

HB

249

Bill History/Action Display



BILL: HB 249

SHORT TITLE: AG REVOLVING LOAN FUND PROPERTY
DISPOSAL

BILL VERSION:

SPONSOR(S): REPRESENTATIVE(S) JAMES, Harris

CURRENT STATUS: (H) RES

STATUS DATE: 04/20/01

HEARING: (H) RES Apr 23 1:00 PM CAPITOL 124

TITLE: "An Act relating to disposal of certain property acquired by the agricultural revolving loan fund."

 Full Text

No Fiscal Notes Available

 Committee Action with Bill History

| Jrn-Date | Jrn-Page | Action |
|----------|-------------|-------------------------------------|
| 04/20/01 | <u>1097</u> | (H) READ THE FIRST TIME - REFERRALS |
| 04/20/01 | <u>1097</u> | (H) RES |
| 04/20/01 | <u>1097</u> | (H) REFERRED TO RESOURCES |

[Similar Subject Match](#) or [Exact Subject Match](#)
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 Bill Root: Display Bill Root

BASIS HAS BEEN RE-PROGRAMMED THIS YEAR


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URGENT MESSAGE



ALASKA WILDLAND

ADVENTURES

to fax 907-465-4822
 HOUSE RESOURCES COMMITTEE
 ROOM 124, CAPITAL
 JUNEAU, ALASKA 99801

April 23, 2001

To: Representatives James, Dyson, Harris, Wilson, and Scalzi--
 House Resources Committee

I have just been informed of HB 244 and want to state that we are emphatically opposed to this bill for multiple reasons.

- 1) We have been following the Kantishna Railroad project over the years and, in our opinion, it is not a financially sound project, and it shouldn't be supported in any way by borough, state, or federal governments.
- 2) Public resources should not be dedicated to a private enterprise without thorough public review, and no bill should specifically list a private enterprise as a beneficiary. Public resources should not support such a financially absurd project.
- 3) Kantishna Holdings, Inc. has not demonstrated the ability to operate a railroad, much less plan one, and there is no evidence that even if a railroad was desired that this enterprise should be the one selected to plan and operate it.
- 4) Any transportation corridor concerning Denali National Park must include the National Park Service in the planning process. Making land management determinations on state land for a project that ultimately must incorporate federal lands without first coordinating with the National Park Service planning process is inefficient, wasteful, and imprudent.

On behalf of our family of companies, including Alaska Wildland Adventures, Denali Backcountry Lodge, Denali Wilderness Lodge, and Denali Cabins, and on behalf of our twenty, year around Alaskan staff, we urge you to vote against this bill.

Respectfully,

Kirk Hoessle
 President

VILLOPANI MESSAGE

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HB 116

SLA 2000

Chapter 81

→ (See Section 17)

AN ACT

1 Relating to the Board of Agriculture and Conservation, to the director of agriculture, to the
2 agricultural revolving loan fund and to loans from the fund, to the disposal of interests in state
3 agricultural land; and providing for an effective date.

4
5

6 * Section 1. AS 03 is amended by adding new sections to read:

7 Chapter 09. Board of Agriculture and Conservation.

8 Sec. 03.09.010. Board of Agriculture and Conservation established. (a)
9 There is established in the department the Board of Agriculture and Conservation
10 composed of members as set out in AS 03.10.050(b).

11 (b) Members of the board serve staggered three-year terms and until a
12 successor is appointed. A member may be removed from office by the governor if the
13 governor first provides a written statement of the reasons for removal to the member
14 and makes the statement available to the public. If a vacancy occurs, the governor

1 shall immediately appoint a member for the unexpired portion of the term.

2 (c) Members of the board receive no compensation, but are entitled to per
3 diem and travel expenses authorized for boards and commissions under AS 39.20.180.

