploration license,
21 lease, or sale of state land, minerals, or materials may be made, including payment of
22 rental and royalties, on a finding that compliance with the requirements is or was
23 prevented by reason of war, riots, or acts of God;

24 (6) classify tracts for agricultural uses [AND REQUIRE THE
25 PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION
26 PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR
27 PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN
28 AGRICULTURAL DEVELOPMENT PROJECT UNDER AS 44.33.475];

29 (7) waive, postpone, or otherwise modify the development requirements
30 of a contract for the sale of agricultural land if

31 (A) the land is inaccessible by road, or [AND]

1 (B) transportation, marketing, and development costs render the
2 required development uneconomic;

3 (8) reconvey or relinquish land or an interest in land to the federal
4 government if

5 (A) the land is described in an amended application for an
6 allotment under 43 U.S.C. 1617; and

7 (B) the reconveyance or relinquishment is

8 (i) for the purposes provided in 43 U.S.C. 1617; and

9 (ii) in the best interests of the state.

10 • Sec. 5. AS 38.05.057(j) is amended to read:

11 (j) The commissioner may require a participant in a lottery under this section
12 for the sale of land that is part of an agricultural development project under former
13 AS 44.33.475 to submit a single application for that land. Immediately following the
14 drawing of an applicant's name in the lottery, the applicant shall be given an
15 opportunity to select for purchase one parcel of the land that is offered in the lottery.
16 The names of alternate applicants shall be drawn after all parcels have been selected.
17 If the applicant who originally selected a parcel unequivocally rejects the offer to
18 purchase the parcel or fails to sign the contract of sale within the period of time
19 specified by the commissioner, the parcel shall be offered for sale to alternate
20 applicants in the order in which their names were drawn.

21 • Sec. 6. AS 38.05.059 is repealed and reenacted to read:

22 Sec. 38.05.059. SALE OF AGRICULTURAL LAND. The commissioner shall *May*
23 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses *Amend*
24 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state *# 1*
25 subdivision requirements and municipal ordinances.

26 • Sec. 7. AS 38.05.065(c) is amended to read:

27 (c) The director shall, for contracts under (a), [OR] (b), or (h) of this section,
28 set out in the contract for each sale the period for the payment of installments and the
29 total purchase price plus interest. The director, with the consent of the commissioner,
30 may also include in contracts under this section conditions, limitations, and terms
31 considered necessary and proper to protect the interest of the state. Violations of any

1 provision of this chapter or the terms of the contract of sale subject the purchaser to
2 appropriate administrative and legal action, including but not limited to specific
3 performance, foreclosure, ejectment, or other legal remedies in accordance with
4 applicable state law.

5 * Sec. 8. AS 38.05.065(h) is amended to read:

6 (h) The commissioner

7 (1) shall provide that, notwithstanding (a) and (b) of this section,
8 in a contract for the sale of land classified under AS 38.05.020(b)(6) for
9 agricultural uses, the interest rate to be charged on installment payments may not
10 exceed 9.5 percent; and

11 (2) may declare a moratorium of up to five years on payments on land
12 sold under this section for [A SALE OF AGRICULTURAL] land classified under
13 AS 38.05.020(b)(6) for agricultural uses [UNDER THIS SECTION] if

14 (A) [(1)] the commissioner determines that the moratorium is
15 in the best interest of the state;

16 (B) [(2)] the commissioner certifies and the contract purchaser
17 agrees to perform farm development, crop production, and harvesting, not
18 including land clearing or related activity, requiring the expenditure of amounts
19 equivalent to the payments that would otherwise be made during the
20 moratorium;

21 (C) [(3)] the sale of the agricultural land takes place after
22 July 1, 1979; and

23 (D) [(4)] the contract purchaser is in compliance with the
24 development plan specified in the purchase contract at the time the purchaser
25 applies for a moratorium under this subsection and remains in compliance with
26 the development plan during the moratorium; for the payments subject to the
27 moratorium declared under this paragraph, interest [INTEREST]
28 payments are subject to the moratorium but interest continues to accrue during
29 the moratorium.

30 * Sec. 9. AS 38.05.321(e) is repealed and reenacted to read:

31 (a) The department shall include in a document that conveys state land

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

classified as agricultural land

(1) a covenant running with the land that restricts or limits the use of the land exclusively for agricultural purposes;

(2) a covenant running with the land permitting the owner of state land classified as agricultural land to subdivide and sell the land in not more than four parcels of not less than 40 acres each; and

*Amend.
3
Adopted
2-9-46*

none of the four allowable parcels may be further resubdivided.

delete

~~(3) a covenant running with the land permitting the owner of land subdivided, whether subdivided under (2) of this subsection or under this paragraph, to further subdivide and sell the subdivided land in not more than four parcels of not less than 40 acres each, provided that a subdivision and sale under this paragraph may not occur sooner than four years after the last previous subdivision and sale of the land under (2) of this subsection or this paragraph.~~

* Sec. 10. AS 38.05.321(b) is amended to read:

(b) Subject to (a) of this section, state [STATE] land classified as agricultural land that has been selected by a municipality under former AS 29.18.190 - 29.18.200 or former AS 29.18.205(e) may be approved by the director for patent under AS 29.65.050(c) [; HOWEVER, ONLY RIGHTS IN THE LAND FOR AGRICULTURAL PURPOSES MAY BE TRANSFERRED AND ALL OTHER INTERESTS IN THE LAND WILL REMAIN WITH THE STATE]. Agricultural land approved for patent to a municipality shall be credited, acre for acre, toward fulfillment of that municipality's entitlement under AS 29.65.010 - 29.65.030 or former AS 29.18.201 - 29.18.203. [IF THE DIRECTOR LATER DETERMINES IT TO BE IN THE BEST INTERESTS OF THE STATE TO TRANSFER SOME OR ALL OF THE ADDITIONAL RIGHTS IN THAT APPROVED OR PATENTED AGRICULTURAL LAND, THOSE RIGHTS SHALL PASS WITHOUT CONSIDERATION TO THE MUNICIPALITY IN WHICH THE LAND IS LOCATED. THE NOTICE AND REVIEW PROVISIONS OF AS 38.05.945 ARE APPLICABLE TO CONVEYANCE OF RIGHTS UNDER THIS SECTION.]

* Sec. 11. AS 38.05.321 is amended by adding new subsections to read:

(d) For state land classified as agricultural land that is conveyed under (a) of this section,

1 (1) the commissioner may require the landowner to cooperate with the
2 appropriate soil and water conservation district under AS 41.10 in the development and
3 implementation of soil conservation plans as authorized by AS 41.10.110(6);

4 (2) as a condition of the conveyance, the commissioner may not require
5 preparation and implementation of a farm development plan unless the commissioner
6 permits modification of a plan in cases of economic hardship or other extenuating
7 circumstances;

8 (3) the commissioner may not limit

9 (A) the landowner's right to construct improvements related to
10 agricultural use;

11 (B) the landowner's right to use the land and improvements for
12 purposes that are incidental to and not inconsistent with the primary use of the
13 land for agricultural purposes; and

14 (C) the landowner's right to subdivide and sell the land if the
15 resulting parcels are not in violation of the minimum parcel size set out in
16 (a)(2) of this section.

17 (e) A covenant described in (a) of this section may be enforced only by a civil
18 action.

19 (f) In this section, "agricultural purposes" means

20 (1) the production of plants and animals useful to man, including forage
21 and sod crops, grains and feed crops, fruits, trees, and vegetables, dairy animals and
22 products, and live stock;

23 (2) the construction of fixed, permanent, or immovable structures
24 reasonably required for or related to agricultural production, including that farmstead
25 normally required for yards, driveways, parking, barns, and other outbuildings, and
26 similar uses;

27 (3) the use of gravel reasonably required for agricultural production on
28 the parcel conveyed; and

29 (4) removal and disposition of timber in order to bring agricultural land
30 into production.

