

HB

191

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSHB 191(FIN)

Revision Date: Original Dept Affected Natural Resources
 Title: "An Act relating to the management and BRU: Management and Administration
disposal of state land and resources; ..." Component: Information Resource Management
 Sponsor: Reps. Theriault, James and Brice
 Requester: Senate Resources Component Serial No. 427

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	65.0					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	65.0	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	65.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	65.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

HB191 revises the current land disposal program and adds a new Remote Cabin Site/Lease program. The Department of Natural Resources is responsible for tracking all resource activity on state land. The programs introduced in this bill require the department's current land record systems to be modified to track this new information. Modifications must be made in the Revenue and Billing System to track new lease rentals, homesite permit fees, and remote cabin site revenue. Modifications must be made in the Land Administration System to track the new programs, which requires setting up case types and transactions. And, modifications must be made in the Land Status GIS system to map the new activities on state status plats, the state's graphic land record maps of land ownership and resource activity. The costs for these modifications is \$18.0.

Section 4 changes the department's classification reporting requirement to the legislature. To accurately report total acres in selected classification categories, the department must enter all outstanding classification

Prepared by: Marco Elias, Acting Director Phone: 465-2406
 Division: Support Services Date: 28-Feb-98
 Approved by Commissioner: [Signature] Date: 28-Feb-98
 Agency: Natural Resources

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Fiscal Note for CSSH B 191 (FIN)

orders on the department's computer database, the Land Administration System, then develop a report that can be generated every other year. Once all the classifications have been entered, the department will maintain that information and the report will be automatically generated without additional labor costs. The one time cost to bring the department's records up to date and develop the report is \$47.0. Without this funding, the report must continue to be manually created by staff researching two years of classification orders, tallying the acres by classification, determining which classifications supersede previous classifications, and estimating the remaining acreage in each classification category. This information is then compiled with the historic classification report, which may or may not accurately account for the total acres in each classification category being requested. By using the computer to track the classification acres, the department will be able to report this information at a fraction of the cost it takes to do it manually.

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSSHB 191 (Fin)

1996 LEGISLATIVE SESSION

Revision Date: 16-Jan-98 Dept Affected Natural Resources
 Title: An Act relating to the management and disposal of state land and resources... BRU: Resource Development
 Sponsor: Representative Therriault Component: Land Development
 Requestor: Senate Resources Component Serial No. 431

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02	
PERSONAL SERVICES	125.0	125.0	125.0	125.0	125.0	125.0	
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0	
CONTRACTUAL SUPPLIES	20.0	20.0	20.0	20.0	20.0	20.0	
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	150.0	150.0	150.0	150.0	150.0	150.0	
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	
CHANGE IN REVENUES (1005)	213.8	289.0	383.0	488.0	552.0	610.0	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts	150.0	150.0	150.0	150.0	150.0	150.0	
1008 GF/MHTIA							
Other							
TOTAL	150.0	150.0	150.0	150.0	150.0	150.0	

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

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

ANALYSIS: (Attach a separate page if necessary)

The operating expenditures are necessary to offset the elimination of the positions in the FY 97 proposed budget. The program was reduced based on the current law that says that shore fishery leases are non-mandatory and that only reasonable administrative costs to cover the expenses of the program can be charged. With passage of HB 191 fair market value for the leases may be charged when they come up for renewal. The two positions that administer the program need to be funded so that the additional revenue to the state can be realized.

The changes proposed in this bill will generate more revenues for the state based on increased revenues for aquatic farm and shore fishery leases; increased applications and service fees for land disposals; and a requirement that all land disposals be for at least fair-market value.

Prepared by: Ron Swanson Phone: 289-8503
 Division: Land Date: 16-Jan-98
 Approved by Commissioner: [Signature] Date: _____
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSS HB 191 (FIN)

Revision Date: _____ Dept. Affected: Department of Law
 Title: *An Act relating to the management and disposal of state land and resources . . . BRU: Civil Division
 Sponsor: Representative Theriault Component: General Legal Services
 Requester: House Resources Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill substantially revises Title 38, relating to the disposal of state land and resources, particularly remote parcel and homestead entry land purchase transactions. Most of the revisions have the effect of clarifying existing law and make the disposal process more efficient and up-to-date. Consequently, the bill will not have a fiscal impact for the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/12/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/12/96
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSHB 191(FIN)

Revision Date: 1/11/98 Dept. Affected: Fish and Game
 Title: Management of State Land BRU: Habitat and Restoration
 and Resources _____ Component: Habitat
 Sponsor: Representative Theriault
 Requester: House Finance COMPONENT SERIAL NO. _____ 488

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL						

Estimate of any current year (FY98) cost: \$ 0

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)

Prepared by: Janet Kowalski
 Division: Habitat and Restoration
 Approved by Commissioner: Frank Rue
 Agency: Fish and Game

Phone: 485-3065
 Date: 1/11/98
 Date: 1/11/98

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SENATE COMMITTEE REFERRAL
First Committee of Referral

DATE: 1/11/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 1-30-96

The Resources Committee considered CS SSHB 191(FIN)

Management and disposal of state land and resources; relating to certain remote parcel and homestead entry land purchase contracts and patents; efd.

and recommends:

- be replaced with SEN CS HB 191 (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^e

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Adrian Taylor</i>	<input checked="" type="checkbox"/>	<i>Rick Halford</i> <i>Kealce</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Loren D. Selman</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Secret</i>			
<i>trans to</i>			
<i>Committee</i>			
<i>1/11/96</i>			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 191(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, James, Brice

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the management and disposal of state land and resources;
2 relating to certain remote parcel and homestead entry land purchase contracts
3 and patents; and providing for an effective date."

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

5 ▪ Section 1. AS 09.10.120 is amended by adding a new subsection to read:

6 (b) Notwithstanding (a) of this section or any other provision of law, the state
7 may bring an action in the name of or for the benefit of the state to (1) quiet or
8 confirm the state's interests in real property, or (2) protect resources held in trust for
9 the public, at any time.

10 ▪ Sec. 2. AS 38.04.010(b) is amended to read:

11 (b) State land that is located beyond the range of existing schools and other
12 necessary public services, or that is located where development of sources of
13 employment is improbable, may be made available for seasonal recreational purposes
14 or for low density settlement. The seasonal recreation use or low density settlement

1 shall have sufficient separation between residences so that public services will not be
2 necessary or expected. The availability of timber, firewood, and water resources shall
3 be considered in determining separation between residences. By considering the
4 availability of timber, firewood, and water under this subsection or in making any
5 disposal decision, the state does not by virtue of that consideration imply any
6 right of the person receiving the disposal to an exclusive or other right to the
7 timber, firewood, or water, that the state will not make any other disposals in the
8 area, or that any disposals made will be limited in type or any other manner.

9 * Sec. 3. AS 38.04.020(a) is amended to read:

10 (a) State [THE COMMISSIONER SHALL ESTABLISH A] land disposals
11 must include [DISPOSAL BANK CONTAINING] state land identified and classified
12 under adopted regional land use plans for disposal into private ownership.

13 * Sec. 4. AS 38.04.020(b) is amended to read:

14 (b) State [THE] land disposals may [DISPOSAL BANK DOES] not include
15 (1) land nominated for selection or selected by a municipality to satisfy
16 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;
17 (2) land retained in state ownership for multiple-use management;
18 (3) land where less than a fee simple title has been conveyed;
19 (4) land retained in state ownership under an enactment of the
20 legislature or by the governor or a state agency under authority of law.

21 * Sec. 5. AS 38.04.020(d) is repealed and reenacted to read:

22 (d) By January 15 of the first regular session of each legislature, the
23 commissioner shall notify the legislature that the commissioner has available a report
24 on the total acreage of land planned and classified as suitable under this title for

25 (1) settlement purposes, including homestead, commercial, or industrial
26 disposal;

27 (2) agricultural disposal; and

28 (3) grazing leases.

29 * Sec. 6. AS 38.04.020(e) is repealed and reenacted to read:

30 (e) The commissioner may annually submit to the governor an appropriation
31 request for the entire amount of funding estimated to be necessary for each project

1 proposal to allow survey and disposal of land proposed to be offered for (1) homestead
2 staking under AS 38.09; (2) agricultural, commercial, industrial, or other uses under
3 AS 38.05.055 or 38.05.057; or (3) other subdivisions. Each project proposal shall
4 include the general location of the land and the estimated cost of preliminary feasibility
5 studies, engineering design work, right-of-way acquisition, and construction of access
6 roads and capital improvements required by municipal subdivision ordinance or
7 regulation of the platting authority or otherwise necessary to develop and market the
8 land.

9 * Sec. 7. AS 38.04.020(g) is amended to read:

10 (g) The [AFTER JULY 1 OF EACH YEAR, THE] commissioner shall direct
11 the expenditure of money appropriated for the disposal of land in response to requests
12 made under (e) [AND (f)] of this section for the following:

13 (1) land [LAND] designated as suitable for homestead disposal shall
14 be [CLASSIFIED AND] surveyed under this chapter and AS 38.05 and made available
15 for entry [STAKING AND LEASE] under AS 38.09; [.]

16 (2) land [LAND] designated as suitable for subdivision and homesite
17 disposal shall be surveyed, subdivided, [CLASSIFIED,] and disposed of under this
18 chapter, AS 38.05, and AS 38.08; [.]

19 (3) land [LAND] designated agricultural, commercial, industrial, or
20 suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

21 * Sec. 8. AS 38.04.020(h) is amended to read:

22 (h) Individual parcels disposed of in subdivisions intended for private
23 residential or recreational use may not exceed five acres unless the commissioner
24 determines that a larger size is necessary to comply with municipal ordinances; [.] to
25 permit the design of a viable subdivision because of topographical features, soil
26 conditions, on-site sewage disposal requirements, or water drainage or supply
27 considerations that are unique to the subdivision; to increase the return to the state
28 from the sale of the parcels; [.] to minimize adverse effect on wildlife, fishery, public
29 recreation, timber, or other significant resources in the area; [.] or to minimize adverse
30 effect on other residential uses in the area.

31 * Sec. 9. AS 38.04.020(i) is amended to read:

1 (i) Nothing in this section prevents the disposal of other land by the
2 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of
3 remote recreational cabin site leases or sales [PERMITS] under AS 38.05.600
4 [AS 38.05.079], AS 38.08, AS 38.09, or other law.

5 * Sec. 10. AS 38.04.021(a) is amended to read:

6 (a) A municipality may apply for financial assistance for the execution of a
7 land disposal program of general grant land entitlements received from the state under
8 AS 29.65 or former AS 29.18.201 - 29.18.213 by submitting a request to the
9 commissioner for inclusion in the request submitted to the governor [LEGISLATURE]
10 under AS 38.04.020(e). A municipality may request financial assistance for expenses
11 of surveying land, designing subdivision plats, installing improvements required by
12 municipal ordinance or regulation of the local platting authority, and other reasonable
13 direct costs of land disposal.

14 * Sec. 11. AS 38.04.021(b) is amended to read:

15 (b) A request by a municipality under this section must be accompanied by
16 (1) a schedule for the disposal of municipal land for the next five years:
17 the schedule shall be based on an assessment of the demand for private land within the
18 municipality [AND INCLUDED IN THE ASSESSMENT SUBMITTED UNDER
19 AS 38.04.020(f)];
20 (2) an estimate of the number of acres of municipal land that the
21 municipality plans to dispose of during each fiscal year of the five-year period;
22 (3) a description of the methods to be used for the disposal of
23 municipal land and the terms under which it will be offered to the public; and
24 (4) a description of the municipal land that the municipality plans to
25 dispose of each fiscal year during the five-year period.

26 * Sec. 12. AS 38.04.030 is amended to read:

27 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs that may
28 be used by the director to make the state's land surface available for private use under
29 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple
30 estate, including conveyance of agricultural use rights; leasing; [OPEN-TO-ENTRY;]
31 homesiting; homesteading; permitting for construction and occupation of cabins in

1 isolated locations on land retained in state ownership; and other methods as provided
2 by regulation or other law. Notwithstanding a contrary provision of this title, a
3 land availability program adopted by regulation must provide for competitive
4 disposal, based on no less than fair market value, to serve the best interests of the
5 state.

6 * Sec. 13. AS 38.04.035 is amended to read:

7 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
8 which land availability program is appropriate for state land in different locations, the
9 director shall be guided by the following criteria:

10 (1) to cover public costs associated with private land use and to provide
11 the public with a fair return for publicly owned property, conveyance of state land to
12 private parties shall [SHOULD] be at fair market value except where otherwise
13 authorized by statute, or by an administrative regulation the adoption of which is
14 specifically permitted by statute:

15 (2) sale or lease programs should be used where land is readily
16 accessible to a major community center or where, because of a prime location on
17 waterfront or a transportation route or some other location characteristic, land has
18 relatively high real estate value;

19 (3) sale programs are preferred but lease programs may [SHOULD] be
20 used

21 (A) where special land use controls are required and there is a
22 high public interest in having certain types of land used for particular purposes;

23 (B) when the intended use is a temporary one;

24 (C) in commercial or industrial situations when a leasehold can
25 provide cash flow advantages to the lessee;

26 (D) when a unique location with special public values is
27 involved, as in a deep water port, hydroelectric site, or aquaculture facility;

28 (E) where current demand for private use is high, but
29 projections suggest that, in the future, the land may be more valuable for public
30 use, as in accessible waterfront recreation areas;

31 (4) [FOR ENABLING ISOLATED CABIN DEVELOPMENT IN

1 REMOTE LOCATIONS WHERE SURVEY AND CONVEYANCE IS
2 IMPRACTICAL, OR WHERE DISPOSAL OF LAND WOULD CAUSE POTENTIAL
3 CONFLICTS WITH OTHER RESOURCES AND USES, OR WHERE A LONG-
4 RANGE INTEREST IN PUBLIC OWNERSHIP AND USE EXIST, A SYSTEM FOR
5 CABIN PERMITS ON PUBLIC LAND MAY BE USED;

6 (5) limited or conditional title may be granted when the state's best
7 interest so dictates; among other things, title limitations may include grants of
8 agricultural interest only, retention of development rights, and retention of scenic or
9 other easements; a conditional title may be tied to a development schedule or other
10 standards of performance.

11 * Sec. 14. 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,
14 approved survey exists that has been conducted by the federal Bureau of Land
15 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
16 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
17 except land that is classified for agricultural uses, an official rectangular survey grid
18 shall be established. The rectangular survey section corner positions shall be
19 monumented and shown on a cadastral survey plat approved by the state. For those
20 areas where the state may wish to convey surface estate outside of an official
21 rectangular survey grid, the commissioner may waive monumentation of individual
22 section corner positions and substitute an official control survey with control points
23 being monumented and shown on control survey plats approved by the state. The
24 commissioner may not issue more than one conveyance for each section within a
25 township outside of an official rectangular survey grid. Land [NO PORTION OF
26 LAND] to be conveyed may not be located more than two miles from an official
27 survey control monument except that the commissioner may waive this requirement
28 on a determination that a single purpose use does not justify the requirement if the
29 existing status of the land is known with reasonable certainty. The lots and tracts in
30 state subdivisions shall be monumented and the cadastral survey and plats for the
31 subdivision shall be approved by the state. Where land is located within a

1 municipality with planning, platting, and zoning powers, plats for state subdivisions
2 shall comply with local ordinances and regulations in the same manner and to the same
3 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
4 and recorded in the district recorder's office. The requirements of this section do not
5 apply to land made available [THROUGH A CABIN PERMIT SYSTEM,] for material
6 sales, for short-term leases, or for parcels adjoining a surveyed right-of-way, [OR FOR
7 LAND THAT HAS BEEN OPEN TO RANDOM STAKING UNDER THE REMOTE
8 PARCEL PROGRAM OR HOMESTEAD PROGRAM IN THE PAST]; however, for
9 short-term leases, the lessee shall [MUST] comply with local subdivision ordinances
10 unless waived by the municipality under procedures specified by ordinance. In this
11 subsection, "a single purpose use" includes a communication site, an aid to navigation,
12 and a park site.

13 * Sec. 15. AS 38.05.050 is amended to read:

14 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
15 commissioner shall determine the land to be disposed of for private use. The
16 commissioner shall determine the time and place of disposal. An auction sale, a
17 lottery sale, or a disposal of land for homesites may [SHALL] be held in a community
18 that is near the land to be sold or disposed of.

19 * Sec. 16. AS 38.05.055, as amended by sec. 1, ch. 3, SLA 1996, is amended to read:

20 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of
21 sale is required under this chapter, [AS 38.07, OR] AS 38.08, or AS 38.09, the sale
22 of state land shall be made at public auction to the highest qualified bidder as
23 determined by the director. The director may accept bids and sell state land under this
24 section at no less than 70 percent of the appraised fair market value of the land. To
25 qualify to participate under this section in a public auction of state land that is other
26 than commercial, industrial, or agricultural land, a bidder shall have been a resident
27 of the state for at least one year immediately preceding the date of the auction and
28 submit proof of that fact, as the commissioner requires by regulation. [A BIDDER
29 MUST APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL REASONS,
30 ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE THE STATE
31 PREVENT ATTENDANCE.] A bidder may be represented by an attorney or agent

1 at the auction [IF THE LAND OFFERED FOR DISPOSAL IS COMMERCIAL,
2 INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved bidder may appeal to
3 the commissioner within five days after the sale for a review of the director's
4 determination. The sale shall be conducted by the director and at the time of sale the
5 successful bidder shall deposit an amount equal to five percent of the purchase price.
6 The director shall immediately issue a receipt containing a description of the land or
7 property purchased, the price bid, and the amount deposited. The receipt shall be
8 acknowledged in writing by the bidder.

9 * Sec. 17. AS 38.05.057(a) is amended to read:

10 (a) The commissioner may dispose of land, including land limited to use for
11 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
12 the fair market value of the land as determined by the commissioner. The
13 commissioner may sell land by lottery for less than the fair market value of the land
14 on a determination that scarcity of land for private use in the area of the land to be
15 sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL
16 CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE
17 DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN
18 THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The
19 lottery shall be conducted in public by the commissioner. A [AN APPLICANT MAY
20 NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS
21 PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS
22 CONDUCTED UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
23 MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN
24 APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE
25 LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL,
26 INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY
27 A] purchaser selected by lot shall deposit an amount equal to five percent of the
28 purchase price within 30 days after receiving notification of the selection.

29 * Sec. 18. AS 38.05.065(a) is amended to read:

30 (a) The contract of sale for land sold at public auction under AS 38.05.055
31 shall require the remainder of the purchase price to be paid in monthly, quarterly, or

1 annual installments over a period of not more than 20 years, with interest at the
2 [PREVAILING] rate provided in (i) of this section [FOR REAL ESTATE
3 MORTGAGE LOANS MADE BY THE FEDERAL LAND BANK FOR THE FARM
4 CREDIT DISTRICT FOR ALASKA AT THE TIME THE CONTRACT IS SIGNED].

5 Installment payments plus interest shall be set on the level-payment basis.

6 * Sec. 19. AS 38.05.065(b) is amended to read:

7 (b) The contract of sale for land sold under AS 38.05.057 or under former
8 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
9 quarterly, or annual installments over a period of not more than 20 years. Installment
10 payments plus interest shall be set on the level-payment basis. The interest rate to be
11 charged on installment payments is the [PREVAILING] rate provided in (i) of this
12 section [FOR REAL ESTATE MORTGAGE LOANS MADE BY THE FEDERAL
13 LAND BANK FOR THE FARM CREDIT DISTRICT FOR ALASKA AT THE TIME
14 THE CONTRACT IS SIGNED].

15 * Sec. 20. AS 38.05.065 is amended by adding a new subsection to read:

16 (i) The interest rate for contracts under this section is the prime rate as
17 reported in the Wall Street Journal on the first business day of the month in which the
18 contract is sent to the purchaser for signature, plus 4 percent; however, the total rate
19 of interest may not exceed

- 20 (1) 9.5 percent, in contracts for the sale of land classified under
21 AS 38.05.020(b)(6) for agricultural uses; or
22 (2) 13.5 percent, in other contracts for the sale of land.

23 * Sec. 21. AS 38.05.067(d) is amended to read:

24 (d) This section does not apply to the sale of state land under AS 38.05.057,
25 AS 38.08, or [AS 38.04.020(g)(2) AND] AS 38.09.

26 * Sec. 22. AS 38.05.069(a) is amended to read:

27 (a) On a determination that the highest and best use of unoccupied land is for
28 agricultural purposes and that it is in the best interests of the state to sell or lease the
29 land, the commissioner shall grant to an Alaska [ALASKAN] resident owning and
30 using or leasing and using land for agricultural purposes a first option at the auction
31 to purchase or lease the unoccupied land situated adjacent to land presently held by the

1 Alaska [ALASKAN] resident for the amount of the high bid received at public
2 auction. If more than one Alaska [ALASKAN] resident qualifies for a first option
3 under this section, eligibility for the first option shall be determined by lot and the
4 option must be exercised on the conclusion of the public auction. A parcel of
5 agricultural land sold under this section may not be less than 20 acres and a parcel of
6 agricultural land that is acquired by exercise of the option granted in this subsection
7 may not exceed 320 acres. Agricultural land that is acquired under this section must
8 be used for agricultural purposes as required by law.

9 * Sec. 23. AS 38.05.069(e)(2) is repealed and reenacted to read:

10 (2) "adjacent" means that a tract of land has one common boundary
11 point with presently held land or is separated from the presently held land only by a
12 physical barrier such as a road or stream.

13 * Sec. 24. AS 38.05.075(a) is amended to read:

14 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, [38.05.079,]
15 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.600, 38.05.810, and this section,
16 leasing shall be made at public auction to the highest qualified bidder as determined
17 by the commissioner. In the public notice of a lease to be offered at public auction,
18 the commissioner shall specify a minimum acceptable bid and the lease compensation
19 method. The lease compensation method shall be designed to maximize the return on
20 the lease to the state and shall be a form of compensation set out in AS 38.05.073(m).
21 An aggrieved bidder may appeal to the commissioner within five days for a review of
22 the determination. The leasing shall be conducted by the commissioner and the
23 successful bidder shall deposit at the auction the first year's rental or other lease
24 compensation as specified by the commissioner, or that portion of it that the
25 commissioner requires in accordance with the bid. The commissioner shall require,
26 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or
27 appraisal costs reasonably incurred by another qualified bidder acting in accordance
28 with the regulations of the commissioner or incurred by the department under
29 AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal
30 costs is determined by the commissioner to be the highest qualified bidder under this
31 subsection, the deposit shall be paid to the unsuccessful bidder who incurred those

1 costs or to the department if the department incurred the costs. All costs for survey
2 and appraisal shall be approved in advance in writing by the commissioner. The
3 commissioner shall immediately issue a receipt containing a description of the land or
4 interest leased, the price bid, and the terms of the lease to the successful qualified
5 bidder. If the receipt is not accepted in writing by the bidder under this subsection,
6 the commissioner may offer the land for lease again under this subsection. A lease,
7 on a form approved by the attorney general, shall be signed by the successful bidder
8 and by the commissioner within the period specified in the auction notice.

9 * Sec. 25. AS 38.05.082(b) is amended to read:

10 (b) The director may classify land as subject to leases for fisheries
11 development. In an area or region of the state for which a land use plan has not been
12 adopted under AS 38.04.065, the director may classify land for lease under this section
13 after notice under AS 38.05.945. The director may [SHALL] publicly invite
14 applications for lease of the selected areas. Each application shall be accompanied by
15 an affidavit to the effect that the applicant presently intends to personally utilize the
16 leased area for fishing purposes throughout the term of the lease. If only one
17 application is received, the commissioner may issue a lease at the rental rate
18 established under (c) of this section [THE FOLLOWING SEASON]. If two or more
19 applications are received for the same shore area, the director may offer [SHALL
20 AWARD] the lease to the most qualified applicant. In determining the qualifications
21 of applicants, the director shall consider the length of time during which the applicant
22 has been engaged in set netting, the proximity of the past fishing sites of the applicant
23 to the land to be leased, the present ability of the applicant to utilize the location to
24 its maximum potential, and other factors relevant to the equitable assignment of the
25 disputed area. If the director cannot determine a preference between conflicting
26 applicants for the same lease site on the basis of qualifications, the director shall select
27 between the applicants by lot. An aggrieved applicant may appeal to the commissioner
28 within 30 days for a review of the director's determination.

29 * Sec. 26. AS 38.05.082(c) is amended to read:

30 (c) A lease for set net fishing may be issued for any period not exceeding 10
31 years. If the commissioner determines that the land is not being utilized for the

1 purpose for which the lease is issued, the lease may be declared void. The annual
2 [DIRECTOR SHALL ESTABLISH A REASONABLE] rental rate for the lease is
3 \$300 [EQUAL TO THE ADMINISTRATIVE COSTS INVOLVED IN
4 PROCESSING THE LEASEHOLD APPLICATIONS].

5 • Sec. 27. AS 38.05.082(d) is amended to read:

6 (d) Subleasing and renewals of leases are governed by AS 38.05.095 and
7 38.05.102. Notwithstanding (b) of this section, a lease held under this section on
8 the effective date of this bill section may be renewed by the lessee if the lessee is
9 not in default under the lease and is not in violation of the terms and conditions
10 of the lease.

11 • Sec. 28. AS 38.05.083 is repealed and reenacted to read:

12 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES.

13 (a) The commissioner may offer to the public for lease at public auction under
14 AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or
15 related hatchery operations. Before a final decision to issue or renew a lease under
16 this section, the commissioner shall give notice and allow opportunity for comment in
17 accordance with AS 38.05.945, and may hold a hearing to take testimony. Before a
18 final decision to issue or renew a lease under this section, the commissioner shall
19 consider all relevant comment or testimony submitted under this section, AS 38.05.945,
20 or 38.05.946.

21 (b) The commissioner, for good cause, may deny an application for issuance
22 or renewal of a lease under this section, but shall provide the applicant with written
23 findings that explain the reasons for the denial.

24 (c) A site may be leased under this section for not less than the appraised fair
25 market value of the lease. The value of the lease shall be reappraised every five years.

26 (d) A lease under this section may be assigned, but if the assignee changes the
27 use of the site the lease reverts to the state.

28 (e) Before entering into a lease under this section, the commissioner shall
29 require the lessee to post a performance bond or provide other security to cover the
30 costs to the department of restoring the leased site in the event the lessee abandons the
31 site.

1 (f) The commissioner shall adopt regulations establishing criteria for the
2 approval or denial of leases under this section and for limiting the number of sites for
3 which leases may be issued in an area in order to protect the environment and natural
4 resources of the area. The regulations must provide for the consideration of upland
5 management policies and whether the proposed use of a site is compatible with the
6 traditional and existing uses of the area in which the site is located.

7 • Sec. 29. AS 38.05.090 is repealed and reenacted to read:

8 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON
9 TERMINATION OF LEASES. (a) Unless otherwise agreed to in writing by the
10 commissioner, a lessee shall remove from a former leasehold all personal property,
11 including above-ground and below-ground tanks, transportable buildings, equipment,
12 machinery, tools, and other goods, not belonging to the state, within 30 days after
13 termination of the lease.

14 (b) Unless otherwise agreed to in writing by the commissioner, the lessee shall
15 restore the leasehold to a good and marketable condition, acceptable to the
16 commissioner, within 120 days after termination of the lease.

17 (c) If the lessee does not remove personal property as required within the time
18 specified under (a) of this section, title to the personal property that remains
19 automatically vests in the state unless the commissioner elects to remove and dispose
20 of the remaining personal property of the lessee. The commissioner may assess upon
21 the lessee the cost of removing and disposing of personal property remaining upon the
22 land.

23 (d) If the lessee does not restore the land within the time period specified
24 under (b) of this section, the commissioner may have the land restored and assess the
25 costs upon the lessee.

26 (e) As part of a lease agreement, and in order to protect the public interest, the
27 commissioner may require terms for removal or reversion of improvements additional
28 to those specified in (a) - (d) of this section.

29 (f) Improvements of a lessee that have become fixtures of the land and that
30 are not removed by that lessee upon termination of the lease shall be leased or
31 purchased by the subsequent lessee or purchaser of the land if the improvements were

1 authorized in the former lease or by permit from the director and if they have a net
2 value of more than \$10,000. The net value is the value of the improvements as
3 determined by an appraisal approved by the commissioner, less all rents due the
4 department, all costs of restoration under (d) of this section, and all department
5 expenses estimated to be incurred in making the lease or sale. After termination of the
6 former lessee's lease, and at additional times as determined necessary by the
7 commissioner, the value of the authorized fixtures shall be determined by an
8 independent appraisal made at the cost of the former lessee. A notice or offer by the
9 state to lease or sell formerly leased land under this subsection must state (1) the
10 appraised value of authorized fixtures remaining on the land that must be purchased,
11 and (2) that that cost is included in the lease or purchase price. Out of the proceeds
12 of the lease or sale, the department shall pay to the former lessee the appraised value
13 of the improvements, less all rents due the department, all costs of restoration due the
14 department under (d) of this section, and all department expenses incurred in making
15 the lease or sale.

16 (g) Personal property described in (c) of this section is not subject to AS 34.45
17 (Uniform Unclaimed Property Act).

18 • Sec. 30. AS 38.05.130 is amended to read:

19 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. Except for entry
20 to post mining location corners under AS 38.05.195, 38.05.205, or 38.05.245 upon
21 state or municipal land, rights [RIGHTS] may not be exercised by the state, its
22 lessees, successors, or assigns under the reservation as set out in AS 38.05.125 until
23 the state, its lessees, successors, or assigns make provision to pay the owner of the
24 land full payment for all damages sustained by the owner [,] by reason of entering
25 upon the land. If the owner for any cause refuses or neglects to settle the damages,
26 the state, its lessees, successors, assigns, or an applicant for a lease or contract from
27 the state for the purpose of prospecting for valuable minerals, or option, contract, or
28 lease for mining coal or lease for extracting geothermal resources, petroleum, or
29 natural gas, may enter upon the land in the exercise of the reserved rights after posting
30 a surety bond determined by the director, after notice and an opportunity to be heard,
31 to be sufficient as to form, amount, and security to secure to the owner payment for

1 damages, and may institute legal proceedings in a court where the land is located, as
2 may be necessary to determine the damages that [WHICH] the owner may suffer.

3 * Sec. 31. AS 38.05.131(a) is amended to read:

4 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
5 provisions of AS 38.05.005 - 38.05.037 [AS 38.05.005 - 38.05.040], 38.05.140(f),
6 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of
7 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

8 * Sec. 32. AS 38.05.185(a) is amended to read:

9 (a) The acquisition and continuance of rights in and to deposits on state land
10 of minerals, which on January 3, 1959, were subject to location under the mining laws
11 of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in
12 AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to
13 mineral deposits owned by any other person or government. The director, with the
14 approval of the commissioner, shall determine that land from which mineral deposits
15 may be mined only under lease, and, subject to the limitations of AS 38.05.300, that
16 land that shall be closed to location under AS 38.05.185 - 38.05.275 [MINING].
17 State land may not be closed to [MINING OR MINERAL] location under
18 AS 38.05.185 - 38.05.275 except as provided in AS 38.05.300 and unless the
19 commissioner makes a finding that mining would be incompatible with significant
20 surface uses on the state land. State land may not be restricted to mining under lease
21 unless the commissioner determines that potential use conflicts on the state land
22 require that mining be allowed only under written leases issued under AS 38.05.205
23 or the commissioner has determined that the land was mineral in character at the time
24 of state selection. The determinations required under this subsection shall be made in
25 compliance with land classification orders and land use plans developed under
26 AS 38.05.300.

27 * Sec. 33. AS 38.05.190(a) is amended to read:

28 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
29 38.05.275 may be acquired or held only by

30 (1) citizens of the United States at least 18 years of age;

31 (2) legal guardians or trustees of citizens of the United States under 18

1 years of age on behalf of the citizens;

2 (3) persons at least 18 years of age who have declared their intention
3 to become citizens of the United States;

4 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF
5 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED
6 STATES;

7 (5)] corporations organized under the laws of the United States or of
8 any state or territory of the United States and qualified to do business in this state [,
9 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A
10 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT
11 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD
12 THE RIGHTS];

13 (5) [(6)] associations of persons described in (1) - (4) [(1) - (5)] of this
14 subsection.

15 • Sec. 34. AS 38.05.211(d) is repealed and reenacted to read:

16 (d) The rental amount established under this section shall be revised by the
17 commissioner as provided in this section based on changes in the Consumer Price
18 Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average)
19 compiled by the Bureau of Labor Statistics, United States Department of Labor, as
20 revised, rebased or replaced by that bureau. The reference base index is the index for
21 January - June, 1989, as revised or rebased by that bureau. The rental amount shall
22 be revised by the commissioner if the change between the index for the first six
23 months of the current year and the most recent index used to revise the rental, or the
24 reference base index if the rental amount has never been revised, equals or exceeds \$5.
25 The rental amount shall be increased or decreased, as appropriate, by an amount equal
26 to the change in the index described in this subsection rounded to the nearest whole
27 \$5 unit. The commissioner shall calculate the change in the index annually and, if the
28 rental amount must be revised, shall adopt a regulation establishing the revised rental
29 amount. A revised rental amount applies to a rental payment if the regulation
30 establishing the revised rental amount took effect at least 90 days before the date the
31 rental payment is due.

1 * Sec. 35. AS 38.05.255 is amended to read:

2 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of
3 land or water included within mining properties by owners of those properties shall be
4 limited to those necessary for the prospecting for, extraction of, or basic processing of
5 mineral deposits and shall be subject to reasonable concurrent uses. Leases
6 [PERMITS] for millsites and tailings disposal may be issued [GRANTED] by the
7 director. The leases [PERMITS] shall be conditioned upon payment of a reasonable
8 annual rent [CHARGE] for the lease [USE] and restriction to [CONTINUANCE OF]
9 the limited use. Timber from land open to mining without lease, except timberland,
10 may be used by a mining claimant or prospecting site locator for the mining or
11 development of the location or adjacent claims under common ownership. On other
12 land, timber may be acquired as provided in this chapter. Use of water shall be made
13 in accordance with AS 46.15.

14 * Sec. 36. AS 38.05.255 is amended by adding a new subsection to read:

15 (b) A lease issued under this section is exempt from the provisions of
16 AS 38.05.075 - 38.05.080. The commissioner, by regulation, shall establish
17 appropriate leasing procedures and annual rent amounts for leases under this section.

18 * Sec. 37. AS 38.05.265 is amended to read:

19 Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of
20 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE
21 TIME PRESCRIBED A LEASE APPLICATION,] pay any required annual rental, pay
22 any required production royalty, or keep location boundaries clearly marked as
23 required by AS 38.05.185 - 38.05.200, 38.05.207 - 38.05.245, 38.05.252 - 38.05.275,
24 [AS 38.05.185 - 38.05.275] and by regulations adopted under these sections constitutes
25 abandonment of all rights acquired under the mining claim, leasehold location,
26 [LEASE,] or site involved, and the claim, location, [LEASE,] or site is subject to
27 relocation by others. A locator or claimant of an abandoned location or a successor
28 in interest may not relocate the location until one year after abandonment. A statement
29 of annual labor that does not accurately set out the essential facts is void and of no
30 effect. If an annual rental or a royalty payment is deficient but is otherwise timely
31 paid, abandonment does not result if full payment is made within

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(1) the period prescribed by a deficiency notice from the commissioner;
or

(2) 30 days after a final judgment establishing the amount due if the
deficiency amount due was contested.

* Sec. 38. AS 38.05 is amended by adding a new section to read:

ARTICLE 12A. REMOTE RECREATIONAL CABIN SITE SALES AND LEASES.

Sec. 38.05.600. REMOTE RECREATIONAL CABIN SITES. (a) The
commissioner may provide for the sale or lease of state land for remote recreational
cabin sites in areas of the state with dispersed populations if the land is classified for
that purpose under the procedures required by AS 38.05.300 and 38.05.945. Sales
under this section shall be at fair market value and the purchaser shall reimburse the
state for the appraisal, survey, and platting costs for the recreational cabin site.

(b) The annual fee for a remote recreational cabin site lease shall be set by the
commissioner so as to ensure that the state receives a fair return for the use granted
by the lease for the term of the lease. The commissioner shall establish regulations
that specify the application procedures for and the terms and conditions of a remote
recreational cabin site lease. A lease must be for a term of not more than five years,
and may be renewed for one additional five-year period. At any time during the lease,
the lessee may purchase the remote recreational cabin site by having the site appraised
and surveyed in a manner acceptable to the department and by paying to the state the
fair market value for the site. The lease may not be assigned by the original lessee
during the term of the lease.

(c) A remote recreational cabin site lease may be terminated by the
commissioner before the expiration of the term of the lease if a permittee fails to use
the land under lease in the manner required by the terms of the lease. After
termination of a remote recreational cabin site lease, improvements or personal
property on the land subject to the lease shall be managed in the same manner as
required by AS 38.05.090.

* Sec. 39. AS 38.05.810(a) is amended to read:

(a) Except as otherwise provided in AS 38.05.183(h), the (1) lease, sale, or
other disposal of state land or resources may be made to a state or federal agency or

1 political subdivision, (2) [THE] lease, sale, or disposal of coal deposits suitable for
2 mining may be made to a utility owned and operated by a government agency or
3 nonprofit cooperative association organized to participate under the Federal Rural
4 Electrification Act for the purpose of generating electric power and energy or the
5 production of process steam, or both, (3) [OR THE] sale or other disposal of state land
6 may be made to a tax-exempt, nonprofit corporation, association, club, or society
7 organized and operated [EXCLUSIVELY] for the management of a cemetery or a solid
8 waste or other public facility, or (4) sale or other disposal of land within a state
9 subdivision may be made to that subdivision's nonprofit, tax-exempt homeowners'
10 association, for less than the appraised value as determined by the director and
11 approved by the commissioner to be fair and proper and in the best interests of the
12 public, with due consideration given to the nature of the public services or function
13 rendered by the applicant [AGENCY, SUBDIVISION, TAX-EXEMPT, NONPROFIT
14 CORPORATION, ASSOCIATION, CLUB, OR SOCIETY, OR UTILITY MAKING
15 APPLICATION], and of the terms of the grant under which the land was acquired by
16 the state. The commissioner shall ensure, by regulation, deed restriction, covenant,
17 or otherwise, that disposals of land under this subsection serve a public purpose
18 and are in the public interest.

19 * Sec. 40. AS 38.05.850(a) is amended to read:

20 (a) The director, without the prior approval of the commissioner, may issue
21 permits, rights-of-way or easements on state land for roads, trails, ditches, field
22 gathering lines or transmission and distribution pipelines not subject to AS 38.35,
23 telephone or electric transmission and distribution lines, log storage, oil well drilling
24 sites and production facilities for the purposes of recovering minerals from adjacent
25 land under valid lease, and other similar uses or improvements, or revocable,
26 nonexclusive permits for the [LIMITED] personal or commercial use or removal of
27 resources that the director has determined to be of limited value [OF TIMBER OR
28 MATERIALS]. The commissioner, upon recommendation of the director, shall
29 establish a reasonable rate or fee schedule to be charged for these uses, subject to the
30 exception for nonprofit cooperative associations specified in (b) of this section. In the
31 granting, suspension or revocation of a permit or easement of land, the director shall

1 give preference to that use of the land which will be of greatest economic benefit to
2 the state and the development of its resources. However, first preference shall be
3 granted to the upland owner for the use of a tract of tideland, or tideland and
4 contiguous submerged land, which is seaward of the upland property of the upland
5 owner and which is needed by the upland owner for any of the purposes for which the
6 use may be granted.

7 * Sec. 41. AS 38.05.945(a) is amended to read:

8 (a) This section establishes the requirements for notice given by the department
9 for the following actions:

10 (1) classification or reclassification of state land under AS 38.05.300
11 and the closing of land to mineral leasing or entry under AS 38.05.185;

12 (2) zoning of land under applicable law;

13 (3) issuance of a

14 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
15 regarding the sale, lease, or disposal of an interest in state land or resources for
16 oil and gas subject to AS 38.05.180(b);

17 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
18 the sale, lease, or disposal of an interest in state land or resources for oil and
19 gas subject to AS 38.05.180(b);

20 (C) written finding for the sale, lease, or disposal of an interest
21 in state land or resources under AS 38.05.035(e)(6);

22 (4) a competitive disposal of an interest in state land or resources after
23 final decision under AS 38.05.035(e);

24 (5) [A PUBLIC HEARING UNDER AS 38.05.856(b);

25 (6)] a preliminary finding under AS 38.05.035(e) [AND 38.05.855(c)]
26 concerning sites for aquatic farms and related hatcheries;

27 (6) [(7)] a decision under AS 38.05.132 - 38.05.134 regarding the sale,
28 lease, or disposal of an interest in state land or resources.