4 (d) While serving on the board, a board member, or an immediate family
5 member of the board member who shares the same household and financial resources
6 with that board member, may not obtain a lease, permit, installment contract, or loan
7 or purchase land under AS 03.10 or under AS 38.05, or have an existing lease, permit,
8 installment contract, or loan under AS 03.10 or under AS 38.05 modified or
9 restructured. Notwithstanding AS 39.52.150(a), an immediate family member who
10 does not share the same household and financial resources with the board member may
11 obtain a lease, permit, installment contract, or loan or purchase land under AS 03.10
12 or under AS 38.05 or have an existing lease, permit, installment contract, or loan under
13 AS 03.10 or under AS 38.05 modified or restructured. Notwithstanding
14 AS 39.52.150(a), a person may be appointed to the board even though, at the time of
15 appointment, that person, or an immediate family member, has a lease, permit,
16 installment contract, or loan under AS 03.10 or AS 38.05. However, that person may
17 not take or withhold any official action that affects the lease, permit, installment
18 contract, or loan of that person or an immediate family member who shares the same
19 household and financial resources with that person. If a person with a lease, permit,
20 installment contract, or loan under AS 03.10 or AS 38.05 is appointed to the board,
21 failure by that person to abide by all the terms and conditions of the lease, permit,
22 installment contract, or loan may be the basis for removal under (b) of this section.
23 For purposes of this subsection, "immediate family member" and "official action" have
24 the meanings given in AS 39.52.960.

25 (e) The board shall elect a member to serve as chair and a member to serve
26 as vice-chair for one-year terms. A member may be reelected to serve additional terms
27 as chair or vice-chair.

28 **Sec. 03.09.020. Director of agriculture and staff.** (a) The director of the
29 division of agriculture of the department shall serve as the director of the Board of
30 Agriculture and Conservation. The director may employ staff and, as directed by the
31 board, is responsible for the daily operations of the agricultural revolving loan fund

1 (AS 03.10.040).

2 (b) The director of agriculture shall be appointed to the partially exempt
3 service by the commissioner from a list of two or more candidates submitted by the
4 board. The commissioner may reject all candidates, in which case the board shall
5 submit a new list. The director may be removed by the commissioner at any time, and
6 the office shall remain vacant until a new director is appointed under this subsection.

7 **Sec. 03.09.030. Quorum.** Five members of the Board of Agriculture and
8 Conservation constitute a quorum for the transaction of business or the exercise of a
9 power or function at a meeting of the board.

10 **Sec. 03.09.040. Regulations.** (a) The Board of Agriculture and Conservation
11 may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out its
12 duties.

13 (b) The board may, by regulation, classify loan and marketing information and
14 make some classes of loan or marketing information confidential.

15 **Sec. 03.09.050. Agricultural land.** The Board of Agriculture and
16 Conservation may recommend to the commissioner that land in the land disposal bank
17 established under AS 38.04.020 be classified as suitable for agriculture. The board
18 may identify state land for agricultural disposal and request the commissioner to
19 provide for the survey and disposal of the land.

20 * Sec. 2. AS 03.10.020(a) is amended to read:

21 (a) The Board of Agriculture and Conservation (AS 03.09.010)
22 [DEPARTMENT] may

23 (1) make a loan to

24 (A) an individual resident farmer, homesteader, or a partnership
25 or corporation composed of farmers and homesteaders for

26 (i) clearing land for agricultural purposes;

27 (ii) development of farms;

28 (iii) storage and processing of farm produce; or

29 (iv) the purchase of livestock or machinery;

30 (B) an individual state resident, or a partnership or corporation

31 for

- 1 (i) storage and processing plants for agricultural
2 products;
- 3 (ii) the commercial production or processing of
4 horticultural products in the state;
- 5 (iii) the commercial production or processing of animal
6 feed in the state; or
- 7 (iv) the raising or care of animals in the state for the
8 purpose of marketing their fur;
- 9 (2) designate agents and delegate its powers to them as necessary;
- 10 (3) adopt regulations necessary to carry out its functions, including
11 regulations to establish reasonable fees for services provided and charges for collecting
12 the fees;
- 13 (4) establish amortization plans for repayment of loans, which may
14 include delayed payments of principal and interest for not to exceed five years;
- 15 (5) enter into agreements with private lending institutions, other state
16 agencies or agencies of the federal government, to carry out the purposes of this
17 chapter;
- 18 (6) collect the fees and collection charges established under this
19 subsection.
- 20 * Sec. 3. AS 03.10.030(a) is amended to read:
- 21 (a) The farm development, chattel, or irrigation loan made under this chapter
- 22 (1) may not exceed a term of 30 years, except that a chattel loan may
23 not exceed a term of seven years;
- 24 (2) may not, when added to the outstanding balance of other loans
25 made under this chapter, exceed a total outstanding balance of \$1,000,000;
- 26 (3) shall be secured by a real estate or chattel mortgage of any priority,
27 except that the portion of a loan that exceeds \$500,000, when added to prior
28 indebtedness that is secured by the same property, must be secured by a first mortgage;
- 29 (4) shall bear interest at a fixed rate comparable to that charged by
30 other agricultural [THAT MAY NOT BE LESS THAN EIGHT PERCENT OR
31 MORE THAN THE COMMERCIAL RATE, UNLESS THE COMMERCIAL RATE