31 * Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR UNDER

1 FORMER AS 38.05.321(a). The provisions of AS 38.05.321(a), as amended by sec. 9 of this
2 Act, apply to state land classified as agricultural land that, under AS 38.05.069(c) or under
3 AS 38.05.321(a) before its amendment by sec. 9 of this Act, was subject to the limitation of
4 the conveyance of only the interest in the land that related to agricultural purposes and that
5 was sold, leased, or disposed of after August 15, 1976, and before the effective date of this
6 Act. The commissioner of natural resources shall issue a new instrument of conveyance for
7 the land that conforms to AS 38.05.321(a) and (d), as amended and enacted by secs. 9 and 11
8 of this Act.

9 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).
10 The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
11 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10
12 of this Act, was subject to the limitation of the conveyance of only the interest in the land that
13 related to agricultural purposes and that was conveyed to a municipality after June 30, 1978,
14 and before the effective date of this Act. The commissioner of natural resources shall issue
15 a new instrument of conveyance for the land that conforms to AS 38.05.321, as amended by
16 secs. 9 - 11 of this Act.

17 * Sec. 14. The following regulations are annulled: 11 AAC 67.162, 11 AAC 67.165, 11
18 AAC 67.167(d), 11 AAC 67.170, 11 AAC 67.172, 11 AAC 67.175(1), 11 AAC 67.185, 11
19 AAC 67.187, 11 AAC 67.188(a)(3), 11 AAC 67.188(a)(4), 11 AAC 67.188(a)(5), 11 AAC
20 67.188(a)(6), 11 AAC 67.188(b), 11 AAC 67.188(c), 11 AAC 67.190(a), 11 AAC 67.192.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 12, 1996

SUBJECT: Draft CSSB 162 (Finance), relating to agriculture, to state land used for agriculture and to state land classified for agricultural purposes, to state agricultural programs, and to related matters -- sectional analysis (Work Order No. 9-LS102110)

TO: Senator Lyda Green
ATTN: Brett Huber

FROM: Jack Chenoweth
Legislative Counsel

The bill generally addresses state policy with respect to agriculture. It proposes changes in laws bearing on state land used for agriculture, to state land classified for agricultural use purposes, to laws under which the state conducts its agricultural program, and to statutes addressing closely related matters. Its principal thrust is to change the interests in land classified for agricultural purposes that the state has conveyed or may convey. If the measure becomes law, it contemplates that the state would convey fee simple title subject only to certain restrictive covenants that would underpin use of the land for agricultural purposes. Action based on alleged breach of the conditions of the covenants would be the sole enforcement mechanism available to the commissioner of natural resources, on behalf of the state, to protect the land used or classified for agriculture against inconsistent or non-authorized uses.

The measure's provisions may be roughly grouped into seven areas:

- (1) Substitution of conveyance or transfer of fee simple title for conveyance or transfer of only the rights in the land for agricultural purposes.
- (2) Land classification issues relating to agricultural land.
- (3) Survey issues relating to agricultural land.
- (4) Installment sale issues relating to agricultural land.
- (5) Amendments eliminating limitations and similar prequalification requirements that may be imposed by the commissioner with respect to agricultural land.

Senator Lyda Green
February 12, 1996
Page 2

(6) Technical changes.

(7) Transitional provisions.

Because of the wide-ranging nature of the bill, let me present the discussion of these provisions topically rather than sequentially.

Substitution of conveyance or transfer of fee simple title:

Bill section 1: This "statement of legislative intent" makes clear the objective of the measure's principal operative provision, the amendment of AS 38.05.321(a) by bill section 9, that

... for state land classified as agricultural land, the state [shall] convey fee title subject to a covenant running with the land that limits use of the land for agricultural purposes.

Bill section 9: Under existing AS 38.05.321(a), disposal of state land that has been classified for agricultural purposes disposes only of "rights for agricultural purposes," the state retaining all other rights. This bill section eliminates that limitation and substitutes for it a general conveyance, coupled with the requirement that the instrument of conveyance contains certain covenants respecting the subsequent use of that land. The covenants' provisions are those limiting the use of the land to agricultural purposes and allowing subdivision of the land, one time only, with certain limitations.

Bill section 10 modifies AS 38.05.321(b) by eliminating from current law the limitation that, for land classified as agricultural land that is later selected by a municipality in the exercise of land selection rights set out in AS 29.18, only "rights in the land for agricultural purposes may be transferred" to the municipality, with all other interests in the land retained by the state.

Land classification issues:

AS 38.04.065(h) currently permits the commissioner of natural resources to make land classifications on the basis of site-specific plans for many purposes when no regional plan has yet been adopted. However, under that subsection, use of a site-specific plan will not support a land classification for "a new commercial agricultural project." **Bill section 3** amends AS 38.04.065(h) to eliminate the current exception against use of a site-specific plan to support a land classification for a new commercial agricultural project in that subsection.

Land survey issues:

Bill section 2 amends AS 38.04.045(b) to eliminate the requirement that state land classified for agricultural uses must first be surveyed before it may be leased, and makes corrective language changes to conform the subsection to technical provisions of the Legislative Drafting Manual.

Bill section 6 authorizes sale of state land classified for agricultural uses in parcels or tracts described by aliquot parts.

Installment sale issues relating to agricultural land:

In light of the change proposed to the rate of interest charged on installment sales contracts by bill section 8, bill section 7 makes a conforming change to AS 38.05.065(c) to require that certain information be incorporated into land sale contracts involving the sale of state land classified for agricultural uses.

AS 38.05.065(a) and (b) prescribe requirements generally applicable to sale of state land on installment specifying, among other things, the manner of determining the rate of interest on the outstanding loan payments. Those provisions notwithstanding, the amendment made in proposed AS 38.05.065(h)(1), set out in bill section 8, prescribe a maximum rate of interest on installment sales of state land classified for agricultural uses of 9.5 percent.

Amendments eliminating limitations and similar prequalification requirements that bear on agricultural land:

Bill section 4 modifies the authority of the commissioner of natural resources set out in AS 38.05.020(b)(6) to classify tracts of state land for agricultural use. It would eliminate all "prequalification" requirements that are incidental to the commissioner's exercise of that authority, thereby obviating requirements of preliminary submissions of agricultural plans by persons who sought to participate under the former agricultural development project statute (AS 44.33.375, repealed in 1979). Bill section 4 also operates to amend the condition under which development requirements under state agricultural land sale contracts may be modified under AS 38.05.020(b)(7) to allow modification if either one of the two expressed conditions is met (rather than, under current law, both conditions).

Bill section 11, adding new subsections (d) and (e) to AS 38.05.321, enumerates certain things that the commissioner of natural resources may and may not do or require as to land classified as agricultural land that is conveyed to third parties, and supplies a definition for the phrase "agricultural purposes."

Senator Lyda Green
February 12, 1996
Page 4

Bill section 14 annuls a significant number of the program regulations applicable to the program under which the Department of Natural Resources disposes of the agricultural interest in state land classified as agricultural land.

Technical changes:

AS 44.33.375, referred to in AS 38.05.057(j), was repealed by ch. 75, SLA 1979. The requirement of AS 38.05.075(j) that a participant in a lottery for land that is part of the former agricultural development plan submit a single application for that land may have ongoing vitality. The provision is retained, with reference to the repealed provision, AS 44.33.375, modified by the addition, in bill section 5, of the word "former" to denote that section's previous repeal.

The amendment made in proposed AS 38.05.065(h)(2), set out in bill section 8, modifies the reference to "agricultural land" to substitute reference to state land that has been classified for agricultural uses and made subject to sale.

Transitional provisions:

Bill section 12, a temporary law provision, directs that, on application of the existing holder of rights for agricultural purposes in state land, the commissioner of natural resources to issue new instruments of conveyance as to land classified as agricultural land as to which only agricultural rights have been conveyed. The substituted conveyance instruments must conform to AS 38.05.321(a) and (d), as amended by the measure.