29 * Sec. 42. AS 38.08.030(b) is amended to read:

30 (b) Fees for filing an application may not exceed \$25 [S10].

31 * Sec. 43. AS 38.08.040(a) is amended to read:

1 (a) An applicant meeting the qualifications for homesite entry under
2 AS 38.08.030 and selected under (f) of this section shall be issued a revocable permit
3 to occupy and improve the homesite in order to qualify for issuance of patent as
4 provided in this chapter. The holder of a homesite entry permit shall pay, in
5 advance, an annual rental fee of \$100. [THE APPLICATION FEE IS THE SOLE
6 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

7 * Sec. 44. AS 38.08.040 is amended by adding a new subsection to read:

8 (f) If only one application for a homesite parcel is received, the commissioner
9 shall offer an entry permit for the parcel to the applicant provided the applicant is
10 otherwise qualified. If more than one application is received for a parcel, the
11 commissioner shall select by lottery the applicant who is entitled to receive the permit
12 for the parcel. The lottery shall be conducted under regulations adopted by the
13 commissioner that are to the maximum extent practicable consistent with the provisions
14 of AS 38.05.057 and the regulations adopted under that section.

15 * Sec. 45. AS 38.09.010(g) is amended to read:

16 (g) The commissioner may limit the number of persons permitted to obtain
17 [STAKE] homestead entries within an area designated under (a) of this section by a
18 lottery of qualified applicants. [THE COMMISSIONER MAY CONDUCT A
19 LOTTERY HELD UNDER THIS SUBSECTION IN THE COMMUNITY THAT IS
20 CLOSEST TO THE AREA DESIGNATED FOR HOMESTEAD ENTRY. THE
21 COMMISSIONER MAY REQUIRE THAT EACH PARTICIPANT IN THE
22 LOTTERY BE PRESENT UNLESS ATTENDANCE AT THE LOTTERY IS
23 PREVENTED BY

24 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
25 MILITARY SERVICE OUTSIDE THE STATE; OR

26 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT
27 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE
28 SALE.]

29 * Sec. 46. AS 38.09.030(a) is amended to read:

30 (a) An applicant for a homestead entry permit shall

31 (1) submit proof acceptable to the commissioner that the applicant is

1 at least 18 years of age and has been a resident of the state for not less than one year
2 immediately before the date of application;

3 (2) pay a fee of \$5 per acre according to the description provided by
4 the applicant if the entry is on land classified agricultural, or \$20 per acre if the
5 entry is on land not classified agricultural; and

6 (3) agree to comply with the requirements of AS 38.09.050 [;

7 (4) CERTIFY THAT THE CORNERS OF THE LAND ENTERED
8 HAVE BEEN STAKED AND THE BOUNDARIES HAVE BEEN FLAGGED; OR

9 (5) ASSUME FULL RESPONSIBILITY FOR THE ACCURACY OF
10 THE DESCRIPTION OF THE LAND FILED WITH THE COMMISSIONER UNDER
11 AS 38.09.020(b)].

12 * Sec. 47. AS 38.09.050(a) is amended to read:

13 (a) The commissioner shall issue a patent to homestead entry land if the permit
14 holder

15 (1) either

16 (A) resides and lives on the homestead entry land for not less
17 than 25 months within five years after the issuance of the homestead entry
18 permit and reimburses the state for the survey and platting of the
19 homestead parcel;

20 (B) within five years pays the state the fair market value of
21 the homestead parcel at the time of patent and reimburses the state for the
22 survey and platting of the homestead parcel; or

23 (C) pays to the state the fair market value of the homestead
24 parcel under the terms of a contract under AS 38.05.065 to purchase the
25 parcel, entered into within five years of the issuance of the permit, and
26 reimburses the state for the survey and platting of the parcel; under this
27 subparagraph, the fair market value of the homestead parcel shall be
28 determined as of the date of the contract; and

29 (2) [SUBMITS AN ALIQUOT PARTS DESCRIPTION OR
30 COMPLETES AN APPROVED SURVEY OF THE LAND IN AN AREA WHERE
31 THE COMMISSIONER WAIVES THE RECTANGULAR SURVEY GRID WITHIN

1 FIVE YEARS AFTER THE ISSUANCE OF THE PERMIT;

2 (3) ERECTS A HABITABLE, PERMANENT DWELLING ON THE
3 HOMESTEAD WITHIN THREE YEARS AFTER THE ISSUANCE OF THE
4 HOMESTEAD ENTRY PERMIT;

5 (4) BRUSHES THE BOUNDARIES OF THE LAND NOT
6 DESCRIBED BY ALIQUOT PARTS OR AS A LOT OF RECORD WITHIN 90
7 DAYS AFTER THE ISSUANCE OF THE PERMIT;

8 (5) clears and either puts into production or prepares for cultivation
9 either 25 percent of the land classified for agricultural use or 50 percent of the
10 cropland soils, whichever is less, within five years after issuance of the permit.

11 * Sec. 48. AS 38.09.050(b) is amended to read:

12 (b) Nothing in this chapter prohibits a homestead entry permit holder from
13 residing in a temporary dwelling on the homestead [BEFORE ERECTION OF THE
14 PERMANENT DWELLING].

15 * Sec. 49. AS 38.09 is amended by adding a new section to read:

16 Sec. 38.09.105. REMOVAL OF CONDITIONS ON REMOTE PARCEL AND
17 HOMESTEAD ENTRY LAND. (a) The commissioner may not include the
18 conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued on
19 or after the effective date of this section.

20 (b) The commissioner shall amend a remote parcel or homestead entry land
21 purchase contract or patent issued before the effective date of this section to remove
22 the conditions of former AS 38.05.078(d) or former AS 38.09.050(e) if the holder of
23 the purchase contract or patent

24 (1) requests the amendment;

25 (2) pays the reasonable administrative costs of the amendment as
26 determined by the commissioner; and

27 (3) pays the difference, as established by the commissioner, between
28 the land's fair market value before the amendment and the estimated fair market value
29 after the amendment.

30 * Sec. 50. AS 38.95 is amended by adding a new section to read:

31 ARTICLE 7. NO OBLIGATION TO PROVIDE SERVICES TO DISPOSALS

1 OF STATE LAND; NO LIMITATION ON FURTHER DISPOSALS.

2 Sec. 38.95.300. DISCLAIMER APPLICABLE TO STATE DISPOSALS.

3 Except as otherwise specifically provided, nothing in this title

4 (1) obligates the state to provide services to land that is disposed of by
5 the state, or any grantee of the state, or is the subject of any disposal program;

6 (2) limits the authority of the state to dispose of land or any interest
7 in land or resources in the area of the current disposal, provides any exclusive right
8 or interest in the area of the disposal, or implies or requires that any disposals made
9 will be limited in type or any other manner.

10 * Sec. 51. AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k);
11 AS 38.05.035(e)(G)(F), 38.05.040, 38.05.057(g), 38.05.057(j), 38.05.079, 38.05.207, 38.05.855,
12 38.05.856, 38.05.945(g), 38.05.946(b); AS 38.08.090; AS 38.09.010(e), 38.09.020,
13 38.09.040(a)(2), 38.09.040(a)(3), 38.09.040(a)(4), 38.09.050(d), 38.09.050(e), 38.09.060,
14 38.09.070, 38.09.090, 38.09.900(1), 38.09.900(3), and 38.09.900(4) are repealed.

15 * Sec. 52. Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range
16 1 East, Seward Meridian, the commissioner of natural resources may

17 (1) convey a property interest in land to the Alaska Railroad Corporation for
18 the purpose of realigning the railroad in conjunction with the relocation of the Seward
19 Highway, provided that the property interest conveyed must be equivalent to that conveyed
20 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
21 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

22 (2) grant a 300 foot wide highway easement to the Department of
23 Transportation and Public Facilities for the relocated Seward Highway;

24 (3) grant a 100 foot wide utility easement to Chugach Electric Association,
25 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power
26 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line
27 (A-029885) located within the Chugach State Park.

28 * Sec. 53. A disposal by the Department of Natural Resources of a homesite under
29 AS 38.08 by lottery, on or after July 6, 1984, and before the effective date of this section, is
30 valid and effective, notwithstanding the fact that the disposal was by lottery, if the disposal
31 otherwise complied with the requirements of AS 38.08.

1 * Sec. 54. APPLICABILITY. The change to the interest rate to be charged on contracts
2 for the sale of land under AS 38.05.065, made by secs. 18 - 20 of this Act, applies to all
3 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for
4 signature on or after the effective date of secs. 18 - 20 of this Act.

5 * Sec. 55. REVISOR'S INSTRUCTION. The amendments to AS 38.05.082(b), made by
6 sec. 25 of this Act, do not affect the amendments made to that subsection by sec. 3, ch. 27,
7 SLA 1991, effective January 1, 1997. Unless amended or repealed by Act of the legislature
8 after the effective date of this section, the amendments to AS 38.05.082(b), made by sec. 25
9 of this Act, continue in effect after the amendments made by sec. 3, ch. 27, SLA 1991, take
10 effect January 1, 1997.

11 * Sec. 56. TRANSITIONAL PROVISIONS: REGULATIONS. (a) Notwithstanding
12 sec. 58 of this Act, the Department of Natural Resources may proceed to adopt regulations
13 necessary to implement the changes made by this Act. The regulations take effect under
14 AS 44.62 (Administrative Procedure Act), but not before July 1, 1996.

15 (b) To the extent they are consistent with AS 38.08, regulations governing the
16 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of
17 secs. 43 and 44 of this Act remain in effect notwithstanding the amendment to AS 38.08.040,
18 made by secs. 43 and 44 of this Act, until the regulations are amended, repealed, or
19 superseded.

20 * Sec. 57. RETROACTIVE EFFECT. (a) To the maximum extent constitutionally
21 permissible, sec. 1 of this Act is retroactive to January 3, 1959.

22 (b) The amendment made by sec. 30 of this Act is retroactive to May 2, 1959, the
23 effective date of ch. 169, SLA 1959, and applies to exempt the state, its lessees, successors,
24 and assigns, including but not limited to an applicant for a lease or contract from the state for
25 the purpose of prospecting for valuable minerals, or an applicant for an option, contract, or
26 lease for mining coal or lease for extracting geothermal resources, petroleum, or natural gas,
27 from liability for damages sustained by the state or a municipality by reason of an entry upon
28 the land under AS 38.05.130 to post mining location corners when the entry on the land is
29 authorized by AS 38.05.195, 38.05.205, or 38.05.245 and the entry on the land was made on
30 or after May 2, 1959.

31 * Sec. 58. Except for secs. 1, 30, 56, and 57 of this Act, this Act takes effect July 1, 1996.

1 * Sec. 59. Sections 1, 30, 56, and 57 of this Act take effect immediately under
2 AS 01.10.070(c).

SHORE FISHERY LEASES

District	Commercial Entry Commissaion Reported 1995 Permit Value	.6% of Value	FLOOR	CAP	Leases Issued	Total Revenue at .6%
Alaska Peninsula	\$109,300	\$655		\$600	86	\$51,600
Bristol Bay	\$42,200	\$253	\$300		616	\$184,800
Cook Inlet	\$30,300	\$182	\$300		478	\$143,400
Kodiak	\$92,600	\$556			129	\$71,724
Prince William Sound	\$63,000	\$378			35	\$13,230
Totals					1,344	\$464,754

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSHB 191 (Fin)
Sen Res Work Draft

Revision Date: 23-Apr-96 Dept Affected: Natural Resources
Title: An Act relating to the management and disposal of state land and resources... BRU: Resource Development
Sponsor: Representative Therriault Component: Land Development
Requestor: Senate Resources Component Serial No. #431

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	140.0	140.0	140.0	140.0	140.0	140.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	150.0	150.0	150.0	150.0	150.0	150.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1005)	203.5	205.3	207.5	210.0	215.0	220.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	150.0	150.0	150.0	150.0	150.0	150.0
1008 GF/MHTIA						
Other						
TOTAL	150.0	150.0	150.0	150.0	150.0	150.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The operating expenditures are necessary to offset the elimination of the positions in the FY 97 proposed budget. The program was reduced based on the current law that says that shore fishery leases are non-mandatory and that only reasonable administrative costs to cover the expenses of the program can be charged. With passage of HB 191 fair market value for the leases may be charged when they come up for renewal. The two positions that administer the program need to be funded so that the additional revenue to the state can be realized.

The changes proposed in this bill will generate more revenues for the state based on increased revenues for aquatic farm and shore fishery leases; increased applications and service fees for land disposals; and a requirement that all land disposals be for at least fair-market value.

FY 97

Shore Fish + \$150.0	Homestead Application Fees + \$1.5
Aquatic Farm + \$24.0	Homestead Entry Permits + \$28.0
Total - \$203.5	

Prepared by: Ron Swanson Phone: 269-8503
Division: Land Date: 16-Jan-96
Approved by Commissioner: _____
Agency: Natural Resources Date: _____

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

Sectional Analysis of CSSSHB 191(Fin)

Secs. 1-30, 33-34, and 36-54 affect the Division of Land. Secs. 30-35 affect the Division of Mining and Water Management. Sec. 29 affects the Division of Oil and Gas. Sec. 50 affects the Division of Parks and Outdoor Recreation.

<u>Sec</u>	<u>House Version</u>	<u>S Res CS version "W"</u>
		new section 1, amends AS 09.10.120 lifts six year statute of limitations for the state to bring action to confirm the state's interests in real property or protect public resources, new section 56 - retroactive to 1/3/59 to the maximum extent constitutionally permissible
1	clarifies the department's consideration of timber, firewood, and water supplies before offering land for disposal does not imply that any person has exclusive use of those resources or constitutes a limitation on future state disposals. (AS 38.04.010(b))	section 2
2-3	merges the old "land disposal bank" into the existing state land disposal program. Under laws passed in the last decade, regional land use plans are used to identify land that will be offered for private ownership. More than 2,000,000 acres have been classified through this process, making the land bank obsolete. Related references to the land disposal bank are repealed in Sec. 49. (AS 38.04.020(a)-(b), plus repealers of (c), (f), (j), and (k))	secs 3-4 technical change to eliminate the term "program", the reason for the change still the same as house version
4	rewrites AS 38.04.020(d) to retain its substance--a biennial report to the legislature on the current inventory of state land available for disposal--without requiring a separate "land disposal bank." For efficiency, the report would be tailored to the way that inventory is catalogued: by its classification. land suitable for most commercial, industrial, residential, and private recreational use is grouped together in the "settlement" classification, but is separate from the "agricultural" and "grazing" classifications. (AS 38.04.020(d))	sec 5: amended to conform to HB 173 which passed last year
5	puts the state land disposal program on the same footing as other natural resource sale programs: whether to submit a budget request each year would be discretionary, not mandatory. But each budget proposal would be complete. It would request the full funding needed to get the land disposal projects ready for sale, including any access roads or other capital improvements that might be required. (AS 38.04.020(e))	Sec 6: same as house version
6	makes technical corrections, dropping an out-of-order classification reference (land must already be planned and classified for disposal before it is surveyed and platted), an erroneous reference to a homestead "lease," and a reference to homestead staking that would be made obsolete by Secs. 43-44 of this bill. (AS 38.04.020(g))	sec 7: same as house version

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|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| 7 | clarifies the five-acre limit on subdivision lots applies to land sold for residential and recreational uses, not agricultural parcels, commercial parcels, etc. This clarification is needed because under current law, any division of a tract for purposes of sale constitutes a subdivision. The amendment would also allow larger lots if that would be a better marketing decision for the state. (AS 38.04.020(h)) | sec 8: same as house version |
| 8 | updates a list of state land disposal programs by adding the homestead law and the remote recreational cabin site lease/sale program enacted by Sec. 36 of the bill. (AS 38.04.020(i)) | sec 9: same as house version |
| 9 | corrects a missing item in the budget appropriation process, clarifying that the commissioner's disposal funding request must go to the governor first, not be sent straight to the legislature. (AS 38.04.021(a)) | sec 10: same as house version |
| 10 | deletes a cross-reference to an annual land demand study, repealed by this bill. (AS 38.04.021(b)) | sec 11: same as house version |
| 11 | allows the Department of Natural Resources create new land disposal programs by regulation, so long as they provide for competition and produce at least fair market value for the land. (AS 38.04.030) | sec 12: same as house version |
| 12 | clarifies the legislature's policy that sales of public land to private individuals should be at fair market value unless specifically exempted, and removes a reference to remote cabin permits (repealed by Sec. 49 of this bill). (AS 38.04.035) | sec 13: same as house version |
| 13 | deletes language exempting random-staked homesteads and remote parcels from cadastral survey requirements. The remote parcel program was repealed in 1983, effective 1984, and the homestead program was changed in 1988 to preclude random staking. (Remote recreational cabin site leases, as enacted by Sec. 36 of the bill, would be exempt from this statute because they are short-term leases. The statute would not apply until the remote recreational cabin site was ready to sell.) (AS 38.04.045(b)) | sec 14: technical changes to conform to SB 162 |
| 14 | allows discretion on where to hold land auctions and lotteries. (AS 38.05.050) | sec 15: same as house version |
| 15 | deletes the personal-appearance requirement for land auctions, allowing bidders to be represented by an agent. (AS 38.05.055) | sec 16: conforms to SB 190 to require Alaska residency, although retains the allowance for representation by an agent |
| 16 | along with a repealer in Sec. 49, deletes the requirement that purchasers appear in person at land lotteries and pay the down payment on the spot. Instead, they would have 30 days to make the payment. It also drops language about consulting with the local assessor to determine land values, which is unnecessary because AS 38.05.840 requires a formal appraisal before the land can be offered for sale. (AS 38.05.057(a), plus repeal of (g)) | sec 17: same as house version |

- 17-18 Secs. 17-18 would repeal the current system that relies on the old Federal Land Bank's "prevailing" rate. (The Federal Land Bank's successor now uses many different rate systems with multiple variables, rather than a single prevailing rate.) It would also change the point at which the rate is determined, solving the problem of the rate changing after the contract is mailed out for signature but before both parties have signed. (State land sale contracts are not signed in a face-to-face closing ceremony.) Sec. 17 would also let contracts for auction parcels be issued for less than 20 years, as already allowed for lottery parcels. (AS 38.05.065(a)-(b).)
- sec 18-19: same as house version
- 19 replaces the old Federal Land Bank interest rate with a new system for state land sale contracts. Interest would be based on the prime rate, the widely quoted market rate used for a bank's most credit-worthy corporate loan customers. A four percent add-on would adjust for the unique circumstances of state land sale contracts, which do not involve any credit check. The total would be capped at 13.5 percent. The rate would be computed monthly and would apply to all contracts prepared that month. (AS 38.05.065(i))
- sec 20: amended to conform with SB 162, allows for agricultural land to have a maximum interest rate of 9.5%
- 20 corrects a 1984 error, restoring the original intent of the veterans' preference auction law. It clarifies that although that law does not apply to the lottery, homesite, or homestead programs, a veterans' preference auction must be held before restricted residential lots can be sold at auction to the general public. A combination of amendments in 1984 had made veterans' preference sales inapplicable to all subdivision sales. (AS 38.05.067(d))
- sec 21: same as house version
- 21 would allow agricultural land to be sold at true market value by making it discretionary whether to grant a preference right to adjacent agricultural landowners. A mandatory preference right tends to depress competition or eliminate it altogether, while unaffected parcels are bid up beyond their appraised value. (AS 38.05.069(a))
- sec 22: returns to mandatory preference right
- 22 updates the agricultural preference right law (see Sec. 21) by defining the term "adjacent," instead of "approximate vicinity." The latter was removed from the body of the law in 1984. (AS 38.05.069(e)(2))
- sec 23: same as house version
- 23 updates programs exempt from the general standard that state land leases must be offered at auction. It removes a reference to remote cabin permits (repealed by Sec. 49 of this bill), and substitutes a reference to remote cabin site recreational leases (enacted by Sec. 36 of this bill)
- sec 24: same as house version
- 24 eliminates a unique leasing process for set-net sites, allowing standard state leasing laws to apply. Negotiated leases could be used up to the standard rental ceiling of \$5,000. Higher-value or contested leases could be awarded at auction, rather than making the director decide who is the "most qualified" applicant. (AS 38.05.082(b))
- sec 25: Removes reference to "auction", restores the original language requiring the director to attempt to determine who is the most qualified applicant. If one application is received the commissioner may issue a lease at the rental rate established in following section.

- 25 eliminates special provisions that prevent the state from obtaining fair market value rental for shore fishery leases. (AS 38.05.082(c))
- sec 26: Establishes a rental rate based on .6% of the year-end estimated monthly permit value report for the district as determined from the monthly permit value report or the administrative costs, whichever is greater but not to exceed \$600.
- The annual lease rate payment is adjusted based on the latest monthly report (value goes down in the 10 lease period, lease rate will go down too)
- 26 amends AS 38.05.082(d), which currently lets the director offer existing lessees a preference right to a renewal lease when it is in the state's best interests. The new language specifies that the commissioner may renew existing leases under terms and conditions prescribed by the commissioner. (AS 38.05.082(d))
- sec 27: additional clarification that the current valid lease holder may renew the lease
- 27 rewrites the aquatic farm site law to let standard state leasing laws be used. Sites could be offered directly at auction or by negotiated lease, rather than first being developed under a three-year permit process. As with other types of land disposals and leases, public hearings on the leasing decision would be held as needed, but would not be mandatory. (AS 38.05.083, plus repealers of AS 38.05.855, AS 38.05.856, AS 38.05.945(b))
- sec 28: same as house version
- 28 modernizes requirements to restore surface lease sites after lease termination, protecting the state against liability and high cleanup costs. Because other provisions of AS 38 apply this leasing statute to terminated homesites, homesteads, remote cabin sites, etc., special measures of the existing AS 38.05.090 would be retained to compensate individuals for authorized private residential improvements that are not removed from the site and are worth more than \$10,000 net value. (AS 38.05.090)
- sec 29: same as house version
- 29 technical amendment narrowing a reference to the "Administration" article of AS 38.05, whose last section (a bonding requirement for the director of the statutory Alaska Division of Lands) would be repealed by Sec. 49 of this bill. (AS 38.05.131(a))
- sec 30: same as house version
- 30 eliminates overly broad language that theoretically allows the department to close state land to "mining," not just to "mineral location" (the act of staking new mining locations). A valid mining claim includes the "exclusive right of ...extraction," i.e. mining rights. The department could not close off already-acquired mining rights without effecting a "taking" of valid existing rights, which would run afoul of Art. I, Sec. 18, and Art. VIII, Sec. 16, of the Alaska Constitution. This amendment would eliminate a potential pitfall. (AS 38.05.185(a))
- sec 31: same as house version

- 31 amends AS 38.05.190(a) to clarify the qualifications for ownership of mining rights by aliens and foreign corporations. Under the existing statute, an alien at least 18 years old from a country that grants "like privileges" to United States citizens may acquire or hold exploration and mining rights. A corporation in which more than 50 percent of the stock is owned or controlled by aliens whose country does not grant reciprocal rights to United States citizens may not acquire or hold exploration and mining rights. However, determinations of which countries grant "like privileges" to United States citizens have never been made or enforced in any consistent manner due to the number and complexity of mining laws worldwide. U.S. mining laws, upon which Alaska laws were initially based, allow an alien to form a domestic corporation that would be qualified to obtain mining rights, without inquiry into "like privileges." Amending AS 38.05.190(a) to delete these requirements would be consistent with modern business practices, similar federal laws, and state laws affecting other types of mineral rights. (AS 38.05.190(a)) sec 32: same as house version
- 32 simplifies the adjustments to be made in the annual rental amounts due on mining claims and leases. The existing statute requires the rental amounts to be adjusted every 10 years based on changes in the consumer price index for Anchorage. This statutory adjustment is likely to yield odd rental amounts that would make calculating, accounting, and collection more difficult. Additionally, adjusting rental amounts only at 10-year intervals could result in large changes at one time, possibly causing hardships to mining locators and lessees. The amendment would require the department to check the consumer price index each year and adjust the rate if the adjustment is \$5 or more. Changes could only be made in \$5 increments. The amendment also more clearly identifies the consumer price index on which changes are to be based. (AS 38.05.211(d)) sec 33: same as house version
- 33 authorizes surface leases for certain mineral development uses. Surface use needs for small mines are generally modest enough to meet with a simple land use permit, protected by the underlying "exclusive right of possession and extraction of the [locatable] minerals" acquired by a valid mining location. However, most major mines require large-scale, costly surface improvements such as dams, mills, and tailings impoundments. The mineral developer needs long-term security of tenure to protect this investment, something that cannot be provided by a revocable permit. Surface leases for millsites, tailings disposal sites, and similar purposes would require reasonable annual rental. (AS 38.05.255) sec 34: same as house version
- 34 new subsection to clarify mining developers' surface leases are not subject to competitive bidding statutes. Requiring the department to hold a lease auction would serve no purpose, as the mineral developer would be the only party in a position to bid for and use the lease. The department would be required to adopt regulations setting leasing procedures and annual rentals. (AS 38.05.255(b)) sec 35: same as house version

- 35 eliminates the failure to file a lease application on time as grounds for abandonment of a mining location. In areas open to mining only under lease, a locator must apply for and obtain a lease before gaining the right to mine. AS 38.05.205(a). After the department gives public notice of the proposed mining lease, it must promptly mail an application to the leasehold locator, who then has 90 days to file the application. But under the existing AS 38.05.265, failing to file on time automatically causes "abandonment" (voiding) of the leasehold locations involved, too harsh a penalty for a late application. (AS 38.05.265) sec 36: additional changes, same intent - add'l changes conform non-coal minerals leases being treated the same as coal
- 36 creates a remote recreational cabin site lease/sale program for land disposals in remote, lightly populated areas. At any time during a total term of ten years, the lessee could purchase the site after getting it appraised and surveyed, just as in the former "open-to-entry" and "remote parcel" programs (repealed in 1979 and 1993 respectively). (AS 38.05.600) sec 37: same as house version
- 37 allows the department to convey "common areas" in state subdivisions to the subdivision's homeowners' association for retention and management. Many state subdivisions were platted with certain lots reserved from disposal to provide open space and recreation for subdivision residents. The intention was eventually to transfer these reserved lots to local government. But where there is no local government or it does not want to assume management responsibility, conveyance to the homeowners' association is a logical substitute. The department would be required to ensure that the conveyance serves a public purpose. (AS 38.05.810(a)) sec 38: same as house version but also adds "or other public" facility, beyond cemetery or solid waste facility that may be disposed of to a tax-exempt, non-profit corporation, or other organization to operate for a public purpose
- 38 clarifies that the division may allow livestock grazing, commercial berry picking or mushroom harvesting, and similar minimal-value consumptive uses by issuing permits, an authority the Department of Law recently questioned. (AS 38.05.850(a)) sec 39: same as house version
- 39 deletes references in the public notice law to special aquatic farm site permit procedures repealed by Sec. 49 of the bill: mandatory public hearings and preliminary findings before issuing permits. (AS 38.05.945(a)(5)-(6)) sec 40: same as house version
- 40 raises the application fee for homesites from the current \$10 to a maximum of \$25, the same as for lottery parcels. (AS 38.08.030(b)) sec 41: same as house version
- 41 adds a cross-reference to the lottery process used to select the winner of a homesite entry permit (see Sec. 42). It would also require a token annual rental of \$100 until the permit holder "proves up" or purchases the lot. Because a homesite entry permit is a contract, the rental requirement would not apply to existing entry permits. (AS 38.08.040(a)) sec 42: same as house version
- 42 adds a new subsection directing that homesite entry permits be offered at lottery. Using the lottery procedures of AS 38.05.057 was formerly a statutory requirement, but a 1984 amendment left the connection unclear. The department would be required to adopt regulations as consistent as possible with AS 38.05.057. (AS 38.08.040(f)) sec 43: same as house version

- 43 deletes the authority to make applicants appear in person at a homestead lottery. (AS 38.09.010(g)) sec 44: same as house version
- 44 Raises the fee to receive a non-agricultural homestead entry permit to \$20 per acre. This is a one-time rental fee, lasting for the entry permit's five-year term. The rental fee for agricultural homesteads would remain at the current \$5 per acre. In addition, combined with repealers in Sec. 49 of the bill, it would eliminate staking and legal-description requirements that became obsolete in 1988. In that year, the homestead law was changed to require the department to do a cadastral survey before offering the parcels, instead of making the homesteader survey it five years later. (AS 38.09.030(a), plus repealers of AS 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1)) sec 45: same as house version
- 45-46 along with repealers in Sec. 49 of the bill, reduces and simplifies the ways to receive title to a homestead parcel. (Currently there are three methods. A homesteader may obtain the land for free by living on it and building a house, plus meeting clearing requirements applicable to agricultural homesteads only. Or he can buy the parcel at almost-current fair market value without building a house and living on it, if he applies within two years. Or he can buy the parcel at current fair market value without living on the parcel, if he builds a house and applies to purchase within five years.) The revised language in Sec. 45 eliminates the house-building requirement and the distinction between two-year and five-year purchase. Within five years the homesteader either "proves up" by living on the parcel for 25 months, or purchases the parcel at fair market value. (As with all state land sales, the purchaser may pay cash for the homestead, or enter into an installment contract under AS 38.05.065.) With either method, the homesteader must reimburse the state for survey and platting costs, and must meet agricultural clearing requirements if the land is classified agricultural. Sec. 46 is a conforming amendment eliminating a reference to a permanent dwelling. (AS 38.09.050(a)-(b), plus repealers of AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4)) sec 46-47: same as house version
- 47 along with repealers in Sec. 49 of the bill, affects both the remote parcel program and the homestead program. (The remote parcel law was repealed in 1983, effective in 1984, but the program will be alive until at least the year 2016. The last parcels were staked in 1984, and the last leases issued in 1985-1986. The lessees will have until 1996 or later to survey their parcels, and can then enter into 20-year purchase contracts.) This section would prohibit the department from imposing the conditions of the former AS 38.05.078(d) in new remote parcel purchase contracts. These conditions restricted the sale or subdivision of remote parcel land after it was conveyed into private ownership. It would also allow the department to amend existing remote parcel or homestead purchase contracts or patents to remove these restrictions if the holder consents and reimburses the state for the difference in value. (Each parcel's purchase price was cut by 50% to account for the resale restrictions.) (AS 38.09.105, plus repealers of AS 38.09.050(d)-(e)) sec 48: same as house version

48 transfers the homesite disclaimer language of AS 38.08.090 (to be repealed by Sec. 49 of this bill) to a general location applicable to all state land disposals: unless specifically provided, the state is not obligated to provide services to the grantee of a state land disposal. An additional disclaimer would make clear that the state is free to dispose of other land or resources in the future, without restrictions as to type, parcel density, etc. sec 49: same as house version

49 Repealers affecting the land disposal bank (AS 38.04.020) and down payments at land lotteries (AS 38.05.057(g)) see Secs. 2 and 16. sec 50: same as house version

Repealing AS 38.05.057(j) eliminates special lottery procedures for an agricultural project statute that was repealed in 1979.

Repealing AS 38.05.035(e)(6)(F), AS 38.05.207, and AS 38.05.945(g) would eliminate the mining production license program, an early attempt to solve the "6(i) problem" (the Statehood Act's mineral leasing requirement) that became moot when AS 38.05.211-.212 were enacted in 1989.

Repealing AS 38.05.040 would eliminate the requirement for a \$150,000 bond for the director of the state's Division of Lands, which was subsequently reorganized and subdivided into several different divisions.

Repealing AS 38.05.079 eliminates the remote cabin permit program which provided for 25-year leases for cabin sites.

Repealing AS 38.05.855, AS 38.05.856, and AS 38.05.946(b) eliminates requirements associated with aquatic farm site permits; see Secs. 28 and 39.

AS 38.08.090 is made unnecessary by Sec. 48, which broadens its language and expands it to other land disposals.

Repealing 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1) eliminates requirements related to staking, flagging, brushing, and filing a legal description on a homestead; see Sec. 44. Repealing AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4) eliminates homestead dwelling requirements and the distinction between two- and five-year purchase; see Sec. 45. Repealing AS 38.09.050(d) and (e) would remove restrictions on selling or subdividing land after it has been conveyed to a homesteader; see related changes under Sec. 47.

50 would authorize railroad, highway, and utility line rights-of-way within Chugach State Park necessitated by a Seward Highway relocation project at Bird Point (between Anchorage and Girdwood) sec 51: same as house version

- 51 adds a savings clause protecting homesite entry permits (and subsequent patents) granted by lottery after July 6, 1984. That was the effective date of an amendment that dropped a reference to the lottery statute, leaving no statutory guidance on how to issue homesite entry permits. See Sec. 42 sec 52: same as house version
- 52 specifies that the interest rate changes made by Secs. 17-19 of the bill apply to all contracts sent out to be signed after the bill's effective date. sec 53: same as house version
- 53 ensures that changes made to AS 38.05.082 by Sec. 24 of the bill will continue in effect after 1997, when unrelated changes enacted in 1991 take effect. sec 54: same as house version
- 54 allows the department to adopt regulations in advance of the bill's effective date, but may not take effect until July 1, 1995. Includes a savings clause for the existing homesite disposal regulations until they can be changed. sec 55: same as house version, amends to July 1, 1996
- 55-56 are effective date clauses new section 56: retroactive clause for sec 1
- sec 57-58: same as house version, Amends to July 1, 1996



Alaska State Legislature

Senate Resources Committee

Official Business

Memo

State Capitol
Juneau AK 99801

TO: Gerry Luckhaupt
Legal Services
via fax: 4 pages (including 2-page Amendment #2)

FROM: Annette Kreitzer, Aide to
Senate Resources Committee

DATE: April 29, 1996

RE: CS for HB 191(RES) - FINAL

Using LS0766W as the base document, create a FINAL Senate Resources Committee Substitute for HB 191 with the following amendments adopted today in committee:

- 1) Page 12, line 1:
following [REASONABLE], insert: annual
DELETE: [THE RENTAL RATE MAY NOT EXCEED \$600
AND SHALL BE, EQUAL TO THE GREATER OF.....ADJUSTMENT
FROM THE COMMERCIAL FISHERIES ENTRY COMMISSION.]

This amendment establishes an annual rental rate of \$300 for shore fisheries leases. The rest of the paragraph is deleted.

- 2) See attached Amendment #2 (Page 14, following line 24)
The committee further amended this amendment to apply to municipal and state lands only.
They left the drafting to you.

- 3) Amendment #3:
Page 18, Line 29:
Following "operated"
Delete: [EXCLUSIVELY]

4) Amendment #4:

Page 13, Lines 18-19:

**DELETE: [(2) ALL BUILDINGS AND FIXTURES,
INCLUDING GRAVEL PADS, FOUNDATIONS, AND SLABS, NOT
BELONGING TO THE STATE, WITHIN 60 DAYS AFTER
TERMINATION OF THE LEASE.]**

DELETE [BUILDINGS, AND FIXTURES] on lines 23, 25,
27 and 28

DELETE [PRIVATE RESIDENTIAL] from Page 14, Line 5
DELETE [RESIDENTIAL] where it appears in subsection (f) Page 14,
Lines 5-22

Insert: Page 14, Lines 6-7:

Following "lease shall be" Insert leased or purchased by the subsequent
lessor or purchaser of the land...

Make any other conforming changes necessary for this amendment.

5) Amendment #5:

Page 5, Line 19:

DELETE [SHOULD]

Insert: may

6) Amendment #6:

Make the technical changes outlined in your memo to Senator Leman dated
April 29.

4-29-96
Senate Resources
Committee

#3

Amendment

TO: SCS CSSSHB 191 (Res) **BY:** Lincoln

Page 18, line 29

After "operated"

Delete "exclusively"

Ken Sanderson dept supports amendment

Adopted
no objection

LEGAL SERVICES

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

*ok to make
Changes*

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

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

MEMORANDUM

April 29, 1996

SUBJECT: Drafting Error in DRAFT SCS CSSSHB 191(RES)
(Work Order No. 9-LS0766\W)

TO: Senator Loren Leman
Attn: Annette Kreitzer

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

I have discovered an error in the effective date provisions of SCS CSSSHB 191(RES), "W" version, dated 4/26/96. The following changes will be made to the final SCS (RES) unless you instruct me otherwise:

On page 25, line 13, following "Except for":

Delete "sec. 55"

Insert "secs. 1, 55, and 56"

On page 25, line 14, following "** Sec. 58.":

Delete "Section 1 and 55"

Insert "Sections 1, 55, and 56"

These changes are to properly give effect to your request to add sec. 1 to the bill and to give that section retrospective effect by sec. 56 of the bill. Both of these sections should have an immediate effective date. If you have any questions, please contact me at your convenience.

GPL:kib
96-317.kib

*adopted
no 13 vote
AM#2*

AMENDMENT

*only to apply to mineral rights
+ state land
Taylor ranch*

OFFERED IN THE SENATE

TO: SCS CSSH B 191(RES), "W" version, dated 4/26/96

1 Page 14, following line 24:

2 Insert a new bill section to read:

3 "* Sec. 30. AS 38.05.130 is amended to read:

4 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. Except for entry
5 to post mining location corners under AS 38.05.195, 38.05.205, or 38.05.245,
6 rights [RIGHTS] may not be exercised by the state, its lessees, successors, or assigns
7 under the reservation as set out in AS 38.05.125 until the state, its lessees, successors,
8 or assigns make provision to pay the owner of the land full payment for all damages
9 sustained by the owner [.] by reason of entering upon the land. If the owner for any
10 cause refuses or neglects to settle the damages, the state, its lessees, successors,
11 assigns, or an applicant for a lease or contract from the state for the purpose of
12 prospecting for valuable minerals, or option, contract, or lease for mining coal or lease
13 for extracting geothermal resources, petroleum, or natural gas, may enter upon the
14 land in the exercise of the reserved rights after posting a surety bond determined by
15 the director, after notice and an opportunity to be heard, to be sufficient as to form,
16 amount, and security to secure to the owner payment for damages, and may institute
17 legal proceedings in a court where the land is located, as may be necessary to
18 determine the damages that [WHICH] the owner may suffer."

19 Renumber the following bill sections accordingly.

20 Page 25, line 3:

21 Delete "sec. 56"

22 Insert "sec. 57"

1 Page 25, line 8:

2 Delete "secs. 42 and 43"

3 Insert "secs. 43 and 44"

4 Page 25, line 9:

5 Delete "secs. 42 and 43"

6 Insert "secs. 43 and 44"

7 Page 25, line 11, before "To the maximum":

8 Insert "RETROACTIVE EFFECT. (a)"

9 Page 25, following line 12:

10 Insert a new subsection to read:

11 "(b) The amendment made by sec. 30 of this Act is retroactive to May 2, 1959, the
12 effective date of ch. 169, SLA 1959, and applies to exempt the state, its lessees, successors,
13 and assigns, including but not limited to an applicant for a lease or contract from the state
14 for the purpose of prospecting for valuable minerals, or an applicant for an option, contract,
15 or lease for mining coal or lease for extracting geothermal resources, petroleum, or natural
16 gas, from liability for damages sustained by a landowner by reason of an entry upon the land
17 under AS 38.05.130 to post mining location corners when the entry on the land is authorized
18 by AS 38.05.195, 38.05.205, or 38.05.245 and the entry on the land was made on or after
19 May 2, 1959."

20 Page 25, line 13:

21 Delete "sec. 55"

22 Insert "secs. 1, 30, 56, and 57"

23 Page 25, line 14:

24 Delete "Section 55"

25 Insert "Sections 1, 30, 56, and 57"



APR 16 1996

ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 278-0347

April 16, 1996

Honorable Loren Leman
Chairman, Senate Resources
Capitol Building
Juneau, AK 99801

RE: CSSSHB-191(FIN), Various Changes to Title 38

Dear Senator Leman,

The Alaska Miners Association wishes to go on record in support of CSSSHB-191(FIN) with the changes as described below. This bill makes several important changes to Title 38 that governs the management of State lands in general and mineral procedures in particular.