- 1 IS EIGHT PERCENT OR LESS; IN THIS PARAGRAPH, "COMMERCIAL RATE"
2 MEANS THE PREVAILING RATE OF INTEREST AT PRIVATE] lending
3 institutions in the state for loans similar to those referred to in this subsection.
- 4 * Sec. 4. AS 03.10.030(c) is amended to read:
- 5 (c) A short-term [SHORT TERM] loan, to be amortized within one year, not
6 to exceed \$350,000 to any one borrower may be made for operating purposes, except
7 that a loan made under this subsection may not exceed \$200,000 unless the loan is
8 made to a borrower in a farm disaster area declared under AS 03.10.058. The loan
9 shall bear interest at a fixed rate comparable to that charged by other
10 agricultural lending institutions in the state for loans similar to those referred to
11 in this subsection. An applicant for a short-term [SHORT TERM] loan may be
12 required to purchase insurance through the Federal Crop Insurance Act (7 U.S.C. 1501
13 - 1520) as a condition of the loan. The term of a loan made under this subsection may
14 be extended for up to three years by the Board of Agriculture and Conservation
15 [AGRICULTURAL REVOLVING LOAN FUND BOARD], in the discretion of the
16 board, upon application by the borrower.
- 17 * Sec. 5. AS 03.10.030(e) is amended to read:
- 18 (e) An installment payment is delinquent unless it is [MAILED BY THE
19 BORROWER ON OR BEFORE THE 30TH DAY AFTER THE DATE SPECIFIED
20 FOR PAYMENT IN THE LOAN AGREEMENT OR UNLESS IT IS] received by the
21 Board of Agriculture and Conservation or the director of the board
22 [DEPARTMENT] on or before the 30th day after the date specified for payment in the
23 loan agreement. If an installment payment is delinquent, the director of the board
24 [DIVISION OF AGRICULTURE OF THE DEPARTMENT] may assess a delinquency
25 penalty. [THE DELINQUENCY PENALTY SHALL BE AN AMOUNT EQUAL TO
26 SEVEN PERCENT OF THE DELINQUENT PAYMENT, BUT THE COMBINED
27 DELINQUENCY PENALTY AND LOAN INTEREST MAY NOT EXCEED 15
28 PERCENT.]
- 29 * Sec. 6. AS 03.10.030(f) is amended to read:
- 30 (f) A farm product processing loan may not exceed \$250,000. A mortgage
31 that secures a farm product processing loan may be of any priority if the total

1 indebtedness on the real estate, including the secured farm product processing loan,
 2 does not exceed \$250,000. A farm product processing loan that, if made, would raise
 3 the existing indebtedness on the real estate securing the loan above \$250,000, or a
 4 farm product processing loan on real estate that has a prior indebtedness of \$250,000
 5 or more, may be made only if all prior mortgagees agree to subordinate their
 6 mortgages to that of the state for the amount of the farm product processing loan that
 7 exceeds the \$250,000 indebtedness limit on the real estate. A farm product processing
 8 loan may not exceed a term of 30 years or bear interest at a rate that is less than a
 9 fixed rate comparable to that charged by other agricultural lending institutions
 10 in the state for similar loans, [EIGHT PERCENT A YEAR] and shall be secured by
 11 a real estate or chattel mortgage or both.