Bill section 13, a second temporary law provision, directs that, on application of a municipality, the commissioner of natural resources to issue new instruments of conveyance to the municipality as to land classified as agricultural land as to which only agricultural rights have been conveyed. The substituted conveyance instruments must conform to AS 38.05.321(b), as amended by the measure.

cc: Kathy Holmquist
Senate Finance Committee

JBC:klb
96-100.klb

Enclosure

Transmitted
2-9-96
11:10am

A FAX

Alaska State Legislature

Date: 2-9-96

To: Legal Services - Jack Chenoweth

Fax #: 2029 Phone #: 2450

From: Kathy - Senate Finance

Phone #: 2618

Re: Using CSSB 162 (Res) as the basis, please
prepare a draft CSSB (Fin) incorporating
the attached 3 amendments. Please
deliver the draft to Room 520 of
the capitol building.

Following this page, please find 4 pages(s). If this does not reach you in full, please inform us ASAP.



THANK YOU

2-9-96
A. L. Lister

9-LS1021W.1 -
Chenoweth
1/26/96

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 162(RES)

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: CSSB 162 (Res)
Sponsor: _____ Date: 1-31-96
Logged In By: AL

- 1 Page 4, line 22:
- 2 Delete "shall"
- 3 Insert "may"

2-9-96
Adopted
as
9-LS1021M.3 am
Chenoweth p.2
1/30/96

AMENDMENT

*Makes bill
applicant driver*

OFFERED IN THE SENATE
TO: CSSB 162(RES)

SENATE FINANCE
COMMITTEE
Amendment Number: 2
Bill Number: CSSB 162 (Res)
Sponsor: _____ Date: 1-31-96
Logged In By: lu

1 Page 7, line 31, through page 8, line 16:

2 Delete all material and insert:

3 * * Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR
4 UNDER FORMER AS 38.05.321(a). (a) The provisions of AS 38.05.321(a), as amended
5 by sec. 9 of this Act, apply to state land classified as agricultural land that, under
6 AS 38.05.069(c) or under AS 38.05.321(a) before its amendment by sec. 9 of this Act, was
7 subject to the limitation of the conveyance of only the interest in the land that related to
8 agricultural purposes and that was sold, leased, or disposed of by the state after August 15,
9 1976, and before the effective date of this Act.

10 (b) When the owner of the rights for agricultural purposes in land described in this
11 section applies to the Department of Natural Resources, the commissioner of natural resources
12 shall issue a new instrument of conveyance for the land that conforms to AS 38.05.321(a) and
13 (d), as amended and enacted by secs. 9 and 11 of this Act. The commissioner of natural
14 resources may issue a new instrument of conveyance under this section only if the owner of
15 the rights tenders a deed or other appropriate instrument of conveyance transmitting the
16 owner's interests in the land to the state, accompanied by title insurance coverage for or a
17 title report affirming ownership of the rights in the person making application under this
18 subsection.

19 (c) Until the commissioner of natural resources issues the new instrument of
20 conveyance under (b) of this section, when necessary to enforce a state interest in the land,
21 the state may enforce the interests in the land in the manner authorized by the instrument of
22 conveyance that transferred the rights for agricultural purposes.

23 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).
24 (a) The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
25 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10

1 of this Act, was subject to the limitation of the conveyance of only the interest in the land
2 that related to agricultural purposes and that was conveyed by the state to a municipality after
3 June 30, 1978, and before the effective date of this Act.

4 (b) When a municipality holding the rights for agricultural purposes in land described
5 in this section applies to the Department of Natural Resources, the commissioner of natural
6 resources shall issue a new instrument of conveyance for the land that conforms to
7 AS 38.05.321, as amended by secs. 9 - 11 of this Act. The commissioner of natural
8 resources may issue a new instrument of conveyance under this section only if the
9 municipality tenders a deed or other appropriate instrument of conveyance returning the
10 municipality's interests in the land to the state, accompanied by title insurance coverage for
11 or a title report affirming the municipality's ownership of the rights.

12 (c) Until the commissioner of natural resources issues the new instrument of
13 conveyance under (b) of this section, when necessary to enforce a state interest in the land,
14 the state ^{may} ~~shall~~ enforce the interests in the land in the manner authorized by the instrument of
15 conveyance that transferred the rights for agricultural purposes."

CS FOR SENATE BILL NO. 162 ~~RES~~ ^{Fin}

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 1/24/96
Referred: Finance

Sponsor(s): SENATORS GREEN, Torgerson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to land used for agricultural purposes and to state land
2 classified for agricultural purposes or subject to the restriction of use for
3 agricultural purposes only; and annulling certain program regulations of the
4 Department of Natural Resources that are inconsistent with the amendments made
5 by this Act."

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

7 * Section 1. LEGISLATIVE INTENT. It is the intent of the legislature in amending
8 AS 38.05.321(a) in sec. 9 of this Act that, for state land classified as agricultural land, the
9 state convey fee title subject to a covenant running with the land that limits use of the land
10 to agricultural purposes.

11 * Sec. 2. AS 38.04.045(b) is amended to read

12 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
13 for state land, an official cadastral survey shall be accomplished, unless a comparable,

1 approved survey exists that has been conducted by the federal Bureau of Land
2 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
3 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
4 except land that is classified for agricultural uses, an official rectangular survey grid
5 shall be established. The rectangular survey section corner positions shall be
6 monumented and shown on a cadastral survey plat approved by the state. For those
7 areas where the state may wish to convey surface estate outside of an official
8 rectangular survey grid, the commissioner may waive monumentation of individual
9 section corner positions and substitute an official control survey with control points
10 being monumented and shown on control survey plats approved by the state. The
11 commissioner may not issue more than one conveyance for each section within a
12 township outside of an official rectangular survey grid. Land [NO PORTION OF
13 LAND] to be conveyed may not be located more than two miles from an official
14 survey control monument except that the commissioner may waive this requirement
15 on a determination that a single purpose use does not justify the requirement if the
16 existing status of the land is known with reasonable certainty. The lots and tracts in
17 state subdivisions shall be monumented and the cadastral survey and plats for the
18 subdivision shall be approved by the state. Where land is located within a
19 municipality with planning, platting, and zoning powers, plats for state subdivisions
20 shall comply with local ordinances and regulations in the same manner and to the same
21 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
22 and recorded in the district recorder's office. The requirements of this section do not
23 apply to land made available through a cabin permit system, for material sales, for
24 short-term leases, for parcels adjoining a surveyed right-of-way, or for land that has
25 been open to random staking under the remote parcel program or homestead program
26 in the past, however, for short-term leases, the lessee shall [MUST] comply with local
27 subdivision ordinances unless waived by the municipality under procedures specified
28 by ordinance. In this subsection, "a single purpose use" includes a communication site,
29 an aid to navigation, and a park site.

30 * Sec. 3. AS 38.04.065(h) is amended to read

31 (h) Before the commissioner adopts a regional land use plan, a land

1 classification may be made on the basis of a site-specific land use plan, except a
2 classification for a land disposal under AS 38.05.057, AS 38.08, or AS 38.09 [, OR
3 A NEW COMMERCIAL AGRICULTURE PROJECT UNDER AS 38.05.020(b)(6)].
4 After adoption of a regional land use plan, land classifications shall be made under the
5 plan.

6 * Sec. 4. AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
10 to the director to carry out specific functions and duties; regulations adopted by the
11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders
12 by the commissioner classifying land, issued after January 3, 1959, are not required
13 to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the purposes
15 of this chapter, including agreements with federal and state agencies;

16 (3) review any order or action of the director;

17 (4) exercise the powers and do the acts necessary to carry out the
18 provisions and objectives of this chapter;

19 (5) notwithstanding the provisions of any other section of this chapter,
20 grant an extension of the time within which payments due on any exploration license,
21 lease, or sale of state land, minerals, or materials may be made, including payment of
22 rental and royalties, on a finding that compliance with the requirements is or was
23 prevented by reason of war, riots, or acts of God;

24 (6) classify tracts for agricultural uses [AND REQUIRE THE
25 PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION
26 PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR
27 PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN
28 AGRICULTURAL DEVELOPMENT PROJECT UNDER AS 44.33.475].