There are however two changes that we recommend be made to the bill:

1. In Sec. 35. AS 38.05.265 phrase in [BRACKETS] is already proposed for removal and our recommendation is that the underlined material be added and that the word [LEASE] be removed as shown. With both of these changes the section would read as follows:

"Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE TIME PRESCRIBED A LEASE APPLICATION], pay any required annual rentals, pay any required production royalty, or keep location boundaries clearly marked as required by AS 38.05.185-38.05.275, except for AS 38.05.205 and 38.05.250, and by regulations adopted under these sections constitutes abandonment of all rights acquired under the mining claim, leasehold location, [LEASE,] or site involved, and the claim, location, [LEASE,] or site is subject to relocation by others. A locator..."

The [BRACKETED] phrase creates an unnecessary and burdensome restriction on lease applicants to submit their completed application within 90 days of requesting the application form, or lose their mineral rights. There is no reason for such a restriction.

The new underlined material is needed to guard against the abandonment of a lease due to inadvertently missing a lease payment. The change will result in non-coal mineral leases being treated the same as already exists for coal leases. That is, if the rental is not timely paid, the lease is put in

default, a notice is sent, and the lessee has 30 days to fix the default and pay any penalty. This change to 38.05.265 will remove this potential fatal flaw and allow for correction of a missed payment without automatic abandonment of a lease.

2. The original edition of this bill included an item regarding State mining claims that was subsequently removed from the bill and established as a separate bill numbered HB-331. We suggest that the provisions of HB-331 be returned to this bill. The material in HB-331 clarifies that where the State has disposed of the surface estate but retains the mineral estate, that mineral estate remains open to mineral entry and that before activity other than claim staking is allowed, the claimant must obtain permission from the surface owner or obtain a bond.

Thank you for the opportunity to comment on this important bill. If you have any questions please contact me.

Sincerely



Steven C. Borrell, P.E.
Executive Director

cc: Representative Gene Therriault

9-LS0766\W
 Luckhaupt
 4/26/96

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 191(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, James, Brice

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the management and disposal of state land and resources;
 2 relating to certain remote parcel and homestead entry land purchase contracts
 3 and patents; and providing for an effective date."

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

5 • Section 1. AS 09.10.120 is amended by adding a new subsection to read:

6 (b) Notwithstanding (a) of this section or any other provision of law, the state
 7 may bring an action in the name of or for the benefit of the state to (1) quiet or
 8 confirm the state's interests in real property, or (2) protect resources held in trust for
 9 the public, at any time.

10 • Sec. 2. AS 38.04.010(b) is amended to read:

11 (b) State land that is located beyond the range of existing schools and other
 12 necessary public services, or that is located where development of sources of
 13 employment is improbable, may be made available for seasonal recreational purposes
 14 or for low density settlement. The seasonal recreation use or low density settlement

1 shall have sufficient separation between residences so that public services will not be
2 necessary or expected. The availability of timber, firewood, and water resources shall
3 be considered in determining separation between residences. By considering the
4 availability of timber, firewood, and water under this subsection or in making any
5 disposal decision, the state does not by virtue of that consideration imply any
6 right of the person receiving the disposal to an exclusive or other right to the
7 timber, firewood, or water, that the state will not make any other disposals in the
8 area, or that any disposals made will be limited in type or any other manner.

9 * Sec. 3. AS 38.04.020(a) is amended to read:

10 (a) State [THE COMMISSIONER SHALL ESTABLISH A] land disposals
11 must include [DISPOSAL BANK CONTAINING] state land identified and classified
12 under adopted regional land use plans for disposal into private ownership.

13 * Sec. 4. AS 38.04.020(b) is amended to read:

14 (b) State [THE] land disposals may [DISPOSAL BANK DOES] not include
15 (1) land nominated for selection or selected by a municipality to satisfy
16 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;
17 (2) land retained in state ownership for multiple-use management;
18 (3) land where less than a fee simple title has been conveyed;
19 (4) land retained in state ownership under an enactment of the
20 legislature or by the governor or a state agency under authority of law.

21 * Sec. 5. AS 38.04.020(d) is repealed and reenacted to read:

22 (d) By January 15 of the first regular session of each legislature, the
23 commissioner shall notify the legislature that the commissioner has available a report
24 on the total acreage of land planned and classified as suitable under this title for

25 (1) settlement purposes, including homestead, commercial, or industrial
26 disposal;

27 (2) agricultural disposal; and

28 (3) grazing leases.

29 * Sec. 6. AS 38.04.020(e) is repealed and reenacted to read:

30 (e) The commissioner may annually submit to the governor an appropriation
31 request for the entire amount of funding estimated to be necessary for each project

1 proposal to allow survey and disposal of land proposed to be offered for (1) homestead
2 staking under AS 38.09; (2) agricultural, commercial, industrial, or other uses under
3 AS 38.05.055 or 38.05.057; or (3) other subdivisions. Each project proposal shall
4 include the general location of the land and the estimated cost of preliminary feasibility
5 studies, engineering design work, right-of-way acquisition, and construction of access
6 roads and capital improvements required by municipal subdivision ordinance or
7 regulation of the platting authority or otherwise necessary to develop and market the
8 land.

9 * Sec. 7. AS 38.04.020(g) is amended to read:

10 (g) ~~The~~ [AFTER JULY 1 OF EACH YEAR, THE] commissioner shall direct
11 the expenditure of money appropriated for the disposal of land in response to requests
12 made under (e) [AND (f)] of this section for the following:

13 (1) land [LAND] designated as suitable for homestead disposal shall
14 be [CLASSIFIED AND] surveyed under this chapter and AS 38.05 and made available
15 for entry [STAKING AND LEASE] under AS 38.09; [.]

16 (2) land [LAND] designated as suitable for subdivision and homesite
17 disposal shall be surveyed, subdivided, [CLASSIFIED.] and disposed of under this
18 chapter, AS 38.05, and AS 38.08; [.]

19 (3) land [LAND] designated agricultural, commercial, industrial, or
20 suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

21 * Sec. 8. AS 38.04.020(h) is amended to read:

22 (h) Individual parcels disposed of in subdivisions intended for private
23 residential or recreational use may not exceed five acres unless the commissioner
24 determines that a larger size is necessary to comply with municipal ordinances; [.] to
25 permit the design of a viable subdivision because of topographical features, soil
26 conditions, on-site sewage disposal requirements, or water drainage or supply
27 considerations that are unique to the subdivision; to increase the return to the state
28 from the sale of the parcels; [.] to minimize adverse effect on wildlife, fishery, public
29 recreation, timber, or other significant resources in the area; [.] or to minimize adverse
30 effect on other residential uses in the area.

31 * Sec. 9. AS 38.04.020(i) is amended to read:

1 (i) Nothing in this section prevents the disposal of other land by the
2 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of
3 remote recreational cabin site leases or sales [PERMITS] under AS 38.05.600
4 [AS 38.05.079], AS 38.08, AS 38.09, or other law.

5 * Sec. 10. AS 38.04.021(a) is amended to read:

6 (a) A municipality may apply for financial assistance for the execution of a
7 land disposal program of general grant land entitlements received from the state under
8 AS 29.65 or former AS 29.18.201 - 29.18.213 by submitting a request to the
9 commissioner for inclusion in the request submitted to the governor [LEGISLATURE]
10 under AS 38.04.020(e). A municipality may request financial assistance for expenses
11 of surveying land, designing subdivision plats, installing improvements required by
12 municipal ordinance or regulation of the local platting authority, and other reasonable
13 direct costs of land disposal.

14 * Sec. 11. AS 38.04.021(b) is amended to read:

15 (b) A request by a municipality under this section must be accompanied by
16 (1) a schedule for disposal of municipal land for the next five years;
17 the schedule shall be based on an assessment of the demand for private land within the
18 municipality [AND INCLUDED IN THE ASSESSMENT SUBMITTED UNDER
19 AS 38.04.020(f)];
20 (2) an estimate of the number of acres of municipal land that the
21 municipality plans to dispose of during each fiscal year of the five-year period;
22 (3) a description of the methods to be used for the disposal of
23 municipal land and the terms under which it will be offered to the public; and
24 (4) a description of the municipal land that the municipality plans to
25 dispose of each fiscal year during the five-year period.

26 * Sec. 12. AS 38.04.030 is amended to read:

27 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs that may
28 be used by the director to make the state's land surface available for private use under
29 AS 38.04.020 - 38.04.055 include: sale of whole or partial rights to the fee simple
30 estate, including conveyance of agricultural use rights; leasing; [OPEN-TO-ENTRY;]
31 homesiting; homesteading; permitting for construction and occupation of cabins in

1 isolated locations on land retained in state ownership; and other methods as provided
 2 by regulation or other law. ~~Notwithstanding a contrary provision of this title, a~~
 3 land availability program adopted by regulation must provide for competitive
 4 disposal, based on no less than fair market value, to serve the best interests of the
 5 state.

6 * Sec. 13. AS 38.04.035 is amended to read:

7 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
 8 which land availability program is appropriate for state land in different locations, the
 9 director shall be guided by the following criteria:

10 (1) to cover public costs associated with private land use and to provide
 11 the public with a fair return for publicly owned property, conveyance of state land to
 12 private parties shall [SHOULD] be at fair market value except where otherwise
 13 authorized by statute, or by an administrative regulation the adoption of which is
 14 specifically permitted by statute;

15 (2) sale or lease programs should be used where land is readily
 16 accessible to a major community center or where, because of a prime location on
 17 waterfront or a transportation route or some other location characteristic, land has
 18 relatively high real estate value;

19 (3) sale programs are preferred but lease programs ^{may} [should] be used

20 (A) where special land use controls are required and there is a
 21 high public interest in having certain types of land used for particular purposes;

22 (B) when the intended use is a temporary one;

23 (C) in commercial or industrial situations when a leasehold can
 24 provide cash flow advantages to the lessee;

25 (D) when a unique location with special public values is
 26 involved, as in a deep water port, hydroelectric site, or aquaculture facility;

27 (E) where current demand for private use is high, but
 28 projections suggest that, in the future, the land may be more valuable for public
 29 use, as in accessible waterfront recreation areas;

30 (4) [FOR ENABLING ISOLATED CABIN DEVELOPMENT IN
 31 REMOTE LOCATIONS WHERE SURVEY AND CONVEYANCE IS

*Amended
 Chapter
 38.04.035*

1 IMPRACTICAL, OR WHERE DISPOSAL OF LAND WOULD CAUSE POTENTIAL
2 CONFLICTS WITH OTHER RESOURCES AND USES, OR WHERE A LONG-
3 RANGE INTEREST IN PUBLIC OWNERSHIP AND USE EXIST, A SYSTEM FOR
4 CABIN PERMITS ON PUBLIC LAND MAY BE USED;

5 (5)] limited or conditional title may be granted when the state's best
6 interest so dictates; among other things, title limitations may include grants of
7 agricultural interest only, retention of development rights, and retention of scenic or
8 other easements; a conditional title may be tied to a development schedule or other
9 standards of performance.

10 • Sec. 14. AS 38.04.045(b) is amended to read:

11 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
12 for state land, an official cadastral survey shall be accomplished, unless a comparable,
13 approved survey exists that has been conducted by the federal Bureau of Land
14 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
15 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
16 except land that is classified for agricultural uses, an official rectangular survey grid
17 shall be established. The rectangular survey section corner positions shall be
18 monumented and shown on a cadastral survey plat approved by the state. For those
19 areas where the state may wish to convey surface estate outside of an official
20 rectangular survey grid, the commissioner may waive monumentation of individual
21 section corner positions and substitute an official control survey with control points
22 being monumented and shown on control survey plats approved by the state. The
23 commissioner may not issue more than one conveyance for each section within a
24 township outside of an official rectangular survey grid. Land [NO PORTION OF
25 LAND] to be conveyed may not be located more than two miles from an official
26 survey control monument except that the commissioner may waive this requirement
27 on a determination that a single purpose use does not justify the requirement if the
28 existing status of the land is known with reasonable certainty. The lots and tracts in
29 state subdivisions shall be monumented and the cadastral survey and plats for the
30 subdivision shall be approved by the state. Where land is located within a
31 municipality with planning, platting, and zoning powers, plats for state subdivisions

1 shall comply with local ordinances and regulations in the same manner and to the same
2 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
3 and recorded in the district recorder's office. The requirements of this section do not
4 apply to land made available [THROUGH A CABIN PERMIT SYSTEM,] for material
5 sales, for short-term leases, or for parcels adjoining a surveyed right-of-way, [OR FOR
6 LAND THAT HAS BEEN OPEN TO RANDOM STAKING UNDER THE REMOTE
7 PARCEL PROGRAM OR HOMESTEAD PROGRAM IN THE PAST]; however, for
8 short-term leases, the lessee shall [MUST] comply with local subdivision ordinances
9 unless waived by the municipality under procedures specified by ordinance. In this
10 subsection, "a single purpose use" includes a communication site, an aid to navigation,
11 and a park site.

12 * Sec. 15. AS 38.05.050 is amended to read:

13 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
14 commissioner shall determine the land to be disposed of for private use. The
15 commissioner shall determine the time and place of disposal. An auction sale, a
16 lottery sale, or a disposal of land for homesites may [SHALL] be held in a community
17 that is near the land to be sold or disposed of.

18 * Sec. 16. AS 38.05.055, as amended by sec. 1, ch. 3, SLA 1996, is amended to read: Total 4.11

19 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of
20 sale is required under this chapter, [AS 38.07, OR] AS 38.08, or AS 38.09, the sale
21 of state land shall be made at public auction to the highest qualified bidder as
22 determined by the director. The director may accept bids and sell state land under this
23 section at no less than 70 percent of the appraised fair market value of the land. To
24 qualify to participate under this section in a public auction of state land that is other
25 than commercial, industrial, or agricultural land, a bidder shall have been a resident
26 of the state for at least one year immediately preceding the date of the auction and
27 submit proof of that fact, as the commissioner requires by regulation. [A BIDDER
28 MUST APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL REASONS,
29 ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE THE STATE
30 PREVENT ATTENDANCE.] A bidder may be represented by an attorney or agent
31 at the auction [IF THE LAND OFFERED FOR DISPOSAL IS COMMERCIAL.

1 INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved bidder may appeal to
2 the commissioner within five days after the sale for a review of the director's
3 determination. The sale shall be conducted by the director and at the time of sale the
4 successful bidder shall deposit an amount equal to five percent of the purchase price.
5 The director shall immediately issue a receipt containing a description of the land or
6 property purchased, the price bid, and the amount deposited. The receipt shall be
7 acknowledged in writing by the bidder.

8 * Sec. 17. AS 38.05.057(a) is amended to read:

9 (a) The commissioner may dispose of land, including land limited to use for
10 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
11 the fair market value of the land as determined by the commissioner. The
12 commissioner may sell land by lottery for less than the fair market value of the land
13 on a determination that scarcity of land for private use in the area of the land to be
14 sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL
15 CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE
16 DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN
17 THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The
18 lottery shall be conducted in public by the commissioner. ~~Δ~~ [AN APPLICANT MAY
19 NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS
20 PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS
21 CONDUCTED) UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
22 MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN
23 APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE
24 LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL,
25 INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY
26 A) purchaser selected by lot shall deposit an amount equal to five percent of the
27 purchase price: within 30 days after receiving notification of the selection.

28 * Sec. 18. AS 38.05.065(a) is amended to read:

29 (a) The contract of sale for land sold at public auction under AS 38.05.055
30 shall require the remainder of the purchase price to be paid in monthly, quarterly, or
31 annual installments over a period of not more than 20 years, with interest at the

1 [PREVAILING] rate provided in (i) of this section [FOR REAL ESTATE
2 MORTGAGE LOANS MADE BY THE FEDERAL LAND BANK FOR THE FARM
3 CREDIT DISTRICT FOR ALASKA AT THE TIME THE CONTRACT IS SIGNED].

4 Installment payments plus interest shall be set on the level-payment basis.

5 * Sec. 19. AS 38.05.065(b) is amended to read:

6 (b) The contract of sale for land sold under AS 38.05.057 or under former
7 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
8 quarterly, or annual installments over a period of not more than 20 years. Installment
9 payments plus interest shall be set on the level-payment basis. The interest rate to be
10 charged on installment payments is the [PREVAILING] rate provided in (i) of this
11 section [FOR REAL ESTATE MORTGAGE LOANS MADE BY THE FEDERAL
12 LAND BANK FOR THE FARM CREDIT DISTRICT FOR ALASKA AT THE TIME
13 THE CONTRACT IS SIGNED].

14 * Sec. 20. AS 38.05.065 is amended by adding a new subsection to read:

15 (i) The interest rate for contracts under this section is the prime rate as
16 reported in the Wall Street Journal on the first business day of the month in which the
17 contract is sent to the purchaser for signature, plus 4 percent; however, the total rate
18 of interest may not exceed

19 (1) 9.5 percent, in contracts for the sale of land classified under
20 AS 38.05.020(b)(6) for agricultural uses; or

21 (2) 13.5 percent, in other contracts for the sale of land.

22 * Sec. 21. AS 38.05.067(d) is amended to read:

23 (d) This section does not apply to the sale of state land under AS 38.05.057,
24 AS 38.08, or [AS 38.04.020(g)(2) AND] AS 38.09.

25 * Sec. 22. AS 38.05.069(a) is amended to read:

26 (a) On a determination that the highest and best use of unoccupied land is for
27 agricultural purposes and that it is in the best interests of the state to sell or lease the
28 land, the commissioner shall grant to an Alaska [ALASKAN] resident owning and
29 using or leasing and using land for agricultural purposes a first option at the auction
30 to purchase or lease the unoccupied land situated adjacent to land presently held by the
31 Alaska [ALASKAN] resident for the amount of the high bid received at public

1 auction. If more than one Alaska [ALASKAN] resident qualifies for a first option
2 under this section, eligibility for the first option shall be determined by lot and the
3 option must be exercised on the conclusion of the public auction. A parcel of
4 agricultural land sold under this section may not be less than 20 acres and a parcel of
5 agricultural land that is acquired by exercise of the option granted in this subsection
6 may not exceed 320 acres. Agricultural land that is acquired under this section must
7 be used for agricultural purposes as required by law.

8 * Sec. 23. AS 38.05.069(e)(2) is repealed and reenacted to read:

9 (2) "adjacent" means that a tract of land has one common boundary
10 point with presently held land or is separated from the presently held land only by a
11 physical barrier such as a road or stream.

12 * Sec. 24. AS 38.05.075(a) is amended to read:

13 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, [38.05.079,]
14 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.600, 38.05.810, and this section,
15 leasing shall be made at public auction to the highest qualified bidder as determined
16 by the commissioner. In the public notice of a lease to be offered at public auction,
17 the commissioner shall specify a minimum acceptable bid and the lease compensation
18 method. The lease compensation method shall be designed to maximize the return on
19 the lease to the state and shall be a form of compensation set out in AS 38.05.073(m).
20 An aggrieved bidder may appeal to the commissioner within five days for a review of
21 the determination. The leasing shall be conducted by the commissioner and the
22 successful bidder shall deposit at the auction the first year's rental or other lease
23 compensation as specified by the commissioner, or that portion of it that the
24 commissioner requires in accordance with the bid. The commissioner shall require,
25 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or
26 appraisal costs reasonably incurred by another qualified bidder acting in accordance
27 with the regulations of the commissioner or incurred by the department under
28 AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal
29 costs is determined by the commissioner to be the highest qualified bidder under this
30 subsection, the deposit shall be paid to the unsuccessful bidder who incurred those
31 costs or to the department if the department incurred the costs. All costs for survey

1 and appraisal shall be approved in advance in writing by the commissioner. The
2 commissioner shall immediately issue a receipt containing a description of the land or
3 interest leased, the price bid, and the terms of the lease to the successful qualified
4 bidder. If the receipt is not accepted in writing by the bidder under this subsection,
5 the commissioner may offer the land for lease again under this subsection. A lease,
6 on a form approved by the attorney general, shall be signed by the successful bidder
7 and by the commissioner within the period specified in the auction notice.

8 * Sec. 25. AS 38.05.082(b) is amended to read:

9 (b) The director may classify land as subject to leases for fisheries
10 development. In an area or region of the state for which a land use plan has not been
11 adopted under AS 38.04.065, the director may classify land for lease under this section
12 after notice under AS 38.05.945. The director may [SHALL] publicly invite
13 applications for lease of the selected areas. Each application shall be accompanied by
14 an affidavit to the effect that the applicant presently intends to personally utilize the
15 leased area for fishing purposes throughout the term of the lease. If only one
16 application is received, the commissioner may issue a lease at the rental rate
17 established under (c) of this section [THE FOLLOWING SEASON]. If two or more
18 applications are received for the same shore area, the director may offer [SHALL
19 AWARD] the lease to the most qualified applicant. In determining the qualifications
20 of applicants, the director shall consider the length of time during which the applicant
21 has been engaged in set netting, the proximity of the past fishing sites of the applicant
22 to the land to be leased, the present ability of the applicant to utilize the location to
23 its maximum potential, and other factors relevant to the equitable assignment of the
24 disputed area. If the director cannot determine a preference between conflicting
25 applicants for the same lease site on the basis of qualifications, the director shall select
26 between the applicants by lot. An aggrieved applicant may appeal to the commissioner
27 within 30 days for a review of the director's determination.

28 * Sec. 26. AS 38.05.082(c) is amended to read:

29 (c) A lease for set net fishing may be issued for any period not exceeding 10
30 years. If the commissioner determines that the land is not being utilized for the
31 purpose for which the lease is issued, the lease may be declared void. The director

1300

Am #1

1 shall establish a [REASONABLE] rental rate for the lease. The rental rate may not
 2 exceed \$600 and shall be [,] equal to the greater of (1) the administrative costs
 3 involved in processing the leasehold applications; or (2) .6 percent of the year-end
 4 estimated monthly permit value for that district as determined from the latest
 5 estimated monthly permit value report from the Commercial Fisheries Entry
 6 Commission. The rental rate under this subsection shall be adjusted annually
 7 based upon the latest estimated monthly permit value report at the time of the
 8 adjustment from the Commercial Fisheries Entry Commission.

9 * Sec. 27. AS 38.05.082(d) is amended to read:

10 (d) Subleasing and renewals of leases are governed by AS 38.05.095 and
 11 38.05.102. Notwithstanding (b) of this section, a lease held under this section on
 12 the effective date of this bill section may be renewed by the lessee if the lessee is
 13 not in default under the lease and is not in violation of the terms and conditions
 14 of the lease.

15 * Sec. 28. AS 38.05.083 is repealed and reenacted to read:

for schedule use, not lease

16 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES.

17 (a) The commissioner may offer to the public for lease at public auction under
 18 AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or
 19 related hatchery operations. Before a final decision to issue or renew a lease under
 20 this section, the commissioner shall give notice and allow opportunity for comment in
 21 accordance with AS 38.05.945, and may hold a hearing to take testimony. Before a
 22 final decision to issue or renew a lease under this section, the commissioner shall
 23 consider all relevant comment or testimony submitted under this section, AS 38.05.945,
 24 or 38.05.946.

25 (b) The commissioner, for good cause, may deny an application for issuance
 26 or renewal of a lease under this section, but shall provide the applicant with written
 27 findings that explain the reasons for the denial.

28 (c) A site may be leased under this section for not less than the appraised fair
 29 market value of the lease. The value of the lease shall be reappraised every five years.

30 (d) A lease under this section may be assigned, but if the assignee changes the
 31 use of the site the lease reverts to the state.

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(e) Before entering into a lease under this section, the commissioner shall require the lessee to post a performance bond or provide other security to cover the costs to the department of restoring the leased site in the event the lessee abandons the site.

(f) The commissioner shall adopt regulations establishing criteria for the approval or denial of leases under this section and for limiting the number of sites for which leases may be issued in an area in order to protect the environment and natural resources of the area. The regulations must provide for the consideration of upland management policies and whether the proposed use of a site is compatible with the traditional and existing uses of the area in which the site is located.

* Sec. 29. AS 38.05.090 is repealed and reenacted to read:

Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON TERMINATION OF LEASES. (a) Unless otherwise agreed to in writing by the commissioner, a lessee shall remove from a former leasehold

(1) all personal property, including above-ground and below-ground tanks, transportable buildings, equipment, machinery, tools, and other goods, not belonging to the state, within 30 days after termination of the lease; and

(2) all buildings and fixtures, including gravel pads, foundations, and slabs, not belonging to the state, within 60 days after termination of the lease.

(b) Unless otherwise agreed to in writing by the commissioner, the lessee shall restore the leasehold to a good and marketable condition, acceptable to the commissioner, within 120 days after termination of the lease.

(c) If the lessee does not remove personal property, buildings, and fixtures as required within the time specified under (a) of this section, title to the personal property, buildings, and fixtures that remain automatically vests in the state unless the commissioner elects to remove and dispose of the remaining personal property, buildings, and fixtures of the lessee. The commissioner may assess upon the lessee the cost of removing and disposing of personal property, buildings, and fixtures remaining upon the land.

(d) If the lessee does not restore the land within the time period specified under (b) of this section, the commissioner may have the land restored and assess the

Am #4
just transfer 2 days
to be removed property
to be modified in
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1 costs upon the lessee.

2 (e) As part of a lease agreement, and in order to protect the public interest, the
3 commissioner may require terms for removal or reversion of improvements additional
4 to those specified in (a) - (d) of this section.

5 (f) Private residential improvements of a lessee that have become fixtures of
6 the land and that are not removed by that lessee upon termination of the lease shall be ^{leased to}
7 purchased by the subsequent ^{lessor or} purchaser of the land if the improvements were
8 authorized in the former lease or by permit from the director and if they have a net
9 value of more than \$10,000. The net value is the value of the improvements as
10 determined by an appraisal approved by the commissioner, less all rents due the
11 department, all costs of restoration under (d) of this section, and all department
12 expenses estimated to be incurred in making the sale. After termination of the former
13 lessee's lease, and at additional times as determined necessary by the commissioner,
14 the value of the authorized residential fixtures shall be determined by an independent
15 appraisal made at the cost of the former lessee. A notice or offer by the state to sell
16 formerly leased land under this subsection must state (1) the appraised value of
17 authorized residential fixtures remaining on the land that must be purchased, and (2)
18 that that cost is included in the purchase price. Out of the proceeds of the sale, the
19 department shall pay to the former lessee the appraised value of the residential
20 improvements, less all rents due the department, all costs of restoration due the
21 department under (d) of this section, and all department expenses incurred in making
22 the sale.

23 (g) Personal property described in (c) of this section is not subject to AS 34.45
24 (Uniform Unclaimed Property Act).

25 • Sec. 30. AS 38.05.131(a) is amended to read:

26 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
27 provisions of AS 38.05.005 - 38.05.037 [AS 38.05.005 - 38.05.040], 38.05.140(f),
28 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of
29 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

30 • Sec. 31. AS 38.05.185(a) is amended to read:

31 (a) The acquisition and continuance of rights in and to deposits on state land

1 of minerals, which on January 3, 1959, were subject to location under the mining laws
2 of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in
3 AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to
4 mineral deposits owned by any other person or government. The director, with the
5 approval of the commissioner, shall determine that land from which mineral deposits
6 may be mined only under lease, and, subject to the limitations of AS 38.05.300, that
7 land that shall be closed to location under AS 38.05.185 - 38.05.275 [MINING].
8 State land may not be closed to [MINING OR MINERAL] location under
9 AS 38.05.185 - 38.05.275 except as provided in AS 38.05.300 and unless the
10 commissioner makes a finding that mining would be incompatible with significant
11 surface uses on the state land. State land may not be restricted to mining under lease
12 unless the commissioner determines that potential use conflicts on the state land
13 require that mining be allowed only under written leases issued under AS 38.05.205
14 or the commissioner has determined that the land was mineral in character at the time
15 of state selection. The determinations required under this subsection shall be made in
16 compliance with land classification orders and land use plans developed under
17 AS 38.05.300.

18 * Sec. 32. AS 38.05.190(a) is amended to read:

19 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
20 38.05.275 may be acquired or held only by

21 (1) citizens of the United States at least 18 years of age;

22 (2) legal guardians or trustees of citizens of the United States under 18
23 years of age on behalf of the citizens;

24 (3) persons at least 18 years of age who have declared their intention
25 to become citizens of the United States;

26 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF
27 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED
28 STATES;

29 (5) corporations organized under the laws of the United States or of
30 any state or territory of the United States and qualified to do business in this state [,
31 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A

1 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT
2 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD
3 THE RIGHTS];

4 ~~(5)~~ [(6)] associations of persons described in ~~(1) - (4)~~ [(1) - (5)] of this
5 subsection.

6 * Sec. 33. AS 38.05.211(d) is repealed and reenacted to read:

7 (d) The rental amount established under this section shall be revised by the
8 commissioner as provided in this section based on changes in the Consumer Price
9 Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average)
10 compiled by the Bureau of Labor Statistics, United States Department of Labor, as
11 revised, rebased or replaced by that bureau. The reference base index is the index for
12 January - June, 1989, as revised or rebased by that bureau. The rental amount shall
13 be revised by the commissioner if the change between the index for the first six
14 months of the current year and the most recent index used to revise the rental, or the
15 reference base index if the rental amount has never been revised, equals or exceeds \$5.
16 The rental amount shall be increased or decreased, as appropriate, by an amount equal
17 to the change in the index described in this subsection rounded to the nearest whole
18 \$5 unit. The commissioner shall calculate the change in the index annually and, if the
19 rental amount must be revised, shall adopt a regulation establishing the revised rental
20 amount. A revised rental amount applies to a rental payment if the regulation
21 establishing the revised rental amount took effect at least 90 days before the date the
22 rental payment is due.

23 * Sec. 34. AS 38.05.255 is amended to read:

24 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of
25 land or water included within mining properties by owners of those properties shall be
26 limited to those necessary for the prospecting for, extraction of, or basic processing of
27 mineral deposits and shall be subject to reasonable concurrent uses. Leases
28 [PERMITS] for millsites and tailings disposal may be issued [GRANTED] by the
29 director. The leases [PERMITS] shall be conditioned upon payment of a reasonable
30 annual rent [CHARGE] for the lease [USE] and restriction to [CONTINUANCE OF]
31 the limited use. Timber from land open to mining without lease, except timberland.

1 may be used by a mining claimant or prospecting site locator for the mining or
2 development of the location or adjacent claims under common ownership. On other
3 land, timber may be acquired as provided in this chapter. Use of water shall be made
4 in accordance with AS 46.15.

5 * Sec. 35. AS 38.05.255 is amended by adding a new subsection to read:

6 (b) A lease issued under this section is exempt from the provisions of
7 AS 38.05.075 - 38.05.080. The commissioner, by regulation, shall establish
8 appropriate leasing procedures and annual rent amounts for leases under this section.

9 * Sec. 36. AS 38.05.265 is amended to read:

10 Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of
11 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE
12 TIME PRESCRIBED A LEASE APPLICATION,] pay any required annual rental, pay
13 any required production royalty, or keep location boundaries clearly marked as
14 required by AS 38.05.185 - 38.05.200, 38.05.207 - 38.05.245, 38.05.252 - 38.05.275,
15 [AS 38.05.185 - 38.05.275] and by regulations adopted under these sections constitutes
16 abandonment of all rights acquired under the mining claim, leasehold location,
17 [LEASE,] or site involved, and the claim, location, [LEASE,] or site is subject to
18 relocation by others. A locator or claimant of an abandoned location or a successor
19 in interest may not relocate the location until one year after abandonment. A statement
20 of annual labor that does not accurately set out the essential facts is void and of no
21 effect. If an annual rental or a royalty payment is deficient but is otherwise timely
22 paid, abandonment does not result if full payment is made within

23 (1) the period prescribed by a deficiency notice from the commissioner;

24 or

25 (2) 30 days after a final judgment establishing the amount due if the
26 deficiency amount due was contested.

27 * Sec. 37. AS 38.05 is amended by adding a new section to read:

28 ARTICLE 12A. REMOTE RECREATIONAL CABIN SITE SALES AND LEASES.

29 Sec. 38.05.600. REMOTE RECREATIONAL CABIN SITES. (a) The
30 commissioner may provide for the sale or lease of state land for remote recreational
31 cabin sites in areas of the state with dispersed populations if the land is classified for

1 that purpose under the procedures required by AS 38.05.300 and 38.05.945. Sales
2 under this section shall be at fair market value and the purchaser shall reimburse the
3 state for the appraisal, survey, and platting costs for the recreational cabin site.

4 (b) The annual fee for a remote recreational cabin site lease shall be set by the
5 commissioner so as to ensure that the state receives a fair return for the use granted
6 by the lease for the term of the lease. The commissioner shall establish regulations
7 that specify the application procedures for and the terms and conditions of a remote
8 recreational cabin site lease. A lease must be for a term of not more than five years,
9 and may be renewed for one additional five-year period. At any time during the lease,
10 the lessee may purchase the remote recreational cabin site by having the site appraised
11 and surveyed in a manner acceptable to the department and by paying to the state the
12 fair market value for the site. The lease may not be assigned by the original lessee
13 during the term of the lease.

14 (c) A remote recreational cabin site lease may be terminated by the
15 commissioner before the expiration of the term of the lease if a permittee fails to use
16 the land under lease in the manner required by the terms of the lease. After
17 termination of a remote recreational cabin site lease, improvements or personal
18 property on the land subject to the lease shall be managed in the same manner as
19 required by AS 38.05.090.

20 • Sec. 38. AS 38.05.810(a) is amended to read:

21 (a) Except as otherwise provided in AS 38.05.183(h), the (1) lease, sale, or
22 other disposal of state land or resources may be made to a state or federal agency or
23 political subdivision. (2) [THE] lease, sale, or disposal of coal deposits suitable for
24 mining may be made to a utility owned and operated by a government agency or
25 nonprofit cooperative association organized to participate under the Federal Rural
26 Electrification Act for the purpose of generating electric power and energy or the
27 production of process steam, or both. (3) [OR THE] sale or other disposal of state land
28 may be made to a tax-exempt, nonprofit corporation, association, club, or society
29 organized and operated exclusively for the management of a cemetery or a solid waste
30 or other public facility, or (4) sale or other disposal of land within a state
31 subdivision may be made to that subdivision's nonprofit, tax-exempt homeowners'

1 association, for less than the appraised value as determined by the director and
2 approved by the commissioner to be fair and proper and in the best interests of the
3 public, with due consideration given to the nature of the public services or function
4 rendered by the applicant [AGENCY, SUBDIVISION, TAX-EXEMPT, NONPROFIT
5 CORPORATION, ASSOCIATION, CLUB, OR SOCIETY, OR UTILITY MAKING
6 APPLICATION], and of the terms of the grant under which the land was acquired by
7 the state. The commissioner shall ensure, by regulation, deed restriction, covenant,
8 or otherwise, that disposals of land under this subsection serve a public purpose
9 and are in the public interest.

10 • Sec. 39. AS 38.05.850(a) is amended to read:

11 (a) The director, without the prior approval of the commissioner, may issue
12 permits, rights-of-way or easements on state land for roads, trails, ditches, field
13 gathering lines or transmission and distribution pipelines not subject to AS 38.35,
14 telephone or electric transmission and distribution lines, log storage, oil well drilling
15 sites and production facilities for the purposes of recovering minerals from adjacent
16 land under valid lease, and other similar uses or improvements, or revocable,
17 nonexclusive permits for the [LIMITED] personal or commercial use or removal of
18 resources that the director has determined to be of limited value [OF TIMBER OR
19 MATERIALS]. The commissioner, upon recommendation of the director, shall
20 establish a reasonable rate or fee schedule to be charged for these uses, subject to the
21 exception for nonprofit cooperative associations specified in (b) of this section. In the
22 granting, suspension or revocation of a permit or easement of land, the director shall
23 give preference to that use of the land which will be of greatest economic benefit to
24 the state and the development of its resources. However, first preference shall be
25 granted to the upland owner for the use of a tract of tideland, or tideland and
26 contiguous submerged land, which is seaward of the upland property of the upland
27 owner and which is needed by the upland owner for any of the purposes for which the
28 use may be granted.

29 • Sec. 40. AS 38.05.945(a) is amended to read:

30 (a) This section establishes the requirements for notice given by the department
31 for the following actions:

1 (1) classification or reclassification of state land under AS 38.05.300
2 and the closing of land to mineral leasing or entry under AS 38.05.185;

3 (2) zoning of land under applicable law;

4 (3) issuance of a

5 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
6 regarding the sale, lease, or disposal of an interest in state land or resources for
7 oil and gas subject to AS 38.05.180(b);

8 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
9 the sale, lease, or disposal of an interest in state land or resources for oil and
10 gas subject to AS 38.05.180(b);

11 (C) written finding for the sale, lease, or disposal of an interest
12 in state land or resources under AS 38.05.035(e)(6);

13 (4) a competitive disposal of an interest in state land or resources after
14 final decision under AS 38.05.035(e);

15 (5) [A PUBLIC HEARING UNDER AS 38.05.856(b);

16 (6)] a preliminary finding under AS 38.05.035(e) [AND 38.05.855(c)]
17 concerning sites for aquatic farms and related hatcheries;

18 ~~(6)~~ [(7)] a decision under AS 38.05.132 - 38.05.134 regarding the sale,
19 lease, or disposal of an interest in state land or resources.

20 • Sec. 41. AS 38.08.030(b) is amended to read:

21 (b) Fees for filing an application may not exceed \$25 [S10].

22 • Sec. 42. AS 38.08.040(a) is amended to read:

23 (a) An applicant meeting the qualifications for homesite entry under
24 AS 38.08.030 ~~and selected under (f) of this section~~ shall be issued a revocable permit
25 to occupy and improve the homesite in order to qualify for issuance of patent as
26 provided in this chapter. The holder of a homesite entry permit shall pay, in
27 advance, an annual rental fee of \$100. [THE APPLICATION FEE IS THE SOLE
28 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

29 • Sec. 43. AS 38.08.040 is amended by adding a new subsection to read:

30 (f) If only one application for a homesite parcel is received, the commissioner
31 shall offer an entry permit for the parcel to the applicant provided the applicant is

1 otherwise qualified. If more than one application is received for a parcel, the
2 commissioner shall select by lottery the applicant who is entitled to receive the permit
3 for the parcel. The lottery shall be conducted under regulations adopted by the
4 commissioner that are to the maximum extent practicable consistent with the provisions
5 of AS 38.05.057 and the regulations adopted under that section.

6 • Sec. 44. AS 38.09.010(g) is amended to read:

7 (g) The commissioner may limit the number of persons permitted to obtain
8 [STAKE] homestead entries within an area designated under (a) of this section by a
9 lottery of qualified applicants. [THE COMMISSIONER MAY CONDUCT A
10 LOTTERY HELD UNDER THIS SUBSECTION IN THE COMMUNITY THAT IS
11 CLOSEST TO THE AREA DESIGNATED FOR HOMESTEAD ENTRY. THE
12 COMMISSIONER MAY REQUIRE THAT EACH PARTICIPANT IN THE
13 LOTTERY BE PRESENT UNLESS ATTENDANCE AT THE LOTTERY IS
14 PREVENTED BY

15 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
16 MILITARY SERVICE OUTSIDE THE STATE; OR

17 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT
18 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE
19 SALE.]