12 * Sec. 7. AS 03.10.030(g) is amended to read:

13 (g) A loan for clearing land may not

14 (1) exceed \$250,000;

15 (2) bear interest at a rate that is less than a fixed rate comparable to
 16 that charged by other agricultural lending institutions in the state for similar
 17 loans [EIGHT PERCENT];

18 (3) have a term in excess of 20 years; or

19 (4) be made for clearing land other than land that has been classified
 20 by the United States Department of Agriculture, Natural Resource [SOIL]
 21 Conservation Service, under the Land Capability Classification System as having
 22 agricultural potential for the production of annual crops or [.] hay, or for pasture.

23 * Sec. 8. AS 03.10.030(h) is amended to read:

24 (h) The Board of Agriculture and Conservation [COMMISSIONER] shall
 25 adopt regulations to establish other terms for loans made under this chapter, consistent
 26 with the provisions of this section, and may establish interest rates for loans under
 27 (a)(4) of this section that

28 (1) encourage agricultural development;

29 (2) do not subsidize nonviable agricultural enterprises; and

30 (3) do not discriminate against viable existing agricultural enterprises.

31 * Sec. 9. AS 03.10.033(a) is amended to read:

1 (a) To increase the return to the state, the Board of Agriculture and
 2 Conservation [AGRICULTURAL REVOLVING LOAN FUND BOARD] may
 3 restructure loans (1) in existence on January 1, 1987, made by the former
 4 Agricultural Revolving Loan Fund Board [BOARD] or by the former Alaska
 5 Agricultural Action Council based upon guidelines approved by the Board of
 6 Agriculture and Conservation; (2) of a borrower in an area that has been
 7 declared a farm disaster area under AS 03.10.058; or (3) of a borrower who has
 8 experienced an agricultural disaster based upon regulations adopted by the
 9 Board of Agriculture and Conservation. Notwithstanding any other provision of
 10 law that relates to loan terms, the [BOARD. THE] restructuring may only include
 11 reduction of interest to a fixed rate not less than five percent a year [TO RATES
 12 BELOW THOSE SPECIFIED BY AS 03.10.030], an extension of the term of the loan,
 13 and an improvement to the security interest of the state. It may not reduce the amount
 14 of principal and interest owed before the loan is restructured.

15 * Sec. 10. AS 03.10.033(c) is amended to read:

16 (c) Notwithstanding any other provision of this section, the Board of
 17 Agriculture and Conservation [AGRICULTURAL REVOLVING LOAN FUND
 18 BOARD] may approve an application for restructuring under this section only upon

19 (1) the applicant's written release of the state, including [THE
 20 ALASKA AGRICULTURE ACTION COUNCIL, THE AGRICULTURAL
 21 REVOLVING LOAN FUND, AND] the University of Alaska, from all potential
 22 liability for actions and omissions occurring before the date of restructuring that relate
 23 in any way to a state farm project, land sale, land sale relinquishment, farm loan, or
 24 loan application or loan modification application, whether granted or denied by the
 25 state; and

26 (2) assignment by the applicant to the board of the proceeds from the
 27 federal government under 7 U.S.C. 1442 (Conservation Reserve Program) and P.L. 88-
 28 26 (Feed Grain Act of 1963), as amended.

29 * Sec. 11. AS 03.10.035(a) is amended to read:

30 (a) A borrower may not use farm land for a nonfarm [NON-FARM] use or
 31 sell, lease, or otherwise dispose of farm land if that land is encumbered by a mortgage

1 given to secure the payment of a [FARM DEVELOPMENT, CHATTEL, OR
2 IRRIGATION SYSTEM] loan under this chapter unless the borrower either

3 (1) pays the outstanding balance of the loan in a lump sum or under
4 other terms agreed to by the Board of Agriculture and Conservation
5 [COMMISSIONER] that accelerate payment of the loan; or

6 (2) pays the outstanding principal balance for the remaining term of the
7 loan at the prevailing rate of interest that is charged by commercial banks in the state
8 during the calendar quarter in which the board [DEPARTMENT] receives notice of
9 the change of use, sale, lease, or other disposal of the farm land.

10 * Sec. 12. AS 03.10.040(b) is amended to read:

11 (b) Money in the fund may be used by the legislature to make appropriations
12 for costs of administering this chapter and for operations of the Board of
13 Agriculture and Conservation.