29 (7) waive, postpone, or otherwise modify the development requirements
30 of a contract for the sale of agricultural land if

31 (A) the land is inaccessible by road, or [AND]

1 (B) transportation, marketing, and development costs render the
2 required development uneconomic;

3 (8) reconvey or relinquish land or an interest in land to the federal
4 government if

5 (A) the land is described in an amended application for an
6 allotment under 43 U.S.C. 1617; and

7 (B) the reconveyance or relinquishment is

8 (i) for the purposes provided in 43 U.S.C. 1617; and

9 (ii) in the best interests of the state.

10 * Sec. 5. AS 38.05.057(j) is amended to read:

11 (j) The commissioner may require a participant in a lottery under this section
12 for the sale of land that is part of an agricultural development project under former
13 AS 44.33.475 to submit a single application for that land. Immediately following the
14 drawing of an applicant's name in the lottery, the applicant shall be given an
15 opportunity to select for purchase one parcel of the land that is offered in the lottery.
16 The names of alternate applicants shall be drawn after all parcels have been selected.
17 If the applicant who originally selected a parcel unequivocally rejects the offer to
18 purchase the parcel or fails to sign the contract of sale within the period of time
19 specified by the commissioner, the parcel shall be offered for sale to alternate
20 applicants in the order in which their names were drawn.

21 * Sec. 6. AS 38.05.059 is repealed and reenacted to read:

22 Sec. 38.05.059. SALE OF AGRICULTURAL LAND. The commissioner shall
23 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses
24 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
25 subdivision requirements and municipal ordinances.

26 * Sec. 7. AS 38.05.065(c) is amended to read:

27 (c) The director shall, for contracts under (a), [OR] (b), or (h) of this section,
28 set out in the contract for each sale the period for the payment of installments and the
29 total purchase price plus interest. The director, with the consent of the commissioner,
30 may also include in contracts under this section conditions, limitations, and terms
31 considered necessary and proper to protect the interest of the state. Violations of any

1 provision of this chapter or the terms of the contract of sale subject the purchaser to
2 appropriate administrative and legal action, including but not limited to specific
3 performance, foreclosure, ejectment, or other legal remedies in accordance with
4 applicable state law.

5 * Sec. 8. AS 38.05.065(h) is amended to read:

6 (h) The commissioner

7 (1) shall provide that, notwithstanding (a) and (b) of this section,
8 in a contract for the sale of land classified under AS 38.05.020(b)(6) for
9 agricultural uses, the interest rate to be charged on installment payments may not
10 exceed 9.5 percent; and

11 (2) may declare a moratorium of up to five years on payments on land
12 sold under this section for [A SALE OF AGRICULTURAL] land classified under
13 AS 38.05.020(b)(6) for agricultural uses [UNDER THIS SECTION] if

14 (A) [(1)] the commissioner determines that the moratorium is
15 in the best interest of the state;

16 (B) [(2)] the commissioner certifies and the contract purchaser
17 agrees to perform farm development, crop production, and harvesting, not
18 including land clearing or related activity, requiring the expenditure of amounts
19 equivalent to the payments that would otherwise be made during the
20 moratorium;

21 (C) [(3)] the sale of the agricultural land takes place after
22 July 1, 1979; and

23 (D) [(4)] the contract purchaser is in compliance with the
24 development plan specified in the purchase contract at the time the purchaser
25 applies for a moratorium under this subsection and remains in compliance with
26 the development plan during the moratorium; for the payments subject to the
27 moratorium declared under this paragraph, interest [INTEREST]
28 payments are subject to the moratorium but interest continues to accrue during
29 the moratorium.

30 * Sec. 9. AS 38.05.321(a) is repealed and reenacted to read:

31 (a) The department shall include in a document that conveys state land

1 classified as agricultural land

2 (1) a covenant running with the land that restricts or limits the use of
3 the land exclusively for agricultural purposes;

4 (2) a covenant running with the land permitting the owner of state land
5 classified as agricultural land to subdivide and sell the land in not more than four
6 parcels of not less than 40 acres each; and *none of the four allowable parcels
may be further resubdivided.*

7 ~~(2) a covenant running with the land permitting the owner of land~~
8 ~~subdivided, whether subdivided under (2) of this subsection or under this paragraph,~~
9 ~~to further subdivide and sell the subdivided land in not more than four parcels of not~~
10 ~~less than 40 acres each, provided that a subdivision and sale under this paragraph may~~
11 ~~not occur sooner than four years after the last previous subdivision and sale of the land~~
12 ~~under (2) of this subsection or this paragraph.~~ *Delete*

*Hand
#3*

*Adopted
2/9/96*

13 * Sec. 10. AS 38.05.321(b) is amended to read:

14 (b) Subject to (a) of this section, state [STATE] land classified as agricultural
15 land that has been selected by a municipality under former AS 29.18.190 - 29.18.200
16 or former AS 29.18.205(e) may be approved by the director for patent under
17 AS 29.65.050(c) [; HOWEVER, ONLY RIGHTS IN THE LAND FOR
18 AGRICULTURAL PURPOSES MAY BE TRANSFERRED AND ALL OTHER
19 INTERESTS IN THE LAND WILL REMAIN WITH THE STATE]. Agricultural land
20 approved for patent to a municipality shall be credited, acre for acre, toward fulfillment
21 of that municipality's entitlement under AS 29.65.010 - 29.65.030 or former
22 AS 29.18.201 - 29.18.203. [IF THE DIRECTOR LATER DETERMINES IT TO BE
23 IN THE BEST INTERESTS OF THE STATE TO TRANSFER SOME OR ALL OF
24 THE ADDITIONAL RIGHTS IN THAT APPROVED OR PATENTED
25 AGRICULTURAL LAND, THOSE RIGHTS SHALL PASS WITHOUT
26 CONSIDERATION TO THE MUNICIPALITY IN WHICH THE LAND IS
27 LOCATED. THE NOTICE AND REVIEW PROVISIONS OF AS 38.05.945 ARE
28 APPLICABLE TO CONVEYANCE OF RIGHTS UNDER THIS SECTION.]

29 * Sec. 11. AS 38.05.321 is amended by adding new subsections to read:

30 (d) For state land classified as agricultural land that is conveyed under (a) of
31 this section,

1 (1) the commissioner may require the landowner to cooperate with the
2 appropriate soil and water conservation district under AS 41.10 in the development and
3 implementation of soil conservation plans as authorized by AS 41.10.110(6);

4 (2) as a condition of the conveyance, the commissioner may not require
5 preparation and implementation of a farm development plan unless the commissioner
6 permits modification of a plan in cases of economic hardship or other extenuating
7 circumstances;

8 (3) the commissioner may not limit

9 (A) the landowner's right to construct improvements related to
10 agricultural use;

11 (B) the landowner's right to use the land and improvements for
12 purposes that are incidental to and not inconsistent with the primary use of the
13 land for agricultural purposes; and

14 (C) the landowner's right to subdivide and sell the land if the
15 resulting parcels are not in violation of the minimum parcel size set out in
16 (a)(2) of this section.

17 (e) A covenant described in (a) of this section may be enforced only by a civil
18 action.

19 (f) In this section, "agricultural purposes" means

20 (1) the production of plants and animals useful to man, including forage
21 and sod crops, grains and feed crops, fruits, trees, and vegetables, dairy animals and
22 products, and livestock;

23 (2) the construction of fixed, permanent, or immovable structures
24 reasonably required for or related to agricultural production, including that farmstead
25 normally required for yards, driveways, parking, barns, and other outbuildings, and
26 similar uses;

27 (3) the use of gravel reasonably required for agricultural production on
28 the parcel conveyed; and

29 (4) removal and disposition of timber in order to bring agricultural land
30 into production.