20 • Sec. 45. AS 38.09.030(a) is amended to read:

21 (a) An applicant for a homestead entry permit shall

22 (1) submit proof acceptable to the commissioner that the applicant is
23 at least 18 years of age and has been a resident of the state for not less than one year
24 immediately before the date of application;

25 (2) pay a fee of \$5 per acre according to the description provided by
26 the applicant if the entry is on land classified agricultural, or \$20 per acre if the
27 entry is on land not classified agricultural; and

28 (3) agree to comply with the requirements of AS 38.09.050 (;

29 (4) CERTIFY THAT THE CORNERS OF THE LAND ENTERED
30 HAVE BEEN STAKED AND THE BOUNDARIES HAVE BEEN FLAGGED; OR

31 (5) ASSUME FULL RESPONSIBILITY FOR THE ACCURACY OF

1 THE DESCRIPTION OF THE LAND FILED WITH THE COMMISSIONER UNDER
2 AS 38.09.020(b)].

3 * Sec. 46. AS 38.09.050(a) is amended to read:

4 (a) The commissioner shall issue a patent to homestead entry land if the permit
5 holder

6 (1) either

7 (A) resides and lives on the homestead entry land for not less
8 than 25 months within five years after the issuance of the homestead entry
9 permit and reimburses the state for the survey and platting of the
10 homestead parcel;

11 (B) within five years pays the state the fair market value of
12 the homestead parcel at the time of patent and reimburses the state for the
13 survey and platting of the homestead parcel; or

14 (C) pays to the state the fair market value of the homestead
15 parcel under the terms of a contract under AS 38.05.065 to purchase the
16 parcel, entered into within five years of the issuance of the permit, and
17 reimburses the state for the survey and platting of the parcel; under this
18 subparagraph, the fair market value of the homestead parcel shall be
19 determined as of the date of the contract; and

20 (2) [SUBMITS AN ALIQUOT PARTS DESCRIPTION OR
21 COMPLETES AN APPROVED SURVEY OF THE LAND IN AN AREA WHERE
22 THE COMMISSIONER WAIVES THE RECTANGULAR SURVEY GRID WITHIN
23 FIVE YEARS AFTER THE ISSUANCE OF THE PERMIT;

24 (3) ERECTS A HABITABLE, PERMANENT DWELLING ON THE
25 HOMESTEAD WITHIN THREE YEARS AFTER THE ISSUANCE OF THE
26 HOMESTEAD ENTRY PERMIT;

27 (4) BRUSHES THE BOUNDARIES OF THE LAND NOT
28 DESCRIBED BY ALIQUOT PARTS OR AS A LOT OF RECORD WITHIN 90
29 DAYS AFTER THE ISSUANCE OF THE PERMIT;

30 (5) clears and either puts into production or prepares for cultivation
31 either 25 percent of the land classified for agricultural use or 50 percent of the

1 cropland soils, whichever is less, within five years after issuance of the permit.

2 * Sec. 47. AS 38.09.050(b) is amended to read:

3 (b) Nothing in this chapter prohibits a homestead entry permit holder from
4 residing in a temporary dwelling on the homestead [BEFORE ERECTION OF THE
5 PERMANENT DWELLING].

6 * Sec. 48. AS 38.09 is amended by adding a new section to read:

7 Sec. 38.09.105. REMOVAL OF CONDITIONS ON REMOTE PARCEL AND
8 HOMESTEAD ENTRY LAND. (a) The commissioner may not include the
9 conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued on
10 or after the effective date of this section.

11 (b) The commissioner shall amend a remote parcel or homestead entry land
12 purchase contract or patent issued before the effective date of this section to remove
13 the conditions of former AS 38.05.078(d) or former AS 38.09.050(e) if the holder of
14 the purchase contract or patent

15 (1) requests the amendment;

16 (2) pays the reasonable administrative costs of the amendment as
17 determined by the commissioner; and

18 (3) pays the difference, as established by the commissioner, between
19 the land's fair market value before the amendment and the estimated fair market value
20 after the amendment.

21 * Sec. 49. AS 38.95 is amended by adding a new section to read:

22 ARTICLE 7. NO OBLIGATION TO PROVIDE SERVICES TO DISPOSALS
23 OF STATE LAND; NO LIMITATION ON FURTHER DISPOSALS.

24 Sec. 38.95.300. DISCLAIMER APPLICABLE TO STATE DISPOSALS.

25 Except as otherwise specifically provided, nothing in this title

26 (1) obligates the state to provide services to land that is disposed of by
27 the state, or any grantee of the state, or is the subject of any disposal program;

28 (2) limits the authority of the state to dispose of land or any interest
29 in land or resources in the area of the current disposal, provides any exclusive right
30 or interest in the area of the disposal, or implies or requires that any disposals made
31 will be limited in type or any other manner.

1 * Sec. 50. AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k);
2 AS 38.05.035(e)(6)(F), 38.05.040, 38.05.057(g), 38.05.057(j), 38.05.079, 38.05.207, 38.05.855,
3 38.05.856, 38.05.945(g), 38.05.946(b); AS 38.08.090; AS 38.09.010(c), 38.09.020,
4 38.09.040(a)(2), 38.09.040(a)(3), 38.09.040(a)(4), 38.09.050(d), 38.09.050(e), 38.09.060,
5 38.09.070, 38.09.090, 38.09.900(1), 38.09.900(3), and 38.09.900(4) are repealed.

6 * Sec. 51. Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range
7 1 East, Seward Meridian, the commissioner of natural resources may

8 (1) convey a property interest in land to the Alaska Railroad Corporation for
9 the purpose of realigning the railroad in conjunction with the relocation of the Seward
10 Highway, provided that the property interest conveyed must be equivalent to that conveyed
11 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
12 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

13 (2) grant a 300 foot wide highway easement to the Department of
14 Transportation and Public Facilities for the relocated Seward Highway;

15 (3) grant a 100 foot wide utility easement to Chugach Electric Association,
16 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power
17 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line
18 (A-029885) located within the Chugach State Park.

19 * Sec. 52. A disposal by the Department of Natural Resources of a homesite under
20 AS 38.08 by lottery, on or after July 6, 1984, and before the effective date of this section, is
21 valid and effective, notwithstanding the fact that the disposal was by lottery, if the disposal
22 otherwise complied with the requirements of AS 38.08.

23 * Sec. 53. APPLICABILITY. The change to the interest rate to be charged on contracts
24 for the sale of land under AS 38.05.065, made by secs. 18 - 20 of this Act, applies to all
25 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for
26 signature on or after the effective date of secs. 18 - 20 of this Act.

27 * Sec. 54. REVISOR'S INSTRUCTION. The amendments to AS 38.05.082(b), made by
28 sec. 25 of this Act, do not affect the amendments made to that subsection by sec. 3, ch. 27,
29 SLA 1991, effective January 1, 1997. Unless amended or repealed by Act of the legislature
30 after the effective date of this section, the amendments to AS 38.05.082(b), made by sec. 25
31 of this Act, continue in effect after the amendments made by sec. 3, ch. 27, SLA 1991, take

1 effect January 1, 1997.

2 * Sec. 55. TRANSITIONAL PROVISIONS: REGULATIONS. (a) Notwithstanding
3 sec. 56 of this Act, the Department of Natural Resources may proceed to adopt regulations
4 necessary to implement the changes made by this Act. The regulations take effect under
5 AS 44.62 (Administrative Procedure Act), but not before July 1, 1996.

6 (b) To the extent they are consistent with AS 38.08, regulations governing the
7 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of
8 secs. 42 and 43 of this Act remain in effect notwithstanding the amendment to AS 38.08.040,
9 made by secs. 42 and 43 of this Act, until the regulations are amended, repealed, or
10 superseded.

11 * Sec. 56. To the maximum extent constitutionally permissible, sec. 1 of this Act is
12 retroactive to January 3, 1959.

13 * Sec. 57. Except for sec. 55 of this Act, this Act takes effect July 1, 1996.

14 * Sec. 58. Section 1 and 55 of this Act take effect immediately under AS 01.10.070(c).

MEMORANDUM

To :Tam Cook
Fr :Ted Popely
Date :March 25, 1996
Re :AS 09.10.120 Amendment

Please utilize this draft amendment to assist in a draft Bill amending AS 09.10.120. Initially, we'd like a separate Bill, but we may later ask you to amend a particular House Bill with this provision.

Attached is a draft from Joanne Grahe, Assistant Attorney General [Tel. 269-5237] for Alaska. Please feel free to use this draft [preferably version 2] in whole or in part and to work in concert with her and with Ron Somerville on this issue. This is a time sensitive issue, and we'd appreciate prompt action. Thank you; if you have questions, please call me [ext. 3439] or Ron Somerville [463-3830].

cc: Joanne Grace

Version 1

A BILL
FOR AN ACT ENTITLED

"An Act amending the statute of limitations for an action brought by or on behalf of the state, political subdivisions, or public corporations; and providing for an effective date."

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

*Section 1: AS 09.10.120 is amended to read:

Sec. 09.10.120. Actions in name of state, political subdivisions, or public corporations. An action brought in the name of or for the benefit of the state, any political subdivision, or public corporation may be commenced only within six years of the date of accrual of the cause of action. This section does not apply to actions brought to quiet title to interests in real property. However, if the action is for relief on the ground of fraud, the limitation commences from the time of discovery by the aggrieved party of the facts constituting the fraud.

*Section 2: Section 1 of this Act is retroactive to January 3, 1959.

Version 2

A BILL

FOR AN ACT ENTITLED

"An Act amending the statute of limitations for an action brought by or on behalf of the state, political subdivisions, or public corporations; and providing for an effective date."

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

*Section 1: AS 09.10.120 is amended to read:

Sec. 09.10.120. Actions in name of state, political subdivisions, or public corporations. An action brought in the name of or for the benefit of the state, any political subdivision, or public corporation may be commenced only within six years of the date of accrual of the cause of action. This section does not apply to actions brought to quiet title to interests in real property or to protect resources held in trust for the public. However, if the action is for relief on the ground of fraud, the limitation commences from the time of discovery by the aggrieved party of the facts constituting the fraud.

*Section 2: Section 1 of this Act is retroactive to January 3, 1959.



Alaska State Legislature

Senate Resources Committee

Official Business

Memo

State Capitol
Juneau AK 99801

TO: Gerry Luckhaupt
Legal Services
via fax 2019 (2 pages)

FROM: Annette Kreitzer, Aide to
Senate Resources Committee *(911 x4907)*

DATE: April 23, 1996

RE: CS for HB 191(RES)

Using LS0766U as the base document, create a Senate Resources Committee Substitute for HB 191 with the following changes:

- 1) Page 11, Line 28:
DELETE:
 [\$1,000]
Insert:
 \$600
- 2) Page 11, Line 31:
DELETE:
 [ONE]
Insert:
 0.60 percent
- 3) Page 12, Line 2:
Following "Comercial Fisheries Entry Commission" Insert a new subsection 3
 (3) The rental rate shall be adjusted annually based on the latest estimated monthly permit value report from the Commercial Fisheries Entry Commission.
- 4) Page 17, Line 8:
Following "38.05.275" Insert:
 except for AS 38.05.205 and 38.05.250.
Page 17, Line 10:
DELETE [lease] (delete both times it appears)

Next Page, Please

①

5) Page 1, Line 5:

Insert new Section 1: AS 09.10.120 is amended to read:

Sec. 09.10.120. Actions in name of state, political subdivisions, or public corporations. An action brought in the name of or for the benefit of the state, any political subdivision, or public corporation may be commenced only within six years of the date of accrual of the cause of action. This section does not apply to actions brought to quiet title to interests in real property or to protect resources held in trust for the public. However, if the action is for relief on the ground of fraud, the limitation commences from the time of discovery by the aggrieved party of the facts constituting the fraud.

Need section saying that this section is retroactive to January 3, 1959.

Dirig-

Also, when this CS is done, concurrently
deliver a copy to Rep. Shumaker's office

CS main Lockhart

②

9-LS0766U
Luckhaupt
3/28/96

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 191()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, James, Brice

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the management and disposal of state land and resources;
2 relating to certain remote parcel and homestead entry land purchase contracts
3 and patents; and providing for an effective date."

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

5 * Section 1. AS 38.04.010(b) is amended to read:

6 (b) State land that is located beyond the range of existing schools and other
7 necessary public services, or that is located where development of sources of
8 employment is improbable, may be made available for seasonal recreational purposes
9 or for low density settlement. The seasonal recreation use or low density settlement
10 shall have sufficient separation between residences so that public services will not be
11 necessary or expected. The availability of timber, firewood, and water resources shall
12 be considered in determining separation between residences. By considering the
13 availability of timber, firewood, and water under this subsection or in making any
14 disposal decision, the state does not by virtue of that consideration imply any

1 right of the person receiving the disposal to an exclusive or other right to the
2 timber, firewood, or water, that the state will not make any other disposals in the
3 area, or that any disposals made will be limited in type or any other manner.

4 * Sec. 2. AS 38.04.020(a) is amended to read:

5 (a) State [THE COMMISSIONER SHALL ESTABLISH A] land disposals
6 must include [DISPOSAL BANK CONTAINING] state land identified and classified
7 under adopted regional land use plans for disposal into private ownership.

8 * Sec. 3. AS 38.04.020(b) is amended to read:

9 (b) State [THE] land disposals may [DISPOSAL BANK DOES] not include

10 (1) land nominated for selection or selected by a municipality to satisfy
11 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;

12 (2) land retained in state ownership for multiple-use management;

13 (3) land where less than a fee simple title has been conveyed;

14 (4) land retained in state ownership under an enactment of the
15 legislature or by the governor or a state agency under authority of law.

16 * Sec. 4. AS 38.04.020(d) is repealed and reenacted to read:

17 (d) By January 15 of the first regular session of each legislature, the
18 commissioner shall notify the legislature that the commissioner has available a report
19 on the total acreage of land planned and classified as suitable under this title for

20 (1) settlement purposes, including homestead, commercial, or industrial
21 disposal;

22 (2) agricultural disposal; and

23 (3) grazing leases.

24 * Sec. 5. AS 38.04.020(e) is repealed and reenacted to read:

25 (e) The commissioner may annually submit to the governor an appropriation
26 request for the entire amount of funding estimated to be necessary for each project
27 proposal to allow survey and disposal of land proposed to be offered for (1) homestead
28 staking under AS 38.09; (2) agricultural, commercial, industrial, or other uses under
29 AS 38.05.055 or 38.05.0.7; or (3) other subdivisions. Each project proposal shall
30 include the general location of the land and the estimated cost of preliminary feasibility
31 studies, engineering design work, right-of-way acquisition, and construction of access

1 roads and critical improvements required by municipal subdivision ordinance or
2 regulation of the platting authority or otherwise necessary to develop and market the
3 land.

4 * Sec. 6. AS 38.04.020(g) is amended to read:

5 (g) The [AFTER JULY 1 OF EACH YEAR, THE] commissioner shall direct
6 the expenditure of money appropriated for the disposal of land in response to requests
7 made under (e) [AND (f)] of this section for the following:

8 (1) land [LAND] designated as suitable for homestead disposal shall
9 be [CLASSIFIED AND] surveyed under this chapter and AS 38.05 and made available
10 for entry [STAKING AND LEASE] under AS 38.09; [.]

11 (2) land [LAND] designated as suitable for subdivision and homesite
12 disposal shall be surveyed, subdivided, [CLASSIFIED,] and disposed of under this
13 chapter, AS 38.05, and AS 38.08; [.]

14 (3) land [LAND] designated agricultural, commercial, industrial, or
15 suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

16 * Sec. 7. AS 38.04.020(h) is amended to read:

17 (h) Individual parcels disposed of in subdivisions intended for private
18 residential or recreational use may not exceed five acres unless the commissioner
19 determines that a larger size is necessary to comply with municipal ordinances; [.] to
20 permit the design of a viable subdivision because of topographical features, soil
21 conditions, on-site sewage disposal requirements, or water drainage or supply
22 considerations that are unique to the subdivision; to increase the return to the state
23 from the sale of the parcels; [.] to minimize adverse effect on wildlife, fishery, public
24 recreation, timber, or other significant resources in the area; [.] or to minimize adverse
25 effect on other residential uses in the area.

26 * Sec. 8. AS 38.04.020(i) is amended to read:

27 (i) Nothing in this section prevents the disposal of other land by the
28 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of
29 remote recreational cabin site leases or sales [PERMITS] under AS 38.05.600
30 [AS 38.05.079], AS 38.08, AS 38.09, or other law.

31 * Sec. 9. AS 38.04.021(a) is amended to read:

1 (a) A municipality may apply for financial assistance for the execution of a
2 land disposal program of general grant land entitlements received from the state under
3 AS 29.65 or former AS 29.18.201 - 29.18.213 by submitting a request to the
4 commissioner for inclusion in the request submitted to the governor [LEGISLATURE]
5 under AS 38.04.020(e). A municipality may request financial assistance for expenses
6 of surveying land, designing subdivision plats, installing improvements required by
7 municipal ordinance or regulation of the local platting authority, and other reasonable
8 direct costs of land disposal.

9 * Sec. 10. AS 38.04.021(b) is amended to read:

10 (b) A request by a municipality under this section must be accompanied by

11 (1) a schedule for the disposal of municipal land for the next five years;
12 the schedule shall be based on an assessment of the demand for private land within the
13 municipality [AND INCLUDED IN THE ASSESSMENT SUBMITTED UNDER
14 AS 38.04.020(f)];

15 (2) an estimate of the number of acres of municipal land that the
16 municipality plans to dispose of during each fiscal year of the five-year period;

17 (3) a description of the methods to be used for the disposal of
18 municipal land and the terms under which it will be offered to the public; and

19 (4) a description of the municipal land that the municipality plans to
20 dispose of each fiscal year during the five-year period.

21 * Sec. 11. AS 38.04.030 is amended to read:

22 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs that may
23 be used by the director to make the state's land surface available for private use under
24 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple
25 estate, including conveyance of agricultural use rights; leasing; [OPEN-TO-ENTRY;]
26 homesiting; homesteading; permitting for construction and occupation of cabins in
27 isolated locations on land retained in state ownership; and other methods as provided
28 by regulation or other law. Notwithstanding a contrary provision of this title, a
29 land availability program adopted by regulation must provide for competitive
30 disposal, based on no less than fair market value, to serve the best interests of the
31 state.

1 * Sec. 12. AS 38.04.035 is amended to read:

2 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
3 which land availability program is appropriate for state land in different locations, the
4 director shall be guided by the following criteria:

5 (1) to cover public costs associated with private land use and to provide
6 the public with a fair return for publicly owned property, conveyance of state land to
7 private parties shall [SHOULD] be at fair market value except where otherwise
8 authorized by statute, or by an administrative regulation the adoption of which is
9 specifically permitted by statute;

10 (2) sale or lease programs should be used where land is readily
11 accessible to a major community center or where, because of a prime location on
12 waterfront or a transportation route or some other location characteristic, land has
13 relatively high real estate value;

14 (3) sale programs are preferred but lease programs should be used

15 (A) where special land use controls are required and there is a
16 high public interest in having certain types of land used for particular purposes;

17 (B) when the intended use is a temporary one;

18 (C) in commercial or industrial situations when a leasehold can
19 provide cash flow advantages to the lessee;

20 (D) when a unique location with special public values is
21 involved, as in a deep water port, hydroelectric site, or aquaculture facility;

22 (E) where current demand for private use is high, but
23 projections suggest that, in the future, the land may be more valuable for public
24 use, as in accessible waterfront recreation areas;

25 (4) [FOR ENABLING ISOLATED CABIN DEVELOPMENT IN
26 REMOTE LOCATIONS WHERE SURVEY AND CONVEYANCE IS
27 IMPRACTICAL, OR WHERE DISPOSAL OF LAND WOULD CAUSE POTENTIAL
28 CONFLICTS WITH OTHER RESOURCES AND USES, OR WHERE A LONG-
29 RANGE INTEREST IN PUBLIC OWNERSHIP AND USE EXIST, A SYSTEM FOR
30 CABIN PERMITS ON PUBLIC LAND MAY BE USED;

31 (5)] limited or conditional title may be granted when the state's best

1 interest so dictates; among other things, title limitations may include grants of
2 agricultural interest only, retention of development rights, and retention of scenic or
3 other easements; a conditional title may be tied to a development schedule or other
4 standards of performance.

5 * Sec. 13. AS 38.04.045(b) is amended to read:

6 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
7 for state land, an official cadastral survey shall be accomplished, unless a comparable,
8 approved survey exists that has been conducted by the federal Bureau of Land
9 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
10 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
11 except land that is classified for agricultural uses, an official rectangular survey grid
12 shall be established. The rectangular survey section corner positions shall be
13 monumented and shown on a cadastral survey plat approved by the state. For those
14 areas where the state may wish to convey surface estate outside of an official
15 rectangular survey grid, the commissioner may waive monumentation of individual
16 section corner positions and substitute an official control survey with control points
17 being monumented and shown on control survey plats approved by the state. The
18 commissioner may not issue more than one conveyance for each section within a
19 township outside of an official rectangular survey grid. Land [NO PORTION OF
20 LAND] to be conveyed may not be located more than two miles from an official
21 survey control monument except that the commissioner may waive this requirement
22 on a determination that a single purpose use does not justify the requirement if the
23 existing status of the land is known with reasonable certainty. The lots and tracts in
24 state subdivisions shall be monumented and the cadastral survey and plats for the
25 subdivision shall be approved by the state. Where land is located within a
26 municipality with planning, platting, and zoning powers, plats for state subdivisions
27 shall comply with local ordinances and regulations in the same manner and to the same
28 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
29 and recorded in the district recorder's office. The requirements of this section do not
30 apply to land made available [THROUGH A CABIN PERMIT SYSTEM.] for material
31 sales, for short-term leases, or for parcels adjoining a surveyed right-of-way. [OR FOR

1 LAND THAT HAS BEEN OPEN TO RANDOM STAKING UNDER THE REMOTE
2 PARCEL PROGRAM OR HOMESTEAD PROGRAM IN THE PAST]; however, for
3 short-term leases, the lessee shall [MUST] comply with local subdivision ordinances
4 unless waived by the municipality under procedures specified by ordinance. In this
5 subsection, "a single purpose use" includes a communication site, an aid to navigation,
6 and a park site.

7 * Sec. 14. AS 38.05.050 is amended to read:

8 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
9 commissioner shall determine the land to be disposed of for private use. The
10 commissioner shall determine the time and place of disposal. An auction sale, a
11 lottery sale, or a disposal of land for homesites may [SHALL] be held in a community
12 that is near the land to be sold or disposed of.

13 * Sec. 15. AS 38.05.055, as amended by sec. 1, ch. 3, SLA 1996, is amended to read:

14 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of
15 sale is required under this chapter, [AS 38.07, OR] AS 38.08, or AS 38.09, the sale
16 of state land shall be made at public auction to the highest qualified bidder as
17 determined by the director. The director may accept bids and sell state land under this
18 section at no less than 70 percent of the appraised fair market value of the land. To
19 qualify to participate under this section in a public auction of state land that is other
20 than commercial, industrial, or agricultural land, a bidder shall have been a resident
21 of the state for at least one year immediately preceding the date of the auction and
22 submit proof of that fact, as the commissioner requires by regulation. [A BIDDER
23 MUST APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL REASONS,
24 ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE THE STATE
25 PREVENT ATTENDANCE.] A bidder may be represented by an attorney or agent
26 at the auction [IF THE LAND OFFERED FOR DISPOSAL IS COMMERCIAL,
27 INDUSTRIAL, OR AGRICULTURAL LAND] An aggrieved bidder may appeal to
28 the commissioner within five days after the sale for a review of the director's
29 determination. The sale shall be conducted by the director and at the time of sale the
30 successful bidder shall deposit an amount equal to five percent of the purchase price.
31 The director shall immediately issue a receipt containing a description of the land or

1 property purchased, the price bid, and the amount deposited. The receipt shall be
2 acknowledged in writing by the bidder.

3 • Sec. 16. AS 38.05.057(a) is amended to read:

4 (a) The commissioner may dispose of land, including land limited to use for
5 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
6 the fair market value of the land as determined by the commissioner. The
7 commissioner may sell land by lottery for less than the fair market value of the land
8 on a determination that scarcity of land for private use in the area of the land to be
9 sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL
10 CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE
11 DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN
12 THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The
13 lottery shall be conducted in public by the commissioner. Δ [AN APPLICANT MAY
14 NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS
15 PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS
16 CONDUCTED UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
17 MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN
18 APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE
19 LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL,
20 INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY
21 A] purchaser selected by lot shall deposit an amount equal to five percent of the
22 purchase price within 30 days after receiving notification of the selection.

23 • Sec. 17. AS 38.05.065(a) is amended to read:

24 (a) The contract of sale for land sold at public auction under AS 38.05.055
25 shall require the remainder of the purchase price to be paid in monthly, quarterly, or
26 annual installments over a period of not more than 20 years, with interest at the
27 [PREVAILING] rate provided in (i) of this section [FOR REAL ESTATE
28 MORTGAGE LOANS MADE BY THE FEDERAL LAND BANK FOR THE FARM
29 CREDIT DISTRICT FOR ALASKA AT THE TIME THE CONTRACT IS SIGNED].
30 Installment payments plus interest shall be set on the level-payment basis.

31 • Sec. 18. AS 38.05.065(b) is amended to read:

1 (b) The contract of sale for land sold under AS 38.05.057 or under former
2 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
3 quarterly, or annual installments over a period of not more than 20 years. Installment
4 payments plus interest shall be set on the level-payment basis. The interest rate to be
5 charged on installment payments is the [PREVAILING] rate provided in (i) of this
6 section [FOR REAL ESTATE MORTGAGE LOANS MADE BY THE FEDERAL
7 LAND BANK FOR THE FARM CREDIT DISTRICT FOR ALASKA AT THE TIME
8 THE CONTRACT IS SIGNED].

9 • Sec. 19. AS 38.05.065 is amended by adding a new subsection to read:

10 (i) The interest rate for contracts under this section is the prime rate as
11 reported in the Wall Street Journal on the first business day of the month in which the
12 contract is sent to the purchaser for signature, plus 4 percent; however, the total rate
13 of interest may not exceed

14 (1) 9.5 percent, in contracts for the sale of land classified under
15 AS 38.05.020(b)(6) for agricultural uses; or

16 (2) 13.5 percent, in other contracts for the sale of land.

17 • Sec. 20. AS 38.05.067(d) is amended to read:

18 (d) This section does not apply to the sale of state land under AS 38.05.057,
19 AS 38.08, or [AS 38.04.020(g)(2) AND] AS 38.09.

20 • Sec. 21. AS 38.05.069(a) is amended to read:

21 (a) On a determination that the highest and best use of unoccupied land is for
22 agricultural purposes and that it is in the best interests of the state to sell or lease the
23 land, the commissioner shall grant to an Alaska [ALASKAN] resident owning and
24 using or leasing and using land for agricultural purposes a first option at the auction
25 to purchase or lease the unoccupied land situated adjacent to land presently held by the
26 Alaska [ALASKAN] resident for the amount of the high bid received at public
27 auction. If more than one Alaska [ALASKAN] resident qualifies for a first option
28 under this section, eligibility for the first option shall be determined by lot and the
29 option must be exercised on the conclusion of the public auction. A parcel of
30 agricultural land sold under this section may not be less than 20 acres and a parcel of
31 agricultural land that is acquired by exercise of the option granted in this subsection

1 may not exceed 320 acres. Agricultural land that is acquired under this section must
2 be used for agricultural purposes as required by law.

3 * Sec. 22. AS 38.05.069(e)(2) is repealed and reenacted to read:

4 (2) "adjacent" means that a tract of land has one common boundary
5 point with presently held land or is separated from the presently held land only by a
6 physical barrier such as a road or stream.

7 * Sec. 23. AS 38.05.075(a) is amended to read:

8 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, [38.05.079,]
9 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.600, 38.05.810, and this section,
10 leasing shall be made at public auction to the highest qualified bidder as determined
11 by the commissioner. In the public notice of a lease to be offered at public auction,
12 the commissioner shall specify a minimum acceptable bid and the lease compensation
13 method. The lease compensation method shall be designed to maximize the return on
14 the lease to the state and shall be a form of compensation set out in AS 38.05.073(m).
15 An aggrieved bidder may appeal to the commissioner within five days for a review of
16 the determination. The leasing shall be conducted by the commissioner and the
17 successful bidder shall deposit at the auction the first year's rental or other lease
18 compensation as specified by the commissioner, or that portion of it that the
19 commissioner requires in accordance with the bid. The commissioner shall require,
20 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or
21 appraisal costs reasonably incurred by another qualified bidder acting in accordance
22 with the regulations of the commissioner or incurred by the department under
23 AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal
24 costs is determined by the commissioner to be the highest qualified bidder under this
25 subsection, the deposit shall be paid to the unsuccessful bidder who incurred those
26 costs or to the department if the department incurred the costs. All costs for survey
27 and appraisal shall be approved in advance in writing by the commissioner. The
28 commissioner shall immediately issue a receipt containing a description of the land or
29 interest leased, the price bid, and the terms of the lease to the successful qualified
30 bidder. If the receipt is not accepted in writing by the bidder under this subsection,
31 the commissioner may offer the land for lease again under this subsection. A lease,

1 on a form approved by the attorney general, shall be signed by the successful bidder
2 and by the commissioner within the period specified in the auction notice.

3 * Sec. 24. AS 38.05.082(b) is amended to read:

4 (b) The director may classify land as subject to leases for fisheries
5 development. In an area or region of the state for which a land use plan has not been
6 adopted under AS 38.04.065, the director may classify land for lease under this section
7 after notice under AS 38.05.945. The director may [SHALL] publicly invite
8 applications for lease of the selected areas. Each application shall be accompanied by
9 an affidavit to the effect that the applicant presently intends to personally utilize the
10 leased area for fishing purposes throughout the term of the lease. If only one
11 application is received, the commissioner may issue a lease at the rental rate
12 established under (c) of this section [THE FOLLOWING SEASON]. If two or more
13 applications are received for the same shore area, the director may offer [SHALL
14 AWARD] the lease to the most qualified applicant. In determining the qualifications
15 of applicants, the director shall consider the length of time during which the applicant
16 has been engaged in set netting, the proximity of the past fishing sites of the applicant
17 to the land to be leased, the present ability of the applicant to utilize the location to
18 its maximum potential, and other factors relevant to the equitable assignment of the
19 disputed area. If the director cannot determine a preference between conflicting
20 applicants for the same lease site on the basis of qualifications, the director shall select
21 between the applicants by lot. An aggrieved applicant may appeal to the commissioner
22 within 30 days for a review of the director's determination.

23 * Sec. 25. AS 38.05.082(c) is amended to read:

24 (c) A lease for set net fishing may be issued for any period not exceeding 10
25 years. If the commissioner determines that the land is not being utilized for the
26 purpose for which the lease is issued, the lease may be declared void. The director
27 shall establish a [REASONABLE] rental rate for the lease. The rental rate may not
28 exceed \$1,000 and shall be [.] equal to the greater of

29 (1) the administrative costs involved in processing the leasehold
30 applications; or

31 (2) one percent of the year-end estimated monthly permit value for

1 that district as determined from the latest estimated monthly permit value report
2 from the Commercial Fisheries Entry Commission.

3 * Sec. 26. AS 38.05.082(d) is amended to read:

4 (d) Subleasing and renewals of leases are governed by AS 38.05.095 and
5 38.05.102. Notwithstanding (b) of this section, a lease held under this section on
6 the effective date of this bill section may be renewed by the lessee if the lessee is
7 not in default under the lease and is not in violation of the terms and conditions
8 of the lease.

9 * Sec. 27. AS 38.05.083 is repealed and reenacted to read:

10 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES.

11 (a) The commissioner may offer to the public for lease at public auction under
12 AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or
13 related hatchery operations. Before a final decision to issue or renew a lease under
14 this section, the commissioner shall give notice and allow opportunity for comment in
15 accordance with AS 38.05.945, and may hold a hearing to take testimony. Before a
16 final decision to issue or renew a lease under this section, the commissioner shall
17 consider all relevant comment or testimony submitted under this section, AS 38.05.945,
18 or 38.05.946.

19 (b) The commissioner, for good cause, may deny an application for issuance
20 or renewal of a lease under this section, but shall provide the applicant with written
21 findings that explain the reasons for the denial.

22 (c) A site may be leased under this section for not less than the appraised fair
23 market value of the lease. The value of the lease shall be reappraised every five years.

24 (d) A lease under this section may be assigned, but if the assignee changes the
25 use of the site the lease reverts to the state.

26 (e) Before entering into a lease under this section, the commissioner shall
27 require the lessee to post a performance bond or provide other security to cover the
28 costs to the department of restoring the leased site in the event the lessee abandons the
29 site.

30 (f) The commissioner shall adopt regulations establishing criteria for the
31 approval or denial of leases under this section and for limiting the number of sites for

1 which leases may be issued in an area in order to protect the environment and natural
2 resources of the area. The regulations must provide for the consideration of upland
3 management policies and whether the proposed use of a site is compatible with the
4 traditional and existing uses of the area in which the site is located.

5 * Sec. 28. AS 38.05.090 is repealed and reenacted to read:

6 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON
7 TERMINATION OF LEASES. (a) Unless otherwise agreed to in writing by the
8 commissioner, a lessee shall remove from a former leasehold

9 (1) all personal property, including above-ground and below-ground
10 tanks, transportable buildings, equipment, machinery, tools, and other goods, not
11 belonging to the state, within 30 days after termination of the lease; and

12 (2) all buildings and fixtures, including gravel pads, foundations, and
13 slabs, not belonging to the state, within 60 days after termination of the lease.

14 (b) Unless otherwise agreed to in writing by the commissioner, the lessee shall
15 restore the leasehold to a good and marketable condition, acceptable to the
16 commissioner, within 120 days after termination of the lease.

17 (c) If the lessee does not remove personal property, buildings, and fixtures as
18 required within the time specified under (a) of this section, title to the personal
19 property, buildings, and fixtures that remain automatically vests in the state unless the
20 commissioner elects to remove and dispose of the remaining personal property,
21 buildings, and fixtures of the lessee. The commissioner may assess upon the lessee
22 the cost of removing and disposing of personal property, buildings, and fixtures
23 remaining upon the land.

24 (d) If the lessee does not restore the land within the time period specified
25 under (b) of this section, the commissioner may have the land restored and assess the
26 costs upon the lessee.

27 (e) As part of a lease agreement, and in order to protect the public interest, the
28 commissioner may require terms for removal or reversion of improvements additional
29 to those specified in (a) - (d) of this section.

30 (f) Private residential improvements of a lessee that have become fixtures of
31 the land and that are not removed by that lessee upon termination of the lease shall be

1 purchased by the subsequent purchaser of the land if the improvements were
2 authorized in the former lease or by permit from the director and if they have a net
3 value of more than \$10,000. The net value is the value of the improvements as
4 determined by an appraisal approved by the commissioner, less all rents due the
5 department, all costs of restoration under (d) of this section, and all department
6 expenses estimated to be incurred in making the sale. After termination of the former
7 lessee's lease, and at additional times as determined necessary by the commissioner,
8 the value of the authorized residential fixtures shall be determined by an independent
9 appraisal made at the cost of the former lessee. A notice or offer by the state to sell
10 formerly leased land under this subsection must state (1) the appraised value of
11 authorized residential fixtures remaining on the land that must be purchased, and (2)
12 that that cost is included in the purchase price. Out of the proceeds of the sale, the
13 department shall pay to the former lessee the appraised value of the residential
14 improvements, less all rents due the department, all costs of restoration due the
15 department under (d) of this section, and all department expenses incurred in making
16 the sale.

17 (g) Personal property described in (c) of this section is not subject to AS 34.45
18 (Uniform Unclaimed Property Act).

19 * Sec. 29. AS 38.05.131(a) is amended to read:

20 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
21 provisions of AS 38.05.005 - 38.05.037 [AS 38.05.005 - 38.05.040], 38.05.140(f),
22 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of
23 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

24 * Sec. 30. AS 38.05.185(a) is amended to read:

25 (a) The acquisition and continuance of rights in and to deposits on state land
26 of minerals, which on January 3, 1959, were subject to location under the mining laws
27 of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in
28 AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to
29 mineral deposits owned by any other person or government. The director, with the
30 approval of the commissioner, shall determine that land from which mineral deposits
31 may be mined only under lease, and, subject to the limitations of AS 38.05.300, that

1 land that shall be closed to location under AS 38.05.185 - 38.05.275 [MINING].
2 State land may not be closed to [MINING OR MINERAL] location under
3 AS 38.05.185 - 38.05.275 except as provided in AS 38.05.300 and unless the
4 commissioner makes a finding that mining would be incompatible with significant
5 surface uses on the state land. State land may not be restricted to mining under lease
6 unless the commissioner determines that potential use conflicts on the state land
7 require that mining be allowed only under written leases issued under AS 38.05.205
8 or the commissioner has determined that the land was mineral in character at the time
9 of state selection. The determinations required under this subsection shall be made in
10 compliance with land classification orders and land use plans developed under
11 AS 38.05.300.

12 * Sec. 31. AS 38.05.190(a) is amended to read:

13 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
14 38.05.275 may be acquired or held only by

15 (1) citizens of the United States at least 18 years of age;

16 (2) legal guardians or trustees of citizens of the United States under 18
17 years of age on behalf of the citizens;

18 (3) persons at least 18 years of age who have declared their intention
19 to become citizens of the United States;

20 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF
21 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED
22 STATES;

23 (5)] corporations organized under the laws of the United States or of
24 any state or territory of the United States and qualified to do business in this state [,
25 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A
26 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT
27 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD
28 THE RIGHTS];

29 (5) [(6)] associations of persons described in (1) - (4) [(1) - (5)] of this
30 subsection.

31 * Sec. 32. AS 38.05.211(d) is repealed and reenacted to read:

1 (d) The rental amount established under this section shall be revised by the
2 commissioner as provided in this section based on changes in the Consumer Price
3 Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average)
4 compiled by the Bureau of Labor Statistics, United States Department of Labor, as
5 revised, rebased or replaced by that bureau. The reference base index is the index for
6 January - June, 1989, as revised or rebased by that bureau. The rental amount shall
7 be revised by the commissioner if the change between the index for the first six
8 months of the current year and the most recent index used to revise the rental, or the
9 reference base index if the rental amount has never been revised, equals or exceeds \$5.
10 The rental amount shall be increased or decreased, as appropriate, by an amount equal
11 to the change in the index described in this subsection rounded to the nearest whole
12 \$5 unit. The commissioner shall calculate the change in the index annually and, if the
13 rental amount must be revised, shall adopt a regulation establishing the revised rental
14 amount. A revised rental amount applies to a rental payment if the regulation
15 establishing the revised rental amount took effect at least 90 days before the date the
16 rental payment is due.

17 * Sec. 33. AS 38.05.255 is amended to read:

18 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of
19 land or water included within mining properties by owners of those properties shall be
20 limited to those necessary for the prospecting for, extraction of, or basic processing of
21 mineral deposits and shall be subject to reasonable concurrent uses. Leases
22 [PERMITS] for millsites and tailings disposal may be issued [GRANTED] by the
23 director. The leases [PERMITS] shall be conditioned upon payment of a reasonable
24 annual rent [CHARGE] for the lease [USE] and restriction to [CONTINUANCE OF]
25 the limited use. Timber from land open to mining without lease, except timberland,
26 may be used by a mining claimant or prospecting site locator for the mining or
27 development of the location or adjacent claims under common ownership. On other
28 land, timber may be acquired as provided in this chapter. Use of water shall be made
29 in accordance with AS 46.15.

30 * Sec. 34. AS 38.05.255 is amended by adding a new subsection to read:

31 (b) A lease issued under this section is exempt from the provisions of

1 AS 38.05.075 - 38.05.080. The commissioner, by regulation, shall establish
2 appropriate leasing procedures and annual rent amounts for leases under this section.

3 * Sec. 35. AS 38.05.265 is amended to read:

4 Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of
5 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE
6 TIME PRESCRIBED A LEASE APPLICATION,] pay any required annual rental, pay
7 any required production royalty, or keep location boundaries clearly marked as
8 required by AS 38.05.185 - 38.05.275 and by regulations adopted under these sections
9 constitutes abandonment of all rights acquired under the mining claim, leasehold
10 location, lease, or site involved, and the claim, location, lease, or site is subject to
11 relocation by others. A locator or claimant of an abandoned location or a successor
12 in interest may not relocate the location until one year after abandonment. A statement
13 of annual labor that does not accurately set out the essential facts is void and of no
14 effect. If an annual rental or a royalty payment is deficient but is otherwise timely
15 paid, abandonment does not result if full payment is made within

16 (1) the period prescribed by a deficiency notice from the commissioner;
17 or

18 (2) 30 days after a final judgment establishing the amount due if the
19 deficiency amount due was contested.

20 * Sec. 36. AS 38.05 is amended by adding a new section to read:

21 ARTICLE 12A. REMOTE RECREATIONAL CABIN SITE SALES AND LEASES.

22 Sec. 38.05.600. REMOTE RECREATIONAL CABIN SITES. (a) The
23 commissioner may provide for the sale or lease of state land for remote recreational
24 cabin sites in areas of the state with dispersed populations if the land is classified for
25 that purpose under the procedures required by AS 38.05.300 and 38.05.945. Sales
26 under this section shall be at fair market value and the purchaser shall reimburse the
27 state for the appraisal, survey, and platting costs for the recreational cabin site.