14 * Sec. 13. AS 03.10.050(a) is amended to read:

15 (a) The Board of Agriculture and Conservation [COMMISSIONER] shall
16 administer the agricultural revolving loan fund [IN CONJUNCTION WITH THE
17 AGRICULTURAL REVOLVING LOAN FUND BOARD]. A [NO] loan [IN EXCESS
18 OF \$25,000] may not be made [BY THE COMMISSIONER] without the approval of
19 a majority of the board, except that emergency loans based upon regulations
20 adopted by the board and not to exceed \$50,000 may be made upon the approval,
21 by majority vote, of a committee composed of the chair of the board, another
22 board member, and the director of the board.

23 * Sec. 14. AS 03.10.050(b) is amended to read:

24 (b) The board is composed of seven members appointed by the governor and
25 confirmed by the legislature in joint session. Members shall have the following
26 qualifications:

27 (1) one member shall have general business or financial experience;

28 (2) one member shall be a member of a statewide agriculture
29 promotion organization;

30 (3) one member shall be a member of a soil and water conservation
31 district established under AS 41.10.130(a) who is also engaged in commercial

1 production agriculture;

2 (4) four members shall be engaged in commercial production
3 agriculture; each shall represent a different agriculture enterprise from the
4 others, such as livestock production, dairy, vegetable production, grain
5 production, horticultural production, and greenhouse and hydroponic production
6 [FIVE MEMBERS SHALL BE PERSONS WITH BACKGROUND AND
7 EXPERIENCE IN ALASKA AGRICULTURE, TWO OF WHOM SHALL BE
8 FARMERS WHO ARE RESIDENTS IN THE STATE, OPERATE PRODUCING
9 FARMS IN THE STATE, AND HAVE OPERATED THE PRODUCING FARMS IN
10 THE STATE FOR AT LEAST FIVE YEARS. MEMBERS OF THE BOARD SERVE
11 AT THE PLEASURE OF THE GOVERNOR FOR OVERLAPPING THREE-YEAR
12 TERMS. MEMBERS OF THE BOARD ARE NOT ENTITLED TO RECEIVE
13 COMPENSATION FOR THEIR SERVICES, BUT SHALL RECEIVE THE SAME
14 TRAVEL PAY AND PER DIEM AS PROVIDED BY LAW FOR BOARDS AND
15 COMMISSIONS].

16 * Sec. 15. AS 03.10.050(c) is amended to read:

17 (c) A meeting of the [AGRICULTURAL REVOLVING LOAN FUND] board
18 to act on applications for loans is exempt from the public meeting requirements of
19 AS 44.62.310.

20 * Sec. 16. AS 03.10.050(e) is amended to read:

21 (e) To encourage the prompt payment of loans, the board [DEPARTMENT]
22 may establish a program of credits for persons who have a loan from the agricultural
23 revolving loan fund and maintain good financial standing. The credits may be applied
24 against no more than two percentage points a year of the interest due on agricultural
25 revolving loan fund loans.

26 * Sec. 17. AS 03.10.050(g) is amended to read:

27 (g) The board [DIRECTOR OF AGRICULTURE] may dispose of property
28 acquired by the agricultural revolving loan fund [AGRICULTURAL REVOLVING
29 LOAN FUND BOARD OR BY THE COMMISSIONER] through foreclosure, default,
30 or other action arising out of agricultural loans or the sale of agricultural land.
31 Disposals shall be conducted under regulations approved by the commissioner. The

1 regulations must ensure that the property is disposed of so as to maximize the return
2 to the state and must require that the parcels of land that are composed primarily of
3 cropland soils be restricted to agricultural uses and disposed of only to persons who
4 are residents of the state.

5 * Sec. 18. AS 38.04.020(g) is amended to read:

6 (g) After July 1 of each year, the commissioner shall direct the expenditure of
7 money appropriated for the disposal of land in response to requests made under (e) and
8 (f) of this section for the following:

9 (1) land [LAND] designated as suitable for homestead disposal shall
10 be classified and surveyed under this chapter and AS 38.05 and made available for
11 staking and lease under AS 38.09; [.]

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

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

17 (4) land designated agricultural shall be disposed of under
18 AS 38.05.055 - 38.05.065, except the Board of Agriculture and Conservation
19 (AS 03.09.010) shall receive notice of each proposed disposal and be given an
20 opportunity to comment before the final disposal decision is made.