31 * Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.060(c) OR UNDER

1 FORMER AS 38.05.321(a). The provisions of AS 38.05.321(a), as amended by sec. 9 of this
2 Act, apply to state land classified as agricultural land that, under AS 38.05.069(c) or under
3 AS 38.05.321(a) before its amendment by sec. 9 of this Act, was subject to the limitation of
4 the conveyance of only the interest in the land that related to agricultural purposes and that
5 was sold, leased, or disposed of after August 15, 1976, and before the effective date of this
6 Act. The commissioner of natural resources shall issue a new instrument of conveyance for
7 the land that conforms to AS 38.05.321(a) and (d), as amended and enacted by secs. 9 and 11
8 of this Act.

9 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).

10 The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
11 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10
12 of this Act, was subject to the limitation of the conveyance of only the interest in the land that
13 related to agricultural purposes and that was conveyed to a municipality after June 30, 1978,
14 and before the effective date of this Act. The commissioner of natural resources shall issue
15 a new instrument of conveyance for the land that conforms to AS 38.05.321, as amended by
16 secs. 9 - 11 of this Act.

17 * Sec. 14. The following regulations are annulled: 11 AAC 67.162, 11 AAC 67.165, 11
18 AAC 67.167(d), 11 AAC 67.170, 11 AAC 67.172, 11 AAC 67.175(1), 11 AAC 67.185, 11
19 AAC 67.187, 11 AAC 67.188(a)(3), 11 AAC 67.188(a)(4), 11 AAC 67.188(a)(5), 11 AAC
20 67.188(a)(6), 11 AAC 67.188(b), 11 AAC 67.188(c), 11 AAC 67.190(a), 11 AAC 67.192.

2-9-96

Larry -

Legal Services outdid itself and returned a draft CSSB 162 (Fin) long before the Monday deadline. Have highlighted Amendments 1, 2, and 3 within the draft. Amendment No. 3 (p. 6, lines 6 and 7) was rewritten by the drafter. I have attached the original motion language for comparison. Will send a copy of this material to both the sponsor and Senator Sharp (the original maker of Amendment No. 3). Let me know how everyone feels about this.

Thanks,

Kathy
2618

SIB 162 in Comm.

P. 6 line 6-7

New LANG.

check & see if the
new lang. meets
your desire -
Check as soon poss.
let Cathy know -

2/13/96

Larry OKayed
for Sen. Halford.

Cathy

Looks
Good to
me.

Sen. Sharp

2-9-96

Brett Huber
c/o Senator Green

Attached is a draft CSSB 162 (Fin) containing changes made in Senate Finance this morning. I have highlighted Amendments 1, 2, and 3 within the draft. Amendment No. 3 (p. 6, lines 6 and 7) was rewritten by the drafter. I have attached the original motion language for comparison. Am sending a copy of this material to Larry in Senator Halford's office and to Senator Sharp (the original maker of Amendment No. 3). Please advise if the draft is acceptable.

Thanks,

Kathy
Senate Finance
7618

*2/12/96
Draft was okayed
by Brett for Sen. Green
via voicemail message
Sat. 2/10 at 12:30pm. kh*

NOTE

TO: Larry
FROM: Kathy
DATE: February 9, 1996
RE: CSSB 162 (Finance)

Transmitted the attached changes to Legal Services this morning and was advised that because of crunch of personal bill deadline, a draft will not be returned to us until Monday morning. Will that delay cause any problems?

Kathy
2618

Highlighted draft showing amendments.

9-LS1021NO
Chenoweth
2/9/96

CS FOR SENATE BILL NO. 162(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS GREEN, Torgerson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to land used for agricultural purposes and to state land
2 classified for agricultural purposes or subject to the restriction of use for
3 agricultural purposes only; and annulling certain program regulations of the
4 Department of Natural Resources that are inconsistent with the amendments made
5 by this Act."

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

7 • Section 1. LEGISLATIVE INTENT. It is the intent of the legislature in amending
8 AS 38.05.321(a) in sec. 9 of this Act that, for state land classified as agricultural land, the
9 state convey fee title subject to a covenant running with the land that limits use of the land
10 to agricultural purposes.

11 • Sec. 2. AS 38.04.045(b) is amended to read:

12 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
13 for state land, an official cadastral survey shall be accomplished, unless a comparable.

1 approved survey exists that has been conducted by the federal Bureau of Land
2 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
3 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
4 except land that is classified for agricultural uses, an official rectangular survey grid
5 shall be established. The rectangular survey section corner positions shall be
6 monumented and shown on a cadastral survey plat approved by the state. For those
7 areas where the state may wish to convey surface estate outside of an official
8 rectangular survey grid, the commissioner may waive monumentation of individual
9 section corner positions and substitute an official control survey with control points
10 being monumented and shown on control survey plats approved by the state. The
11 commissioner may not issue more than one conveyance for each section within a
12 township outside of an official rectangular survey grid. Land [NO PORTION OF
13 LAND] to be conveyed may not be located more than two miles from an official
14 survey control monument except that the commissioner may waive this requirement
15 on a determination that a single purpose use does not justify the requirement if the
16 existing status of the land is known with reasonable certainty. The lots and tracts in
17 state subdivisions shall be monumented and the cadastral survey and plats for the
18 subdivision shall be approved by the state. Where land is located within a
19 municipality with planning, platting, and zoning powers, plats for state subdivisions
20 shall comply with local ordinances and regulations in the same manner and to the same
21 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
22 and recorded in the district recorder's office. The requirements of this section do not
23 apply to land made available through a cabin permit system, for material sales, for
24 short-term leases, for parcels adjoining a surveyed right-of-way, or for land that has
25 been open to random staking under the remote parcel program or homestead program
26 in the past; however, for short-term leases, the lessee shall [MUST] comply with local
27 subdivision ordinances unless waived by the municipality under procedures specified
28 by ordinance. In this subsection, "a single purpose use" includes a communication site,
29 an aid to navigation, and a park site.

30 • Sec. 3. AS 38.04.065(h) is amended to read:

31 (h) Before the commissioner adopts a regional land use plan, a land

1 classification may be made on the basis of a site-specific land use plan, except a
2 classification for a land disposal under AS 38.05.057, AS 38.08, or AS 38.09 [, OR
3 A NEW COMMERCIAL AGRICULTURE PROJECT UNDER AS 38.05.020(b)(6)].
4 After adoption of a regional land use plan, land classifications shall be made under the
5 plan.

6 • Sec. 4. AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
10 to the director to carry out specific functions and duties; regulations adopted by the
11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders
12 by the commissioner classifying land, issued after January 3, 1959, are not required
13 to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the purposes
15 of this chapter, including agreements with federal and state agencies;

16 (3) review any order or action of the director;

17 (4) exercise the powers and do the acts necessary to carry out the
18 provisions and objectives of this chapter;

19 (5) notwithstanding the provisions of any other section of this chapter,
20 grant an extension of the time within which payments due on any exploration license,
21 lease, or sale of state land, minerals, or materials may be made, including payment of
22 rental and royalties, on a finding that compliance with the requirements is or was
23 prevented by reason of war, riots, or acts of God;

24 (6) classify tracts for agricultural uses [AND REQUIRE THE
25 PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION
26 PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR
27 PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN
28 AGRICULTURAL DEVELOPMENT PROJECT UNDER AS 44.33.475];

29 (7) waive, postpone, or otherwise modify the development requirements
30 of a contract for the sale of agricultural land if

31 (A) the land is inaccessible by road; or [AND]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(B) transportation, marketing, and development costs render the required development uneconomic;

(8) reconvey or relinquish land or an interest in land to the federal government if

(A) the land is described in an amended application for an allotment under 43 U.S.C. 1617; and

(B) the reconveyance or relinquishment is

(i) for the purposes provided in 43 U.S.C. 1617; and

(ii) in the best interests of the state.

* Sec. 5. AS 38.05.057(j) is amended to read:

(j) The commissioner may require a participant in a lottery under this section for the sale of land that is part of an agricultural development project under former AS 44.33.475 to submit a single application for that land. Immediately following the drawing of an applicant's name in the lottery, the applicant shall be given an opportunity to select for purchase one parcel of the land that is offered in the lottery. The names of alternate applicants shall be drawn after all parcels have been selected. If the applicant who originally selected a parcel unequivocally rejects the offer to purchase the parcel or fails to sign the contract of sale within the period of time specified by the commissioner, the parcel shall be offered for sale to alternate applicants in the order in which their names were drawn.