28 (b) The annual fee for a remote recreational cabin site lease shall be set by the
29 commissioner so as to ensure that the state receives a fair return for the use granted
30 by the lease for the term of the lease. The commissioner shall establish regulations
31 that specify the application procedures for and the terms and conditions of a remote

1 recreational cabin site lease. A lease must be for a term of not more than five years,
2 and may be renewed for one additional five-year period. At any time during the lease,
3 the lessee may purchase the remote recreational cabin site by having the site appraised
4 and surveyed in a manner acceptable to the department and by paying to the state the
5 fair market value for the site. The lease may not be assigned by the original lessee
6 during the term of the lease.

7 (c) A remote recreational cabin site lease may be terminated by the
8 commissioner before the expiration of the term of the lease if a permittee fails to use
9 the land under lease in the manner required by the terms of the lease. After
10 termination of a remote recreational cabin site lease, improvements or personal
11 property on the land subject to the lease shall be managed in the same manner as
12 required by AS 38.05.090.

13 * Sec. 37. AS 38.05.810(a) is amended to read:

14 (a) Except as otherwise provided in AS 38.05.183(h), the (1) lease, sale, or
15 other disposal of state land or resources may be made to a state or federal agency or
16 political subdivision, (2) [THE] lease, sale, or disposal of coal deposits suitable for
17 mining may be made to a utility owned and operated by a government agency or
18 nonprofit cooperative association organized to participate under the Federal Rural
19 Electrification Act for the purpose of generating electric power and energy or the
20 production of process steam, or both, (3) [OR THE] sale or other disposal of state land
21 may be made to a tax-exempt, nonprofit corporation, association, club, or society
22 organized and operated exclusively for the management of a cemetery or a solid waste
23 or other public facility, or (4) sale or other disposal of land within a state
24 subdivision may be made to that subdivision's nonprofit, tax-exempt homeowners'
25 association, for less than the appraised value as determined by the director and
26 approved by the commissioner to be fair and proper and in the best interests of the
27 public, with due consideration given to the nature of the public services or function
28 rendered by the applicant [AGENCY, SUBDIVISION, TAX-EXEMPT, NONPROFIT
29 CORPORATION, ASSOCIATION, CLUB, OR SOCIETY, OR UTILITY MAKING
30 APPLICATION], and of the terms of the grant under which the land was acquired by
31 the state. The commissioner shall ensure, by regulation, deed restriction, covenant,

1 or otherwise, that disposals of land under this subsection serve a public purpose
2 and are in the public interest.

3 * Sec. 38. AS 38.05.850(a) is amended to read:

4 (a) The director, without the prior approval of the commissioner, may issue
5 permits, rights-of-way or easements on state land for roads, trails, ditches, field
6 gathering lines or transmission and distribution pipelines not subject to AS 38.35,
7 telephone or electric transmission and distribution lines, log storage, oil well drilling
8 sites and production facilities for the purposes of recovering minerals from adjacent
9 land under valid lease, and other similar uses or improvements, or revocable,
10 nonexclusive permits for the [LIMITED] personal or commercial use or removal of
11 resources that the director has determined to be of limited value [OF TIMBER OR
12 MATERIALS]. The commissioner, upon recommendation of the director, shall
13 establish a reasonable rate or fee schedule to be charged for these uses, subject to the
14 exception for nonprofit cooperative associations specified in (b) of this section. In the
15 granting, suspension or revocation of a permit or easement of land, the director shall
16 give preference to that use of the land which will be of greatest economic benefit to
17 the state and the development of its resources. However, first preference shall be
18 granted to the upland owner for the use of a tract of tideland, or tideland and
19 contiguous submerged land, which is seaward of the upland property of the upland
20 owner and which is needed by the upland owner for any of the purposes for which the
21 use may be granted.

22 * Sec. 39. AS 38.05.945(a) is amended to read:

23 (a) This section establishes the requirements for notice given by the department
24 for the following actions:

25 (1) classification or reclassification of state land under AS 38.05.300
26 and the closing of land to mineral leasing or entry under AS 38.05.185;

27 (2) zoning of land under applicable law;

28 (3) issuance of a

29 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
30 regarding the sale, lease, or disposal of an interest in state land or resources for
31 oil and gas subject to AS 38.05.180(b);

1 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
2 the sale, lease, or disposal of an interest in state land or resources for oil and
3 gas subject to AS 38.05.180(b);

4 (C) written finding for the sale, lease, or disposal of an interest
5 in state land or resources under AS 38.05.035(e)(6);

6 (4) a competitive disposal of an interest in state land or resources after
7 final decision under AS 38.05.035(e);

8 (5) [A PUBLIC HEARING UNDER AS 38.05.856(b);

9 (6)] a preliminary finding under AS 38.05.035(e) [AND 38.05.855(c)]
10 concerning sites for aquatic farms and related hatcheries;

11 (6) [(7)] a decision under AS 38.05.132 - 38.05.134 regarding the sale,
12 lease, or disposal of an interest in state land or resources.

13 * Sec. 40. AS 38.08.030(b) is amended to read:

14 (b) Fees for filing an application may not exceed \$25 [\$10].

15 * Sec. 41. AS 38.08.040(a) is amended to read:

16 (a) An applicant meeting the qualifications for homesite entry under
17 AS 38.08.030 and selected under (f) of this section shall be issued a revocable permit
18 to occupy and improve the homesite in order to qualify for issuance of patent as
19 provided in this chapter. The holder of a homesite entry permit shall pay, in
20 advance, an annual rental fee of \$100. [THE APPLICATION FEE IS THE SOLE
21 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

22 * Sec. 42. AS 38.08.040 is amended by adding a new subsection to read:

23 (f) If only one application for a homesite parcel is received, the commissioner
24 shall offer an entry permit for the parcel to the applicant provided the applicant is
25 otherwise qualified. If more than one application is received for a parcel, the
26 commissioner shall select by lottery the applicant who is entitled to receive the permit
27 for the parcel. The lottery shall be conducted under regulations adopted by the
28 commissioner that are to the maximum extent practicable consistent with the provisions
29 of AS 38.05.057 and the regulations adopted under that section.

30 * Sec. 43. AS 38.09.010(g) is amended to read:

31 (g) The commissioner may limit the number of persons permitted to obtain

1 [STAKE] homestead entries within an area designated under (a) of this section by a
2 lottery of qualified applicants. [THE COMMISSIONER MAY CONDUCT A
3 LOTTERY HELD UNDER THIS SUBSECTION IN THE COMMUNITY THAT IS
4 CLOSEST TO THE AREA DESIGNATED FOR HOMESTEAD ENTRY. THE
5 COMMISSIONER MAY REQUIRE THAT EACH PARTICIPANT IN THE
6 LOTTERY BE PRESENT UNLESS ATTENDANCE AT THE LOTTERY IS
7 PREVENTED BY

8 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
9 MILITARY SERVICE OUTSIDE THE STATE; OR

10 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT
11 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE
12 SALE.]

13 * Sec. 44. AS 38.09.030(a) is amended to read:

14 (a) An applicant for a homestead entry permit shall

15 (1) submit proof acceptable to the commissioner that the applicant is
16 at least 18 years of age and has been a resident of the state for not less than one year
17 immediately before the date of application; and

18 (2) pay a fee of \$5 per acre according to the description provided by
19 the applicant if the entry is on land classified agricultural, or \$20 per acre if the
20 entry is on land not classified agricultural;

21 (3) agree to comply with the requirements of AS 38.09.050 [;

22 (4) CERTIFY THAT THE CORNERS OF THE LAND ENTERED
23 HAVE BEEN STAKED AND THE BOUNDARIES HAVE BEEN FLAGGED; OR

24 (5) ASSUME FULL RESPONSIBILITY FOR THE ACCURACY OF
25 THE DESCRIPTION OF THE LAND FILED WITH THE COMMISSIONER UNDER
26 AS 38.09.020(b)].

27 * Sec. 45. AS 38.09.050(a) is amended to read:

28 (a) The commissioner shall issue a patent to homestead entry land if the permit
29 holder

30 (1) either

31 (A) resides and lives on the homestead entry land for not less

1 than 25 months within five years after the issuance of the homestead entry
2 permit and reimburses the state for the survey and platting of the
3 homestead parcel;

4 (B) within five years pays the state the fair market value of
5 the homestead parcel at the time of patent and reimburses the state for the
6 survey and platting of the homestead parcel; or

7 (C) pays to the state the fair market value of the homestead
8 parcel under the terms of a contract under AS 38.05.065 to purchase the
9 parcel, entered into within five years of the issuance of the permit, and
10 reimburses the state for the survey and platting of the parcel; under this
11 subparagraph, the fair market value of the homestead parcel shall be
12 determined as of the date of the contract; and

13 (2) [SUBMITS AN ALIQUOT PARTS DESCRIPTION OR
14 COMPLETES AN APPROVED SURVEY OF THE LAND IN AN AREA WHERE
15 THE COMMISSIONER WAIVES THE RECTANGULAR SURVEY GRID WITHIN
16 FIVE YEARS AFTER THE ISSUANCE OF THE PERMIT;

17 (3) ERECTS A HABITABLE, PERMANENT DWELLING ON THE
18 HOMESTEAD WITHIN THREE YEARS AFTER THE ISSUANCE OF THE
19 HOMESTEAD ENTRY PERMIT;

20 (4) BRUSHES THE BOUNDARIES OF THE LAND NOT
21 DESCRIBED BY ALIQUOT PARTS OR AS A LOT OF RECORD WITHIN 90
22 DAYS AFTER THE ISSUANCE OF THE PERMIT;

23 (5)] clears and either puts into production or prepares for cultivation
24 either 25 percent of the land classified for agricultural use or 50 percent of the
25 cropland soils, whichever is less, within five years after issuance of the permit.

26 * Sec. 46. AS 38.09.050(b) is amended to read:

27 (b) Nothing in this chapter prohibits a homestead entry permit holder from
28 residing in a temporary dwelling on the homestead [BEFORE ERECTION OF THE
29 PERMANENT DWELLING].

30 * Sec. 47. AS 38.09 is amended by adding a new section to read:

31 Sec. 38.09.105. REMOVAL OF CONDITIONS ON REMOTE PARCEL AND

1 HOMESTEAD ENTRY LAND. (a) The commissioner may not include the
2 conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued on
3 or after the effective date of this section.

4 (b) The commissioner shall amend a remote parcel or homestead entry land
5 purchase contract or patent issued before the effective date of this section to remove
6 the conditions of former AS 38.05.078(d) or former AS 38.09.050(e) if the holder of
7 the purchase contract or patent

8 (1) requests the amendment;

9 (2) pays the reasonable administrative costs of the amendment as
10 determined by the commissioner; and

11 (3) pays the difference, as established by the commissioner, between
12 the land's fair market value before the amendment and the estimated fair market value
13 after the amendment.

14 * Sec. 48. AS 38.95 is amended by adding a new section to read:

15 ARTICLE 7. NO OBLIGATION TO PROVIDE SERVICES TO DISPOSALS
16 OF STATE LAND; NO LIMITATION ON FURTHER DISPOSALS.

17 Sec. 38.95.300. DISCLAIMER APPLICABLE TO STATE DISPOSALS.

18 Except as otherwise specifically provided, nothing in this title

19 (1) obligates the state to provide services to land that is disposed of by
20 the state, or any grantee of the state, or is the subject of any disposal program;

21 (2) limits the authority of the state to dispose of land or any interest
22 in land or resources in the area of the current disposal, provides any exclusive right
23 or interest in the area of the disposal, or implies or requires that any disposals made
24 will be limited in type or any other manner.

25 * Sec. 49. AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k);
26 AS 38.05.035(e)(6)(F), 38.05.040, 38.05.057(g), 38.05.057(j), 38.05.079, 38.05.207, 38.05.855,
27 38.05.856, 38.05.945(g), 38.05.946(b); AS 38.08.090; AS 38.09.010(e), 38.09.020,
28 38.09.040(a)(2), 38.09.040(a)(3), 38.09.040(a)(4), 38.09.050(d), 38.09.050(e), 38.09.060,
29 38.09.070, 38.09.090, 38.09.900(1), 38.09.900(3), and 38.09.900(4) are repealed.

30 * Sec. 50. Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range
31 1 East, Seward Meridian, the commissioner of natural resources may

1 (1) convey a property interest in land to the Alaska Railroad Corporation for
2 the purpose of realigning the railroad in conjunction with the relocation of the Seward
3 Highway, provided that the property interest conveyed must be equivalent to that conveyed
4 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
5 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

6 (2) grant a 300 foot wide highway easement to the Department of
7 Transportation and Public Facilities for the relocated Seward Highway;

8 (3) grant a 100 foot wide utility easement to Chugach Electric Association,
9 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power
10 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line
11 (A-029885) located within the Chugach State Park.

12 * Sec. 51. A disposal by the Department of Natural Resources of a homesite under
13 AS 38.08 by lottery, on or after July 6, 1984, and before the effective date of this section, is
14 valid and effective, notwithstanding the fact that the disposal was by lottery, if the disposal
15 otherwise complied with the requirements of AS 38.08.

16 * Sec. 52. APPLICABILITY. The change to the interest rate to be charged on contracts
17 for the sale of land under AS 38.05.065, made by secs. 17 - 19 of this Act, applies to all
18 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for
19 signature on or after the effective date of secs. 17 - 19 of this Act.

20 * Sec. 53. REVISOR'S INSTRUCTION. The amendments to AS 38.05.082(b), made by
21 sec. 24 of this Act, do not affect the amendments made to that subsection by sec. 3, ch. 27,
22 SLA 1991, effective January 1, 1997. Unless amended or repealed by Act of the legislature
23 after the effective date of this section, the amendments to AS 38.05.082(b), made by sec. 24
24 of this Act, continue in effect after the amendments made by sec. 3, ch. 27, SLA 1991, take
25 effect January 1, 1997.

26 * Sec. 54. TRANSITIONAL PROVISIONS: REGULATIONS. (a) Notwithstanding
27 sec. 55 of this Act, the Department of Natural Resources may proceed to adopt regulations
28 necessary to implement the changes made by this Act. The regulations take effect under
29 AS 44.62 (Administrative Procedure Act), but not before July 1, 1996.

30 (b) To the extent they are consistent with AS 38.08, regulations governing the
31 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of

- 1 secs. 41 - 42 of this Act remain in effect notwithstanding the amendment to AS 38.08.040,
- 2 made by secs. 41 - 42 of this Act, until the regulations are amended, repealed, or superseded.
- 3 • Sec. 55. Except for sec. 54 of this Act, this Act takes effect July 1, 1996.
- 4 • Sec. 56. Section 54 of this Act takes effect immediately under AS 01.10.070(c).

Sectional Analysis of CSSSHB 191(Fin)

Secs. 1-30, 33-34, and 36-54 affect the Division of Land. Secs. 30-35 affect the Division of Mining and Water Management. Sec. 29 affects the Division of Oil and Gas. Sec. 50 affects the Division of Parks and Outdoor Recreation.

<u>Sec</u>	<u>House Version</u>	<u>Blank CS version "U"</u>
1	clarifies the department's consideration of timber, firewood, and water supplies before offering land for disposal does not imply that any person has exclusive use of those resources or constitutes a limitation on future state disposals. (AS 38.04.010(b))	
2-3	merges the old "land disposal bank" into the existing state land disposal program. Under laws passed in the last decade, regional land use plans are used to identify land that will be offered for private ownership. More than 2,000,000 acres have been classified through this process, making the land bank obsolete. Related references to the land disposal bank are repealed in Sec. 49. (AS 38.04.020(a)-(b), plus repealers of (c), (f), (j), and (k))	technical change to eliminate the term "program", the reason for the change still the same as house version
4	rewrites AS 38.04.020(d) to retain its substance--a biennial report to the legislature on the current inventory of state land available for disposal--without requiring a separate "land disposal bank." For efficiency, the report would be tailored to the way that inventory is catalogued: by its classification. Land suitable for most commercial, industrial, residential, and private recreational use is grouped together in the "settlement" classification, but is separate from the "agricultural" and "grazing" classifications. (AS 38.04.020(d))	amended to conform to HB 173 which passed last year
5	puts the state land disposal program on the same footing as other natural resource sale programs: whether to submit a budget request each year would be discretionary, not mandatory. But each budget proposal would be complete. It would request the full funding needed to get the land disposal projects ready for sale, including any access roads or other capital improvements that might be required. (AS 38.04.020(e))	same as house version
6	makes technical corrections, dropping an out-of-order classification reference (land must already be planned and classified for disposal before it is surveyed and platted), an erroneous reference to a homestead "lease," and a reference to homestead staking that would be made obsolete by Secs. 43-44 of this bill. (AS 38.04.020(g))	same as house version
7	clarifies the five-acre limit on subdivision lots applies to land sold for residential and recreational uses, not agricultural parcels, commercial parcels, etc. This clarification is needed because under current law, any division of a tract for purposes of sale constitutes a subdivision. The amendment would also allow larger lots if that would be a better marketing decision for the state. (AS 38.04.020(h))	same as house version
8	updates a list of state land disposal programs by adding the homestead law and the remote recreational cabin site lease/sale program enacted by Sec. 36 of the bill. (AS 38.04.020(i))	same as house version

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| 9 | corrects a missing item in the budget appropriation process, clarifying that the commissioner's disposal funding request must go to the governor first, not be sent straight to the legislature. (AS 38.04.021(a)) | same as house version |
| 10 | deletes a cross-reference to an annual land demand study, repealed by this bill. (AS 38.04.021(b)) | same as house version |
| 11 | allows the Department of Natural Resources create new land disposal programs by regulation, so long as they provide for competition and produce at least fair market value for the land. (AS 38.04.030) | same as house version |
| 12 | clarifies the legislature's policy that sales of public land to private individuals should be at fair market value unless specifically exempted, and removes a reference to remote cabin permits (repealed by Sec. 49 of this bill). (AS 38.04.035) | same as house version |
| 13 | deletes language exempting random-staked homesteads and remote parcels from cadastral survey requirements. The remote parcel program was repealed in 1983, effective 1984, and the homestead program was changed in 1988 to preclude random staking. (Remote recreational cabin site leases, as enacted by Sec. 36 of the bill, would be exempt from this statute because they are short-term leases. The statute would not apply until the remote recreational cabin site was ready to sell.) (AS 38.04.045(b)) | technical changes to conform to SB 162 |
| 14 | allows discretion on where to hold land auctions and lotteries. (AS 38.05.050) | same as house version |
| 15 | deletes the personal-appearance requirement for land auctions, allowing bidders to be represented by an agent. (AS 38.05.055) | conforms to SB 190 to require Alaska residency, although retains the allowance for representation by an agent |
| 16 | along with a repealer in Sec. 49, deletes the requirement that purchasers appear in person at land lotteries and pay the down payment on the spot. Instead, they would have 30 days to make the payment. It also drops language about consulting with the local assessor to determine land values, which is unnecessary because AS 38.05.840 requires a formal appraisal before the land can be offered for sale. (AS 38.05.057(a), plus repeal of (g)) | same as house version |
| 17-18 | Secs. 17-18 would repeal the current system that relies on the old Federal Land Bank's "prevailing" rate. (The Federal Land Bank's successor now uses many different rate systems with multiple variables, rather than a single prevailing rate.) It would also change the point at which the rate is determined, solving the problem of the rate changing after the contract is mailed out for signature but before both parties have signed. (State land sale contracts are not signed in a face-to-face closing ceremony.) Sec. 17 would also let contracts for auction parcels be issued for less than 20 years, as already allowed for lottery parcels. (AS 38.05.065(a)-(b).) | same as house version |

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| <p>19 replaces the old Federal Land Bank interest rate with a new system for state land sale contracts. Interest would be based on the prime rate, the widely quoted market rate used for a bank's most credit-worthy corporate loan customers. A four percent add-on would adjust for the unique circumstances of state land sale contracts, which do not involve any credit check. The total would be capped at 13.5 percent. The rate would be computed monthly and would apply to all contracts prepared that month. (AS 38.05.065(i))</p> | <p>amended to conform with SB 162, allows for agricultural land to have a maximum interest rate of 9.5%</p> |
| <p>20 corrects a 1984 error, restoring the original intent of the veterans' preference auction law. It clarifies that although that law does not apply to the lottery, homestead, or homestead programs, a veterans' preference auction must be held before restricted residential lots can be sold at auction to the general public. A combination of amendments in 1984 had made veterans' preference sales inapplicable to all subdivision sales. (AS 38.05.067(d))</p> | <p>same as house version</p> |
| <p>21 would allow agricultural land to be sold at true market value by making it discretionary whether to grant a preference right to adjacent agricultural landowners. A mandatory preference right tends to depress competition or eliminate it altogether, while unaffected parcels are bid up beyond their appraised value. (AS 38.05.069(a))</p> | <p>returns to mandatory preference right</p> |
| <p>22 updates the agricultural preference right law (see Sec. 21) by defining the term "adjacent," instead of "approximate vicinity." The latter was removed from the body of the law in 1984. (AS 38.05.069(e)(2))</p> | <p>same as house version</p> |
| <p>23 updates programs exempt from the general standard that state land leases must be offered at auction. It removes a reference to remote cabin permits (repealed by Sec. 49 of this bill), and substitutes a reference to remote cabin site recreational leases (enacted by Sec. 36 of this bill)</p> | <p>same as house version</p> |
| <p>24 eliminates a unique leasing process for set-net sites, allowing standard state leasing laws to apply. Negotiated leases could be used up to the standard rental ceiling of \$5,000. Higher-value or contested leases could be awarded at auction, rather than making the director decide who is the "most qualified" applicant. (AS 38.05.082(b))</p> | <p>Removes reference to "auction", restores the original language requiring the director to attempt to determine who is the most qualified applicant. If one application is received the commissioner may issue a lease at the rental rate established in following section.</p> |
| <p>25 eliminates special provisions that prevent the state from obtaining fair market value rental for shore fishery leases. (AS 38.05.082(c))</p> | <p>Establishes a rental rate based on 1% of the year-end estimated monthly permit value report for the district as determined from the monthly permit value report or the administrative costs, which ever is greater but not to exceed \$1000.</p> |
| <p>26 amends AS 38.05.082(d), which currently lets the director offer existing lessees a preference right to a renewal lease when it is in the state's best interests. The new language specifies that the commissioner may renew existing leases under terms and conditions prescribed by the commissioner. (AS 38.05.082(d))</p> | <p>additional clarification that the current valid lease holder may renew the lease</p> |

- 27 rewrites the aquatic farmsite law to let standard state leasing laws be used. Sites could be offered directly at auction or by negotiated lease, rather than first being developed under a three-year permit process. As with other types of land disposals and leases, public hearings on the leasing decision would be held as needed, but would not be mandatory. (AS 38.05.083, plus repealers of AS 38.05.855, AS 38.05.856, AS 38.05.946(b)) same as house version
- 28 modernizes requirements to restore surface lease sites after lease termination, protecting the state against liability and high cleanup costs. Because other provisions of AS 38 apply this leasing statute to terminated homesites, homesteads, remote cabin sites, etc., special measures of the existing AS 38.05.090 would be retained to compensate individuals for authorized private residential improvements that are not removed from the site and are worth more than \$10,000 net value. (AS 38.05.090) same as house version
- 29 technical amendment narrowing a reference to the "Administration" article of AS 38.05, whose last section (a bonding requirement for the director of the statutory Alaska Division of Lands) would be repealed by Sec. 49 of this bill. (AS 38.05.131(a)) same as house version
- 30 eliminates overly broad language that theoretically allows the department to close state land to "mining," not just to "mineral location" (the act of staking new mining locations). A valid mining claim includes the "exclusive right of ...extraction," i.e. mining rights. The department could not close off already-acquired mining rights without effecting a "taking" of valid existing rights, which would run afoul of Art. I, Sec. 12, and Art. VIII, Sec. 16, of the Alaska Constitution. This amendment would eliminate a potential pitfall. (AS 38.05.185(a)) same as house version
- 31 amends AS 38.05.190(a) to clarify the qualifications for ownership of mining rights by aliens and foreign corporations. Under the existing statute, an alien at least 18 years old from a country that grants "like privileges" to United States citizens may acquire or hold exploration and mining rights. A corporation in which more than 50 percent of the stock is owned or controlled by aliens whose country does not grant reciprocal rights to United States citizens may not acquire or hold exploration and mining rights. However, determinations of which countries grant "like privileges" to United States citizens have never been made or enforced in any consistent manner due to the number and complexity of mining laws worldwide. U.S. mining laws, upon which Alaska laws were initially based, allow an alien to form a domestic corporation that would be qualified to obtain mining rights, without inquiry into "like privileges." Amending AS 38.05.190(a) to delete these requirements would be consistent with modern business practices, similar federal laws, and state laws affecting other types of mineral rights. (AS 38.05.190(a)) same as house version

- 32 simplifies the adjustments to be made in the annual rental amounts due on mining claims and leases. The existing statute requires the rental amounts to be adjusted every 10 years based on changes in the consumer price index for Anchorage. This statutory adjustment is likely to yield odd rental amounts that would make calculating, accounting, and collection more difficult. Additionally, adjusting rental amounts only at 10-year intervals could result in large changes at one time, possibly causing hardships to mining locators and lessees. The amendment would require the department to check the consumer price index each year and adjust the rate if the adjustment is \$5 or more. Changes could only be made in \$5 increments. The amendment also more clearly identifies the consumer price index on which changes are to be based. (AS 38.05.211(d)) same as house version
- 33 authorizes surface leases for certain mineral development uses. Surface use needs for small mines are generally modest enough to meet with a simple land use permit, protected by the underlying "exclusive right of possession and extraction of the [locatable] minerals" acquired by a valid mining location. However, most major mines require large-scale, costly surface improvements such as dams, mills, and tailings impoundments. The mineral developer needs long-term security of tenure to protect this investment, something that cannot be provided by a revocable permit. Surface leases for millsites, tailings disposal sites, and similar purposes would require reasonable annual rental. (AS 38.05.255) same as house version
- 34 new subsection to clarify mining developers' surface leases are not subject to competitive bidding statutes. Requiring the department to hold a lease auction would serve no purpose, as the mineral developer would be the only party in a position to bid for and use the lease. The department would be required to adopt regulations setting leasing procedures and annual rentals. (AS 38.05.255(b)) same as house version
- 35 eliminates the failure to file a lease application on time as grounds for abandonment of a mining location. In areas open to mining only under lease, a locator must apply for and obtain a lease before gaining the right to mine. AS 38.05.205(a). After the department gives public notice of the proposed mining lease, it must promptly mail an application to the leasehold locator, who then has 90 days to file the application. But under the existing AS 38.05.265, failing to file on time automatically causes "abandonment" (voiding) of the leasehold locations involved, too harsh a penalty for a late application. (AS 38.05.265) same as house version
- 36 creates a remote recreational cabin site lease/sale program for land disposals in remote, lightly populated areas. At any time during a total term of ten years, the lessee could purchase the site after getting it appraised and surveyed, just as in the former "open-to-entry" and "remote parcel" programs (repealed in 1979 and 1993 respectively). (AS 38.05.600) same as house version
- 37 allows the department to convey "common areas" in state subdivisions to the subdivision's homeowners' association for retention and management. Many state subdivisions were platted with certain lots reserved from disposal to provide open space and recreation for subdivision residents. The intention was eventually to transfer these reserved lots to local government. But where there is no local government or it does not want to assume management responsibility, conveyance to the homeowners' association is a logical substitute. The department would be required to ensure that the conveyance serves a public purpose. (AS 38.05.810(a)) same as house version but also adds "or other public" facility, beyond cemetery or solid waste facility that may be disposed of to a tax-exempt, non-profit corporation, or other organization to operate for a public purpose

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| 38 | clarifies that the division may allow livestock grazing, commercial berry picking or mushroom harvesting, and similar minimal-value consumptive uses by issuing permits, an authority the Department of Law recently questioned. (AS 38.05.850(a)) | same as house version |
| 39 | deletes references in the public notice law to special aquatic farmsite permit procedures repealed by Sec. 49 of the bill: mandatory public hearings and preliminary findings before issuing permits. (AS 38.05.945(a)(5)-(6)) | same as house version |
| 40 | raises the application fee for homesites from the current \$10 to a maximum of \$25, the same as for lottery parcels. (AS 38.08.030(b)) | same as house version |
| 41 | adds a cross-reference to the lottery process used to select the winner of a homesite entry permit (see Sec. 42). It would also require a token annual rental of \$100 until the permit holder "proves up" or purchases the lot. Because a homesite entry permit is a contract, the rental requirement would not apply to existing entry permits. (AS 38.08.040(a)) | same as house version |
| 42 | adds a new subsection directing that homesite entry permits be offered at lottery. Using the lottery procedures of AS 38.05.057 was formerly a statutory requirement, but a 1984 amendment left the connection unclear. The department would be required to adopt regulations as consistent as possible with AS 38.05.057. (AS 38.08.040(f)) | same as house version |
| 43 | deletes the authority to make applicants appear in person at a homestead lottery. (AS 38.09.010(g)) | same as house version |
| 44 | Raises the fee to receive a non-agricultural homestead entry permit to \$20 per acre. This is a one-time rental fee, lasting for the entry permit's five-year term. The rental fee for agricultural homesteads would remain at the current \$5 per acre. In addition, combined with repealers in Sec. 49 of the bill, it would eliminate staking and legal-description requirements that became obsolete in 1988. In that year, the homestead law was changed to require the department to do a cadastral survey before offering the parcels, instead of making the homesteader survey it five years later. (AS 38.09.030(a), plus repealers of AS 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1)) | same as house version |

- 45-46 along with repealers in Sec. 49 of the bill, reduces and simplifies the ways to receive title to a homestead parcel. (Currently there are three methods. A homesteader may obtain the land for free by living on it and building a house, plus meeting clearing requirements applicable to agricultural homesteads only. Or he can buy the parcel at almost-current fair market value without building a house and living on it, if he applies within two years. Or he can buy the parcel at current fair market value without living on the parcel, if he builds a house and applies to purchase within five years.) The revised language in Sec. 45 eliminates the house-building requirement and the distinction between two-year and five-year purchase. Within five years the homesteader either "proves up" by living on the parcel for 25 months, or purchases the parcel at fair market value. (As with all state land sales, the purchaser may pay cash for the homestead, or enter into an installment contract under AS 38.05.065.) With either method, the homesteader must reimburse the state for survey and platting costs, and must meet agricultural clearing requirements if the land is classified agricultural. Sec. 46 is a conforming amendment eliminating a reference to a permanent dwelling. (AS 38.09.050(a)-(b), plus repealers of AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4)) same as house version
- 47 along with repealers in Sec. 49 of the bill, affects both the remote parcel program and the homestead program. (The remote parcel law was repealed in 1983, effective in 1984, but the program will be alive until at least the year 2016. The last parcels were staked in 1984, and the last leases issued in 1985-1986. The lessees will have until 1996 or later to survey their parcels, and can then enter into 20-year purchase contracts.) This section would prohibit the department from imposing the conditions of the former AS 38.05.078(d) in new remote parcel purchase contracts. These conditions restricted the sale or subdivision of remote parcel land after it was conveyed into private ownership. It would also allow the department to amend existing remote parcel or homestead purchase contracts or patents to remove these restrictions if the holder consents and reimburses the state for the difference in value. (Each parcel's purchase price was cut by 50% to account for the resale restrictions.) (AS 38.09.105, plus repealers of AS 38.09.050(d)-(e)) same as house version
- 48 transfers the homesite disclaimer language of AS 38.08.090 (to be repealed by Sec. 49 of this bill) to a general location applicable to all state land disposals: unless specifically provided, the state is not obligated to provide services to the grantee of a state land disposal. An additional disclaimer would make clear that the state is free to dispose of other land or resources in the future, without restrictions as to type, parcel density, etc. same as house version

- 49 Repealers affecting the land disposal bank (AS 38.04.020) and down payments at land lotteries (AS 38.05.057(g)) see Secs. 2 and 16. same as house version
- Repealing AS 38.05.057(j) eliminates special lottery procedures for an agricultural project statute that was repealed in 1979.
- Repealing AS 38.05.035(e)(6)(F), AS 38.05.207, and AS 38.05.945(g) would eliminate the mining production license program, an early attempt to solve the "6(i) problem" (the Statehood Act's mineral leasing requirement) that became moot when AS 38.05.211-.212 were enacted in 1989.
- Repealing AS 38.05.040 would eliminate the requirement for a \$150,000 bond for the director of the statutory Division of Lands, which was subsequently reorganized and subdivided into several different divisions.
- Repealing AS 38.05.079 eliminates the remote cabin permit program, which provided for 25-year leases for cabin sites.
- Repealing AS 38.05.855, AS 38.05.856, and AS 38.05.946(b) eliminates requirements associated with aquatic farmsite permits; see Secs. 28 and 39.
- AS 38.08.090 is made unnecessary by Sec. 48, which broadens its language and expands it to other land disposals.
- Repealing 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1) eliminates requirements related to staking, flagging, brushing, and filing a legal description on a homestead; see Sec. 44. Repealing AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4) eliminates homestead dwelling requirements and the distinction between two- and five-year purchase; see Sec. 45. Repealing AS 38.09.050(d) and (e) would remove restrictions on selling or subdividing land after it has been conveyed to a homesteader; see related changes under Sec. 47.
- 50 would authorize railroad, highway, and utility line rights-of-way within Chugach State Park necessitated by a Seward Highway relocation project at Bird Point (between Anchorage and Girdwood) same as house version
- 51 adds a savings clause protecting homesite entry permits (and subsequent patents) granted by lottery after July 6, 1984. That was the effective date of an amendment that dropped a reference to the lottery statute, leaving no statutory guidance on how to issue homesite entry permits. See Sec. 42 same as house version
- 52 specifies that the interest rate changes made by Secs. 17-19 of the bill apply to all contracts sent out to be signed after the bill's effective date. same as house version
- 53 ensures that changes made to AS 38.05.082 by Sec. 24 of the bill will continue in effect after 1997, when unrelated changes enacted in 1991 take effect. same as house version

54 allows the department to adopt regulations in advance of the bill's effective date, but may not take effect until July 1, 1995. Includes a savings clause for the existing homesite disposal regulations until they can be changed.

same as house version, amends to July 1, 1996

55-56 are effective date clauses

same as house version, Amends to July 1, 1996

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR LINCOLN

TO: CSSSHB 191(FIN)

- 1 Page 18, line 13, following "waste":
- 2 Insert "or other public"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSH B 191(FIN)

1 Page 2, lines 5 - 6:

2 Delete "The state [COMMISSIONER SHALL ESTABLISH A] land disposal program
3 consists of"

4 Insert "State [THE COMMISSIONER SHALL ESTABLISH A] land disposals shall
5 include [DISPOSAL]"

6 Page 2, line 9:

7 Delete "The state land disposal program [BANK] does"

8 Insert "State [THE] land disposals may [DISPOSAL BANK DOES]"

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT
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House District 33

House Of Representatives

MEMORANDUM

TO: Senator Loren Leman, Chairman
Senate Resources Committee

FROM: Representative Gene Therriault 

DATE: January 19, 1996

SUBJECT: Scheduling of HB 191

I respectfully request House Bill 191, "An Act relating to the management and disposal of state land and resources" be scheduled for a hearing in the Senate Resources Committee.

CS SSHB 191 (Fin) is a basic housekeeping bill intended to streamline DNR's land use and land disposal programs. CS SSHB 191 (FIN) revises the "remote cabin permit program" to a program that would allow for either the sale or lease of land for a remote cabin site. The permit program was never put into action because of the associated administrative costs with a minimal return to the state. The committee substitute also includes a section clarifying that the sale of state land does not obligate the state to provide additional services. HB 191 also makes some substantive changes to the Shore Fisheries program to allow a reasonable return to the state for the use of state land for set net sites. With the passage of this bill, DNR expects an increase in revenue to the state well over \$200,000 annually.

During the Senate Finance hearing on HB 191 last session, Senator Halford indicated he had some concerns with the sections of the bill in which there are changes of usage of the terms "shall" to "may". I have attached a sectional outlining those specific changes.

On May 4, 1995 CS SSHB 191(FIN) passed the House with no opposition.

The following information is attached:

1. CS SSHB 191 (FIN)
2. Sectional analysis
3. Sponsor statement
4. Shall vs May sectional

I appreciate your consideration of my request.

Attachments (4)

Sectional Analysis of CSSSHB 191(Fin)
April 27, 1995

Secs. 1-30, 33-34, and 36-54 affect the Division of Land. Secs. 30-35 affect the Division of Mining and Water Management. Sec. 29 affects the Division of Oil and Gas. Sec. 50 affects the Division of Parks and Outdoor Recreation.

Sec. 1 would clarify that the department's consideration of timber, firewood, and water supplies before offering land for disposal does not imply that any person has exclusive use of those resources or constitute a limitation on future state disposals. (AS 38.04.010(b).)

Secs. 2-10 are basic housekeeping:

- Secs. 2 and 3 would merge the old "land disposal bank" into the existing state land disposal program. Under laws passed in the last decade, regional land use plans are used to identify land that will be offered for private ownership. More than 2,000,000 acres have been classified through this process, making the land bank obsolete. Related references to the land disposal bank are repealed in Sec. 49. (AS 38.04.020(a)-(b), plus repealers of (c), (f), (j), and (k).)
- Sec. 4 would rewrite AS 38.04.020(d) to retain its substance--a biennial report to the legislature on the current inventory of state land available for disposal--without requiring a separate "land disposal bank." For efficiency, the report would be tailored to the way that inventory is catalogued: by its classification. Land suitable for most commercial, industrial, residential, and private recreational use is grouped together in the "settlement" classification, but is separate from the "agricultural" and "grazing" classifications. (AS 38.04.020(d).)
- Sec. 5 would put the state land disposal program on the same footing as other natural resource sale programs: whether to submit a budget request each year would be discretionary, not mandatory. But each budget proposal would be complete. It would request the full funding needed to get the land disposal projects ready for sale, including any access roads or other capital improvements that might be required. (AS 38.04.020(e).)
- Sec. 6 would make technical corrections, dropping an out-of-order classification reference (land must already be planned and classified for disposal before it is surveyed and platted), an erroneous reference to a homestead "lease," and a reference to homestead staking that would be made obsolete by Secs. 43-44 of this bill. (AS 38.04.020(g).)
- Sec. 7 would make clear that the five-acre limit on subdivision lots applies to land sold for residential and recreational uses, not agricultural parcels, commercial parcels, etc.

This clarification is needed because under current law, any division of a tract for purposes of sale constitutes a subdivision. The amendment would also allow larger lots if that would be a better marketing decision for the state. (AS 38.04.020(h).)

- Sec. 8 would update a list of state land disposal programs by adding the homestead law and the remote recreational cabin site lease/sale program enacted by Sec. 36 of the bill. (AS 38.04.020(i).)
- Sec. 9 would correct a missing item in the budget appropriation process, clarifying that the commissioner's disposal funding request must go to the governor first, not be sent straight to the legislature. (AS 38.04.021(a).)
- Sec. 10 would delete a cross-reference to an annual land demand study, repealed by this bill. (AS 38.04.021(b).)

Sec. 11 would let the Department of Natural Resources create new land disposal programs by regulation, so long as they provide for competition and produce at least fair market value for the land. (AS 38.04.030.)

Sec. 12 clarifies the legislature's policy that sales of public land to private individuals should be at fair market value unless specifically exempted, and removes a reference to remote cabin permits (repealed by Sec. 49 of this bill). (AS 38.04.035.)

Sec. 13 deletes language exempting random-staked homesteads and remote parcels from cadastral survey requirements. The remote parcel program was repealed in 1983, effective 1984, and the homestead program was changed in 1988 to preclude random staking. (Remote recreational cabin site leases, as enacted by Sec. 36 of the bill, would be exempt from this statute because they are short-term leases. The statute would not apply until the remote recreational cabin site was ready to sell.) (AS 38.04.045(b).)

Secs. 14-16 and 43 respond to a Superior Court decision that it is unconstitutional to make state land purchasers appear in person at a state land sale.

- Sec. 14 would make it discretionary where to hold land auctions and lotteries. (AS 38.05.050.)
- Sec. 15 would delete the personal-appearance requirement for land auctions, allowing bidders to be represented by an agent. (AS 38.05.055.)
- Sec. 16, and a related repealer in Sec. 49, would delete the requirement that purchasers appear in person at land lotteries and pay the down payment on the spot. Instead, they would have 30 days to make the payment. It also drops language about consulting with the local assessor to determine land values, which is unnecessary because AS

38.05.840 requires a formal appraisal before the land can be offered for sale. (AS 38.05.057(a), plus repeal of (g).)

- Sec. 43 deletes the authority to make applicants appear in person at a homestead lottery. (AS 38.09.010(g).)