21 * Sec. 19. AS 38.04.030 is amended to read:

22 Sec. 38.04.030. Land availability programs. Programs that may be used by
23 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 law. However, agricultural use rights may be conveyed only after consulting
29 with the Board of Agriculture and Conservation.

30 * Sec. 20. AS 38.05.020(b)(7) is amended to read:

31 (7) after consulting with the Board of Agriculture and Conservation

1 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements
2 of a contract for the sale of agricultural land if

3 (A) the land is inaccessible by road; or

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

6 * Sec. 21. AS 38.05.057(c) is amended to read:

7 (c) The commissioner, after consulting with the Board of Agriculture and
8 Conservation (AS 03.09.010), may adopt regulations under the Administrative
9 Procedure Act (AS 44.62) that [WHICH] specify qualifications for lottery participants
10 different from those specified in (b) of this section if

11 (1) an interest in land limited to agricultural purposes is to be sold
12 under (a) of this section;

13 (2) the sale is a part of a program to develop agricultural land as a
14 renewable resource of the state; and

15 (3) the regulations include residency, skill, experience, and financial
16 requirements necessary to qualify persons who are competent and financially able to
17 develop the land as a successful agricultural enterprise.

18 * Sec. 22. AS 38.05.059 is amended to read:

19 Sec. 38.05.059. Sale of agricultural land. The commissioner, after
20 consulting with the Board of Agriculture and Conservation (AS 03.09.010), may
21 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses
22 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
23 subdivision requirements and municipal ordinances. Money from a sale of
24 agricultural land shall be separately accounted for and may be appropriated to
25 the agricultural revolving loan fund (AS 03.10.040).

26 * Sec. 23. AS 38.05.065(h) is amended to read:

27 (h) The commissioner, after consulting with the Board of Agriculture and
28 Conservation (AS 03.09.010),

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

1 and

2 (2) may declare a moratorium of up to five years on payments on land
3 sold under this section for land classified under AS 38.05.020(b)(6) for agricultural
4 uses if

5 (A) the commissioner determines that the moratorium is in the
6 best interest of the state;

7 (B) the commissioner certifies and the contract purchaser agrees
8 to perform farm development, crop production, and harvesting, not including
9 land clearing or related activity, requiring the expenditure of amounts
10 equivalent to the payments that would otherwise be made during the
11 moratorium;

12 (C) the sale of the agricultural land takes place after July 1,
13 1979; and

14 (D) the contract purchaser is in compliance with the
15 development plan specified in the purchase contract at the time the purchaser
16 applies for a moratorium under this subsection and remains in compliance with
17 the development plan during the moratorium; for the payments subject to the
18 moratorium declared under this paragraph, interest payments are subject to the
19 moratorium but interest continues to accrue during the moratorium.

20 * Sec. 24. AS 38.05.069(a) is amended to read:

21 (a) After consulting with the Board of Agriculture and Conservation
22 (AS 03.09.010), on (ON) a determination that the highest and best use of unoccupied
23 land is for agricultural purposes and that it is in the best interests of the state to sell
24 or lease the land, the commissioner shall grant to an Alaska [ALASKAN] resident
25 owning and using or leasing and using land for agricultural purposes a first option at
26 the auction to purchase or lease the unoccupied land situated adjacent to land presently
27 held by the Alaska [ALASKAN] resident for the amount of the high bid received at
28 public auction. If more than one Alaska [ALASKAN] resident qualifies for a first
29 option under this section, eligibility for the first option shall be determined by lot and
30 the option must be exercised on the conclusion of the public auction. A parcel of
31 agricultural land sold under this section may not be less than 20 acres, and a parcel of

1 agricultural land that is acquired by exercise of the option granted in this subsection
2 may not exceed 320 acres. Agricultural land that is acquired under this section must
3 be used for agricultural purposes as required by law.