* Sec. 6. AS 38.05.059 is repealed and reenacted to read:

Sec. 38.05.059. SALE OF AGRICULTURAL LAND. The commissioner ~~(may)~~ ^{Amend. # 1} provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state subdivision requirements and municipal ordinances.

* Sec. 7. AS 38.05.065(c) is amended to read:

(c) The director shall, for contracts under (a), ~~[OR] (b), or (h)~~ of this section, set out in the contract for each sale the period for the payment of installments and the total purchase price plus interest. The director, with the consent of the commissioner, may also include in contracts under this section conditions, limitations, and terms considered necessary and proper to protect the interest of the state. Violations of any

1 provision of this chapter or the terms of the contract of sale subject the purchaser to
 2 appropriate administrative and legal action, including but not limited to specific
 3 performance, foreclosure, ejection, or other legal remedies in accordance with
 4 applicable state law.

5 * Sec. 8. AS 38.05.065(h) is amended to read:

6 (h) The commissioner

7 (1) shall provide that, notwithstanding (a) and (b) of this section,
 8 in a contract for the sale of land classified under AS 38.05.020(b)(6) for
 9 agricultural uses, the interest rate to be charged on installment payments may not
 10 exceed 9.5 percent; and

11 (2) may declare a moratorium of up to five years on payments on land
 12 sold under this section for [A SALE OF AGRICULTURAL] land classified under
 13 AS 38.05.020(b)(6) for agricultural uses [UNDER THIS SECTION] if

14 (A) [(1)] the commissioner determines that the moratorium is
 15 in the best interest of the state;

16 (B) [(2)] the commissioner certifies and the contract purchaser
 17 agrees to perform farm development, crop production, and harvesting, not
 18 including land clearing or related activity, requiring the expenditure of amounts
 19 equivalent to the payments that would otherwise be made during the
 20 moratorium;

21 (C) [(3)] the sale of the agricultural land takes place after
 22 July 1, 1979; and

23 (D) [(4)] the contract purchaser is in compliance with the
 24 development plan specified in the purchase contract at the time the purchaser
 25 applies for a moratorium under this subsection and remains in compliance with
 26 the development plan during the moratorium; for the payments subject to the
 27 moratorium declared under this paragraph, interest [INTEREST]
 28 payments are subject to the moratorium but interest continues to accrue during
 29 the moratorium.

30 * Sec. 9. AS 38.05.321(a) is repealed and reenacted to read:

31 (a) The department shall include in a document that conveys state land

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

classified as agricultural land

(1) a covenant running with the land that restricts or limits the use of the land exclusively for agricultural purposes; and

(2) a covenant running with the land permitting the owner of state land classified as agricultural land to subdivide and sell the land in not more than four parcels of not less than 40 acres each and (prohibiting the parcels resulting from the subdivision that is authorized by this paragraph from being further subdivided.)

* Sec. 10. AS 38.05.321(b) is amended to read:

(b) Subject to (a) of this section, state [STATE] land classified as agricultural land that has been selected by a municipality under former AS 29.18.190 - 29.18.200 or former AS 29.18.205(e) may be approved by the director for patent under AS 29.65.050(c) [; HOWEVER, ONLY RIGHTS IN THE LAND FOR AGRICULTURAL PURPOSES MAY BE TRANSFERRED AND ALL OTHER INTERESTS IN THE LAND WILL REMAIN WITH THE STATE]. Agricultural land approved for patent to a municipality shall be credited, acre for acre, toward fulfillment of that municipality's entitlement under AS 29.65.010 - 29.65.030 or former AS 29.18.201 - 29.18.203. [IF THE DIRECTOR LATER DETERMINES IT TO BE IN THE BEST INTERESTS OF THE STATE TO TRANSFER SOME OR ALL OF THE ADDITIONAL RIGHTS IN THAT APPROVED OR PATENTED AGRICULTURAL LAND, THOSE RIGHTS SHALL PASS WITHOUT CONSIDERATION TO THE MUNICIPALITY IN WHICH THE LAND IS LOCATED. THE NOTICE AND REVIEW PROVISIONS OF AS 38.05.945 ARE APPLICABLE TO CONVEYANCE OF RIGHTS UNDER THIS SECTION.]

* Sec. 11. AS 38.05.321 is amended by adding new subsections to read:

(d) For state land classified as agricultural land that is conveyed under (a) of this section,

(1) the commissioner may require the landowner to cooperate with the appropriate soil and water conservation district under AS 41.10 in the development and implementation of soil conservation plans as authorized by AS 41.10.110(6);

(2) as a condition of the conveyance, the commissioner may not require preparation and implementation of a farm development plan unless the commissioner

*Amend.
3
Language
as
rewritten
by
drafter*

1 permits modification of a plan in cases of economic hardship or other extenuating
2 circumstances;

3 (3) the commissioner may not limit

4 (A) the landowner's right to construct improvements related to
5 agricultural use;

6 (B) the landowner's right to use the land and improvements for
7 purposes that are incidental to and not inconsistent with the primary use of the
8 land for agricultural purposes; and

9 (C) the landowner's right to subdivide and sell the land if the
10 resulting parcels are not in violation of the minimum parcel size set out in
11 (a)(2) of this section.

12 (c) A covenant described in (a) of this section may be enforced only by a civil
13 action.

14 (f) In this section, "agricultural purposes" means

15 (1) the production of plants and animals useful to man, including forage
16 and sod crops, grains and feed crops, fruits, trees, and vegetables, dairy animals and
17 products, and livestock;

18 (2) the construction of fixed, permanent, or immovable structures
19 reasonably required for or related to agricultural production, including that farmstead
20 normally required for yards, driveways, parking, barns, and other outbuildings, and
21 similar uses;

22 (3) the use of gravel reasonably required for agricultural production on
23 the parcel conveyed; and

24 (4) removal and disposition of timber in order to bring agricultural land
25 into production.

26 * Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR UNDER
27 FORMER AS 38.05.321(a). (a) The provisions of AS 38.05.321(a), as amended by sec. 9
28 of this Act, apply to state land classified as agricultural land that, under AS 38.05.069(c) or
29 under AS 38.05.321(a) before its amendment by sec. 9 of this Act, was subject to the
30 limitation of the conveyance of only the interest in the land that related to agricultural
31 purposes and that was sold, leased, or disposed of by the state after August 15, 1976, and

1 before the effective date of this Act.

2 (b) When the owner of the rights for agricultural purposes in land described in this
3 section applies to the Department of Natural Resources, the commissioner of natural resources
4 shall issue a new instrument of conveyance for the land that conforms to AS 38.05.321(a) and
5 (d), as amended and enacted by secs. 9 and 11 of this Act. The commissioner of natural
6 resources may issue a new instrument of conveyance under this section only if the owner of
7 the rights tenders a deed or other appropriate instrument of conveyance transmitting the
8 owner's interests in the land to the state, accompanied by title insurance coverage for or a title
9 report affirming ownership of the rights in the person making application under this
10 subsection.

11 (c) Until the commissioner of natural resources issues the new instrument of
12 conveyance under (b) of this section, when necessary to enforce a state interest in the land,
13 the state may enforce the interests in the land in the manner authorized by the instrument of
14 conveyance that transferred the rights for agricultural purposes.

15 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).

16 (a) The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
17 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10
18 of this Act, was subject to the limitation of the conveyance of only the interest in the land that
19 related to agricultural purposes and that was conveyed by the state to a municipality after
20 June 30, 1978, and before the effective date of this Act.

21 (b) When a municipality holding the rights for agricultural purposes in land described
22 in this section applies to the Department of Natural Resources, the commissioner of natural
23 resources shall issue a new instrument of conveyance for the land that conforms to
24 AS 38.05.321, as amended by secs. 9 - 11 of this Act. The commissioner of natural resources
25 may issue a new instrument of conveyance under this section only if the municipality tenders
26 a deed or other appropriate instrument of conveyance returning the municipality's interests in
27 the land to the state, accompanied by title insurance coverage for or a title report affirming
28 the municipality's ownership of the rights.

29 (c) Until the commissioner of natural resources issues the new instrument of
30 conveyance under (b) of this section, when necessary to enforce a state interest in the land,
31 the state may enforce the interests in the land in the manner authorized by the instrument of

*Amend
at 2
as
amended*

1 conveyance that transferred the rights for agricultural purposes.)

2 * Sec. 14. The following regulations are annulled: 11 AAC 67.162, 11 AAC 67.165, 11
3 AAC 67.167(d), 11 AAC 67.170, 11 AAC 67.172, 11 AAC 67.175(1), 11 AAC 67.185, 11
4 AAC 67.187, 11 AAC 67.188(a)(3), 11 AAC 67.188(a)(4), 11 AAC 67.188(a)(5), 11 AAC
5 67.188(a)(6), 11 AAC 67.188(b), 11 AAC 67.188(c), 11 AAC 67.190(a), 11 AAC 67.192.

ALASKA STATE LEGISLATURE



Interim
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3371

Session
Juneau, Alaska 99801-1182
(907) 463-6600
Fax 463-3905

SENATOR LYDA GREEN
SENATE DISTRICT N

MEMORANDUM

TO: Senator Rick Halford, Chairman
Senator Steve Frank, Chairman
Senate Finance Committee

FROM: Senator Lyda Green *LD*

DATE: January 22, 1996

SUBJECT: Hearing request / Senate Bill 162

=====

I respectfully request that you schedule a Senate Finance Committee hearing for Senate Bill 162 at your earliest convenience.

As you are aware from the Senate Resources Committee hearings, the administration is now supportive of this legislation providing the issues of interest rate and payment for new document conveyance are addressed. Mr. Swanson, Division of Lands has indicated his desire to work with me and your committee to address these areas.

Please let me know how I can be of assistance. Thank you for your consideration of this request.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105


MEMORANDUM

January 27, 1996

SUBJECT: CSSB 162(RES), relating to state land used for agriculture and to state land classified for agricultural purposes -- retroactivity of installment payment interest rate provision (Work Order 9-LS1021M)

TO: Senator Lyda Green
ATTN: Brett Huber

FROM: Jack Chenoweth
Legislative Counsel



You've asked me to address whether or not the provision setting the maximum interest rate on installment payments for land sale contracts for state land classified for agricultural purposes is retroactive.

In my judgment, it is not.

The state has a definite statutory policy against retroactive application of statutes. Under AS 01.10.090, for a statute to operate or apply retrospectively, there must be language that expressly so provides. Nothing in CSSB 162(RES) does that. The courts will not infer retrospective application of a provision.

The maximum interest rate provision should operate only as to installment payments for land sale contracts for state land classified for agricultural purposes entered into on or after the bill's taking effect.

JBC:glc
96-056.glc

Enclosure

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 23, 1996

SUBJECT: Draft CSSB 162 () relating to state land used for agriculture and to state land classified for agricultural purposes – municipal conveyance (Work Order No. 9-LS1021\K)

TO: Senator Lyda Green
ATTN: Brett Huber

FROM: Jack Chenoweth
Legislative Counsel

I have been asked to address whether or not covenants restricting use of land to agricultural purposes attach to land transferred to municipalities.

Where, until now, the state has conveyed to municipalities only the agricultural rights to land, CSSB 162's section 13 directs the commissioner of natural resources to issue new instruments of conveyance to the municipalities. These substituted conveyance instruments, together with any new conveyances to municipalities for the first time, must conform to AS 38.05.321, as amended by this measure. Under amended AS 38.05.321(a)(1), that municipal land is subject to the restrictive covenants.

JBC:kjb
96-020.klb

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND

3801 C STREET, SUITE 1122
ANCHORAGE, ALASKA 99503-5947
PHONE: (907) 782-2882
FAX: (907) 782-2529

January 18, 1996

JAN 22 1996

The Honorable Loren Leman
Chairman, Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3000)
Juneau, Alaska 99801-1182

Re: SB 162

Dear Senator Leman:

At the January 17, 1996 hearing two questions were asked that I could not answer at the time that I promised to follow-up on before the next hearing.

First was a question by Senator Halford concerning prequalification of bidders for agricultural tracts. The statutory reference for prequalification is AS 38.05.020(b)(6). Senator Halford was correct that there was a Superior Court case on this very issue.

In 1981 the Superior Court ruled that, at the time, the state had no authority to prequalify bidders on the Pt. MacKenzie sale. In response to the court decision the legislature, in 1982 as part of HB 418 (CL 129 SLA 82), gave the department authority to pre-qualify bidders for agricultural tracts. The statutory authority for prequalification has never been tested in the courts since it was passed.

The second question dealt with how interest rates, particularly for federal farm loans are determined.

General Information

The Alaska Lands Act provides for the disposal of state land for private use. Commercial banks and lending institutions normally will not finance the acquisition of unimproved land, especially in remote areas. To reduce the instances of speculation and promote the transfer of state land to the broadest spectrum of the Alaskan population, AS 38.05.065 was passed by the legislature to allow the purchase of land on an installment basis. The contract obligors are not subject to a credit check. A five percent down payment is the only requirement. Title to the land is not conveyed until the installment contract is completely paid.

History of Interest Rate Charged

In 1979, the statute (AS 38.05.065) was changed to establish how the interest rate on land sale contracts should be determined. The statute allows for installment payments over a period of 20 years, with interest at the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed.

The federal land bank was superseded by the Farm Credit Service (FCS) in the 1980's. From 1979 to 1987, only one rate was furnished each month to Division of Land (DOL) by either the federal land bank or FCS. In 1987, FCS provided DOL three variable interest rates classified as Tier I, II, or III. The rates varied from 9.75% for Tier I to 12.25% for Tier III. FCS used the Tier I rate for the most credit worthy applicants. DOL chose to use the Tier III rate since credit information was not required from the contract applicant.

In 1988, FCS replaced the three variable rate tier system. The new system for agriculture loans included four variable interest rates for each of eight different terms (one to thirty years). Each of the 32 rates was subject to a rate code adjustment for credit worthiness. A credit of .61% was allowed for a 5% buy down of the principal (down payment). On November 28, 1988, DOL Director's Policy 89-06, established rate code 6 as the rate that DOL would use as the adjustment for the financial condition of the average Alaska borrower. Rate code 6 increased the base rate by 1%.

FCS again changed their rate methodology in September 1989. They established one base rate for the eight different terms. A variable rate was used for shorter duration loans (one or five years). For long term loans (ten to thirty years), the one rate that was quoted was a fixed interest rate mortgage. FCS continued to use the six rate codes for credit worthiness. Although they offered fixed rate and variable rate loans, most loans issued were variable rate loans. An attorney for FCS, in July 1989, determined that an equitable fixed rate mortgage loan rate would be 1.75% more than the variable rate used by FCS. Therefore, from September 1989 through December 1994, DOL used the base rate provided by FCS for a 20-year mortgage and adjusted this interest rate upwards 1.75% for the variable to fixed rate adjustment, and increased it an additional 1.00% for the rate code 6 adjustment. This 2.75% increase was then reduced by .61% because land sale contract obligors were required to make a 5% down payment.

In April 1991, FCS again changed their rating system for credit worthiness from six rate codes to five alpha ratings (AAA, AA, A, B, C) for both fixed and variable rate mortgages. They continued to offer the eight different terms. A loan with a rating of AAA was reserved for the most credit worthy applicants. At this time, FCS stopped granting a credit for a down payment amount. Since the FCS is not a public lending institution, it can establish its own rates that favor

particular markets and customers. It can, and does, discriminate against less credit worthy borrowers.