Secs. 17-19 would change how interest rates are computed for state land sale contracts.

- Secs. 17-18 would repeal the current system that relies on the old Federal Land Bank's "prevailing" rate. (The Federal Land Bank's successor now uses many different rate systems with multiple variables, rather than a single prevailing rate.) It would also change the point at which the rate is determined, solving the problem of the rate changing after the contract is mailed out for signature but before both parties have signed. (State land sale contracts are not signed in a face-to-face closing ceremony.) Sec. 17 would also let contracts for auction parcels be issued for less than 20 years, as already allowed for lottery parcels. (AS 38.05.065(a)-(b).)
- Sec. 19 would replace the old Federal Land Bank interest rate with a new system for state land sale contracts. Interest would be based on the prime rate, the widely quoted market rate used for a bank's most credit-worthy corporate loan customers. A four percent add-on would adjust for the unique circumstances of state land sale contracts, which do not involve any credit check. The total would be capped at 13.5 percent. The rate would be computed monthly and would apply to all contracts prepared that month. (AS 38.05.065(i).)

Sec. 20 corrects a 1984 error, restoring the original intent of the veterans' preference auction law. It clarifies that although that law does not apply to the lottery, homesite, or homestead programs, a veterans' preference auction must be held before restricted residential lots can be sold at auction to the general public. A combination of amendments in 1984 had made veterans' preference sales inapplicable to all subdivision sales. (AS 38.05.067(d).)

Sec. 21 would allow agricultural land to be sold at true market value by making it discretionary whether to grant a preference right to adjacent agricultural landowners. A mandatory preference right tends to depress competition or eliminate it altogether, while unaffected parcels are bid up beyond their appraised value. (AS 38.05.069(a).)

Sec. 22 updates the agricultural preference right law (see Sec. 21) by defining the term "adjacent," instead of "approximate vicinity." The latter was removed from the body of the law in 1984. (AS 38.05.069(e)(2).)

Sec. 23 updates programs exempt from the general standard that state land leases must be offered at auction. It removes a reference to remote cabin permits (repealed by Sec. 49 of this bill), and substitutes a reference to remote cabin site recreational leases (enacted by Sec. 36 of this bill).

Secs. 24-27 and 39, along with certain repealers in Sec. 49, would simplify the process of leasing "shore fishery" (set-net) sites and aquatic farmsites (shellfish and sea vegetable farms). They would repeal requirements that increase administrative costs or keep the state from obtaining a fair return for the use of tidelands and submerged lands.

- Sec. 24 would eliminate a unique leasing process for set-net sites, allowing standard state leasing laws to apply. Negotiated leases could be used up to the standard rental ceiling of \$5,000. Higher-value or contested leases could be awarded at auction, rather than making the director decide who is the "most qualified" applicant. (AS 38.05.082(b).)
- Sec. 25 would eliminate special provisions that prevent the state from obtaining fair market value rental for shore fishery leases. (AS 38.05.082(c).)
- Sec. 26 would amend AS 38.05.082(d), which currently lets the director offer existing lessees a preference right to a renewal lease when it is in the state's best interests. The new language specifies that the commissioner may renew existing leases under terms and conditions prescribed by the commissioner. (AS 38.05.082(d).)
- Sec. 27 would rewrite the aquatic farmsite law to let standard state leasing laws be used. Sites could be offered directly at auction or by negotiated lease, rather than first being developed under a three-year permit process. As with other types of land disposals and leases, public hearings on the leasing decision would be held as needed, but would not be mandatory. (AS 38.05.083, plus repealers of AS 38.05.855, AS 38.05.856, AS 38.05.946(b).)
- Sec. 39 would delete references in the public notice law to special aquatic farmsite permit procedures repealed by Sec. 49 of the bill: mandatory public hearings and preliminary findings before issuing permits. (AS 38.05.945(a)(5)-(6).)

Sec. 28 would modernize requirements to restore surface lease sites after lease termination, protecting the state against liability and high cleanup costs. Because other provisions of AS 38 apply this leasing statute to terminated homesites, homesteads, remote cabin sites, etc., special measures of the existing AS 38.05.090 would be retained to compensate individuals for authorized private residential improvements that are not removed from the site and are worth more than \$10,000 net value. (AS 38.05.090.)

Sec. 29 is a technical amendment narrowing a reference to the "Administration" article of AS 38.05, whose last section (a bonding requirement for the director of the statutory Alaska Division of Lands) would be repealed by Sec. 49 of this bill. (AS 38.05.131(a).)

Sec. 30 would eliminate overly broad language that theoretically allows the department to close state land to "mining," not just to "mineral location" (the act of staking new mining locations). A

valid mining claim includes the "exclusive right of ...extraction," i.e. mining rights. The department could not close off already-acquired mining rights without effecting a "taking" of valid existing rights, which would run afoul of Art. I, Sec. 18, and Art. VIII, Sec. 16, of the Alaska Constitution. This amendment would eliminate a potential pitfall. (AS 38.05.185(a).)

Sec. 31 would amend AS 38.05.190(a) to clarify the qualifications for ownership of mining rights by aliens and foreign corporations. Under the existing statute, an alien at least 18 years old from a country that grants "like privileges" to United States citizens may acquire or hold exploration and mining rights. A corporation in which more than 50 percent of the stock is owned or controlled by aliens whose country does not grant reciprocal rights to United States citizens may not acquire or hold exploration and mining rights. However, determinations of which countries grant "like privileges" to United States citizens have never been made or enforced in any consistent manner due to the number and complexity of mining laws worldwide. U.S. mining laws, upon which Alaska laws were initially based, allow an alien to form a domestic corporation that would be qualified to obtain mining rights, without inquiry into "like privileges." Amending AS 38.05.190(a) to delete these requirements would be consistent with modern business practices, similar federal laws, and state laws affecting other types of mineral rights. (AS 38.05.190(a).)

Sec. 32 would repeal and reenact AS 38.05.211(d) to simplify the adjustments to be made in the annual rental amounts due on mining claims and leases. The existing statute requires the rental amounts to be adjusted every 10 years based on changes in the consumer price index for Anchorage. This statutory adjustment is likely to yield odd rental amounts that would make calculating, accounting, and collection more difficult. Additionally, adjusting rental amounts only at 10-year intervals could result in large changes at one time, possibly causing hardships to mining locators and lessees. The amendment would require the department to check the consumer price index each year and adjust the rate if the adjustment is \$5 or more. Changes could only be made in \$5 increments. The amendment also more clearly identifies the consumer price index on which changes are to be based. (AS 38.05.211(d).)

Sec. 33 would authorize surface leases for certain mineral development uses. Surface use needs for small mines are generally modest enough to meet with a simple land use permit, protected by the underlying "exclusive right of possession and extraction of the [locatable] minerals" acquired by a valid mining location. However, most major mines require large-scale, costly surface improvements such as dams, mills, and tailings impoundments. The mineral developer needs long-term security of tenure to protect this investment, something that cannot be provided by a revocable permit. Surface leases for millsites, tailings disposal sites, and similar purposes would require reasonable annual rental. (AS 38.05.255.)

Sec. 34 would add a new subsection to clarify that mining developers' surface leases are not subject to competitive bidding statutes. Requiring the department to hold a lease auction would serve no purpose, as the mineral developer would be the only party in a position to bid for and use the lease. The department would be required to adopt regulations setting leasing procedures and annual rentals. (AS 38.05.255(b).)

Sec. 35 would eliminate the failure to file a lease application on time as grounds for abandonment of a mining location. In areas open to mining only under lease, a locator must apply for and obtain a lease before gaining the right to mine. AS 38.05.205(a). After the department gives public notice of the proposed mining lease, it must promptly mail an application to the leasehold locator, who then has 90 days to file the application. But under the existing AS 38.05.265, failing to file on time automatically causes "abandonment" (voiding) of the leasehold locations involved, too harsh a penalty for a late application. (AS 38.05.265.)

Sec. 36 would create a remote recreational cabin site lease/sale program for land disposals in remote, lightly populated areas. At any time during a total term of ten years, the lessee could purchase the site after getting it appraised and surveyed, just as in the former "open-to-entry" and "remote parcel" programs (repealed in 1979 and 1993 respectively). (AS 38.05.600.)

Sec. 37 would allow the department to convey "common areas" in state subdivisions to the subdivision's homeowners' association for retention and management. Many state subdivisions were platted with certain lots reserved from disposal to provide open space and recreation for subdivision residents. The intention was eventually to transfer these reserved lots to local government. But where there is no local government or it does not want to assume management responsibility, conveyance to the homeowners' association is a logical substitute. The department would be required to ensure that the conveyance serves a public purpose. (AS 38.05.810(a).)

Sec. 38 would clarify that the division can allow livestock grazing, commercial berry picking or mushroom harvesting, and similar minimal-value consumptive uses by issuing permits, an authority the Department of Law recently questioned. (AS 38.05.850(a).)

Sec. 39: See under Secs. 24-27.

Sec. 40 would raise the application fee for homesites from the current \$10 to a maximum of \$25, the same as for lottery parcels. (AS 38.08.030(b).)

Sec. 41 would add a cross-reference to the lottery process used to select the winner of a homesite entry permit (see Sec. 42). It would also require a token annual rental of \$100 until the permit holder "proves up" or purchases the lot. Because a homesite entry permit is a contract, the rental requirement would not apply to existing entry permits. (AS 38.08.040(a).)

Sec. 42 would add a new subsection directing that homesite entry permits be offered at lottery. Using the lottery procedures of AS 38.05.057 was formerly a statutory requirement, but a 1984 amendment left the connection unclear. The department would be required to adopt regulations as consistent as possible with AS 38.05.057. (AS 38.08.040(f).)

Sec. 43: See under Sec. 14-16.

Sec. 44 would raise the fee to receive a non-agricultural homestead entry permit to \$20 per acre. This is a one-time rental fee, lasting for the entry permit's five-year term. The rental fee for agricultural homesteads would remain at the current \$5 per acre. In addition, combined with repealers in Sec. 49 of the bill, it would eliminate staking and legal-description requirements that became obsolete in 1988. In that year, the homestead law was changed to require the department to do a cadastral survey before offering the parcels, instead of making the homesteader survey it five years later. (AS 38.09.030(a), plus repealers of AS 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(i).)

Secs. 45-46, along with repealers in Sec. 49 of the bill, reduce and simplify the ways to get title to a homestead parcel. (Currently there are three methods. A homesteader can obtain the land for free by living on it and building a house, plus meeting clearing requirements applicable to agricultural homesteads only. Or he can buy the parcel at almost-current fair market value without building a house and living on it, if he applies within two years. Or he can buy the parcel at current fair market value without living on the parcel, if he builds a house and applies to purchase within five years.) The revised language in Sec. 45 eliminates the house-building requirement and the distinction between two-year and five-year purchase. Within five years the homesteader either "proves up" by living on the parcel for 25 months, or purchases the parcel at fair market value. (As with all state land sales, the purchaser may pay cash for the homestead, or enter into an installment contract under AS 38.05.065.) With either method, the homesteader must reimburse the state for survey and platting costs, and must meet agricultural clearing requirements if the land is classified agricultural. Sec. 46 is a conforming amendment eliminating a reference to a permanent dwelling. (AS 38.09.050(a)-(b), plus repealers of AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4).)

Sec. 47, along with repealers in Sec. 49 of the bill, affects both the remote parcel program and the homestead program. (The remote parcel law was repealed in 1983, effective in 1984, but the program will be alive until at least the year 2016. The last parcels were staked in 1984, and the last leases issued in 1985-1986. The lessees will have until 1996 or later to survey their parcels, and can then enter into 20-year purchase contracts.) This section would prohibit the department from imposing the conditions of the former AS 38.05.078(d) in new remote parcel purchase contracts. These conditions restricted the sale or subdivision of remote parcel land after it was conveyed into private ownership. It would also allow the department to amend existing remote parcel or homestead purchase contracts or patents to remove these restrictions if the holder consents and reimburses the state for the difference in value. (Each parcel's purchase price was cut by 50% to account for the remote restrictions.) (AS 38.09.105, plus repealers of AS 38.09.050(d)-(e).)

Sec. 48 transfers the homesite disclaimer language of AS 38.08.090 (to be repealed by Sec. 49 of this bill) to a general location applicable to all state land disposals: unless specifically provided, the state is not obligated to provide services to the grantee of a state land disposal. An additional disclaimer would make clear that the state is free to dispose of other land or resources in the future, without restrictions as to type, parcel density, etc.

Sec. 49:

- Repealers affecting the land disposal bank (AS 38.04.020) and down payments at land lotteries (AS 38.05.057(g)) are discussed under Secs. 2 and 16.
- Repealing AS 38.05.057(j) eliminates special lottery procedures for an agricultural project statute that was repealed in 1979.
- Repealing AS 38.05.035(e)(6)(F), AS 38.05.207, and AS 38.05.945(g) would eliminate the mining production license program, an early attempt to solve the "6(i) problem" (the Statehood Act's mineral leasing requirement) that became moot when AS 38.05.211-.212 were enacted in 1989.
- Repealing AS 38.05.040 would eliminate the requirement for a \$150,000 bond for the director of the statutory Division of Lands, which was subsequently reorganized and subdivided into several different divisions.
- Repealing AS 38.05.079 eliminates the remote cabin permit program, which provided for 25-year leases for cabin sites.
- Repealing AS 38.05.855, AS 38.05.856, and AS 38.05.946(b) eliminates requirements associated with aquatic farmsite permits; see Secs. 28 and 39.
- AS 38.08.090 is made unnecessary by Sec. 48, which broadens its language and expands it to other land disposals.
- Repealing 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1) eliminates requirements related to staking, flagging, brushing, and filing a legal description on a homestead; see Sec. 44. Repealing AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4) eliminates homestead dwelling requirements and the distinction between two- and five-year purchase; see Sec. 45. Repealing AS 38.09.050(d) and (e) would remove restrictions on selling or subdividing land after it has been conveyed to a homesteader; see related changes under Sec. 47.

Sec. 50 would authorize railroad, highway, and utility line rights-of-way within Chugach State Park necessitated by a Seward II relocation project at Bird Point (between Anchorage and Girdwood).

Sec. 51 would add a savings clause protecting homesite entry permits (and subsequent patents) granted by lottery after July 6, 1984. That was the effective date of an amendment that dropped a reference to the lottery statute, leaving no statutory guidance on how to issue homesite entry permits. See Sec. 42, which corrects the problem.

Sec. 52 would specify that the interest rate changes made by Secs. 17-19 of the bill apply to all contracts sent out to be signed after the bill's effective date.

Sec. 53 would ensure that changes made to AS 38.05.082 by Sec. 24 of the bill will continue in effect after 1997, when unrelated changes enacted in 1991 take effect.

Sec. 54 would allow the department to adopt regulations in advance of the bill's effective date, and includes a savings clause for the existing homesite disposal regulations until they can be changed.

Secs. 55-56 are effective date clauses; the regulation clause would take effect immediately, with the remainder of the bill effective July 1, 1995.

HB 191, Section 25

(c) A lease for set net fishing may be issued for any period not exceeding 10 years. If the commissioner determines that the land is not being utilized for the purpose for which the lease is issued, the lease may be declared void. The lease rate shall be determined by fishing district by charging XX% of the year end average from the latest Commercial Fisheries Entry Commission Estimated Monthly Permit Value report [THE DIRECTOR SHALL ESTABLISH A REASONABLE RENTAL FOR THE LEASE, EQUAL TO THE ADMINISTRATIVE COSTS INVOLVED IN PROCESSING THE LEASEHOLD APPLICATIONS.]

SHORE FISHERY LEASES

District	Commercial Entry Commission Reported 1995 Permit Value	.5% of Value	1% of Value	Leases Issued	Total Revenue at .5%	Total Revenue at 1%
Alaska Peninsula	\$109,300	\$546	\$1,093	86	\$46,956	\$93,998
Bristol Bay	\$42,200	\$211	\$422	616	\$129,976	\$259,952
Cook Inlet	\$30,300	\$151	\$303	478	\$72,178	\$144,834
Kodiak	\$92,600	\$463	\$926	129	\$59,727	\$119,454
Prince William Sound	\$63,000	\$315	\$630	35	\$11,025	\$22,050
<i>Totals</i>				1,344	\$319,862	\$640,288

RECEIVED

JAN 09 1995

COMMERCIAL FISHERIES ENTRY COMMISSION
1995 ESTIMATED MONTHLY PERMIT VALUE REPORT

DIVISION OF LAND
NORTH-CENTRAL REGION

This report contains value estimates for permit transactions in Alaska's limited fisheries. The estimated values listed in this report were obtained from data collected in the Commercial Fisheries Entry Commission's transfer survey. This evaluation is prepared on a monthly basis. Where sufficient data exist, estimates are based on the current month's value as well as the those for the preceding two months. Where insufficient data exist during a three month period, additional data from earlier months are included until a sufficient number of observations are obtained. For the year end average, transactions which occurred between January and December are considered. Questions regarding this report should be addressed to: Al Tingley, Commercial Fisheries Entry Commission, 8800 Glacier Hwy., #109, Juneau, AK 99801, or phone (907) 789-6160.

FISHERY		MONTH	ESTIMATED VALUE	RANGE	STD DEV	EARLIEST TRANSACTION	LATEST TRANSACTION
***** Herring Purse Seine Fisheries *****							
G01A	Southeast	JAN	\$173,800	50000	20550	NOV93	JAN95
		FEB	\$173,800	50000	20550	NOV93	JAN95
		MAR	\$175,000	40000	17800	FEB94	MAR95
		APR	\$175,000	40000	17800	FEB94	MAR95
		MAY	\$175,000	40000	17800	FEB94	MAR95
		JUN	\$175,000	40000	17800	FEB94	MAR95
		JUL	\$175,000	40000	17800	FEB94	MAR95
		AUG	\$175,000	40000	17800	FEB94	MAR95
		SEP	\$175,000	40000	17800	FEB94	MAR95
		OCT	\$175,000	40000	17800	FEB94	MAR95
		NOV	\$175,000	40000	17800	FEB94	MAR95
		DEC	\$175,000	40000	17800	FEB94	MAR95
		ALL	\$175,000	40000	17800	FEB94	MAR95
G01E	Prince William Sound	JAN	\$80,200	84000	34450	FEB93	JAN95
		FEB	\$80,200	84000	34450	FEB93	JAN95
		MAR	\$80,200	84000	34450	FEB93	JAN95
		APR	\$80,200	84000	34450	FEB93	JAN95
		MAY	\$65,400	38000	17250	FEB94	MAY95
		JUN	\$65,400	38000	17250	FEB94	MAY95
		JUL	\$65,400	38000	17250	FEB94	MAY95
		AUG	\$65,400	38000	17250	FEB94	MAY95
		SEP	\$65,400	38000	17250	FEB94	MAY95
		OCT	\$65,400	38000	17250	FEB94	MAY95
		NOV	\$62,700	38000	15850	MAR94	NOV95
		DEC	\$59,200	24800	12150	JAN95	DEC95
		ALL	\$59,200	24800	12150	JAN95	DEC95
G01H	Cook Inlet	JAN	\$65,900	29000	12350	JUL94	JAN95
		FEB	\$61,200	10000	4300	NOV94	FEB95
		MAR	\$64,700	7500	2950	JAN95	MAR95
		APR	\$70,000	15900	6350	FEB95	APR95
		MAY	\$71,300	15900	6600	MAR95	APR95
		JUN	\$71,300	15900	6600	MAR95	APR95
		JUL	\$71,300	15900	6600	MAR95	APR95
		AUG	\$71,300	15900	6600	MAR95	APR95
		SEP	\$71,300	15900	6600	MAR95	APR95
		OCT	\$71,300	15900	6600	MAR95	APR95
		NOV	\$71,300	15900	6600	MAR95	APR95
		DEC	\$87,100	30500	13900	APR95	DEC95
		ALL	\$74,600	40000	14700	JAN95	DEC95
G01K	Kodiak	JAN	\$88,000	25000	11200	APR94	DEC94
		FEB	\$75,000	15000	7050	MAY94	FEB95
		MAR	\$83,000	15000	6300	DEC94	MAR95
		APR	\$88,000	10000	4900	FEB95	APR95
		MAY	\$88,000	10000	4900	FEB95	APR95
		JUN	\$88,000	10000	4900	FEB95	APR95
		JUL	\$88,000	12000	5400	MAR95	JUL95
		AUG	\$88,000	12000	5400	MAR95	JUL95
		SEP	\$88,000	12000	5400	MAR95	JUL95
		OCT	\$88,000	12000	5400	MAR95	JUL95
		NOV	\$88,000	12000	5400	MAR95	JUL95
		DE	\$88,000	12000	4700	MAR95	DEC95
		ALL	\$88,000	12000	4450	FEB95	DEC95

Commercial Fisheries Entry Commission
1995 Estimated Monthly Permit Value Report

FISHERY	MONTH	ESTIMATED VALUE	RANGE	STD DEV	EARLIEST TRANSACTION	LATEST TRANSACTION
803H Alaska Peninsula	JAN	\$329,800	70000	33250	JAN94	DEC94
	FEB	\$329,800	70000	33250	JAN94	DEC94
	MAR	\$316,300	44000	21000	JUN94	MAR95
	APR	\$316,300	44000	21000	JUN94	MAR95
	MAY	\$303,300	21000	10500	DEC94	MAY95
	JUN	\$304,200	21000	9400	MAR95	JUN95
	JUL	\$304,200	21000	9400	MAR95	JUN95
	AUG	\$304,200	21000	9400	MAR95	JUN95
	SEP	\$304,200	21000	9400	MAR95	JUN95
	OCT	\$304,200	21000	9400	MAR95	JUN95
	NOV	\$304,200	21000	9400	MAR95	JUN95
	DEC	\$302,500	10000	5000	MAY95	DEC95
	ALL	\$303,200	21000	8750	MAR95	DEC95
803T Bristol Bay	JAN	\$178,500	9000	2450	NOV94	JAN95
	FEB	\$180,900	25000	6150	DEC94	FEB95
	MAR	\$183,300	90000	17150	JAN95	MAR95
	APR	\$194,600	113000	23500	FEB95	APR95
	MAY	\$199,500	115000	23550	MAR95	MAY95
	JUN	\$207,000	140000	30250	APR95	JUN95
	JUL	\$207,400	85000	20050	MAY95	JUN95
	AUG	\$207,100	85000	22450	JUN95	JUN95
	SEP	\$206,500	85000	22000	JUN95	SEP95
	OCT	\$192,000	45000	20650	SEP95	OCT95
	NOV	\$186,200	47000	18400	SEP95	NOV95
	DEC	\$173,500	80000	18200	OCT95	DEC95
	ALL	\$193,000	125000	22900	JAN95	DEC95
***** Salmon Set Gillnet Fisheries *****						
804D Yakutat	JAN	\$42,500	20000	9500	MAR94	DEC94
	FEB	\$42,500	20000	9500	MAR94	DEC94
	MAR	\$42,500	20300	9550	MAR94	DEC94
	APR	\$42,000	20000	9100	APR94	APR95
	MAY	\$42,000	20000	9100	APR94	APR95
	JUN	\$49,500	20000	8250	APR95	JUN95
	JUL	\$49,500	20000	8250	APR95	JUN95
	AUG	\$50,000	20000	8150	JUN95	AUG95
	SEP	\$50,000	20000	8150	JUN95	AUG95
	OCT	\$50,000	20000	8150	JUN95	AUG95
	NOV	\$50,000	20000	8150	JUN95	AUG95
	DEC	\$50,000	20000	8150	JUN95	AUG95
	ALL	\$49,600	20000	7150	APR95	AUG95
804E Prince William Sound	JAN	\$75,000	70000	33150	FEB91	JUN94
	FEB	\$75,000	70000	33150	FEB91	JUN94
	MAR	\$75,000	70000	33150	FEB91	JUN94
	APR	\$75,000	70000	33150	FEB91	JUN94
	MAY	\$75,000	70000	33150	FEB91	JUN94
	JUN	\$63,800	50000	22850	JUN94	JUN95
	JUL	\$63,800	50000	22850	JUN94	JUN95
	AUG	\$63,000	50000	19850	JUN94	AUG95
	SEP	\$63,000	50000	19850	JUN94	AUG95
	OCT	\$63,000	50000	19850	JUN94	AUG95
	NOV	\$63,000	50000	19850	JUN94	AUG95
	DEC	\$63,000	50000	19850	JUN94	AUG95
	ALL	\$63,000	50000	19850	JUN94	AUG95
824H Cook Inlet	JAN	\$24,100	3500	1400	OCT94	JAN95
	FEB	\$24,000	2500	1200	DEC94	FEB95
	MAR	\$24,700	3000	800	JAN95	MAR95
	APR	\$27,000	10000	3300	FEB95	APR95
	MAY	\$29,100	7500	3400	MAR95	MAY95
	JUN	\$30,800	5500	4350	APR95	JUN95
	JUL	\$30,800	5500	3400	MAY95	JUN95
	AUG	\$28,900	7000	3100	JUN95	JUN95
	SEP	\$33,100	50500	17650	JUN95	SEP95
	OCT	\$33,100	50500	17650	JUN95	SEP95
	NOV	\$38,300	50500	19750	SEP95	NOV95
	DEC	\$31,400	9500	2500	NOV95	DEC95
	ALL	\$30,100	10500	3850	JAN95	DEC95

Commercial Fisheries Entry Commission
1995 Estimated Monthly Permit Value Report

FISHERY	MONTH	ESTIMATED VALUE	RANGE	STD DEV	EARLIEST TRANSACTION	LATEST TRANSACTION
S04A Kodiak	JAN	\$90,000	53000	20450	MAY94	JAN95
	FEB	\$90,000	53000	20450	MAY94	JAN95
	MAR	\$90,000	53000	20450	MAY94	JAN95
	APR	\$88,800	53000	25950	JUN94	APR95
	MAY	\$101,400	100500	41100	DEC94	MAY95
	JUN	\$92,600	100500	45050	JAN95	JUN95
	JUL	\$92,600	100500	45050	JAN95	JUN95
	AUG	\$92,600	100500	45050	JAN95	JUN95
	SEP	\$92,600	100500	45050	JAN95	JUN95
	OCT	\$92,600	100500	45050	JAN95	JUN95
	NOV	\$92,600	100500	45050	JAN95	JUN95
	DEC	\$92,600	100500	45050	JAN95	JUN95
	ALL	\$92,600	100500	45050	JAN95	JUN95
S04M Alaska Peninsula	JAN	\$107,900	31500	26750	OCT93	MAY94
	FEB	\$107,900	31500	26750	OCT93	MAY94
	MAR	\$97,900	31500	22900	JAN94	MAR95
	APR	\$104,100	41500	29550	MAY94	APR95
	MAY	\$103,200	41500	17150	MAY94	MAY95
	JUN	\$111,100	32500	12250	APR95	JUN95
	JUL	\$112,100	32500	23100	MAY95	JUN95
	AUG	\$112,900	32500	13100	JUN95	AUG95
	SEP	\$112,900	32500	13100	JUN95	AUG95
	OCT	\$112,900	32500	13100	JUN95	AUG95
	NOV	\$112,900	32500	13100	JUN95	AUG95
	DEC	\$112,500	32500	23000	JUN95	DEC95
	ALL	\$109,200	40000	12150	MAR95	DEC95
S04T Bristol Bay	JAN	\$37,200	10500	3250	NOV94	JAN95
	FEB	\$36,400	4400	1300	DEC94	FEB95
	MAR	\$37,600	7000	2450	JAN95	MAR95
	APR	\$39,700	10000	3200	FEB95	APR95
	MAY	\$42,300	15000	1850	MAR95	MAY95
	JUN	\$43,800	13000	4350	APR95	JUN95
	JUL	\$44,600	13000	6700	MAY95	JUN95
	AUG	\$44,200	13000	5250	JUN95	AUG95
	SEP	\$44,200	13000	5250	JUN95	AUG95
	OCT	\$44,700	13000	5300	JUN95	OCT95
	NOV	\$44,800	13000	5050	JUN95	NOV95
	DEC	\$44,800	13000	5050	JUN95	NOV95
	ALL	\$42,300	16000	4850	JAN95	NOV95
***** Salmon Gillnet Fisheries *****						
S04P Upper Yukon	JAN	\$10,000	5000	2150	MAY90	JAN93
	FEB	\$10,000	5000	2150	MAY90	JAN93
	MAR	\$10,000	5000	2150	MAY90	JAN93
	APR	\$10,000	5000	2150	MAY90	JAN93
	MAY	\$10,000	5000	2150	MAY90	JAN93
	JUN	\$10,000	5000	2150	MAY90	JAN93
	JUL	\$10,000	5000	2150	MAY90	JAN93
	AUG	\$10,000	5000	2150	MAY90	JAN93
	SEP	\$10,000	5000	2150	MAY90	JAN93
	OCT	\$10,000	5000	2150	MAY90	JAN93
	NOV	\$10,000	5000	2150	MAY90	JAN93
	DEC	\$10,000	5000	2150	MAY90	JAN93
	ALL	\$10,000	5000	2150	MAY90	JAN93
S04W KUSKOKUM	JAN	\$11,900	3000	1300	JUL94	JAN95
	FEB	\$11,100	2500	1300	NOV94	FEB95
	MAR	\$11,100	2500	1300	NOV94	FEB95
	APR	\$10,600	4500	2050	FEB95	APR95
	MAY	\$11,500	4500	1950	APR95	MAY95
	JUN	\$11,600	4500	1650	APR95	JUN95
	JUL	\$12,600	2000	800	MAY95	JUL95
	AUG	\$12,600	2000	800	MAY95	JUL95
	SEP	\$12,500	2000	2000	JUN95	SEP95
	OCT	\$12,000	4000	1400	JUN95	OCT95
	NOV	\$12,800	3000	2300	JUL95	NOV95
	DEC	\$13,000	3000	2450	SEP95	DEC95
	ALL	\$12,000	7000	1900	JAN95	DEC95

HB 191
9-LSO766\O
"Shall" vs "May"

Section 1: "Shall" is properly used to ensure that when a disposal occurs we consider the availability of timber, firewood and water in determining separation between residences.

Section 2: Not applicable

Section 3: Not applicable

Section 4: "Shall" is properly used requiring the commissioner to report to the legislature on the total acreage planned and classified for various disposals.

Section 5: "May" is properly used concerning possible appropriation requests for proposed disposals. If a funding request is submitted, it "shall" include complete details for all capital improvements for the entire project.

Section 6: Not applicable

Section 7: Not applicable

Section 8: Not applicable

Section 9: Not applicable

Section 10: Not applicable

Section 11: "Must" is used instead of "shall." Either word ensures that land disposal programs created by regulation must provide for competition and produce at least fair market value.

Section 12: "Shall" is used instead of "should" to make sure that sales of public land must be at least at fair market value.

Section 13: Not applicable

Section 14: This changes a "shall to a may." The state superior court has ruled that applicants do not need to be present to win. The change to "may" allows the department to conduct a land sale at any location instead of having to conduct the sale in the closest community to the disposal. This allows us to be more efficient

and is a significant cost savings.

Section 15: Not applicable

Section 16: Not applicable

Section 17: Not applicable

Section 18: Not applicable

Section 19: Either "may" or "shall" could be used when referring to the maximum interest rate.

Section 20: Not applicable

Section 21: "May" is the preferred term, rather than the existing "shall," when granting an agricultural preference. Presently the law makes it mandatory for us to offer a preference when it is being sold. This has lead to cases where the farm has failed because the owner did not have sufficient resources to develop and maintain the farm. The preference would be granted when the owner has demonstrated sufficient where-with-all to develop and maintain the additional agricultural land.

Section 22: Not applicable

Section 23: Not applicable

Section 24: We are proposing to substitute "may" for "shall" in two locations. The first is making it discretionary on publicly inviting applications for shore fish leasing. The discretion is needed because the department classifies land for tide land development for a variety of reasons - not just shore fishing. To make it mandatory to offer tide lands for shore fish leasing when the area might not be open to commercial fishing, or there is a better use is not logical.

The second case is that presently if two or more applications are received for the same shore area we must offer the parcel by public auction. The change to "may" would allow us to use other disposal methods, such as a lottery. We are often criticized that the mandatory auction provides an incentive to outside investors, rather than local residents.

Section 25: Not applicable

Section 26: "Shall" is used instead of "may" which will allow the department to negotiate new terms when a lease is renewed. If "shall" is used the department would have no discretion on terms and would have to renew the lease when requested by the current lease holder.

Section 27: This entire section has a mix of "may's" and "shall's." May is used when an action cannot be taken until some future decision is made.

(a) The department "may" offer to the public a aquatic farm site. However, before this can take place the department "shall" consider all relevant comment submitted during the public notice period.

(b) The department "may" deny an application for good cause, but "shall" provide written reasons for the denial.

(c) Not applicable

(d) Lease "may" be assigned. This is a discretionary act by the lease holder, not the state.

(e) The department "shall" require a performance bond. This should not be discretionary on either the applicant or the department.

(f) The department "shall" adopt regulations. Regulations will be needed to establish the criteria needed to run the program, establish criteria for limiting the number of sites and to establish criteria for considering customary and traditional uses.

Section 28: This section deals with removal of improvements state land when a lease is terminated. "Shall" is used consistently throughout to avoid any discretion on either the state or lease holder on how the improvements and/or contamination shall be dealt with.

Section 29: Not applicable

Section 30: Not applicable

Section 31: Not applicable

Section 32: This section establishes how rental rates for mining claims and mining leases are established. "Shall" is the proper term to use for establishing these fees.

Section 33: Not applicable

Section 34: This section requires the department to adopt regulations setting leasing procedures and annual rentals for mining development. This properly "should" not be a discretionary action.

Section 35: Not applicable

Section 36: This section establishes a new remote recreational cabin site disposal program. It has an appropriate mix of "shall's" and "may's." May is used throughout when there is a later step to be finished before a final action can take place. Shall is used when the final action is being taken such as issuing the lease or patent, and for some steps that should not be discretionary, such as making the applicant pay for the land survey and appraisal.

Section 37: Requires the department to ensure that disposals of land to non-profit corporations and homeowners' associations serve a public purpose. This properly is not a discretionary action

Section 38: Not applicable

Section 39: Not applicable

Section 40: Either "may" or "shall" can be used. The result is the same for establishing application fees for homesites.

Section 41: Not applicable

Section 42: Uses the term "shall" consistently when dealing with the disposal of homesites by the department.

Section 43: Not applicable

Section 44: Not applicable

Section 45: Not applicable

Section 46: Not applicable

Section 47: This section deals with eliminating sale restrictions on homesteads and remotes. It has a mix of "shall's" and "may's."

- (a) Either "may" or "shall" can be used when discussing including the sale restrictions. The result is the same in that the conditions will not be used.
- (b) "Shall" is properly used telling the department to amend contracts or patents to remove the conditions, provided the applicant pays the difference in value between fair market value and the value paid with the restrictions.

Sections 48 through 56: Not applicable



SENATOR LOREN LEMAN

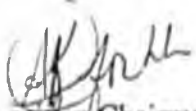
Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau AK 99801 465-2095

MEMORANDUM

TO: Senator Druce Pearce
Senate President

FROM: Senator Loren Lemman 
Senate Resources Committee Chairman

DATE: January 4, 1996

RE: Committee Referral for HB 191

HB 191, Management of State Land and Resources, passed the House and was referred only to the Senate Finance Committee in 1995. As this bill deals with Title 38, I request an additional referral to Senate Resources. Thank you.

Port Alsworth, Alaska 99653
February 6, 1996

FEB 12 1996

Senator Loren Lehman
Juneau, Alaska

Dear Loren:

As sponsor of legislation creating the shore fishery leasing program many years ago I am alarmed by reports that there is now a bill in the hopper which proposes some horrendous changes.

The original intent was simply to provide a means of resolving disputes over set net locations other than ^{by} the armed conflicts resorted to occasionally in the past. No one was required to lease; but could do so if they felt threatened by someone trying to claim their location. Even then they are by no means totally secure in that regard, as both my wife and daughter found out.

Though both had leases on sites they'd fished for over 30 years, the State Shore Fishery and Protection people permitted a deplorable situation to continue for almost six year during which an individual continued to encroach on both of them. Only when it came to the point they ~~both~~ were eliminated from the fishery by the individual placing his net first with three hundred feet of their locations was the issue resolved by the state after an extremely costly court hearing. The incompetance exhibited by the shore Fishery personal then handling the issue was appalling and hardly warrants an expansion of their authority or funding. Fortunately, one of the main bumlbers has been dismissed.

One of the compounding problems was attributed to regulay~~ons~~ which stipulate, we were told, that regardless of leasing, he who first has his net in the water is entitled to fish. ~~the other~~.

As a fellow set netter I'm sure you're aware of the utter chaos which would ensue if the proposed leasing fees and procedures were adopted. In Bristol Bay at least 80% of set netters are residents. Many have virtually no other source of income. Few could meet the vastly increased fees or match competative bids by "outsiders".

As a result, many would simply not lease at all and thereby return to square one when locations are totally up for grabs by those most aggressively asserting themselves.

In light of the grime prognosis for commercial fisherfolk confronted with not only depressed prices but increasing

assault by sports fishing interests, it hardly seems an auspicious time to throw yet another curve ball at their heads.

Also, of course, there's the matter of equity. In Bristol Bay drift fishermen are allowed three times the gear set netters are permitted. Although about one third of the Bay's fisherfolk are set netters, they glean only about 10% of the harvest. By contrast, about 65% of the drift pay days goes to non-residents.

Rather than raise costs to set netters, it already seems most unfair for the state to charge a resident set netter almost twice what we charge a resident drifter. (Set netters now pay \$300 for a lease plus \$150 for their permit for a total of \$450 while drifters pay but \$250). Since they fish three times the gear for a much longer time one would assume drifters would be charged three times the fee for their "lease" of the moving column of water they occupy at a given time. That they also fish round the clock while set nets fish only a portion of the open period seems another disparity which hardly warrants charging set netters even more. If more revenue is required to come from the fishery it should be based on production.

Please advise as to the status and potential for passage of this measure. Few set netters I know are even aware of it.

Many thanks,

Jay Hammond



Northwest Setnetters Association

Box 870, Kodiak, Alaska 99615

Feb. 23, 1996

Senator Loren Leman
Chair, Sen. Resource Committee
Alaska State Legislature
State Capitol (MS3100)
Juneau, Alaska 99801-1182

Dear Senator Leman,

I write to you as a follow up to my conversation with Annette Kreitzer on Feb. 14 regarding House Bill 191, Sec. 24 coming before the Senate Resource Committee. I would like to deal specifically with the solutions put forth by the Division of Land in regards to new and disputed shore fishery leases in the set net fishery.

As you are aware, the shore fishery program was established to help preserve fishing opportunities to those fishing traditional areas as well as to add stability to the State's set net fisheries. The awarding of a shore fishery lease to the highest bidder in the case of a new or contested lease will actually create instability within the set net fishery and may contribute to shore fishery disputes. We appreciate the difficulty the Division of Lands has in resolving conflicting claims and their desire for a solution in the form of a law such as what is before you now in House Bill 191. This solution though is ill conceived.

Our group is working on an alternative proposal or approach to this issue. At a minimum we suggest that you solicit the opinions of the different set net organizations around the State. Perhaps in so doing a model of arbitration or resolution could be architected. In the meantime, we hope that this language dealing with new and contested fishery leases will be eliminated from House Bill 191. Thank you for your consideration of this.

Sincerely,

Virginia C. Adams
Virginia C. Adams, President

NORTHERN DISTRICT SET NETTERS ASSOCIATION OF COOK INLET

P.O. Box 101480 ★ ANCHORAGE, ALASKA 99510-1480

Est 1954

FEB 14 1996

9 February 1996

Senator Loren Leman
Chair, Senate Resources Committee
Juneau, Alaska 99801

RE: HB 191

Dear Senator Leman,

I just read some proposed changes to the shore fishery lease statutes and have some serious concerns related to them. Please consider the following comments.

Sec. 24. AS 38.05.082(b)

Please keep the original language. Changing the language so the director SHALL invite public applications only invites unneeded trouble between commercial fishers and would result in total disruption of the set net fishery in Upper Cook Inlet that is over 100 years old. Commercial fishers have long-established sites that are often handed down from generation to generation. To arbitrarily negate this long tradition of family fishing at certain locations would serve no useful purpose and only disenfranchise people from their heritage and family tradition. Set net fishing is more than just the economic return to commercial fishers. It represents a social and family way of life that is uniquely tied to specific geographic locations.