4 * Sec. 25. AS 38.05.321(e) is amended to read:

5 (e) A landowner may subdivide land classified for agricultural use and for
6 which the landowner obtained a patent under a homestead entry permit issued under
7 AS 38.09 so long as the resulting parcels are not in violation of the minimum parcel
8 size set out in (a) of this section. A landowner may subdivide other land classified for
9 agricultural use as authorized under (d)(3)(C) of this section. If the subdivision
10 involves land classified for agricultural use and for which the landowner obtained a
11 patent under a homestead entry permit issued under AS 38.09, or if the subdivision of
12 land authorized under (d)(3)(C) of this section results only in parcels of 640 acres or
13 more, the landowner may subdivide without payment as required by this subsection.
14 If subdivision of land authorized by (d)(3)(C) of this section would result in one or
15 more parcels of less than 640 acres, the landowner may subdivide only if the
16 landowner first tenders payment to the department for the right to construct housing
17 in each subdivided parcel of less than 640 acres. Payments collected under this
18 subsection shall be separately accounted for and may be appropriated to the
19 agricultural revolving loan fund (AS 03.10.040). For purposes of this subsection,
20 the value of the right to construct housing in a subdivided parcel

21 (1) is \$4,000 for the parcel, subject to adjustment under (h) of this
22 section; or

23 (2) shall be determined by an appraisal made by an appraiser under
24 contract to the landowner owning the parcel, and the appraisal must include the value,
25 determined as of the date of subdivision, of the right to construct housing by the
26 landowner under (d)(3) of this section.

27 * Sec. 26. AS 38.05.035(b) is amended to read:

28 (b) The director may

29 (1) delegate the administrative duties, functions or powers imposed
30 upon the director to a responsible employee in the division;

31 (2) grant preference rights for the lease or purchase of state land

1 without competitive bid in order to correct errors or omissions of a state or federal
 2 administrative agency when inequitable detriment would otherwise result to a diligent
 3 claimant or applicant due to situations over which the claimant or applicant had no
 4 control; the exercise of this discretionary power operates only to divest the state of its
 5 title to or interests in land and may be exercised only

6 (A) with the express approval of the commissioner; and

7 (B) if the application for the preference right is filed with the
 8 director within three years from

9 (i) the occurrence of the error or omission;

10 (ii) the date of acquisition by the state of the land; or

11 (iii) the date of a court decision or settlement nullifying
 12 a disposal of state land;

13 (3) grant a preference right to a claimant who shows bona fide
 14 improvement of state land or of federal land subsequently acquired by the state and
 15 who has in good faith sought to obtain title to the land but who, through error or
 16 omission of others occurring within the three years before (A) the application for the
 17 preference right, (B) the date of acquisition by the state of the land, or (C) the date of
 18 a court decision or settlement nullifying a disposal of state land has been denied title
 19 to it; upon a showing satisfactory to the commissioner, the claimant may lease or
 20 purchase the land at the price set on the date of original entry on the land or, if a price
 21 was not set at that time at a price determined by the director to fairly represent the
 22 value of unimproved land at the time the claim was established, but in no event less
 23 than the cost of administration including survey; the error or omission of a predecessor
 24 in interest or an agent, administrator, or executor which has clearly prejudiced the
 25 claimant may be the basis for granting a preference right;

26 (4) sell land by lottery for less than the appraised value when, in the
 27 judgment of the director, past scarcity of land suitable for private ownership in any
 28 particular area has resulted in unrealistic land values;

29 (5) when the director determines it is in the best interest of the state
 30 and will avoid injustice to a person or the heirs or devisees of a person, dispose of
 31 land, by direct negotiation to that person who presently uses and who used and made

1 improvements to that land before January 3, 1959, or to the heirs or devisees of the
 2 person; the amount paid for the land shall be its fair market value on the date that the
 3 person first entered the land, as determined by the director; a parcel of land disposed
 4 of under this paragraph shall be of a size consistent with the person's prior use, but
 5 may not exceed five acres;

6 (6) after consulting with the Board of Agriculture and Conservation
 7 (AS 03.09.010), dispose of an interest in land limited to use for agricultural purposes
 8 by lottery;

9 (7) convey to an adjoining landowner for its fair market value a
 10 remnant of land that the director considers unmanageable or a parcel of land created
 11 by a highway right-of-way alignment or realignment, or a parcel created by the
 12 vacation of a state-owned right-of-way if

13 (A) the director determines that it is in the best interests of the
 14 state;

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

17 (C) the director and the platting authority having land use
 18 planning jurisdiction agree that conveyance of the parcel to the adjoining
 19 landowner will result in boundaries that are convenient for the use of the land
 20 by the landowner and compatible with municipal land use plans;

21 (8) for good cause extend for up to 90 days the time for rental or
 22 installment payments by a lessee or purchaser of state land under this chapter if
 23 reasonable penalties and interest set by the director are paid;

24 (9) quitclaim land or an interest in land to the federal government on
 25 a determination that the land or the interest in land was wrongfully or erroneously
 26 conveyed by the federal government to the state;

27 (10) negotiate the sale or lease of state land at fair market value to a
 28 person who acquired by contract, purchase, or lease rights to improvements on the land
 29 from another state agency or who leased the land from another state agency [

30 (11) REPEALED].

31 * Sec. 27. AS 38.07.010(b) is amended to read:

Chapter 81

1 (b) The land ~~that is~~ [THUS] cleared or drained ~~under (a) of this section~~ shall
2 be put up for competitive lease in lots of not less than 320 acres each. Lease
3 payments shall be separately accounted for and may be appropriated to the
4 agricultural revolving loan fund (AS 03.10.040).

5 * Sec. 28. AS 38.09.010(a) is amended to read:

6 (a) The commissioner shall designate and make available for homestead entry
7 state land, including, after consulting with the Board of Agriculture and
8 Conservation (AS 03.09.010), land classified for agricultural use. State land made
9 available for homestead entry under this chapter shall be distributed throughout the
10 state.

11 * Sec. 29. AS 39.50.200(b) is amended by adding a new paragraph to read:

12 (56) Board of Agriculture and Conservation (AS 03.09.010).

13 * Sec. 30. AS 03.10.050(d), 03.10.052; and AS 39.50.200(b)(1) are repealed.

14 * Sec. 31. The uncodified law of the State of Alaska is amended by adding a new section
15 to read:

16 TRANSITION. (a) Notwithstanding AS 03.09.010(b), enacted in sec. 1 of this Act,
17 two initial members of the Board of Agriculture and Conservation shall be appointed to one-
18 year terms and two initial members of the board shall be appointed to two-year terms.

19 (b) Notwithstanding AS 03.09.040, enacted in sec. 1 of this Act, AS 03.10.020(a), as
20 amended in sec. 2 of this Act, AS 03.10.030(h), as amended in sec. 8 of this Act, and
21 AS 03.10.033(a), as amended in sec. 9 of this Act, regulations that apply to the agricultural
22 revolving loan fund and to loans from the fund remain in effect until amended or repealed by
23 the Board of Agriculture and Conservation.

24 * Sec. 32. This Act takes effect July 1, 2000.

ALASKA STATE LEGISLATURE

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House of Representatives
House District 34

Sponsor Statement

HB 249

April 20, 2001

This bill corrects an oversight in last year's HB 116 which created the Board of Agriculture and Conservation. In September 2000 the board was selected and has been meeting on a monthly basis ever since.

The Board and its attorney from the Department of Law were in the second phase of drafting regulations authorized by the new statute, when they discovered a glitch:

HB 116 contained numerous sections indicating where the new Board was to take over duties of the DNR Commissioner, but one was overlooked!

HB 249 corrects that oversight and allows the new Board of Agriculture and Conservation to continue functioning in accordance with original legislative intent.

Alaska State Legislature

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House of Representatives
House District 34

APR 19 2001

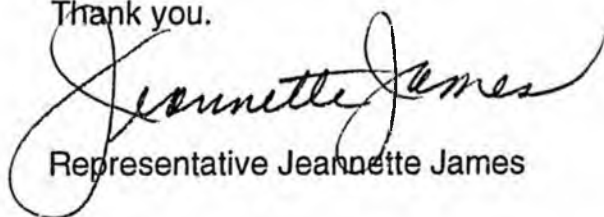
DATE: April 20, 2001
TO: Representative Masek, Co-Chair of House Resources
RE: Request to hear HB 249

Please schedule the following bill for a hearing in the House Resources Committee at your earliest convenience:

HB 249, "An Act relating to disposal of certain property acquired by the agricultural revolving loan fund."

Background material is attached.

Thank you.


Representative Jeannette James

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