Interest Rate Methodology

The interest rate used by DNR is one of the five rates (AAA, AA, A, B, C) used by FCS for twenty-year, fixed-rate real estate mortgages. The reasons for choosing the "A" rate include:

- a. The "A" rate is the midpoint rate. If one standard rate is chosen, then contract obligors at both ends of the credit worthiness spectrum may pay more or less interest than they should; however, using a mid-range will lessen the financial impact to the average contract obligor.
- b. The rating methodology used by FCS to determine the credit worthiness of an applicant is proprietary information and is not known by DNR. Therefore, even if DNR would obtain credit information from the contract obligor, it would be impossible for DNR to match the credit worthiness of a land sale contract obligor to any one of the five rates provided by FCS.
- c. DNR does not require credit information from the contract obligors. Therefore, DNR does not have the information to decide what credit worthiness rate it apply to each land sale contract. Absent a specific rate to charge, a midpoint rate is the logical one to use.
- d. The AAA rate is reserved for the most credit worth contract obligor. Normally, a borrower who has received the highest credit worthiness rating from a financial institution will not default on loan payments or have the loan terminated because of lack of payment. The average new DNR land sale contract obligor does not meet these high credit worthy criteria. During 1994, DNR issued 1,126 default notices on approximately 3,700 land sale contracts. The default notice is the first action in the foreclosure process. Most of these defaults were cured before DNR took final action to foreclose on the contracts. However, since 1987 approximately 1,000 contracts were relinquished, terminated, or foreclosed on. Therefore, using the midpoint A rate recognizes the implied financial condition of the average DNR land sale contract obligor.

The interest rate for January 1996 is 9.45%. It has been steadily dropping over the past year when it reached an all time high of 12.35%.

SB 162

January 18, 1996

Page 4

In order for the public to easily determine our interest rate, we are proposing in HB 191 to set the interest at the "prime rate" as published in the Wall Street Journal plus 4%. This rate recognizes private market conditions and our inability to establish a credit worthiness rate for each individual sale contract.

I hope this answers the committee's questions. Please feel free to contact me if there are any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Swanson". The signature is stylized with a large initial "R" and "S".

Ron Swanson

Deputy Director

cc: Carol Carroll
Jay Kertulla
Pat Pourchot

Bill D. Ward
P.O. Box 350
Soldotna, Ak. 99669
907-262-5135

WRITTEN TESTIMONY

SENATE BILL 162 "AN ACT RELATING TO AGRICULTURE LAND"

I have provided testimony in support of SB-162 before the Senate Resources committee and I would refer to those minutes for further information. While there are many arguments to support passage of this legislation, I will limit this testimony to the financial benefits of this bill.

The DNR has submitted a fiscal note to this bill which I believe to be totally erroneous and intended to diminish support for this bill. Passage of this legislation will restore private property rights, allow the private sector to manage the development of an industry, and save the state money by reducing the unnecessary interference of the bureaucracy. In conflict with the DNR position, I submit that:

The passage of SB-162 will:

1) **Save the State money by:** reducing the number of DNR employees necessary to administrate agriculture land contracts and monitor utilization compliance. For years the Division of Agriculture has employed two-three people whose job has been to administrate sale contracts and provide inspection of the development schedules. Glen Franklin and Ed Arobio in Fairbanks are both contract administrators and portions of the staff in Palmer work on contract administration. I recently purchased two ag-rights parcels from the state. To comply with all the existing regulations for ag-rights land the Division of Agriculture spent over 100 hours of time just to conclude the sale. Yearly compliance checks will consume more time. That doesn't allow for all the time I invested just to provide the required information. With the passage of SB-162 there will be significant less staff time required to administrate agriculture land sales and the DNR staff can use their time in more productive ways such as organizing new land sales or developing expanded markets. Aspects of the bill will also reduce the direct costs of land sales, expedite the process, and save the state money.

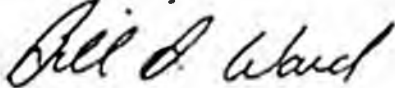
2) **Make money for the State by:** facilitating land sales which provide revenue and improve the economy of the State. Much of the land which is already classified for agriculture is currently unproductive and not making money for anyone. If the land is sold at a fair price and the buyer has the opportunity to make independent business decisions, then the state will benefit from the revenue of the land sale. Land sales are in the best interest of the state and profitable when they enhance the quality of life and stimulate economic ventures which have a reasonable chance for success. Many of the previous sales which failed were doomed to failure when the state imposed unrealistic development demands on the buyer, saddled

them with high interest rates, and controlled the operations of the farm. The passage of SB-162 will give land buyers a reasonable chance for success and the initiative of the private sector will expand the agriculture economy and the growth of Alaska.

3) **Prevent conflict and save money by:** addressing the problem of existing ag-rights patents which are inconsistent and conflict with the language of statute. I have seen at least four ag-rights patents which have been issued each with different versions of what is transferred by title. There has been an ongoing dispute regarding the intent of statute, the policy of regulation, and the legal basis of the ag-rights patents. Unless something is done to correct the problem a challenge is inevitable and the costs for everyone to resolve it will be high. Regardless the Div. of Lands will eventually have to reissue new patents to either meet the intent of existing statute or to comply with SB-162.

4) **Stimulate the economy of Alaska by:** eliminating the burden of over-regulation, poor land title, and cumbersome land sales which has hampered the growth of agriculture. People who want to get into agriculture today will bring forth significant personal assets, business expertise, and a dedication to make their enterprise succeed. The federal Farm Credit Service and other commercial lenders are willing to invest money into the development of private farms and the cash flow from these businesses will support local economies. The disposal of a portion of Alaska's land, which is otherwise unproductive, into a environmentally sound resource based economy is a good investment for the state and critical for the rural economy of Alaska. By turning the land and investment over to the private sector the state does not assume the risk and enjoys the benefits of the successes of Alaska's citizens.

Submitted by:



Bill D. Ward

. SB 178

Small Employer Health Insurance

By: Rieger

Scheduled: 2/6/96

Previously Heard:

Increases size of small employers eligible for mandatory coverage from 25 to 50 employees.

Folder contains: Schedule request, sponsor statement, letters of support, and a comparison of similiar requirements, state by state. There is a zero fiscal note.

Trac (Tray) Anderson of Blue Cross of AK & WA to testify from Seattle.

PREVIOUS SENATE COMMITTEE ACTION:

1 L&C 3 DP, 2 NR
 DP: Miller, Torgerson, Kelly
 NR: Duncan, Salo

2 FIN

FISCAL NOTES:	1	Total:	\$0.0
1 DCED		\$0.0 Zero fiscal note for FY97.	
Insurance			

AMENDMENTS:

HOUSE ACTION:

None yet.

Witness(es)

Representative from the Division of Insurance.

Gordon Evans representing Health Insurance Assn. of America

Teleconference site: direct dial (206) 670-5483

800 478-7612

Trac Anderson, Sr. Vice-President of Blue Cross to testify from Seattle.

Jeff Duzenberg of Blue Cross at Anchorage LIO to answer questions.

Support letters Letters of support received from: Baldwin Financial Concepts, Lincoln Financial Group, Southern Alaska Life Underwrites Assn., Hagen Insurance, David Frazier & Associates, Pension Services, Ltd., Health Insurance Association of America, and National Federation of Independent Business.

Opposed: Trac Anderson, representing Blue Cross of Washington & Alaska.

Scheduling Comments:

2/5/96 Teleconference Anchorage LIO & direct dial Seattle.

2/5/96 Asked JR to confirm teleconference call; will relay message

2/5/96 Alerted Betty to call from JR

2/5/96 Additional letter of support, Betty/Rieger

2/2/96 Call from Jerry Reinwand (JR) indicating concern

1/31/96 verbal request to schedule

1/25/96 verbal request to schedule

Sponsor	Staff	Phone	Fax
Betty	Hargrave	6594	

Blue Cross Wash.

Sharon (206) 670-4015

Mr. Duzenberg 258-5065 (307) ~~567-5065~~ (wrong no.)

1-700 222-1000 (teleconference dial in)

(If not ATT prefix 10866)

Left voice mail message re: rescheduling to 2/9 (4:40pm)

Asked that he call for teleconf. instructions.

Terry Allard (wamax)