Furthermore, the idea that the director SHALL AWARD the lease at a public auction completely misunderstands the purpose of shore fishery leases. The original language of awarding the lease to the most qualified applicant and then specifying the measures of "most qualified" is consistent with common sense, equity among commercial fishers, and the goal of providing social and economic security to commercial fishing families. To throw the shore fishery leasing process into a "highest bidder public auction" would result in chaos for existing fishing families that cannot afford to "outbid" prospective buyers. Please keep the original language.

Sec. 25. AS 38.05.082(c)

DNR already has established a reasonable rental for the shore fishery leases. I recall that the leases used to be \$40 to \$60 per year and then they were raised to something like \$100 or \$150 a year and currently they are \$300 per year. Often family fishing operations have several permits and thus several leases that cost \$300 each. It is not uncommon for a set net fishing family to pay \$600 or \$900 or more for their shore fishery leases. I know that for many of the commercial fishers in the Northern District, the \$300 per lease is expensive. In years of poor returns to the Northern District and poor prices for salmon for everybody, the current rate for the shore fishery leases is a burden. In fact, I know of several fishers who do not have leases as they cannot afford the current cost of the lease.

9 February 1996 letter to Senator Loren Leman

Page 2

I also understand that the current shore fishery lease fee of \$300 more than pays for the current administration of the program. I understand that money received from the shore fishery program is used for other state purposes. I suggest that you have someone research the amount of money raised by the shore fishery program and compare it with the cost of administering that program before any changes in fees is instituted. If the shore fishery program is generating more than it costs to administer it, where is the additional money going?

If the state is interested in getting even more money from the shore fishery program, I have a suggestion. In this suggestion I am not speaking as a board member of the Northern District Set Netters Association, as I have not reviewed this concept with the other board members; I am only speaking for myself. My suggestion is to tie the shore fishery lease fees to the commercial fishing gross revenues of each lessee. Hence, a small percentage of that lessee's gross for the fishing season would go to the State of Alaska. Thus, low producing sites would pay less than higher producing sites. In this manner, the state would be receiving more money for the more valuable sites. From a Northern District fisher's perspective (a relatively low producing fishing area), this would be an equitable way to generate additional funds. But, first review whether there is any need to raise the shore fishery lease fees. As I indicated, current fees are already too high for some fishers and, I understand, more than pay for the cost of administering the program.

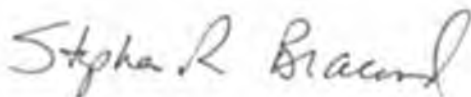
The current fees already allow a reasonable return to the state for the use of state land for set net sites. If the state wants even more money from commercial fishing lessee's (in a time when fish markets are in serious decline), consider the "percentage of gross" lease structure. But, please do not support any legislation that arbitrarily attempts to remove long-established family fishing traditions at specific locations for the purpose of "a more administratively efficient agency." This would be a terrible disservice to the commercial fishing public in Alaska.

From my review of the proposed changes, they do not simplify the shore fishery lease program nor do they reduce any costs to DNR when one considers the potential disruption to the lives of Alaskans the proposed regulatory changes would cause. In addition, from what I read, there was no explanation of how the proposed regulatory changes reduce costs to DNR.

I am not sure I saw the complete proposed regulatory changes. It seems strange that Alaska commercial set net fishing organizations are not on a mailing list for such proposals. There are not many such organizations in Alaska, and they represent the people who would be most effected by the proposed changes. Please send me a complete description of the shore fishery proposed changes.

Thank you for your attention to this matter and please retain the existing shore fishery program language that protects the interests of set net commercial fishers

Sincerely,



Stephen R. Braund
President



April 4, 1996

Representative Gene Therriault
House Finance Subcommittee Chairman
Juneau, AK 99801

Re: House Bill 191

Dear Representative Therriault:

The deletion of the amended language referring to "negotiable leases & fair market value sales" in Sec. 24, 26. AS 38.05.082(b), (c) is a step in the right direction. The amended language in Sec. 25 AS 38.05.082(c) to implement a 1% assessment on a limited entry permit's value with a \$300 minimum payment is not a reasonable solution for determining the fee for a shore fishery lease.

In the mid 80's the value of a permit for area II soared to \$105,000 this in no way was reflective of our annual gross; quite the contrary, they were some of our poorest years ever in Lower Cook Inlet. The value of the permit was driven to such extremes by more productive sites ~~150 miles from our area~~ yet under the present wording in Sec. 25 AS 38.05.082(c) our fee per lease would cost \$1,005; 10% of our average yearly gross (\$10,000).

actually
50 miles

The price of fish has been on a downward spiral with no end in sight but if the demands for permits are high in an area so will the price of a permit thus creating an inflated value on a tide land lease. If, instead, an annual fee of 1% with no minimum payment was implemented on our annual gross income this in all likelihood will cover the cost of running the program. This approach also reflects the true value of the sites whereas the value of a permit has nothing to do with the an individual's site selection. Those with more lucrative sites would pay more and those with lesser situations would pay their fair share.

Furthermore this is an elective program not to be compared with oil, gas, mining, timber & aquatic farm leasing programs as suggested by the DNR in wanting to bring the shore fishery in line with their mandatory leasing programs. Aside from covering the cost of administering the program we do not feel that the DNR should derive a surplus revenue from the set net fishery. We are already paying for the resource through a raw fish tax and a fee levied on our entry permits just like every other fisher that harvests salmon throughout the State. We fail to see why the set net fishery is singled out to generate income for the State when we are but one of four groups benefiting from this resource.

Re: House Bill 191
April 4, 1996

The \$300 annual fee is high enough as it is; if HIB 191 becomes law as written it would put this program completely out of reach for many rural Alaskans that live at a subsistence level. Families that have fished sites for generations with no leases may lose them to anyone who could afford to file on their location. This happened to us in 1992 when aquatic farmers applied for 5 farm sites (35 acres) in Kasitsna Bay; we were able to fight off this hostile take over because our area is inside the Kachemak Bay Critical Habitat Area and the law forbids the displacement of existing fisheries. We have since applied for leases but it has been 3 years and they have not even reached the public comment period; anyone can still file for the same area and we are vulnerable until they become finale. We are also concerned that we may not be able to afford the yearly fee when our leases are finalized if this legislation was to pass.

The State limited entry commission recognizes the fact that some people are even unable to afford the yearly renewal cost for their permit and has a low income clause built into their program that reduces the annual fee; why is this not being discussed for the shore fishery lease program?

Thank you for your attention to this matter and please retain the existing shore fishery program language that protects the interest of set net commercial fishers.

Cordially,

Robert & Renée Purpura
Pat & Ann Daigle
Tim & Jane Wilkes
Mildred McMichael
Kasitsna Bay Salmon Producers

cc: Senator Leman
Senator John Torgerson
Rep. Gail Phillips

4/4/96

HB191

Send response
need to update
L 411

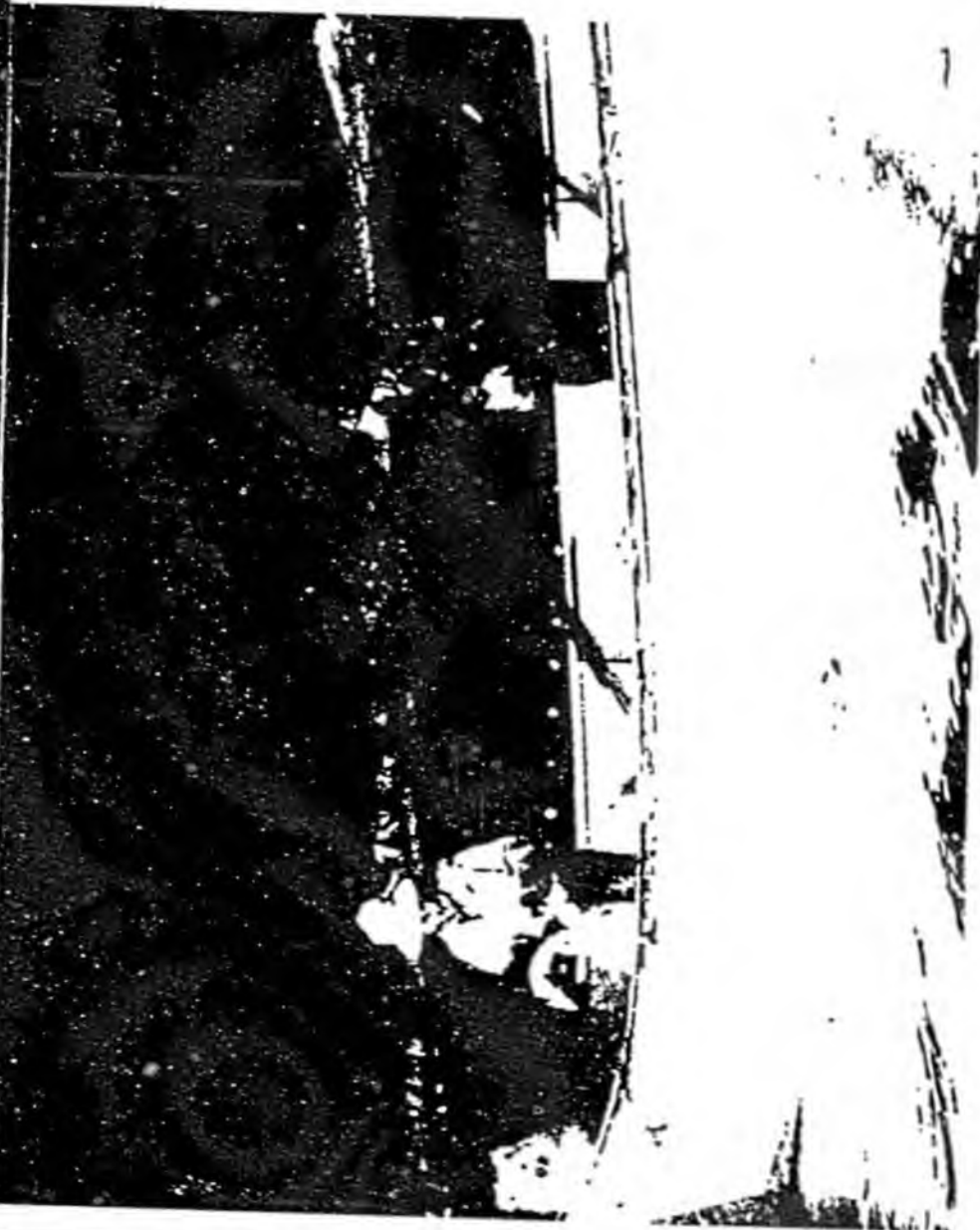
Sen. Lerman
Alaska State Legislature
Juneau, AK 99801

Dear Sen. Lerman:

I'm sending some pictures which I hope you will find helpful in working on H.B. 195. I am concerned about the lease (rental) rate for net net sites. Once again, I must state that the leasing program as we now know it supports the program financially. I do not believe that additional funds should be paid to take care of disputes. Disputes should be settled in court - not by state agencies in my opinion. I feel that the state should receive funds - if that is the need, through open tapes on program back - not on the small family business.

I believe that most net netters will keep their registration of their sites rather than to pay the expense tag. We are not using your land for catching fish. I'm sure that you are doing all that you can to balance the budget. But, as fishermen, I know we are paying our way with the fishing taxes. Thank you so much for your efforts in reading my note.

Sincerely yours,
Linnis Peterson Box 669



Here are some pictures which I hope will show that we fish in water. Our sites are in deep water. The fishing part of it's not more good day. We do not see it's hard to access the sites or to actual undertake the fish are caught.

Sincerely yours,

Ernesto (Dennis) Platon

Ms. Debra

L Rice

783-2186

PO Box 331

Girdwood

AK

99587

file ✓ sent thr.
Distribution

12

Affiliation

Comme

Reg Voter

Y

Date POM Sent

Constituency

Bill Number

Response

Subject

04/12/96

N

HB 191

Amend

SUPPORT CONTINUANCE OF DNR SFL AS IS. LEASE FEES SUPPORT THE PROGRAM. LEASE PROTECTS OUR PLACE TO FISH, PREVENTS BLOODY FREE-FOR-ALL AS SET-NET FISHERS WE ARE WILLING TO PAY FOR THIS PROGRAM PI FASE DON'T AXE THIS PROGRAM OR GIVE IT AWAY. IT BELONGS IN STATE HANDS. ASK LEMAN ABOUT THIS PROGRAM.

HENRY J. CAMAROT
12490 N. Madison Ave. N.E.
Bainbridge Island, WA 98110
206-842-1441
FAX: 206-842-1502

HB 191

TO: Rep Gene Terreo
FAX NO.: (907) 465-3884 NUMBER OF PAGES 5
(INCLUDING COVER PAGE)
FROM: Henry J. Camarot
DATE: April 30, 1996
RE: H. B. 191

MESSAGE: I have been told that the
above Bill has been amended to
require a bond before a river
may state a claim on private
property conveyed by the State,
with a retention of the mineral
rights. This would adversely affect
hundreds of claims. (See Attached
Affidavit of Kevin Krause.) Please
don't pass the Bill with such a
requirement.
H. Camarot.

Henry J. Camarot, Esq.
12490 N. Madison Ave. N.E.
Bainbridge Island, WA 98110

Attorney for Plaintiffs
(206) 842-1441

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

ALASKA JUNEAU ASSOCIATES,)
)
Plaintiff,)

vs.)

MICHAEL HAYES, et al.,)
)
Defendants.)

Case No. 1JU-82-2048 Civ.

AFFIDAVIT OF KERWIN KRAUSE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

COMES NOW Kerwin Krause, being first duly sworn upon oath,
deposes and states as follows:

1. I am employed by the State of Alaska ("State"),
Department of Natural Resources, Division of Mining, as the
Property Management Geologist. I have held this position since
approximately January, 1988.

2. Upon the request of Henry Camarot, counsel for
defendants in the above captioned case, I caused to be conducted
a computer records search of the Division of Mining records to
determine the number of state mining claims on lands wherein the
State has reserved the mineral estate and the surface estate is
owned by a party other than the State.

Lindberg, Smith,
Wentfield & Casey
ATTORNEYS
1000 BROADWAY
JUNEAU, ALASKA 99801

3. Based upon the computer records search carried out under my supervision on December 29, 1993, there appear to be approximately 1,441 state mining claims on lands wherein the State has reserved the mineral estate and the surface estate is owned by a party other than the State. I cannot guarantee the accuracy of this number and I make no representations as to the validity of any of the mining claims included within this number.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Kerwin Krause
Kerwin Krause

SUBSCRIBED AND SWORN TO before me this 6th day of January, 1994.

Lisa M. Helmore
Notary Public in and for Alaska
My Commission Expires: 10/31/95

I hereby certify that a true and correct copy of the foregoing was served by () mail () fax () hand this 6th day of January, 1994, to:

James N. Reeves, Esq.
Bogle & Gates
1031 W. 4th Ave., Suite 600
Anchorage, Alaska 99501

Henry J. Camarot

Berg, Smith,
Infield & Corey
1007 7TH AVENUE
SUITE 200
ANCHORAGE, ALASKA
99501

000313

SECOND AFFIDAVIT OF KERWIN KRAUSE

STATE OF ALASKA)
) SS.
THIRD JUDICIAL DISTRICT)

COMES NOW Kerwin Krause, being first duly sworn upon oath, deposes and states as follows:

1. I am employed by the State of Alaska ("State"), Department of Natural Resources, Division of Mining, as the Property Management Geologist. I have held this position since approximately January, 1988.

2. This affidavit is offered for the sole purpose of clarifying the computer search parameters and results described in my previous affidavit dated January 6, 1994, and filed with the court in the above-captioned case.

3. The Department of Natural Resources computer programs available to me are capable of defining land ownership and status down to the level of a section (640 acres). Any finer delineation must be determined by manual inspection of plats (maps) of each section, which plats are available for public inspection at the Department of Natural Resources offices.

4. In the computer search of December 29, 1993, the results of which are given in my previous affidavit, the computer records available were searched to determine which sections in the state contain (a) lands wherein the State of Alaska owns or has reserved the mineral estate but where the surface estate has been conveyed to a party other than the State of Alaska ("split estate lands"); and (b) state mining claims.


5. The computer search showed that approximately 1,441

000310

state mining claims are shown as existing within sections containing split estate lands. No determination was made as to whether the state mining claims were located on or overlapped onto the split estate lands. No manual search of plats was carried out nor is one planned as this is a very time-consuming and labor-intensive search for information not currently required for a Department of Natural Resource purpose that is most appropriately carried out by the inquiring party.


Kerwin Krause

Subscribed and sworn to before me this 31st day of January, 1994.


Notary public in and for Alaska.
My commission expires: Oct 10, 1997

000311

✓ document

APR 10 1996

std HB191
response

Red Mtn, Box RDO
Homer, AK, 99603
2 April 1996

Senator Loren Leman
Chair, Senate Resources Committee
Juneau, AK, 99801 Oppose changing shore fishery
leases
RE: HB191

Dear Senator Leman:

I am very concerned about the effect of the so-called "housekeeping" measure HB191. This is not just a housekeeping measure. It is a direct attack on set net fishers. We already pay \$300/year for our shore fishery leases. HB191 would probably force that figure higher.

I grossed \$11,000⁺ last year. This is not a "rich fisherman" operation.

I homesteaded this land. I live on it. I fish mostly on sites where I am the upland owner. HB191 would permit someone else to outbid me and take away the fishery I have worked long and hard at.

Fishing requires a big inventory of equipment. I have a lot of money tied up in skiffs, outboard motors, nets, leads, buildings, tools, lines, buoys. This has been built up over 34 years of fishing.

The shore fishery lease program was designed to protect fishers from having their sites jumped by someone else. HB 191 would use that same law to confiscate the use permit that the state has already agreed to.

This fishery cannot exist without some stability. If we don't know from one year to the next if we can fish, we cannot make long term investments. How can anyone who fishes for a living buy a "\$5000" skiff and a "\$3000" outboard if they might be outbid next year?

Why is the representative from North Pole dabbling in the shore fishery?

Sincerely,

Lera Baxter

HB191



April 27, 1996

Senator Lemman
Chairman, Senate Resources Committee

Re: House Bill 191

Dear Senator Lemman:

The amended language in Sec. 25 AS 38.05.082(c) to implement a 0.06% assessment on a limited entry permit's value with a \$600 cap is not a fair or reasonable solution for determining the fee for a shore fishery lease.

The now proposed language would only target a small group of set net fishermen; with most area permit values being well below \$50,000 the State is relying on 15% to 20% of the total lease holders to make up for budget shortfalls. Lease holders from Kodiak & False Pass would see an increase of 100% in their yearly fee and would receive absolutely nothing in return for this extra financial burden.

It is the week-end so we are unable to research our numbers but just shooting from the hip we would guess the number of lease holders is just over 1000; the percentage of the total number of permit holders this represents (25% to 30%) is small. This would lead one to ask if the leasing program is affordable as it is. By associating the lease cost to the value of ones' permit people in certain areas may well for go it altogether thus placing even more stress on the program. With no recruit class in crab stocks you would have no fishery; the same logic applies to the shore fishery lease program as well!

One only has to read the newspaper to realize that there are a lot of fishermen are in financial trouble; some people are unable to pay their IRS bills and are fighting to just hold onto their permits; how can doubling the cost of a lease be beneficial for them or the State.

We urge you to please reject the amended language in Sec 25 as being counter productive and unnecessary. We strongly believe that in no way should the annual fee of a shore fishery lease be connected to the value of a limited entry permit and see no reason why some would pay more than others, thank you.

Robert & Renée Purpura
Pat & Ann Daigle
Tim & Jane Wilkes
Mildred McMichael
Kasitsna Bay Salmon Producers

cc:Mail for: Annette Kreitzer

Subject: Re[2]: HB 191
From: Kodiak LIO at LAA_ANC 4/30/96 8:31 AM
To: Annette Kreitzer at JNU_CAPITOL

I did get a copy of the work draft and before the t/c started. But I would very much appreciate a copy of that new CS to HB 191 Annette. If you have a chance to fax, that would be great.

Lorna

Subject: Re: HB 191
From: Annette Kreitzer at JNU_CAPITOL
Date: 4/29/96 7:03 PM

Lorna, did you get a copy? The committee amended the bill, so there will be a new CS available tomorrow. I'll try to fax a copy to you later.

Subject: HB 191
From: Kodiak LIO at LAA_ANC
Date: 4/29/96 2:06 PM

Hi Annette,

I have a constituent here in Kodiak that says he talked to the Senate Resource committee and that they have a version W of HB 191. Is it possible for us to get a copy of that sent to us before the teleconference at 3:30? Our fax number is 486-5264.

Lorna / Kodiak LIO



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource
committee name
committee on HB 191, dated 3-1-96
bill/subject

To Sen. Lemay, Chairman House Resources Com.

I am a Kodiak Island Sport

fisherman and also a great hobby.

House Bill 191 is an obvious attack to

the sport fishery. The current issue is

the fishery are fair, reasonable, and just.

The idea that a non-owner can buy

a business out from under someone,

under House Bill 191, is unfair and just not right!

Please defeat this bill and let the fishery

remain at its state good.

Thank You

Keith Omlid

10 Box 545

Kodiak, AK 99615



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource
committee name

committee on HB 191 , dated 3-1-96
bill/subject

Box 1161
Kodiak Alaska 99615
Feb 29, 1996

House Bill.

Please read this letter at the Conference call dealing with HB 191.

To Dan Jarnan, Chair House Resources Com.

We are Kodiak Island setnet fishermen and have fished on the
Alaska coast since 1764. When we purchased our site in Cleg Bay the
former owner could tell us our present fishing location knowing he
had the legal right to fish there or sell them as he chose because that
was the established custom and usage of the time. The introduction
of share fisheries laws was intended to protect existing this
custom. This bill will destroy this needed long standing and honored
custom by putting share fisheries leases to bid. Rather than
stabilize the setnet fishery this bill has the opposite effect.

It in fact HB 191 keeps the setnet fishery and excludes all others
giving the setnet fishery and extra freedom in a highly competitive
industry.

Also, HB 191 has the potential of placing the lease value as high
rather than the bank. Another form of tax we don't need.

Rather than eliminate or lessen problems HB 191 will tend
to create problems and hinder to resolve.

It would be worse upon to legislate this bill and retain the
status quo.

[Signature]
Sid Curtis

Barbara Curtis



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource
committee name
committee on HB 191 dated 3-1-96
bill/subject

We, Olaf & Celestine Omlid own & operate our own setnet site in Moon Bay South End of Kodiak Island, and are against House Bill # 191

1- The Shore Fishery Leases were to put stability and protection of our sites into the set net fishery, and we feel it has done that.

2- It would allow the Commission to set the value of the lease according to the amount of fish or what he feels necessary. This would be another tax on our gear types.

This bill as written would cause undo hardship on the setnetters & would not have the protection it offers now. We are very unhappy with it.

Sincerely,
Olaf & Celestine Omlid

P.O. Box 613
Kodiak, AK 99613



Legislative Teleconference Network

TCN # 60022

P. 01

SIGN-IN SHEET PLEASE PRINT

SPONSOR: Senate Revenue

SUBJECT: HB 191

START/END TIME: 2:00 p.m. DATE: 5/1/96

FAX NO. 9074563346

FBI LIO

MAR-01-96 FRI 15:57

	Name - Organization You Are Representing	Address	Zip	Phone #	Yestis	Oliver	Bill #
1	Paul Wick	642 Liten Elm Way, Ft. St. S.	94712	488-0704	X		191
2							
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15							

03/01/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:20:18

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:JNU

TCN:60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30

FOR:JNU

PUBLIC HEARING

SENATE RESOURCES

LOCATION: BUREAU

HB 191	✓MR.	DAVID	SANDEN	TESTIFY
HB 191	✓MS.	KIMBERLY	PETERSON	TESTIFY
HB 191	✓MS.	VIRGINIA	ADAMS	N.W. SETNETTERS TESTIFY
HB 191	XMR.	TOM	SCHWARTZ	HOMESTEAD WINNER TESTIFY
HB 191	✓MR.	HUGH	MALONE	KPFA TESTIFY
HB 191	MS.	CHERYL	SUTTON	OBSERVE

03/01/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:27:23

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:KOD

TCN:60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30

FOR:KOD

PUBLIC HEARING

SENATE RESOURCES

LOCATION: ~~KODIAK~~

LOCATION	INITIALS	NAME	RESOURCE	ACTION
HB 191	✓MS	DEE DEE	PEARSON	SETNET PERMIT TESTIFY
HB 191	✓MR	DON	FOX	TESTIFY
HB 191	✓MS	NELLE	MURRAY	SET NET PORTION TESTIFY
HB 191	✓MS	LAQUIATA	YATSIK	TESTIFY
HB 191	XMR	RICK	ELLINGSON	OBSERVE
HB 191	XMS	CLAUDIA	ANDERSON	OBSERVE
HB 191	XMS	LAURA	RESOFF	OBSERVE
HB 191	XMR	WILLIAM	BARKER	TESTIFY
HB 191	✓MR	John "Pete" PAT	MURREY	TESTIFY
HB 191	XMR	KIP	THOMET	TESTIFY
HB 191	XMR	CHRIS	MYRICK	TESTIFY

LEGISLATIVE INFORMATION OFFICE

Public Service Approval System

The K... (S...)

1997

03/01/96 13:59:58
MESSAGE FROM: LIOCJEN

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
IN ANCHORAGE

LTN1120
KEN

RE TCN: 60422 SCHEDULED FOR: 03/01/96 14:00 TO 15:30
SPONSOR: SENATE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: TOLD REP THERRIAULT DELAY-WILL CALL BACK

[Faint, mostly illegible text, possibly bleed-through from the reverse side of the page]

TESTIFY	NAME	STATUS	LOCATION
TESTIFY	BAUMAN	✓AL	HB 191
TESTIFY	SUTTON	✓NORA	HB 191
TESTIFY	DUGAN	✓KATHY	HB 191
TESTIFY	UGASHIK SETNET	✓	HB 191
TESTIFY	EGEGIK SETNET	✓MR	HB 191
TESTIFY	MOSS	✓MS	HB 191
TESTIFY	SWANSON	✓MR	HB 191

14:05:55 PARTICIPANT LIST (ALL PARTICIPANTS) TCN: 60422 SCHEDULED FOR: 03/01/96 14:00 TO 15:30 FOR: ANC
 BY: ANC
 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
 03/01/96

03/01/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:11:42

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:DLG

TCN:60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30

FOR:DLG

PUBLIC HEARING

SENATE RESOURCES

LOCATION: DILLINGHAM-

HB 191

✓MR.

JOE

CHUCKWJK

TESTIFY

HB 191

✓MS.

SUSAN

FLENSBURG

BBCRSA

TESTIFY

03/01/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:30:56

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:HOM

TCN:60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30

FOR:HOM

PUBLIC HEARING

SENATE RESOURCES

LOCATION: HOMER

HB 191	✓MR.	TOM	BURSCH	TESTIFY
HB 191	✓MS.	LAUREN	CARLTON	TESTIFY
HB 191	✓MR.	WILL	BISHOP	TESTIFY

03/01/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

13:56:40

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:MAT

TCN:60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30

FOR:MAT

PUBLIC HEARING

SENATE RESOURCES

LOCATION:MATSU

HB 191

✓MR

STAN

CARLSON

TESTIFY

HB 191

MR.

STAN

CARLSON

TESTIFY

03/01/96

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:23:17

PARTICIPANT LIST (TESTIFIERS ONLY)

BY:COR

TCN:60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30

FOR:COR

PUBLIC HEARING

SENATE RESOURCES

LOCATION:CORDOVA :

HB 191

✓MRS.

PAT

JONES

SELF

TESTIFY

HB 191

✓MR.

JOHN

THOMAS

SELF

TESTIFY

03/01/96 15:23:24 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCELI IN JUNEAU

LTN1120
KEN

RE TCN: 60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30
SPONSOR: SENATE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: DAVID SANDEN IN JNU ON HOMESTEAD 2MIN

03/01/96 15:01:39 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1120

MESSAGE FROM: LIOCLRS IN KODIAK

KEN

RE TCN: 60422 SCHEDULED FOR:03/01/96 14:00 TO 15:30

SPONSOR: SENATE RESOURC 'S

PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ~~ALL KOD PARTIC TO TESTIFY ON SEC24,25,26~~

Author: Annette Kreitzer at JNU_CAPITOL

Date: 3/1/96 9:05 AM

Priority: Normal

TO: Kenai LIO at IAA_ANC

Subject: Today's Resources Meeting

----- Message Contents -----

Greetings! Could you pass on to ~~Sen~~ Lemah that along with Ron Swanson, Deputy Director, Division of Lands/DNR at the Anchorage LIO will be Kathy Dugan from DNR's set net shore lease fishery program. I could not confirm that before Senator Lemah left yesterday. This is in regard to the hearing on HB 191.
Thanks.

MAR 26 1996

March 8, 1996

✓
no address
in voter reg. base
4/15

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely, *Permit Holders*

*Brad Dearing
Kulitta Gronholz*



Northwest Setnetters Association

Box 870, Kodiak, Alaska 99615

Senator Loren Leman
Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK. 99801-1182

April 23, 1996

Dear Sen. Leman,

Northwest Setnetters Association of Kodiak has been following SB 191, Sec. 24-25 for quite some time now, that being both before and after \$150,000 was proposed to be cut from the Dept. of Natural Resources Shore Lease Program. That threat being in the past, perhaps I could point out the inequities of a 1% rental rate levied on CFEC set net permit values to fund the DNR shore lease program.

Firstly, this 1% rental rate has made this a decisively Kodiak issue as Kodiak set net permits are valued higher than most other set net permits in the State. Secondly, this is even more painful when you realize that the majority of the Kodiak set net fishermen fish a minimum of two permits. A very quick example, the Officers of NWSA; President, 2 permits; Vice President, 10 permits; Treasurer, 1 permit; Secretary, 5 permits. I'm sure you can do the arithmetic. At a ceiling of even \$600, double our present annual fee, the shore lease program in Kodiak will essentially be sabotaged as Kodiak set net fishermen will not be able to afford to participate. This, I believe will eliminate the State's very valuable shore lease program. The present rental rate supports the shore lease program and should remain in effect. If rates were to be increased at all, they should be increased as a flat fee for all set net fishermen of the State, not assessed on permit values.

This issue has been argued ad infinitum by Alaska's set net fishermen. We are supporting the DNR shore lease program presently by the fees being charged. Leave the fees as they are. Pull Sec. 25 from SB 191 and get on with business.

Sincerely,

Virginia Adams
Virginia Adams, Pres.

CC: Sen. Fred Zharoff
Sen. Steve Frank
Sen. Georgianna Lincoln
Rep. Alan Austerman
Rep. Gene Therriault
Rep. Jerry Mackie

✓
4/15
Kim

EGEGIK SETNET ASSOC.
Kim S. & Debra L. Rice
P.O. Box 331
Girdwood, AK. 99587
ph 907-783-2186
fax 907-783-3171
4y12y96

Dear Senator Loren Leman,

We do not support any changes to the Shore Fishery Lease program. The program is self funding, provides a measure of security and public safety for the Set Net fisherman. The Shore Fishery Lease department has created a well-organized, efficient, cost effective program to deliver the service of issuing and maintaining shore fishery leases. This program provides a stabilizing effect to a often chaotic fishery. This program was set up to have the lease fees cover the cost of administration. It does, and can continue to do so.

If this program is abolished then people will be forced to protect their place to fish on their own. This has the potential to become a Public Safety concern. We strongly urge you to not change the existing Shore Fishery Lease program. If it's not broken, don't fix it!

Sincerely,


Kim and Debra Rice

Rec'd 4/15

Sharon White
HCR 60 Box 154
Bonners Ferry, Id. 83805
208-267-7170

March 17, 1996

MAR 26 1996

Dear Senator Leman,

In reference to House Bill 191; I find the wording unclear on page 11, lines 3-18. Does this refer to new land designated for set net fishing, not previously leased--- or does it refer to renewing an existing ten year lease? If the latter is the case, I am strongly opposed to it!

The lease program, as it stands has done a wonderful job keeping peace on the beaches. Neighbors are often found helping each other rather than fighting over site locations. If, when the ten year lease comes up for renewal, anyone could apply, you would potentially receive applications from neighbors who just wanted to expand, businesses trying to get a monopoly on the industry, etc. It would be extremely unfair that in these particular cases where there were two or more applications, you would have to pay for the right to lease what has been your fishing site for the past 10-20 years. Essentially it could, left without a site, make your permit useless and force you out of the business. Many of us have family operations with cabins adjacent to our sites. We have been there for eighteen years and the kids look forward to returning to their summer residence each year. To suddenly be out bid would be a tragedy.

Thank you for your consideration on this issue.

Sincerely,

Sharon White

Sharon White

Handwritten note: ...

March 8, 1996

Senator Loren Lemman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Lemman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

Joe D. Ludvick

Joe D. Ludvick
PO Box 74
Sand Point, AK
99661

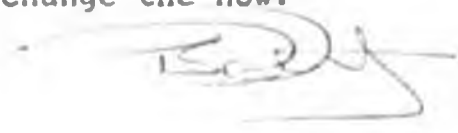
House Bill #191(FIN)

To: Senate Resource Committee

From: Thomas E. Schantz
1995 Homestead Lottery Winner parcel #1007 Jack Bay

Date: March 1, 1996

Although I do not object to the spirit of the bill, I feel it is unfair to subject the 53, 1995 Homestead Lottery Winners to this 1996 legislation. Much thought, strategic planning, and expense is incurred in selecting what parcels an Alaskan chooses to purchase entries for. This legislation would drastically change the purchase options originally presented and published by the Department of Natural Resources in 1995. Four Thousand One Hundred and thirty three twenty five dollar entries were received by Alaskans in the 1995 Homestead lottery under the old rules. It is not fair to change the now.



APR 03 1996

March 8, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

A handwritten signature in cursive script, appearing to read "Vincent J. Stetson".

March 8, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

*Richard Kochuten Sr.
P.O. Box 13
Sand Point AK
99661*

*RICHARD KOCHUTEN SR.
P.O. BOX 13
SAND POINT AK
99661*

Thank-you Senator Leman for giving me this chance to testify.

I am here to testify in support of Senator Leman's changes to SECS. 24, 25, and 26 of House Bill 191.

My husband and I are Kodiak setnetters from the Alitak Bay District, south end of Kodiak. My husband Jimmy is born and raised Alaskan and has set-netted in the Alitak Bay District since 1965. I am a 20 year Alaskan and setnetting since 1985.

In 1974 Jimmy bought the fishing location and rights and cabin location at Deadman Bay west and north west of Fox Island from the people he was working for.

Everybody that fishes on the southend knows what we consider our fishing territory and of course we are very protective of it. We didn't skiff up and throw out a net or cork somebody off to establish our sites. We bought our sites that have been traditional sites since the 1940s. We still have the bill of sale.

In ~~1926~~ ^{The 1970s} the state created the monster limited entry supposedly to protect our right to fish.

In 1988 a set-net friend tells us we can put away our weapons and get shore fishery water leases from DNR, the state. and then nobody can legally mess with us.

Sounds good we pay for surveys and an attorney and apply and receive our shore leases.

The fee per year at this time is 150.00, ~~per year~~ Now they are 300.00. I can't believe it costs that much to send us a pre-printed piece of paper. We will personally stop by and sign it in Anchorage if that will save the state money.

In 1994 a costly and ridiculous change in a regulation takes place and DNR says some of our sites must be re-surveyed and their point of attachment monumented. Fine we spend several more thousand dollars and us and other rock fishermen have to pay DNR to come down to the Alitak Bay District and put in some reference markers.

We meaning ALL THE EFFECTED FISHERMAN PAYED FOR EVERYTHING.

So now your telling me you want to charge more per year for our leases and when we have to get them re-issued the fee could be based on the market value of ^Four sites. And if we don't pay we lose our sets to the highest bidder. Where is all this money going?. Also your saying our yearly lease payment will be based on the market value of our permits, why should some fisherman pay more for the same service. Sorry to say we don't go for any of this and if you think you can auction off our sets to the highest bidder and we are going to let this happen, no way.

We will protect our sites with our life if necessary. Our fishing operation is our whole life and we intend to pass it on to our children.. ^{they shouldn't even be a re-issuing fee}

We follow all rules, pay our taxes and fees. We have watched the price of salmon go down the toilet while the price of fuel food gear permits leases and living go up up up. We pay 2% enhancement tax to the state so they can raise humpys, 1% ^{to} Asmi the state so they can advertise them and the price goes lower and lower. Now some legislator wants to bring in fish farming into an already overly glutted market.

I understand the state is in financial crisis but increasing user fees isn't fair. Why is the state trying to put the number 2 employer and money maker us fisherman out of business. Bring back state income taxes or spend some of the precious permanent fund on your ever growing bureaucracy.

I'm hoping my kid can go to college but at this rate fisherman will probably be on welfare.)

**McKINLEY MORTGAGE CO.**

Post Office Box 1015
776 Crystal Ave, Suite 1
Girdwood, AK 99587
Phone (907) 783-2277
Facsimile (907) 783-2492

TO: Sen. Loren Lemam
FAX: 465-2095

FROM: Tobias J. Preston

DATE: March 1, 1996

TOTAL PAGES: 1

RE: H.B. 191

Dear Senator;

For 17 years, I've commercial salmon gillnet fished. Since 1983, Prince William Sound setgillnetting has been my summer venture.

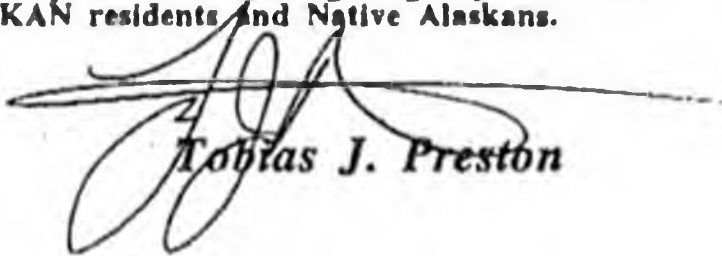
I'm very against H.B 191, and the potentially devastating effects upon setgillnetters. In my opinion, taking away the security of State leased sites is like taking away a Drift gillnetters boat! The unique individualism of setgillnetters is symbolized by their individual sites. Taking away that security, in my opinion, is similar to denying private property rights!

Furthermore, changing the current State policy will transfer power to the State! (And away from the individual setnetter, who for more than 50 years has worked his sites). With higher user fees from auctions, and subjection to the greed of neighboring setgillnetters, H.B. 191 will exacerbate the havoc to the individual. Equality of opportunity will be denied those fishermen not able to afford "their lease" at auction.

I hear the present system "pays for itself". If not true, then setgillnetters with leased sites should pay more in annual fees.

Thankyou for your consideration, and the protection of this gear group which has one of the highest percentage of ALASKAN residents and Native Alaskans.

Sincerely,



Tobias J. Preston

cc: Lolly Moss

Attn. Chairman
Lehman

3-1-96

This letter is in reference to
House bill 191

My name is Thomas Rohlhoff
P.O. Box 278, Birdwood, Ak. 99587
907) 783-2015

I'm a set net fisherman in the Yakatit
district.

The bill revision would prove to be
ineffective to those shore lease fisheries in
that area. I strongly advise that this
bill be shot down. It will cause a decrease
harmony in the fishing and becoming a
problem that would not be able to police
w/ the changing delta regions.

T Rohlhoff

March 8, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

Lawrence Calugan, Sr.

Lawrence Calugan, Sr.
PO Box 22
Sand Point, AK 99661



March 16, 1996

Senator Loren Leman
Chair, Senate Resource Committee
Juneau, AK 99801

Re: House Bill 191

Dear Senator Leman:

The members of Kasitsna Bay Salmon Producers strongly oppose any changes in the shore fishery program as proposed by House Bill 191. We dealt with these same issues in 1994 when Senate Bill 339 and House Bill 515 had the exact same language as House Bill 191.

This so called "house cleaning" measure would pit neighbor against neighbor and could go as far as to actually destroy an individual's life time of sweat equity. This measure is unfair because it allows a person with no prior use history an opportunity to ace out the guy that spent his life developing the sites; no other fishery operates with this specter looming over it.

We average under \$10,000 gross per permit annually; this just is not that big of a pie and it is getting smaller every year. It would open the door for part time fisherman that use the fishery as a tax write-off to out bid the poor working "Joe" whose sole income is derived from fishing. If we have to compete with doctors, lawyers, teachers and blue collar workers for areas to fish it's *no-brainer* to see what will happen to every "Mom & Pop" outfit in the State. With a negotiable lease you could be faced with the scenario of bidding against anyone who coveted your operation; the only thing wrong with this picture is I can see the guns being drawn as I type.

Rep. Gene Therrialt's district is a long way from any set net site; we question if he fully understands the consequences of these measures. We can not even imagine how the State is going to determine what the fair market value is for a site. I have been fishing the same area for 17 seasons and can say for sure that no two years are the same for any one site. We have sites that catch a lot of pinks compared to some sites in other districts. How will these be valued compared to sites closer the mouth of the Kenai River, all I can see is a bureaucratic nightmare if this bill becomes law.

We believe it to be a fundamental error to compare the shore fishery lease program to oil, gas, mining & timber leasing, for example: There is no natural resources being extracted from the land as with oil, gas, mining & timber. The fish that we catch are currently being taxed through the State

Re: House Bill 191
March 16, 1996

raw fish tax and limited entry permits fees. It's not as if the State is deriving nothing from the resource and would only be creating a chaotic situation by trying to bring the shore fish leasing program in line with other State programs that have nothing in common with the uniqueness of this fishery.

Nothing has changed since 1994 and our reasons for opposing these measures are the same now as then; the set net fishery is one of four gear types harvesting this resource and should not be expected to shoulder a burden that is not shared equally by the other user groups.

Anyone with an ounce of knowledge concerning the salmon fishery would say these measures are *trying to get blood from a stone.*

Cordially,

Robert & Renée Purpura
Pat & Ann Daigle
Tim & Jane Wilkes
Mildred McMichael
Kasitsna Bay Salmon Producers

Ray Varg - m
Box 158
Sand Point, AK
99661

MAR 18 1996

March 8, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

Hi Senator Leman:

Please do oppose this bill. Set Net Shore Leases are already so high that most of us can hardly afford them now. In fact many of the "old timers" here have to their leases lapse because of the increased expense of paying fishing against the shore. Fishing time & lease fees prices.

There is no need or reason to increase shore lease expenses. It is hard enough now to pay to pay our current costs.

Thanks

Have a good day!

Ray

*cc - Rep Carl Morris
Sen Lynn Hoffman*

MAR 18 1996

March 8, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

Harry R. Foster

P.O. Box 284

Seward Point, Alaska 99801

MAR 15 1996

March 8, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

Arthur Johnson
PO Box 15,
Sand Point, AK. 99861
383-3949

MAR 15 1996

Martin Johansen
P. O. Box 102
Sand Point, Alaska 99661

March 13, 1996

THE HONORABLE SENATOR LOREN LEMAN
Chairman
Senate Resources Committee
State Capitol
Juneau, Alaska 99801

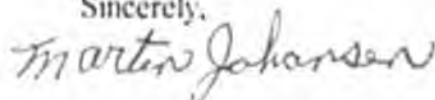
Dear Senator Lemman:

I am writing to you today in regards to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fishermen and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

We are severely stricken enough. How can we make a living? Who is going to pay for our bills next winter. Your taking everything away from us.

Please do not pass HB 191 as it states right now. Thank You.

Sincerely,



Martin Johansen

MAR 25 1996

William H. Erwin
138 Elmwood
Helena, Montana 59601
March 19, 1996

Senator Loren Leman
Senate Resource Committee
Alaska State Capitol
Juneau, Alaska

Dear Senator Leman,

I am a setnet fisherman and member of the Egegik Setnetters Association
---I support your efforts in opposition to HB 191.

The annual shore lease fee we pay now already covers the administrative costs of the shore fishery leases---any amount above that is a tax. As for paying a percentage of fishing proceeds---some years I do not make expenses. In that case, DNR would loose funds on shore leases.

In addition, it appears that HB 191 would have a particular negative impact on Alaska native setnet fisherman. From what I have seen, they are already in a tenuous economic situation.

It seems like setnet fisherman are being picked on---What about the drift fisherman?

Thank you,

Sincerely,

William H Erwin
SOWT 558592

MAR 25 1996

March 8, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Leman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

Peter Calugan
3115 Madison Way
Anchorage, AK 99508 -4418

MAR 25 1996 110 North Queen Street
Chestertown, MD 21620
March 19, 1996

Senator Loren Leman
Senate Resource Committee
Alaska State Capitol
Juneau, Alaska 99881

Dear Senator Leman:

I have just received a disturbing communication from my Setnet neighbor and President of the Egegik Setnetter's Association, Kim Rice, of Girdwood, Alaska, who has enclosed pages 10 and 11 of House Bill 191 for my reading pleasure.

I cannot believe I am reading correctly at the top of page 11 that the Director may offer a shore lease at public auction without considering the qualifications (viz. historic right) of an applicant to fish the site. I'm not clever at reading legalese and hope I am wrong.

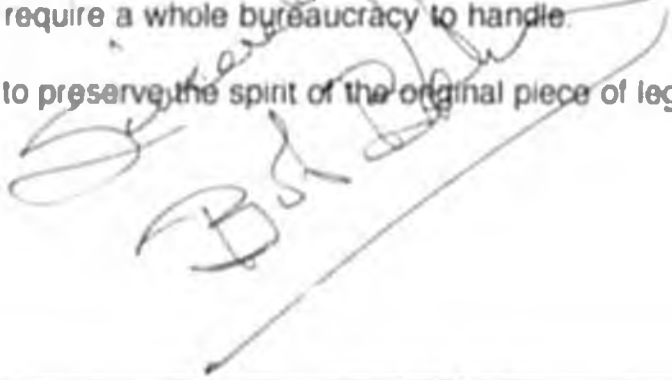
I understand from Kim's letter that "in the teleconference (of 1 March) Senator Therriault stated that he had in mind a lease fee of up to \$1000.00 per site, per year, or a percentage of the fishing proceeds from each site."

As a Cook Inlet Setnetter you, yourself, know that you already pay for a limited entry permit, a current site lease fee, and are taxed a percent of your gross in borough and other levies. Now I see no reason to object to Senator Therriault's proposal to exact a lease fee from each setnetter equal to a certain percentage of the fishing proceeds from his site, as long as the senator contributes an appropriate percent of his senatorial salary for the chair he occupies in the State House, and exacts the same from every other citizen living in the state whose business benefits from its land, water, or air space.

In a period of diminishing fish prices and rising costs an increase in user fees is always unwelcome, but this is not just an increase in fees predicated on the terms of the original lease agreement, it is a change in the spirit of the original agreement and in the terms upon which those fees are calculated. This is, of course, a governing body's prerogative, however this proposal seems to single out the setnetter from other fishermen and from other Alaskans.

To return to the subject of percentage. Thus far percentages have been taken from gross rather than net and although we setnetters net what we gross and gross what we net, we only do so in terms of fish net income, so with the rising costs and plummeting net income a percent of gross proceeds is quite unfair to many fishermen, while a percent of net proceeds would require a whole bureaucracy to handle.

My best wishes on your efforts to preserve the spirit of the original piece of legislation

A handwritten signature in dark ink, appearing to read "Loren Leman", is written over the bottom portion of the letter. The signature is slanted and includes a long horizontal line extending to the right.

Box 2135
Kodiak, Alaska
March 3, 1996

Senator Loren Leman
Chairman Senate Resources Committee
Alaska State Senate
Juneau, Alaska

Dear Senator Leman,

I am sorry that I could not testify during your teleconference on Friday March 1, 1996. Although I was in attendance at the Kodiak LIO at 2:00 I had to make another appointment at 3:30 and did not have a chance to speak before I left.

I am opposed to HB 191 as currently written, in particular Sec. 24 thru 26, for the following reasons:

1. I believe that the reason for the existence of shore fisheries leases is to bring stability and order to the shore based fisheries. This bill will destroy both stability and order.

2. This bill leaves too much discretion and interpretation in the hands of the director, with too little guidance.

3. I believe this bill will open up wholesale claim jumping of set net sites. It would be a shame if family, fishing a site into the third or fourth generation, would lose that site by the implementation of this bill. As I read it that would be not only possible but very likely. The older sites are some of the most productive sites and with nothing in the law to give preference to those with prior use they would become vulnerable.

4. There is nothing in the bill to allow for transfer of the site to family member or for the sale of the site.

5. This bill if passed would be the equivalent of a tax that targets the shore based fisheries. It is obvious that the value of the lease is not the land resource but the fisheries resource.

I prefer the wording and intent of the current statute. It is my understanding the current fee structure pays for the administration of the shore fisheries lease. This

does not appear to be a cost to the state.

Some other thoughts:

The use of the term "May" in the statute appears to me to open many potential problems. I am sure the sponsor of the bill understands what he means and the Director may understand what the sponsor wants, but Directors change.

If the state wants to generate revenue, has any thought been given to the sale of the tide lands, giving preference to the current lease holder?

The courts are overwhelmed now, it seems proper that as many decisions as possible should be made at the administrative level.

Has any thought been given to the possibility of another teleconference on this bill. I know of other people that had to leave last Friday prior to giving their testimony.

Thank you for your consideration.

William H. Barker

Phone (907) 486-8229
Fax (907) 486-2237

PENINSULA MARKETING ASSOCIATION

P.O. BOX 248

SAND POINT, ALASKA 99661

PH(907)383-3600 FAX(907)383-5618

March 6, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801

Dear Senator Leman:

I would like to thank you and your staff for calling attention to the set net lease provision changes that are contained in HB 191. As was indicated by most people who testified at the teleconference, this proposed change went through the House of Representatives without any of us having any knowledge of. This is very alarming and concerns me that there may be other issues or changes being considered that could also adversely affect us. Our remote location makes it very difficult to follow the legislative activity as close as we would like.

I would like to go on record in opposition to any changes being made to the existing shore fishery lease program. The proposed fee system that would reflect the permit value could potentially set our renewal fee at \$1000 or more. If this were the case, I can foresee many fishermen losing their sites because of their inability to pay such a high annual fee. I am also opposed to the provision which would place a set net lease up for auction if there were more than one application submitted. All of these proposed changes will hurt the majority of set net fishermen throughout the state and will only benefit the wealthy. The system works fine the way that it is, so please do what you can to stop this attempt to make changes.

Sincerely,



Melanie Gundersen,
President

cc: Representative Carl Moses
Senator Lyman Hoffman

**Martin Johansen
P. O. Box 102
Sand Point, Alaska 99661**

March 13, 1996

THE HONORABLE SENATOR LOREN LEMAN
Chairman
Senate Resources Committee
State Capitol
Juneau, Alaska 99801

Dear Senator Leman;

I am writing to you today in regards to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fishermen and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

We are severely strickened enough. How can we make a living? Who is going to pay for our bills next winter. Your taking everything away from us.

Please do not pass HB 191 as it states right now. Thank You.

Sincerely,

Martin Johansen

04/29/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
 15:29:30 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC
 TCN:60813 SCHEDULED FOR:04/29/96 15:30 TO 17:00 FOR:ANC
 PUBLIC HEARING SENATE RESOURCES
 LOCATION: ANCHORAGE
 ✓ HB 191 STEVE BORELL AK MINERS TESTIFY
 HB 538 JOHN WINTHER TESTIFY

04/29/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
 15:33:36 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC
 TCN:60813 SCHEDULED FOR:04/29/96 15:30 TO 17:00 FOR:ANC
 PUBLIC HEARING SENATE RESOURCES
 LOCATION: ANCHORAGE
 HB 191 STEVE BORELL AK MINERS TESTIFY
 ✓ HB 191 JULES TILSTON ANS 7S TESTIFY
 HB 538 JOHN WINTHER TESTIFY

04/29/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
 15:57:26 PARTICIPANT LIST (ALL PARTICIPANTS) BY:KOD
 TCN:60813 SCHEDULED FOR:04/29/96 15:30 TO 17:00 FOR:KOD
 PUBLIC HEARING SENATE RESOURCES
 LOCATION: KODIAK
 ✓ HB 191 MR. BILL BARKER TESTIFY
 ✓ HB 191 MR. DUNCAN FIELDS TESTIFY

04/29/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
 15:32:26 PARTICIPANT LIST (ALL PARTICIPANTS) BY:JCM
 TCN:60813 SCHEDULED FOR:04/29/96 15:30 TO 17:00 FOR:JCM
 PUBLIC HEARING SENATE RESOURCES
 LOCATION: HERBERT
 ✓ HB 191 MR. ROBERT PURPURA KALBITERA DAY TESTIFY

10K/yr

Mr. Everett L. Thompson
PO Box 183

246-4224

file

Naknek AK 99633

Distribution 09 Affiliation Comme Reg Voter Y

Date POM Sent Constituency Bill Number Response Subject
03/04/96 N HB 191 Opposes

LEAVE THE LEASES STATUS QUO! THE BIDDING PROCESS IS STUPID. I WOULD RATHER PAY A STATE TAX INSTEAD OF WORRYING ABOUT OUR SITE BEING BIDDED OFF TO THE HIGHEST BIDDER.

Mrs. Betty J. Bonin
PO Box 183

246-4224

file

Naknek AK 99633

Distribution 08 Affiliation Comme Reg Voter U

Date POM Sent Constituency Bill Number Response Subject
03/04/96 N HB 191 Opposes

THIS IS ABSURD. OUR SET NET SITE HAS BEEN IN OUR FAMILY FOR ALMOST 40 YEARS. THIS WILL ENABLE OTHERS TO BID ON OUR SITE WHEN THE LEASE EXPIRES. I WOULD RATHER HAVE A STATE INCOME TAX INSTITUTED RATHER THAN THIS PROCESS THIS CAUSES A LOT OF PROBLEMS FOR SITE OWNERS.

Mr. Franklin Waldron
PO Box 93

567-3666

✓

Ninilchik AK 99639

Distribution 08 Affiliation self Reg Voter Y

Date POM Sent Constituency Bill Number Response Subject
03/28/96 N HB 191 Amend

I AM CONCERNED WITH THE SHORE-FISHERY LEASE PROGRAM. THESE LEASES ARE USED ONLY FOR COMMERCIAL FISHING ACTIVITY, THEREFORE ANY FEE OVER AND ABOVE ADMINISTRATIVE COSTS MAY BE CONSIDERED A TAX ON OUR FISH. WE ALREADY PAY ALL

ADMINISTRATIVE COSTS. I DON'T OPPOSE A FISH TAX, JUST ONE THAT SINGLES OUT ONLY ONE COMPONENT OF THE INDUSTRY TO BEAR THE BURDEN. THIS TAX WOULD SINGLE OUT SETNETTERS AND NOT AFFECT DRIFTERS

Mr. Dale M. Peters 246-4224
PO Box 144

Response *file*
Distribution 07 Affiliation Reg Voter
Naknek AK 99633 Y
Date POM Sent Constituency Bill Number Response Subject
03/02/96 N HB 191 Opposes

I AM IN FAVOR OF LEAVING THE SHORE FISHERIES LEASE PROGRAM ALONE. I AM OPPOSED TO THE PROPOSAL AS OUTLINED IN HB 191. MANY FAMILIES RELY ON THEIR SITES AND PERMITS FOR SUPPORT AND THIS CHANGE COULD ENDANGER THEIR OPPORTUNITY TO FISH. PEOPLE WHO HAVE HISTORICALLY FISHED THESE SITES HAVE RIGHTS.

Mr. Earl Williams 246-6647
PO Box 23

file
Distribution 08 Affiliation Reg Voter
Naknek AK 99633 U
Date POM Sent Constituency Bill Number Response Subject
03/02/96 N HB 191 Opposes

OLD TEXT HAS BEEN MANAGEABLE FOR YEARS. NEW TEXT WITH PUBLIC AUCTION WOULD CAUSE PERSONAL HARDSHIP AND CONFLICT.

Ms. Sandra B. Fraits 246-6647
PO Box 23

file
Distribution 08 Affiliation Reg Voter
Naknek AK 99633 U
Date POM Sent Constituency Bill Number Response Subject
03/02/96 N HB 191 Opposes

OLD TEXT HAS BEEN MANAGEABLE FOR YEARS. NEW TEXT WITH PUBLIC AUCTION WOULD CAUSE PERSONAL HARDSHIP AND CONFLICT.

Helen Gregorio 493-5185
PO Box 211

file
Distribution 60 Affiliation Reg Voter
Togiak AK 99678 Y
Date POM Sent Constituency Bill Number Response Subject
03/02/96 N SB 280 Opposes

AS A COMMUNITY MEMBER OF TOGIK, ALASKA, I AM OPPOSED TO SB 280. BOROUGH FORMATION IS NOT GOOD FOR OUR COMMUNITY AND SHOULD NOT BE MANDATED BY THE STATE. PLEASE VOTE AGAINST SB 280.

Ms. Nancy Hummel 457-1405
725 Manchester Lp

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/01/96	N	99712	None	TOBACCO	60		Y

I SUPPORT TOBACCO TAXES. PLEASE GIVE THEM A HEARING AND PLEASE PASS THEM.

Ms. Joyce Guest 333-4820
3921 Gardner St

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/01/96	N	99508 HB 431	Supports		60		Y

SB 210 AND SB 234: I SUPPORT STRONGLY THE TAX. STUDIES HAVE PROVEN THAT THE TAX IS EFFECTIVE ESPECIALLY IN REDUCING TEENAGE SMOKING.

Ms. Sandra B. Fraits 246-6647
PO Box 23

*Atg
Response
file*

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/01/96	N	99633 HB 191	Opposes		07	Setnetts	U

OLD TEXT HAS BEEN MANAGEABLE FOR YEARS. NEW TEXT WITH PUBLIC AUCTION WOULD CAUSE PERSONAL HARDSHIP AND CONFLICT.

Mrs. Michele Entwisle 376-6058
HC33 Box 2853

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/01/96	N	99654 SB 175	Opposes		60		Y

NO! NO! NO! IF THEY TAKE AWAY THE TELEVISION AND STEREOS, THE PRISONERS ARE GOING TO FIND OTHER THINGS TO DO LIKE HURT MY HUSBAND WHO IS A CORRECTIONAL OFFICER.

Mr. Todd
Box 876182

Palin

373-3113

Wasilla AK 99687

Distribution 34 Affiliation Reg Voter U

Date POM Sent Constituency Bill Number Response Subject
04/09/96 N HB 191 None FISH & GAME (FISH)

PLEASE LEAVE THE SHORE FISHERY ISSUE AS IS. IT IS UNFAIR TO THE PEOPLE THAT SPENT MONEY GETTING THEIR SHORE LEASE SITES SURVEYED AND SET-UP TO CHANGE IT NOW.

std
4/11
Not the net
for

Ms. Sarah
Box 876182

Palin

373-3113

Wasilla AK 99654

Distribution 34 Affiliation Reg Voter U

Date POM Sent Constituency Bill Number Response Subject
04/09/96 N None FISH & GAME (FISH)

KEEP THE PRESENT SHORE LEASE FISHERIES AS IS. PLEASE DON'T CHANGE THE WAY WE ARE LEASING OUR SET-NET SITES. IT WOULD BE VERY DETRIMENTAL.

Combine

Mr. Chuck
425 Klouda Cr

Heath

376-5790

Wasilla AK 99654

Distribution 10 Affiliation Reg Voter U

Date POM Sent Constituency Bill Number Response Subject
03/13/96 N HB 191 Opposes

I AM A SET NETTER. UNDER THIS LEGISLATION MY ANNUAL RENTAL FEE WOULD GO FROM \$50.00 TO \$7,000.00. WE ARE JUST GETTING BY AS IT IS. WITH SALMON PRICES GOING DOWN, I DO NOT SEE HOW WE CAN MAKE IT WITH THIS INCREASE. I AM HAVING NIGHTMARES OVER THIS BILL. PLEASE VOTE NO.

no response

Ms. Sarah
PO Box 876182

Palin

373-3113

Wasilla AK 99687

Distribution 11 Affiliation Reg Voter Y

Date POM Sent Constituency Bill Number Response Subject
03/15/96 N HB 191 Amend

I AM OPPOSED TO THE PROVISION IN THIS LEGISLATION WHICH DEALS WITH INCREASED FEES FOR SET NET LEASES. THE RUMORED AMOUNT OF INCREASE IS MORE THAN MANY SET NETTERES MAKE IN PROFIT EACH SEASON PLEASE AMEND THIS PORTION OR VOTE NO. THANK YOU.

response

Ms. Terry
6740 E 10th Ave

Cummings

269-7367

Respond

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/19/96	N	HB 191	Opposes		60		Y

ANNUAL LEASE FEES FOR SHORE FISHERIES LEASES WERE ESTABLISHED TO PAY FOR THE ADMINISTRATIVE COSTS OF THE LEASE, NOT AS A SOURCE OF REVENUE.

Ms. Bonnie
PO Box 1696

J. Perata

224-5638

Respond

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/23/96	N	HB 191	Opposes		07		Y

I SETNET IN THE BAY. I OPPOSE HB 191. THE LEASE PROGRAM RUNS GREAT AS IT IS. IT GIVES CLARITY TO WHO LEASES EACH SITE. WE USE IT PLUS OR MINUS THREE MONTHS A YEAR FOR TIDAL ANCHORING PURPOSES. OUR SALMON INDUSTRY IS IN FINANCIAL TROUBLE ALREADY. WHY MAKE IT HARDER FOR THE FISHERPEOPLE?

Mr. Bacci
PO Box 1696

G. Perata

224-5638

Respond

Date POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/23/96	N	HB 191	Opposes		07		Y

WE LIKE HOW THE SHORE FISHERIES LEASE PROGRAM IS RUN NOW. WHY CHANGE SOMETHING THAT WORKS. SALMON FISHERPEOPLE NEED TO CONCENTRATE ON FINDING MARKETS FOR THEIR SALMON NOT FIGHT THE STATE ON FFF INCREASES. PLEASE HELP NOT HINDER OUR SALMON INDUSTRY. REJECT HB 191!!!

PHONE MESSAGE		DATE <i>4/11</i>	TIME <i>AM</i>
FOR * <i>std</i> <i>and</i> <i>Rev</i> // <i>Av</i>			
M	<i>Paul Swanson & Jennie</i>		
OF	<i>Kenai Soaranson</i>		
PHONE	<i>(1) 283-1722</i>		EXT.
<input type="checkbox"/> FAX	<input type="checkbox"/> MOBILE	<input type="checkbox"/> PAGER	<i>(1) 283-7079 (Hm)</i>
MESSAGE	<i>HB 191 - opposition</i>		
<i>Knows LL - Coach BB</i>			
<i>36790 Chinook Dr., Kenai, AK</i>			
			SIGNED <i>[Signature]</i>

APR 11 1996

ml letter 3/11/96
Kun

March 8, 1996

Senator Loren Lemman, Chairman
Senate Resources Committee
State Capitol
Juneau, AK 99801
465-4907 (FAX 465-3810)

Dear Senator Lemman:

I am writing to you in regard to HB 191 that is currently being considered in the Senate Resources Committee. I am a set net fisherman and am opposed to any changes being made to the shore lease fishery program. Please do not allow HB 191 to pass from your committee with these detrimental changes to this program.

Sincerely,

James R Brown

Box 25

Sand Point, AK 99661

phone # 907-383-3966

1. respond
2. file

CITY OF EGEKIK

P.O. Box 189
Egegik, AK., 99579
Ph.: (907) 233-2400
Fax: (907) 233-2231

22 March, 1996

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol, Room 113, MS 3100
Juneau, Alaska, 99801-1182

Dear Chairman Leman:

The City of Egegik and the Egegik Tribal Council strongly request that you and your fellow Senators on the Senate Resources Committee, not allow HB 191 to leave your Committee. It is the expressed conviction of the City and the Tribal Council that this Bill should be defeated.

This Bill adversely would affect several Egegik residents who have set-net sites here. In most instances, it would increase the annual cost of set-net leases more than threefold, from an average of \$300.00 to \$1,000. Such an immense increase is considered by all Egegik fishermen as extremely exorbitant. With the sales price of sockeye salmon expected to drop well below \$0.70 per pound this summer, such an increase in the set net leases will have a drastic effect on the ability of local set-net fishing persons to earn any decent level of income from their set-net operations.

Accordingly, the City and the Tribal Council consider this Bill as bad legislation. If HB-191 should become law, it would force many residents here to rid themselves of their set-net leases and, therefore, forcibly deprive these residents of their primary annual income source.

Together, the City of Egegik and the Egegik Tribal Council strongly urge that your Committee not allow HB 191 to progress to the Senate Finance Committee.

Thank you for your attention and action concerning our request.

Sincerely,



Richard E. Deigh, Mayor
City of Egegik



Lawrence D. Abalama, Vice President
Egegik Tribal Council



Alaska State Senate
Office of the President

Dave Sanden

364-2890

HB 191

- Concerned about effective date & how that will effect the last land sale.

Senate Resources
State Capitol
Juneau, Alaska 99801-1182

Patrick A Dalton
PO Box 1413
Delta Junction, Alaska

FEB 01 1996

Jan 24, 1996 99737

Dear Sir,

I am writing this letter to urge you to reconsider some of the changes proposed in HB191. The reason for this urgency is my fear that if this bill passes, homesteading as we know it will die. I have confidence you will be persuaded of my viewpoint, after considering the following objections:

Section 10, has the worst alteration. They have exchanged the former "should be fair market" with "shall be fair market value". This simple change guarantees that in the future of our state, only the wealthy and well-to-do will ever again be able to use their resourcefulness and persistence to forge a productive life, out of the otherwise unused lands. It is discriminatory. It was furthermore, not the intent of the Alaska Constitution. Article 8, section 1 states "it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with public interest.

I will further explain why I believe this so called fair market value is certainly not in the best interest of all, but only wealthy and well-to-do. Fair market value is often not affordable to those who step out on faith and prayers to settle Alaskan lands. Jobs are often not available in these remote areas. These individuals do without plumbing, glass windows, and instead use plastic for windows and roofs at 60 below. They sometimes go hungry to prove up. This is their price, not fair market value. I believe they are more likely to stay on that land than the part time residents. In my opinion both should have the opportunity, as it always has been.

My second objection to fair market value stems from personal experience with it. In our case a fair market appraisal was arrived at in a very nebulous fashion. State officials had influence on the appraiser who theoretically is objective. So, first-hand, appraisals are sometimes, if not frequently, skewed by other influences.

Finally, I protest the fee and rental hikes to those who can not afford them. Please refer to Homestead Entry Permit, section 24, and section 27. I sincerely hope you will not allow HB 191 to pass until my objections are considered. I hope homesteading can continue for anyone who is thankful for our great land regardless of their economic status.

Sincerely,

Patrick A Dalton



Northwest Setnetters Association

Box 870, Kodiak, Alaska 99615

Feb. 23, 1996

Senator Loren Leman
Chair, Sen. Resource Committee
Alaska State Legislature
State Capitol (MS3100)
Juneau, Alaska 99801-1182

MAR 01 1996

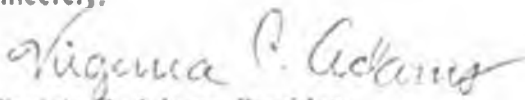
Dear Senator Lemman,

I write to you as a follow up to my conversation with Annette Kreitzer on Feb. 14 regarding House Bill 191, Sec. 24 coming before the Senate Resource Committee. I would like to deal specifically with the solutions put forth by the Division of Land in regards to new and disputed shore fishery leases in the set net fishery.

As you are aware, the shore fishery program was established to help preserve fishing opportunities to those fishing traditional areas as well as to add stability to the State's set net fisheries. The awarding of a shore fishery lease to the highest bidder in the case of a new or contested lease will actually create instability within the set net fishery and may contribute to shore fishery disputes. We appreciate the difficulty the Division of Lands has in resolving conflicting claims and their desire for a solution in the form of a law such as what is before you now in House Bill 191. This solution though is ill conceived.

Our group is working on an alternative proposal or approach to this issue. At a minimum we suggest that you solicit the opinions of the different set net organizations around the State. Perhaps in so doing a model of arbitration or resolution could be architected. In the meantime, we hope that this language dealing with new and contested fishery leases will be eliminated from House Bill 191. Thank you for your consideration of this.

Sincerely,


Virginia C. Adams, President

FEB 29 1996

February 25, 1996
Senate
Interdepartment Mail Stop 3101
State capitol, Juneau, Ak. 99801-1182

FROM: Donald R Blanc
529 5th Ave.
Fairbanks, Alaska 99701

Dear Senator Leman-Chairman Resource Committee

I strongly request that when the present Senate Bill dealing with the distribution and operation of State Shore Fishing Leases be worded to eliminating gray areas which would be decided by the Director of the Department Of Natural Resources. This would prevent "political" decisions that could be biased, discriminatory and showing favoritism. I believe we should be operating within the scope of rules, regulations and laws.

My experience with the way the D.N.R functions in the past is as follows;

In 1987 a neighbor entered an application against a legal State Shore Lease held by myself. I did nothing about this during the year of 1988. During the winter of 1988 I secured a survey by Studzmann Engineering of Fairbanks, Alaska.

The surveyor stated that the map that had been submitted by the applicant(Costellos) was in error. A copy of the Studzmann map to the DNR was submitted in February of 1989. This map was drawn to scale from an aerial photo that was secured from the Geophysical Institute at the University at Fairbanks.

A confrontation developed, the DNR declared my shore lease legal and the troopers cited the Costellos and I fished the site for the following six years.

The DNR continued the Costello application and awarded the costellos a shore lease that severely impacted my long time fishing location. The DNR decision has been appealed and is now before the courts.

Because of the impending lease application the DNR refused to extend my ten year lease that expired at the end of 1989 so the past six years I have fished without a shore lease.

The DNR repeatedly stated that i was fishing outside my lease site. This was shown by the Studzmann map to be false. The DNR was still referring to the Costello Map submitted in 1987 although additional surveys made in 1994 and 1995 further proved the Studzmann surveyor correct in his determination in 1989 of the Costello's map being in error.

I am submitting a copy of a letter sent from the DNR's office showing that a lease was upheld and continued to a woman in Bristol Bay that had totally abandoned a shore lease for a period of two years. This is in stark contrast to the way I have been treated in Kodiak Island concerning my past shore lease.

When contemplating new laws, rules and regulation I would recommend that decisions not be left up to the director of any department.

Sincerely yours
Donald R Blanc

STATE OF ALASKA

3-3

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND
SOUTHCENTRAL REGION

3601 G STREET
P.O. BOX 107000
ANCHORAGE, ALASKA 99510-7000

October 19, 1994

Indy R. Walton
1904 N. 650 W.
Provo, UT 84604

Re: Shore Fishery Lease Application

Dear Mr. Walton:

I have received your application for a lease in Bristol Bay. I cannot accept the application because the site is already under lease to Mickey Frahm. You listed Mr. Frahm as one of previous fishers on this site.

Mr. Frahm applied for the lease in 1980 and the lease was issued in 1988. Mr. Frahm died in 1990 and the lease is now held by his widow as part of the estate. I don't know if Mrs. Frahm has made arrangements with you or anyone else to use the site. If no one representing the estate is there fishing, then the site is open to whoever gets there first.

Although I cannot accept your application to apply for a lease on the site you may contact Mrs. Frahm to see if she is interested in assigning the lease to you. If so, we will prepare the assignment papers and I believe I can use the non-refundable application fee of \$100 for the assignment fee.

(507) 471-2289

Mrs. Frahm can be contacted at this address: Judy Frahm, PO Box 767, Merlin, OR 97532-0757. I do not have a telephone number for her. I will hold your application in order to give you time to contact Mrs. Frahm and then for one of you to contact me with the results.

If you have questions you may contact me at (907) 782-2489 or by writing the above address.

Sincerely,

Kathleen S. Dugan
Kathleen S. Dugan
Natural Resource Officer

(See attached note)

February 25, 1996

NOTE OF EXPLANATION, MR INDY R WALTON FISHED THIS LEASE SITE THAT THE DNR IS HOLDING FOR MRS FRAHM FOR TWO YEARS WITHOUT LEASE OR ANY OTHER ARRANGEMENT AS THE SITE WAS ABANDONED

Donald R. Blanc



Alaska State Legislature

5 pages

Official Business

State Capitol
Juneau AK 99801

2/28/96

TO WHOM THIS MAY CONCERN:

You asked for information regarding HB 191, Relating to management of state land and resources as it affects set net shore lease holders.

Attached to this cover page are:

- *The sections of HB 191 (most current version) pertaining to set net shore leases (Sections 24, 25 and 26). (Two pages)
- *The Sponsor Statement for HB 191 (one page)
- *The Department of Natural Resources Fiscal Note (one page)

The Senate Resources Committee will be taking testimony on these sections of HB 191 via teleconference Friday, March 1 from 2:00 p.m. to 3:30 p.m.. Senator Loren Leman will be chairing the meeting from the Kenai LIO. All other sites may add on by notifying the Juneau LIO.

Contact Senate Resources Committee Aide, Annette Kreitzer (907) 465-4907 if you have further questions about the hearing.

Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

P.O. Box 55326
North Pole, Alaska 99705
(907) 488-0802

House District 33

While in Session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4707

House Of Representatives

CS SSHB 191 (FIN) "An Act relating to the management and disposal of state land and resources; relating to certain remote parcel and homestead entry land purchase contracts and patents; and providing an effective date."

SPONSOR: Rep. Gene Therriault

SPONSOR STATEMENT:

This bill is a housekeeping measure intended to clarify certain Title 38 statutes governing DNR's management of state land and resources. CSSS HB 191(FIN) is intended to bring greater efficiency to the management of state lands without sacrificing public involvement in land use decisions.

As the House finance subcommittee chairman for the DNR budget, I have worked with the Department to come up with changes to Title 38 that would simplify programs and reduce costs to DNR. The passage of this bill will result in a more administratively efficient agency. CS SSHB 191 (FIN) revises the "remote cabin permit program" to a program that would allow for either the sale or lease of land for a remote cabin site. The permit program was never put into action because of the associated administrative costs with a minimal return to the state. This program is just one example of proposed changes intended to give DNR the tools necessary to dispose of state land more efficiently. The committee substitute also includes a section clarifying that the sale of state land does not obligate the state to provide additional services. Furthermore, HB 191 makes some changes to the Shore Fisheries program to allow a reasonable return to the state for the use of state land for set net sites.

Although this bill is not intended to be a complete rewrite of Title 38, I believe it is a positive effort, supported by the administration to streamline state government.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSHB 191 (Fin)

Revision Date: 16-Jan-96 Dept Affected Natural Resources
 Title: An Act relating to the management and BRU: Resource Development
disposal of state land and resources... Component: Land Development
 Sponsor: Representative Therriault
 Requestor: Senate Resources Component Serial No. 431

Expenditures/Revenues	(Thousands of Dollars)					
	FY97	FY98	FY99	FY00	FY01	FY02
OPERATING EXPENDITURES						
PERSONAL SERVICES	125.0	125.0	125.0	125.0	125.0	125.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	20.0	20.0	20.0	20.0	20.0	20.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	150.0	150.0	150.0	150.0	150.0	150.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (1005)	213.0	280.0	363.0	486.0	552.0	610.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	150.0	150.0	150.0	150.0	150.0	150.0
1006 GF/MHTIA						
Other						
TOTAL	150.0	150.0	150.0	150.0	150.0	150.0

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

POSITIONS						
FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The operating expenditures are necessary to offset the elimination of the positions in the FY 97 proposed budget. The program was reduced based on the current law that says that shore fishery leases are non-mandatory and that only reasonable administrative costs to cover the expenses of the program can be charged. With passage of HB 191 fair market value for the leases may be charged when they come up for renewal. The two positions that administer the program need to be funded so that the additional revenue to the state can be realized.

The changes proposed in this bill will generate more revenues for the state based on increased revenues for aquatic farm and shore fishery leases; increased applications and service fees for land disposals; and a requirement that all land disposals be for at least fair-market value.

Prepared by: Ron Swanson Phone: 289-8503
 Division: Land Date: 16-Jan-96
 Approved by Commissioner: [Signature] Date: _____
 Agency: Natural Resources

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

1 leasing shall be made at public auction to the highest qualified bidder as determined
2 by the commissioner. In the public notice of a lease to be offered at public auction,
3 the commissioner shall specify a minimum acceptable bid and the lease compensation
4 method. The lease compensation method shall be designed to maximize the return on
5 the lease to the state and shall be a form of compensation set out in AS 38.05.073(m).
6 An aggrieved bidder may appeal to the commissioner within five days for a review of
7 the determination. The leasing shall be conducted by the commissioner and the
8 successful bidder shall deposit at the auction the first year's rental or other lease
9 compensation as specified by the commissioner, or that portion of it that the
10 commissioner requires in accordance with the bid. The commissioner shall require,
11 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or
12 appraisal costs reasonably incurred by another qualified bidder acting in accordance
13 with the regulations of the commissioner or incurred by the department under
14 AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal
15 costs is determined by the commissioner to be the highest qualified bidder under this
16 subsection, the deposit shall be paid to the unsuccessful bidder who incurred those
17 costs or to the department if the department incurred the costs. All costs for survey
18 and appraisal shall be approved in advance in writing by the commissioner. The
19 commissioner shall immediately issue a receipt containing a description of the land or
20 interest leased, the price bid, and the terms of the lease to the successful qualified
21 bidder. If the receipt is not accepted in writing by the bidder under this subsection,
22 the commissioner may offer the land for lease again under this subsection. A lease,
23 on a form approved by the attorney general, shall be signed by the successful bidder
24 and by the commissioner within the period specified in the auction notice.

25 * Sec. 24. AS 38.05.082(b) is amended to read:

26 (b) The director may classify land as subject to leases for fisheries
27 development. In an area or region of the state for which a land use plan has not been
28 adopted under AS 38.04.065, the director may classify land for lease under this section
29 after notice under AS 38.05.945. The director may [SHALL] publicly invite
30 applications for lease of the selected areas. Each application shall be accompanied by
31 an affidavit to the effect that the applicant presently intends to personally utilize the

1 leased area for fishing purposes throughout the term of the lease [THE
2 FOLLOWING SEASON]. If two or more applications are received for the same shore
3 area, the director may offer [SHALL AWARD] the lease at public auction under
4 AS 38.05.075(a). If only one application is received and the appraisal value of the
5 lease is \$5,000 a year or less, the commissioner may issue a negotiated lease under
6 AS 38.05.070(b) [TO THE MOST QUALIFIED APPLICANT. IN DETERMINING
7 THE QUALIFICATIONS OF APPLICANTS, THE DIRECTOR SHALL CONSIDER
8 THE LENGTH OF TIME DURING WHICH THE APPLICANT HAS BEEN
9 ENGAGED IN SET NETTING, THE PROXIMITY OF THE PAST FISHING SITES
10 OF THE APPLICANT TO THE LAND TO BE LEASED, THE PRESENT ABILITY
11 OF THE APPLICANT TO UTILIZE THE LOCATION TO ITS MAXIMUM
12 POTENTIAL, AND OTHER FACTORS RELEVANT TO THE EQUITABLE
13 ASSIGNMENT OF THE DISPUTED AREA. IF THE DIRECTOR CANNOT
14 DETERMINE A PREFERENCE BETWEEN CONFLICTING APPLICANTS FOR
15 THE SAME LEASE SITE ON THE BASIS OF QUALIFICATIONS, THE
16 DIRECTOR SHALL SELECT BETWEEN THE APPLICANTS BY LOT. AN
17 AGGRIEVED APPLICANT MAY APPEAL TO THE COMMISSIONER WITHIN 30
18 DAYS FOR A REVIEW OF THE DIRECTOR'S DETERMINATION].

19 * Sec. 25. AS 38.05.082(c) is amended to read:

20 (c) A lease for set net fishing may be issued for any period not exceeding 10
21 years. If the commissioner determines that the land is not being utilized for the
22 purpose for which the lease is issued, the lease may be declared void. [THE
23 DIRECTOR SHALL ESTABLISH A REASONABLE RENTAL FOR THE LEASE,
24 EQUAL TO THE ADMINISTRATIVE COSTS INVOLVED IN PROCESSING THE
25 LEASEHOLD APPLICATIONS.]

26 * Sec. 26. AS 38.05.082(d) is amended to read:

27 (d) Subleasing and renewals of leases are governed by AS 38.05.095 and
28 38.05.102. Notwithstanding (b) of this section, a lease held under this section on
29 the effective date of this bill section may be renewed under terms and conditions
30 prescribed by the commissioner.

31 * Sec. 27. AS 38.05.083 is repealed and reenacted to read: