

HB

319

SENATE COMMITTEE REPORT

DATE: 04/26/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5-7-04

Resources Committee considered CS FOR HOUSE BILL NO. 319(FIN) am

HB 319 REMOTE REC.CABIN SITE SALES/LOTTERY SALE

"An Act relating to the disposal of state land by lottery; relating to the reservation of rights by the state in land contracts and deeds; relating to the disposal, including sale or lease, of remote recreational cabin sites; and providing for an effective date."

and recommends:

- be replaced with 5 CS CSHB 319 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOR		✓			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Alph A. Lee</i>	✓			
<i>Ben Stevens</i>	✓			
<i>Ken ...</i>			✓	
CHAIR: <i>Scott ...</i>			✓	



SENATOR SCOTT OGAN

23RD Alaska State Legislature

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek * Fairview Loop
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FACSIMILE TRANSMITTAL SHEET

TO: Leg Legal	FROM: LINDA HAY - Sen. Resources
COMPANY: Don Bullock	DATE: 5-7-04
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	RE: CS

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Please prepare a Senate Resources
CS for HB 319 as amended -
Amend. #1. 23LS0477 X.A.3 is
attached.

Call if there are questions -
Bill next heads to Finance

Thank You

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR OGAN

TO: CSHB 319(FIN) am

1 Page 3, line 4:

2 Delete "entry"

3 Insert "lease issuance, unless an extension is found necessary by the
4 commissioner"

5

6 Page 3, line 14:

7 Delete "in regulations"

8

9 Page 3, lines 24 - 27:

10 Delete all material and insert:

11 "(f) A resident may nominate a parcel for disposal under this section. The
12 commissioner shall review the nomination and may

13 (1) offer the nominated parcel for sale;

14 (2) offer additional parcels within the surrounding area for sale; or

15 (3) find that the parcel or area is not appropriate for disposal."

16

17 Page 3, line 28, following "acres":

18 Insert "unless the commissioner determines that a larger site is necessary to comply
19 with municipal ordinances, because of the unique physical and natural characteristics of the
20 area, or to increase the return to the state from the sale of the parcel"

21

22 Page 4, line 3:

23 Delete ", in the public interest,"

1

2 Page 4, line 4:

3 Delete "adopts a regulation indicating"

4 Insert "finds that"

5

6 Page 4, line 5, following "frontage":

7 Insert "is in the public interest"

8

9 Page 4, line 20:

10 Delete "AS 38.05.600(f)"

11 Insert "AS 38.05.600(g)"

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB319SCS(RES)verX.e DN
 () Publish Date: _____

Revision Date/Time (Note if correction): 5/8/2004 Dept. Affected: Natural Resources
 Title: Remote Rec Cabin Site Sales/ RDU: Resource Development
Lottery Sale Component: Land Sales/Municipal Entitlements
 Sponsor: Rep. Fate
 Requester: (S) FIN Component No. 2456

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	59.0	179.5	241.0	241.0	241.0	241.0
Travel	2.0	6.0	8.0	8.0	8.0	8.0
Contractual	8.0	28.0	28.0	28.0	28.0	28.0
Supplies		8.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	69.0	221.5	279.0	279.0	279.0	279.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1153)			82.5	82.5	247.5	346.3
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	69.0	221.5	196.5	196.5	31.5	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1153 Land Disp Income Fund)			82.5	82.5	247.5	279.0
TOTAL	69.0	221.5	279.0	279.0	279.0	279.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	2	4	4	4	4
Part-time		2				
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a public nomination process for the Remote Recreational Cabin Program under AS 38.05.600. It leaves the existing Remote Recreational Cabin Program under that statute in place, although it modifies some of the requirements of the existing program (such as parcel size, river frontage, etc.). This fiscal note analyzes the impacts of these changes. The new program adds a maximum size restriction of 10 acres.

DETAILS ON FOLLOWING PAGES

Prepared by: Nancy Welch, Special Assistant to the Commissioner Phone 907-269-8431
 Division: Commissioner's Office Date/Time 5/7/04
 Approved by: Tom Irwin, Commissioner Date 5/8/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB319SCS(RES)verX.a-DN

ANALYSIS CONTINUATION

Assumptions.

The bill modifies the existing Remote Recreational Cabin Program. Thus, the fiscal note assumes that the existing program continues but at an expanded level and with some revision to comply with changes to this statute.

As a result of this legislation, DNR will undertake the following tasks:

- 1) prepare an annual schedule of remote recreation cabin offerings;
- 2) prior to preparation of the schedule, solicit public nominations of areas to offer for sale under this program;
- 3) assess proposed land offerings to ensure they were not selected for mineral potential or do not contain high value mineral lands. This will involve research into state land selection history for sale areas; review of published reports, geophysical surveys and geological evaluations for sale areas; and Division of Mining, Land and Water (DMLW) will coordinate a review of proposed sale areas by the DNR Division of Geological and Geophysical Surveys, DNR Division of Oil and Gas, and the Minerals Section of the DMLW; and
- 4) require that new purchasers of parcels under this program and any DNR lottery sale programs increase their deposits from 5% to 10% of the appraised value.

In FY05, DNR will also need to revise its regulation for this program to conform to certain changes proposed in HB319.

Program Impact: In response to the nominations process, DNR will offer additional areas and will offer up to 100 additional parcels under the Remote Recreation Cabin Program. Because some of these areas will be driven by public recommendations, we are assuming higher public interest and a higher response rate. This expansion of the program will result in increased survey and appraisal work starting in FY 06. Surveys will continue to be done by private sector surveyors, and applicants will pay for costs of survey and appraisal.

Expenditures

Personal Services. FY 05 - DNR estimates that to perform the tasks described above will require one (1) Natural Resource Specialist II (range 16) at a cost of \$59.0, for a total FY 05 personal services cost of \$59.0.

FY 06 - DNR will require funding for an additional NRS II to prepare additional areas nominated for sale, with the intention of offering 100 additional parcels; and 1/2 of an additional land survey position and 1/2 of an additional appraisal position to assist in this effort. An Appraiser II is \$65.0/year, or \$32.5 for 1/2 year. A Land Survey Assistant II is \$58.0 per year, or \$29.0 for 1/2 year.

Contractual Costs:

	FY 05	FY 06-FY 10
Phones, computer hook-ups, etc. @\$1000 ea	\$ 1.0	4.0
Office space rental	\$ 5.0	20.0
public notices, etc.	\$ 2.0	4.0
TOTAL	\$ 8.0	28.0

Forecast of Increases in Sales and Revenues

Assumptions - Number of parcels offered and sold: In response to the nominations process, DNR will offer 100 additional parcels each year starting in FY 07. Because some of these areas will be driven by public recommendations, we assume a high percentage, 75%, or 75 parcels, will actually be staked and eventually sold.

Timing of Sales. In FY 05, DNR will identify these new sale areas based upon public nominations. In FY 05-06, DNR will research land status, identify and reserve access, prepare best interest findings, conduct public notice and review, develop sale brochures, and other tasks to prepare areas to offer for staking. The areas will be offered for staking in FY 07. Parcels will be surveyed and appraised during FY 07-08. Final sales of parcels staked in FY 07 would occur in FY 09. These time frames are based upon an optimistic assessment of actual time required to implement the existing program.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB319SCS(RES)verX.a-DN

Revenues from additional Offerings under HB 319. The following represents forecasted revenues based upon the assumption of 100 new parcels offered each year starting in FY 07, with 75% being sold (75 parcels). In addition, revenues under the existing program, which offers 250 parcels per year, will increase as the required down payment for parcels staked starting in FY 05 will increase from 5% to 10% of appraised value. Increased revenue comes from three sources as follows:

Increased Revenue from Increased Down Payments: FY 07 and following years, revenue will increase as a result of increasing the deposit for all remote recreation cabin parcels from 5% to 10%. This increased down payment will apply to parcels staked after the effective date of this act. Increasing the deposits from 5% to 10% will result in an estimated \$70,000 (the average of 5% of the FMV of the 2002 and 2003 parcels) starting in FY 07.

Revenue From Fees. DNR anticipates that offering more areas and parcels will increase the number of applications and revenue from associated fees. The fiscal note assumes DNR will collect the following additional fees at the time of applications, stakings, or processing of sale contracts/deeds:

Application fee: \$25/application - assume an additional 400 applications/year = \$10,000

Staking authorization fee: \$25 at time applicant submits staking diagram: \$25 x 100 parcels = \$2,500

Document processing fee: \$100 at time applicant requests contract or patent - assume 75 additional parcels go to purchase = \$7,500 starting in FY 08.

Total Increased Fee Revenue - FY 07: \$12,500
FY 08 and following years: \$20,000

Increased Revenue from Increased Sales. Starting in FY 09, DNR forecasts an increase of 100 parcels or stakings being offered with a much higher (75%) staking rate resulting from the combination of increased interest in offerings (because of nominations), increased number of stakings authorized, or increased areas. Assumptions used to estimate increased revenue follows:

Number of Additional Parcels Sold: 75

Parcel Size - assumed to be 10 acres, which is the maximum allowed by the program, but less than what most people have staked under the existing program (average 13.6 acres). Many municipalities have a 10 acre minimum parcel size.

Parcel Price - the selling price for parcels staked in FY 01 and 02 has averaged \$620/acre with an average size of 13.6 acres. Smaller parcels generally receive a higher per acre value, DNR has adjusted the per acre price for this FN analysis to \$750/acre.

Financing - The bill assumes the current practice for financing: approximately 20% of applicants purchase outright, and 80% finance their purchase over 5 years. The current interest rate is 7%.

Summary.

FY 07 and 08: Revenue will increase as a result of increased downpayments from parcels acquired under the existing program (\$70,000) and additional application fees (\$12,500), for a total of \$82,500.

FY 09: Revenue (\$247,500) will include:

- increased downpayments from the existing program sales (\$70,000/year)
- increased fees (now \$20,000)
- cash sales of 20% of the 75 additional parcels - 15 parcels/year (\$112,500)
- the 10% down payments from the 60 parcels financed (\$45,000) and an assumed increase in rate of sales.

FY 10 (Revenue of \$279,000) and following years - FY 09 revenue plus \$98,776 from previous year's contracts (60 parcels, interest rate of 7%, financed 5 years).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB319CS(FIN)verWam-DNF
 () Publish Date: _____

Revision Date/Time (Note If correction): 4/19/2004 Dept. Affected: Natural Resources
 Title Remote Rec Cabin Site Sales/ RDU Resource Development
Lottery Sale Component Land Sales/Municipal Entitlements
 Sponsor Rep. Fale
 Requester (H) FIN Component No. 2456

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	277.5	433.0	433.0	433.0	433.0	433.0
Travel	10.0	20.0	20.0	20.0	20.0	20.0
Contractual	88.0	95.0	79.0	79.0	79.0	79.0
Supplies	5.0	10.0	10.0	10.0	10.0	10.0
Equipment	10.0	10.0		5.0	5.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	390.5	568.0	542.0	547.0	547.0	542.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1153)		467.5	708.2	948.7	1,189.3	1,432.9
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	390.5	100.5	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1153 Land Disp Income Fund)		467.5	542.0	547.0	547.0	542.0
TOTAL	390.5	568.0	542.0	547.0	547.0	542.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	5	7	7	7	7	7
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a new land disposal program within AS 38.05.600. It leaves the existing Remote Recreational Cabin Program under that statute in place, although it modifies some of the requirements of the existing program (such as parcel size, river frontage, etc.). This fiscal note analyzes the impacts of the proposed program. The new program adds a maximum size restriction of 10 acres and establishes other guidelines regarding parcel locations.

The schedule for the number of parcels that DNR can process and resultant revenues in this fiscal note are very optimistic in that they assume that survey, appraisal, platting board review, and approval occurs within one year. That process currently takes 3 years. DNR believes that it will be difficult to fulfill the revenue projections, particularly in FY 06 and 07.

Prepared by: Nancy Welch, Special Assistant to the Commissioner Phone 907-269-8431
 Division: Commissioner's Office Date/Time 4/19/04
 Approved by: Tom Irwin, Commissioner Date 4/19/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB319CS(FIN)verWam-DNF

ANALYSIS CONTINUATION

Assumptions. The fiscal note assumes that DNR would be able to process 250 applications per year under the new program which is established in Section 4(e) and 4(f) of the bill whereby DNR would accept and process parcels nominated by individuals. This assumption is on the high side, particularly for FY 06. It assumes none of DNR's best interest findings are appealed and there are no delays, including appeals, in surveying, borough approval of surveys, or appraisals. If more than 250 individuals apply, a backlog would be established or more staff would be needed.

The bill does not eliminate the existing program. Thus, the fiscal note also assumes that the existing program continues at its current level, although that program will require revision to comply with changes to this statute.

The New Program. Section 4(e) of the bill would result in individual processing for 10-acre parcels in locations throughout the state chosen by the applicants. This bill proposes that a member of the public can nominate a specific site and, if DNR determines through the best interest finding and public notice process that the land should be sold, it will be offered for sale. DNR would complete the processing: title search, survey review, appraisal review, best interest finding, public notice, easement decisions, etc. for that individual parcel.

In this fiscal note, DNR assumes that we could process some of the applications in batches. Exactly how many parcels or areas nominated that could be processed together would depend on two factors; 1) how many nominated parcels are in the same geographic area so that we could combine the parcels into one best interest finding and public notice; and 2) how many additional parcels DNR could identify for sale within the areas nominated by the individual. For this analysis, DNR assumes that we could batch process 100 applications, that is, 100 applications would be processed in batches of 10-20 parcels. We will assume that 150 parcels are processed separately, where each has a separate BIF and the applicants pay for individual survey and appraisal.

Cost for Section 4(e). Section 4(e) would result in a combination of individual and batch processing of nominations. Under the existing program, DNR identifies geographic areas open to staking, hence parcels are always processed in groups. For example, under the existing program, 250 parcels can be reviewed in six batches, combining survey reviews, appraisal reviews, best interest findings, and title searches. This fiscal note is based on an additional 250 parcels being processed, 100 in groups and 150 separately, with *separate* survey reviews, appraisal reviews, best interest findings, etc.

Personal Services. DNR estimates that this portion of the program will require the following staff:

FY 05 - Program start-up. The first year will entail drafting new regulations, preparing maps of areas open to staking, developing program guidelines and application forms, and accepting and initial processing of the first round of applications. Personal Services Cost will be \$277.5, for the following positions:

- 1 NRM I (6 months) = @\$32.5
- 1 NRS II - @\$59.0 = \$59.0
- 2 NRS I - @\$52.0/each = \$104.0
- 1 NRS I (part-time) - @\$26.0 = \$26.0
- 1 Cartographer II - @\$56.0 = \$56.0

FY 06 and following years - Subsequent years will entail processing of individual and batched applications, including: land title research for each site; drafting best interest findings and public notice for each parcel; issuing survey and appraisal instructions; review and approval of individual surveys and appraisals; preparing additional maps for the public depicting staking areas; updating maps and plats to show sites applied for and approved; issuing sale contracts and deeds; answering public questions about the program; and other tasks. Personal services cost increase to \$433.0, as a surveyor and appraiser will be added to the staffing levels identified for FY 05, and the NRM I becomes a full time position (additional 6 months @ \$32.5). These positions are needed to issue instructions for and review surveys and appraisals.

- 1 Appraiser II - @\$65.0 = \$65.0
- 1 Land Survey Assistant II - @\$58.0 = \$58.0

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. HB319CS(FIN)verWam-DNF

ANALYSIS CONTINUATION

Contractual Costs:

ITEM	FY 05	FY 06	FY 07 and following
Public Notices - 150 notices x \$250	\$0	\$37.5	\$37.5
Printing - brochures and maps	\$10.0	\$10.0	\$10.0
Phones, computer hook-ups, etc. @\$800 ea	\$ 5.0	\$ 6.5	\$ 6.5
Office space rental	\$25.0	\$25.0	\$25.0
New office construction/furniture @\$8.0 ea	\$48.0	\$16.0	\$ 0.0
TOTAL	\$88.0	\$95.0	\$79.0

Revenues. Revenue generated under this bill would be a function of parcel size, per-acre price, number of parcels sold, and scheduling assumptions as outlined below.

Parcel Size. This bill proposes to decrease the maximum size to 10 acres. Under the current program, applicants choose the size of their parcel, up to the 20 acre maximum currently in statute. The average size chosen under the current program is approximately 13.6 acres. The minimum size is 5 to 10 acres depending on the area. Minimum size is established to comply with local platting board or waste disposal requirements.

Parcel Price. Remote land in Alaska is inexpensive. The selling price for remote recreation cabin parcels staked in FY 01 and FY 02 is estimated to average \$620/acre. Small parcels sell for less than larger parcels, though the per-acre price is higher. Currently, the average size Alaskans chose to stake is 13.6 acres. Department appraisers estimate that all else being equal the per-acre price ratio between a 13-acre parcel and a 10 acre parcel is 1.2. Therefore, this fiscal note assumes that a 10-acre parcel will bring in \$750 per acre (= \$620/acre x 1.2). That is, each parcel brings in \$7,500 to the department (= \$750/acre x 10 acres).

Purchase Rate. In the current program, only 43% of the people issued staking authorizations go on to purchase their parcels. The remainder decide not to continue somewhere during the process. The Department is working to bring up the purchase rate. However, this rate is actually greater than similar historical programs. The Department's homestead/homesite programs allowed people to gain ownership through either purchase or prove-up. Only 33% of the people who initially sought parcels followed through to ownership: two-thirds dropped out. It is possible that those who apply in the program proposed by this bill will have a higher purchase rate than past programs. However, individuals do not understand the major cost in time and money until they try to hire a surveyor and appraiser, and so the purchase rate may actually be lower. This fiscal note assumes an optimistic 75% purchase rate or 188 parcels per year.

Financing. The bill assumes current practice for financing: approximately 20% of applicants purchase outright and 80% finance their purchase over 5 years. The current interest rate is 7%.

Schedule. Section 3 of the bill does not change DNR's existing survey and appraisal practice but requires that both be completed within two years. Currently, the Department contracts with private surveyors on behalf of the individuals and is able to complete the survey and appraisal process within two years after the lease is issued. Our experience is that individuals who are unfamiliar with surveyors and appraisers take far longer. Thus, the Department believes that the minimum time for the process is two years. During the first year, the parcels are staked, applications received, DNR issues the best interest finding and public review, and the parcel is surveyed in the summer (survey instructions from DNR, survey by a private contractor). During the second year, the survey is reviewed and approved by DNR and local platting authority (borough or city), the parcel is appraised (instructions from DNR, appraisal by a private contractor, then review by DNR), and then the applicant can purchase the parcel. Therefore, the minimum schedule is as follows: FY 05 to prepare the regulations for this new program, information for the public, and receive initial applications in the second half
(Continued)

Analysis Continued:

of FY 05. DNR processing of applications (title search, best interest finding, public notice, etc.) would occur in FY 05-06, the first land surveys would occur primarily in FY 06. DNR and Borough approval of surveys would occur in FY 06, and appraisals would be completed in late FY 06. Some parcels may be purchased or will enter into sale contracts by late FY 06, but for most parcels, sale will not occur until FY 07. Based on experience with past programs where applicants were required to get their own parcel surveyed and appraised, this is a very optimistic schedule.

Revenue From Fees. The fiscal note assumes DNR will collect the following additional fees at the time of applications or processing of applications or contracts:

Application fee: \$100/application - assume 500 applications/year = \$50,000

Staking authorization fee: \$25 at time applicant submits staking diagram: \$25 x 188 parcels = \$4,700

Document processing fee: \$100 at time applicant requests contract or patent - assume 188 parcels go to purchase = \$18,000

Total Fee Revenue - assuming 500 applications and 188 parcels purchased = \$73,500

Additional Fee Revenue - \$100 document processing fee paid at time when contracts are paid off and request patent, assume starting in FY 07, 20% of all existing purchasers payoff contracts and request patent (30x\$100 in FY 07.)

Summary. In summary, total value sold per year will be \$1,410,000 (188 parcels x \$7,500 per parcel).

FY 06: At best, some parcels may be ready to purchase late in FY 06. This fiscal note assumes that all parcels would be ready for purchase (cash sale or sale contract) in FY 06. If all 188 parcels were purchased by the end of FY 06, the revenues received in FY 06 will be \$394,800 (\$394,800 = \$282,000 through full purchase plus \$112,800 downpayment on the remainder). Fees collected in FY 06 total \$73,500. Total Revenue for FY 06 = \$467,500.

FY 07 and following: An additional \$240,588 will be paid each year through the following 5 years as individuals pay off the parcels assuming 7% interest. In FY 07, revenue is estimated to be \$768,188 (= \$467,500 + \$240,588). Revenue would level off in FY 10.

Technical Issues. This bill does not repeal the current program: Section 4(e) appears to provide that it continues. Therefore, this fiscal analysis assumes the existing program continues at its present level. However, the bill would put the current program out of compliance with the law. To maintain the current program, Section 4(g) should apply only to the new program: that outlined in Section 4(e).

If the new program does replace the existing program, the required additional cost would be somewhat less than outlined in this fiscal note as current staff could implement the new program (with some additions). However, total revenue to the state would be much less than indicated in the fiscal note, as the existing program is a much more cost-efficient and revenue-efficient method to offer lands to Alaska.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 319(STA)
 (H) Publish Date: 2/23/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Remote Rec Cabin Site Sales/ RDU Resource Development
Lottery Sale Component Land Sales/Municipal Entitlements
 Sponsor Rep. Fate
 Requester (H) STA Component No. 2456

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	368.0	368.0	368.0	368.0	368.0	368.0
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	30.0	30.0	30.0	30.0	30.0	30.0
Supplies	15.0	15.0	15.0	15.0	15.0	15.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	433.0	433.0	433.0	433.0	433.0	433.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1153)					82.6	112.8
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	433.0	433.0	433.0	433.0	350.4	320.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1153 Land Disp Income Fund)					82.6	112.8
TOTAL	433.0	433.0	433.0	433.0	433.0	433.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	6	6	6	6	6	6
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a new land disposal program within AS 38.05.600. It leaves the existing Remote Recreational Cabin Program under that statute in place. This fiscal note analyzes the impacts of the proposed program.

The new program would have DNR negotiate private, non-competitive sales. (This is a significant change from the existing policy of only public, competitive land sales.) It also adds a maximum size restriction of 2.5 acres and establishes other guidelines regarding parcel locations.

Prepared by: Nancy Welch, Special Assistant to the Commissioner Phone 907-269-8431
 Division: Commissioner's Office Date/Time 1/28/04
 Approved by: Thomas Irwin, Commissioner Date 1/28/04
 Agency: Natural Resources

FISCAL NOTE # 1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 319(STA)

ANALYSIS CONTINUATION

Assumptions. The fiscal note assumes that DNR would process 150 applications under the new program which is established in Section 4(g) of the bill whereby DNR must approve parcels nominated by individuals. (If more than 150 individuals apply, a backlog would be established or more staff would be needed.)

The bill does not eliminate the existing program. Thus, the fiscal note also assumes that the existing program continues at its current level. If the program established in Section 4(g) is meant to replace the existing program, the cost and revenues provided in this fiscal note would change. The Department is currently preparing an estimate of the fiscal effect of eliminating the costs and revenues of the existing program.

The New Program. Section 4(g) of the bill would require individual processing for 2.5-acre parcels in locations throughout the state chosen by the applicant. This bill proposes that a member of the public can nominate a specific site and, if the person can demonstrate past recreational or mining use, DNR would be required to offer that site to that individual without competition. DNR would complete the processing: title search, appraisal review, best interest finding, easement decisions, etc. for that individual. This process would be repeated for each individual parcel.

Cost for Section 4(g). The new aspect of the program, Section 4(g), requires individual processing. For example, under the existing program, 150 parcels can be reviewed in six batches, combining survey reviews, appraisal reviews, best interest findings, and title searches. Section 4(g) would require 150 separate survey reviews, appraisal reviews, best interest findings, etc.

DNR estimates that this portion of the program will require the following staff:

- 1 Appraiser II - @\$66.0 = \$66.0
- 1 NRS II - @\$58.0 = \$58.0
- 2 NRS I - @\$52.0/each = \$104.0
- 1 NRS I (part-time) - @\$26.0 = \$26.0
- 1 Land Survey Assistant II - @\$58.0 = \$58.0
- 1 Cartographer II - @\$56.0 = \$56.0

Revenues. Revenue generated under this bill would be a function of parcel size, per-acre price, number of parcels sold, and scheduling assumptions as outlined below.

Parcel Size. This bill proposes to decrease the maximum size to 2.5 acres. Under the current program, applicants choose the size of their parcel. The average size chosen under the current program is approximately 13.6 acres. (The minimum size is 5 to 10 acres depending on the area. Minimum size is established to comply with local platting board or waste disposal requirements. Maximum parcel size is 20 acres).

Parcel Price. Remote land in Alaska is inexpensive. The selling price for remote recreation cabin parcels staked in FY 01 and FY 02 is estimated to average \$620/acre. Small parcels sell for less than larger parcels, though the per-acre price is higher. Currently, the average size Alaskans chose to stake is 13.6 acres. Department appraisers estimate that all else being equal the per-acre price ratio between a 13-acre parcel and a 2.5 acre parcel is 1.9. Therefore, this fiscal note assumes that a 2.5-acre parcel will bring in \$1,180 per acre (= \$620/acre x 1.9). That is, each parcel brings in \$2,950 to the Department (= \$1,180/acre x 2.5 acres).

FISCAL NOTE #1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 319(STA)

ANALYSIS CONTINUATION

Purchase Rate. In the current program, only 43% of people issued staking authorizations go on to purchase their parcels. The remainder decide not to continue somewhere during the process. The Department is working to bring up the purchase rate. However, this rate is actually greater than similar historical programs. The Department's homestead/homesite programs allowed people to gain ownership through either purchase or prove-up. Only 33% of the people who initially sought parcels followed through to ownership: two-thirds dropped out. It is possible that those who apply in the program proposed by this bill will have a higher purchase rate than past programs. However, individuals do not understand the major cost in time and money until they try to hire a surveyor and appraiser, and so the purchase rate may actually be lower. This fiscal note assumes a 66% purchase rate or 100 parcels per year.

Financing. The bill assumes current practice for financing: approximately 20% of applicants purchase outright and 80% finance their purchase over 10 years. The current interest rate is 7%.

Schedule. Section 3 of the bill does not change DNR's existing survey and appraisal practice but requires that both be completed within one year. Currently, the Department contracts with private surveyors on behalf of the individuals and is able to complete the survey and appraisal process within two years. Our experience is that individuals who are unfamiliar with surveyors and appraisers take far longer. Thus, the Department believes that the minimum time for the process is two years: one for summer for survey (survey instruction from DNR, survey by a private contractor, then review by DNR), and a second for appraisal (instructions from DNR, appraisal by a private contractor, then review by DNR). Therefore, the minimum schedule is as follows: FY 05 to prepare the regulations and information for the public. The first applications could occur in FY 06 with one year for DNR processing (title search, best interest finding, public notice, etc.). Survey could occur in FY 07; appraisal in FY 08, and revenue would begin when parcels are purchased in FY 09.

Summary. In summary, total value sold will be \$295,000 (100 parcels x \$2,950 per parcel). Of that amount \$82,600 will be paid the first year (\$59,000 through full purchase plus \$23,600 downpayment on the remainder). An additional \$30,240 will be paid each year through the following 10 years as individuals pay off the parcels. Therefore, the first year of revenue will occur in FY 09 and will be \$82,600. In FY 10, revenue will be \$112,840 (= \$82,600 + \$30,240).

Technical Issues. This bill *does not* repeal the current program: Section 4(f) appears to provide that it continues. Therefore, this fiscal analysis assumes the existing program continue at its present level. However, the bill would put the current program out of compliance with the law. To maintain the current program, Sections 4(e) and (h) should apply only to the new program: that outlined in Section 4(g).

If the new program *does* replace the existing program, the required additional cost would be somewhat less than outlined in this fiscal note as current staff could implement the new program (with some additions). However, total revenue to the state would be much less than indicated in the fiscal note, as the existing program is a much more cost-efficient and revenue-efficient method to offer lands to Alaska. The Department is currently preparing this financial information, and it should be available within the next week.

Also, the bill mandates that survey and appraisal is completed in one year. As outlined above, many years of experience with this issue shows a one-year schedule to be almost impossible. A more realistic expectation is 2 to 5 years. Based on DNR's current practice, the minimum time to accomplish these tasks is two years: one for survey and one for appraisal. Therefore, the requirement in Section 3 (line 2 of page 3) should be removed.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 319(FIN)
(H) Publish Date: 4/21/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Remote Rec. Cabin Site Sales/Lottery Sale RDU: Resource Development
Component: Oil and Gas Development
Sponsor: Rep. Fate, Wolf
Requester: House Finance Component No.: 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	22.5	22.5	22.5	22.5	22.5	22.5
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	22.5	22.5	22.5	22.5	22.5	22.5

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	22.5	22.5	22.5	22.5	22.5	22.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	22.5	22.5	22.5	22.5	22.5	22.5

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 319 establishes a new land disposal program under AS 38.05.600. Section 5 of the bill specifies that land offerings may not include mineral land selected by the state or lands identified by DNR as having high mineral potential. A petroleum geologist in the Division of Oil & Gas would need to review the proposed land disposals to ensure that high potential oil and gas were excluded from land offerings.

Prepared by: Mark D. Myers Phone 269-8800
Division: Oil and Gas Date/Time 3/15/04
Approved by: Thomas Irwin, Commissioner Date 3/15/04
Agency: Natural Resources

Representative
HUGH "BUD" FATE
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House District 7

House of Representatives Sponsor Statement

CS for HB 319 (FIN) am

"An Act relating to the disposal of state land by lottery; relating to the reservation of rights by the state in land contracts and deeds; relating to the disposal, including sale or lease, of remote recreation cabin sites; and providing for an effective date."

CS HB 319 is legislation to help move Alaska State land into the hands of private individuals. Presently, Alaska holds millions of acres of remote area land that is generating no revenue for the state, or local nearby governments.

By leasing or selling remote cabin sites, individuals will hold the surface rights to those lands. The initial cost will be minimal to residents through public sale or lease agreements. They will incur the costs of a survey and appraisal.

Since the majority of the sites are remote, the means of access could result in the purchase of off road vehicles, and in some cases boats and motors. Once improvements begin, the new landowner will be purchasing building materials, fuel, and other necessities to make the cabin as comfortable as possible. The economic trickle down effect could be huge, as it will also be felt in the real estate market.

CS HB 319 makes good economic sense for state government, local government, Alaska businesses and Alaskans. It will generate a source of revenue, and fulfill a promise to those Alaskans who want that remote cabin, a place to escape, to hunt and fish, or simply enjoy a mini-vacation. Passage will expand the opportunity to satisfy the dream of Alaskans by allowing them to secure in fee simple, a favored piece of property in a setting that epitomizes the reason we live in Alaska; to enjoy its wildlife, its beauty and its solitude

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House of Representatives Sectional Analysis CS HB 319 (FIN) am

Section 1.

Existing statutory language is changed in reference to the amount of deposit required by a purchaser from five to ten-percent.

Section 2.

Adds AS 38.05.600 to the list of lands contract language that the state currently uses as part of the purchase agreement. The remainder of the section is devoted to correcting changes in legal grammar.

Section 3.

Allows the Commissioner to sell state land for remote cabins at fair market value based on a survey and appraisal done by either the department or an approved surveyor and appraiser. The purchaser is assessed these costs. The language gives the Department a maximum of 24 months to accomplish these tasks.

Section 4.

Directs the Commissioner to implement the Remote Cabin Language each year by preparing land offerings that are not considered high mineral potential lands based on scientific and technical data. The language further establishes guidelines for the Remote Cabin sites including maximum parcel sizes and, waterfront requirements on both lakes and rivers and that land purchased under this bill is subject to the "no more clause" of ANILCA. It also includes language to assure the state's right of way for access along navigable waters.

Section 5.

Applies language to parcels staked after January 1, 2005 so the law does not change existing parcels staking agreements.

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House District 7

House of Representatives

Changes in CSHB 319 (FIN) am From RESOURCES Version

Section 1

Is unchanged

Section 2 & 3

Is contract language between the buyer and the State. The Resources version had penalty language for filing a suit, which was supported by Section 3 of the bill. That language, and its supporting legislation have been deleted.

After renumbering section 4 to Section 3.

Language that allowed for public and private sales in another section of the bill has been deleted.

Section 4

Language was changed to limit nominations to residents rather than the general public. The first right of refusal clause in section (g) was eliminated in favor of a lease application under existing statute. The buffer zones between parcels, was eliminated making it easier for surveyors, similar buffer language relating to rivers was also eliminated. Because of platting restrictions in some organized boroughs the size of a parcel may be up to 10 rather than five acres. Likewise, because of the potential increase in parcel size the amount of waterfront footage was increased from a maximum of 400 feet to 700 feet. It also includes language to assure the public right of way access to navigable water.

Section 5

The effective date of 01/01/05 was added to allow the department to continue with remote parcels already being staked that might be in excess of 10 acres.

HB 319 Revenue Assumptions

I. FINANCIAL ASSUMPTIONS

- | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|
| 1) Ready Applicants/year | <u>YR1</u> | <u>YR2</u> | <u>YR3</u> | <u>YR4</u> | <u>YR5</u> |
| | 1000 | 800 | 600 | 500 | 500 |
-
- | | | | | | |
|--|-----|-----|-----|-----|-----|
| 2) Ready Willing Buyers
(66% Purchase Rate) | 666 | 528 | 396 | 330 | 330 |
|--|-----|-----|-----|-----|-----|
- A) Two (2) Categories of Buyers:
- o 20 % 100% Cash Purchase/ 0 Financed
 - o 80 % 10% Down/90 % Financed
-
- 3) Average Minimum Price/Acre: \$ 900/acre
-
- 4) Investments:
- A) 5% Annual Yield
-
- 5) Financing
- A) 7% Annual Percentage Rate (Prime +3% on loans)
 - B) 10% Down Payment/90% Financed
 - C) 60 Month Term (10 years, loans 10,000 +)
-

II. PARCEL ASSUMPTIONS

1) Desirable Remote Parcels:

- a. River Frontage
- b. Ocean Frontage
- c. Lakeshore Frontage
- d. Highway Frontage
- e. View Properties

2) Land Characteristics

- a. Fee Simple Ownership
- b. 5.0 acres Parcels/Subdividable into (4) 1.25 acre lots
- c. Some Ground Trans Access (snowmobile, 4-wheeler, boat, vehicle)
- d. Contracts for Sale/Lease option to purchase
- e. No State of Alaska Fire Protection
- f. No State of Alaska "Trail construction or maintenance.

3) Purchasers bears ALL cost of acquiring Fee Simple Title

- o Appraisals
- o Surveys
- o Title Insurance
- o Recording Costs
- o Legal Expenses (documentation)

4) Purchaser will pay for all Site Improvements:

- a. Roads and trail access construction/maintenance
- b. Structures/Buildings
- c. Materials/Supplies
- d. Real Estate Improvements (wells, septic, power, etc.)

5) The land purchase has Value Added Benefits:

- a. Labor/Construction
- b. Materials purchase
- c. Fuel/energy consumption
- d. Future Real estate transactions(Resale/subdivision)

III. NARRATIVE DESCRIPTION

The program is a first come, first serve basis with a right to request first refusal. Applicants apply to DNR for selection of a 5.0 acre parcel. After a best interest finding and public notice, the applicant pays for staking, surveying, and appraisal of the parcel. This data is then submitted to DNR for review. Because HB 319 opens such large areas, there will be considerable public interest regarding what land is available.

Access concerns will be borne by the purchaser. DNR, or local governance authorities will not be expected to develop or maintain access routes or utilities. This new program will place considerable demands on DNR to provide information, particularly through the DNR public information offices in Anchorage, Fairbanks, and Juneau. At least one Natural Resource Tech II will be placed at each location to handle applications.

DNR will need to provide the public with accurate land status information for millions of acres of state land so the public knows what land is available, including the location of existing third-party interests, mining locations, Mental Health Trust Land, Native allotment locations, and trail and access information.

Specific tasks include:

- 1) DNR develops regulations to implement this disposal of land, establish qualifications, methods for resolving conflicting claims, etc.
- 2) DNR identifies land available for entry under this program-from state and federal status plats based upon state ownership, land classifications, municipal entitlements, existing private lands, Native allotments, etc. They would need to make available existing maps of several million acres available for selection.
 - a. Produce additional maps from existing supply.
 - b. Print and distribute maps
- 3) After the Notice period and once accepted by DNR, the purchaser orders and pays for: survey, appraisal, recordation and documentation.
- 4) DNR approves a list of qualified appraisers and surveyors acceptable to the State of Alaska. That list will be provided to the purchasers to choose these services. These individuals are already approved by DNR, therefore, a comprehensive review of their work will not be necessary. Appraisals and surveys will not be accepted by the State of Alaska from any individual who has not been qualified and accepted by the State of Alaska. The higher the designation of the contractor, the lower the amount of review time will be required by the State of Alaska to verify validity and accuracy.

FY04 and following years- The filing period starts in October of 2004 and continues indefinitely. In the first (12) months, funding for (4) Natural Resource Tech II's and (1) Natural Resource Officer II will be required to begin implementation of the new land disposal program. Beginning January 1, 2005 a Cartographer III will be hired and on April 1, 2005, an Appraiser II and a Land Survey Assistant II will be added to staffing. When applications begin 10/1/04, DNR will be fully staffed with (5) Full-time employees. By the end of FY05, (3) more Full-time employees will be added to implement the program. DNR will perform the following functions:

- 1) DNR Public Information Office staff to field program inquires.
- 2) DNR accepts applications, certifies they qualify.
- 3) DNR reviews and approves applications and land available for selection.
- 4) DNR performs a Best Interest finding and provide Public Notice.
- 5) DNR reviews appraisal and survey
- 6) DNR issues title documents and closes the land sales transaction.

The purchaser performs the remaining functions and pays for the cost of implementation and acquisition of fee simple title.

DNR Analysis Continuation

I. Assumptions

A. Applications

The fiscal note assumes that DNR would process 1000 applications in the first year under the new program. DNR must approve parcels nominated by individuals. (If more than 1000 individuals apply, a backlog could be established and more staff might be needed.) Application volume is anticipated to diminish in the ensuing years.

- ❖ In 2001-2002 Lottery Sales recorded 587 - 776 Applications ("Inferior parcels")
- ❖ In 2002-2003, Subdivision and OTC Sales recorded 894 - 1928 Applications ("Comparable parcels")

This New Land Disposal Program will undoubtedly be more popular than either the lottery or subdivision offerings. Regardless, it seems that DNR estimates 150 applications is extremely low and 1000 applications, is more realistic, based on historical participation regarding land disposal sales.

We anticipated the following application volume:

<u>Region</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>
South-Central Applications	500	400	300	250	250
Interior Applications	250	200	150	150	150
Southeast Applications	100	100	50	50	50
Other Applications	150	100	100	50	50
Total Applications	1000	800	600	500	500

This program does not replace the existing program and costs. Especially in platting and mapping, these costs have already been experienced in previous years.

B. Staffing

Based on current staffing levels, it is felt volume can be handled as follows:

A. Anchorage (South-Central)

250 work days x 2 Tech Staff = 500 work days
500 Applications/500 work days = **1.0 Application/day**

B. Fairbanks (Interior)

* 125 work days x 1 Officer = 125 work days * (Management Functions)
250 work days x 1 Tech Staff = 250 work days
250 Applications/250 work days = **1.0 Application/day**

C. Southeast and Other

* (Management Functions)
* 125 work days x (1) Officer = 125 work days
125 work days x 1 Tech Staff = 125 work days
250 Applications/250 work days = **1.0 Applications/day**

Our assumptions provide (4) Tech Staff positions and (1) Officer II positions. Under these proposed staffing levels, DNR would be expected to process and approve (1.0) Applications/day. That seems feasible and realistic.

The bill does not eliminate the existing program. Thus, the fiscal note also assumes that the existing program continues at its current level.

II. The New Program

The bill would require individual processing for **5.0** acres parcels in locations throughout the state chosen by the applicant. This bill proposes that a member of the public can nominate a specific site. DNR would process the title, conduct a best interest finding, and easement decisions, etc. for that individual. The process would be repeated for each individual parcel, with the exception of the best interest findings, which could be used for large areas containing many remote parcels.

III. Cost for HB 319

The new aspect of the program, the bill requires individual processing. For example, under the existing program, parcels can be reviewed in batches, combining survey reviews, appraisal reviews, best interest findings, and title searches. The bill would require prior separate survey reviews and appraisal reviews as state approved private individuals will be utilized.

DNR estimates that this portion of the program will require the following staff:

- 1 Appraiser II - @ \$66.0 FY06
- 1 NRS II - @ \$58.0
- 2 NRS I - @ \$52.0/each
- 1 NRS I (part time) - @ \$26.0
- 1 Land Survey Assistant - @ \$58.0 FY06
- 1 Cartographer II - @ \$56.0 FY06

Total Personal Services 369.0

DNR anticipates needing 4-5 positions in FY05 to begin implementation of this program. The Cartographer II, Appraiser II, and Land Survey Assistant II will be added in FY06 to consummate closings of applications in process for FY05.

We anticipate staff levels to be as follows:

PROJECTED DNR EXPENDITURES

A. STAFFING (7.5)

IV. Anchorage

		<u>Salary</u>	<u>Benefits</u>	<u>Totals</u>
1) Appraiser II	16c	48,000	18,000	66,000
2) Land Survey Asst II	15a	40,000	18,000	58,000
3) Nat. Resources Tech II	12a	36,000	16,000	52,000
4) Nat. Resources Tech II	12a	36,000	16,000	52,000
5) Cartographer III	15a	40,000	16,000	56,000

V. Fairbanks

1) Nat. Resource Off II	16c	42,000	17,000	59,000
2) Nat. Resource Tech II	12a	36,000	16,000	52,000

VI. Juneau

1) Nat. Resource Tech II (part- time)	12a	18,000	8,000	26,000
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TOTAL		\$296,000	\$125,000	\$421,000
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B. EQUIPMENT

Computers, Printers, Copiers, Fax
Office Furniture

TOTAL	10,000
--------------	---------------

C. **CONTRACTUAL**

Map Services

Documentation Preparation/Recording

Printing Expenses

TOTAL

30,000

D. **TRAVEL**

10,000

E. **SUPPLIES**

5,000

TOTAL EXPENDITURES

**-----
(\$476,000)**

DNR assumes survey and appraisal reviews must be conducted "in-house." This is not necessary, but the private parties chosen are subject to review by the State of Alaska. Those on the approved list with high designations will require less "review" scrutiny.

This is the bottleneck now in Land Disposal Sales. Private industry is quick and more efficient, thus allowing closings and revenue to be realized within 12-18 months as opposed to 24-36 months as currently is the case with the department.

A Natural Resource Officer II position is needed to make decisions in Anchorage and Fairbanks on pending applications. A review surveyor and appraiser are needed and would allow the timing of the sales process to improve, as these people would be specifically assigned to this program, and would work **only** on those applications.

VII. Revenues

Revenue generated under this bill would be a function of parcel size, per-acre price, number of parcels sold and scheduling assumptions as outlined below. (See **Revenue Projections**)

FY06 REVENUE PROJECTIONS

(July 1, 2005 – June 30, 2006)

I. SALES REVENUE

A. CASH SALES (10/31/05 – 12/31/05) 250 Applications @ 66% Purchase Rate = 165 Closings @ 20% [33 Parcels x 5.0 acres/ parcel x \$900/acre] =	\$ 148,500
10% DOWN SALES (\$450/parcel) @ 80% [132 Parcels x \$450/parcel] =	\$ 59,400
B. CASH SALES (12/1/05 – 2/28/06) 100 Applications @ 66% Purchase Rate = 66 Closings @ 20% [13 Parcels x 5.0 acres/parcel x \$900/acre] =	\$ 58,500
10% DOWN SALES (\$450/parcel) @ 80% [53 Parcels x \$450/parcel] =	\$ 23,850
C. CASH SALES (3/1/06 – 6/30/06) 200 Applications @ 66% Purchase Rate = 132 Closings @ 20% [26 Parcels x 5.0 acres/parcel x \$900/acre] =	\$ 117,000
10% DOWN SALES (\$450/parcel) @ 80% [106 parcels x \$450/parcel] =	\$ 47,700
TOTAL FY06 CASH SALES REVENUE	\$ 454,950

II. INTEREST INCOME (5% return)

CASH DEPOSITS	
(10/1/05 – 12/31/05) [\$207,900; 6mo. @ 5% monthly] =	\$ 5,222
(12/1/05 – 2/28/06) [\$ 82,350; 4mo. @ 5% monthly] =	\$ 1,369
TOTAL FY06 INTEREST INCOME	\$ 6,591

III. FINANCE REVENUES (1/01/06 – 6/30/06)

A. 10% DOWN SALES/90% FINANCED (1/1/06 – 6/30/06) [132 Parcels; \$4,050 @ 7%, 60 mo.] (\$80.21/mo. x 6 months) =	\$ 63,526
B. 10% DOWN SALES/90% FINANCED (3/1/06 – 6/30/06) [53 Parcels; \$4,050 @ 7%, 60mo.] (\$80.21/mo. x 4 months) =	\$ 17,004
TOTAL OF PAYMENTS	\$ 80,530

TOTAL FY06 PROJECTED REVENUES = \$542,071

FY07 REVENUE PROJECTIONS
(July 1, 2006 – June 30, 2007)

IV. SALES REVENUE

D. CASH SALES (7/1/06 – 9/30/06) 150 Applications
@ 66% Purchase Rate = 100 Closings
@ 20% [20 Parcels x 5.0 acres/ parcel x \$900/acre] = \$ 90,000

10% DOWN SALES (\$450/parcel)
@ 80% [80 Parcels x \$450/parcel] = \$ 36,000

E. CASH SALES (10/1/06 – 12/31/06) 150 Applications
@ 66% Purchase Rate = 100 Closings
@ 20% [20 Parcels x 5.0 acres/parcel x \$900/acre] = \$ 90,000

10% DOWN SALES (\$450/parcel)
@ 80% [80 Parcels x \$450/parcel] = \$ 36,000

E. CASH SALES (1/1/07 – 4/30/07) 150 Applications
@ 66% Purchase Rate = 100 Closings
@ 20% [20 Parcels x 5.0 acres/parcel x \$900/acre] = \$ 90,000

10% DOWN SALES (\$450/parcel)
@ 80% [80 parcels x \$450/parcel] = \$ 36,000

F. CASH SALES (5/1/07 – 6/30/07) 100 Applications
@ 66% Purchase Rate = 66 Closings
@ 20% [13 Parcels x 5.0 acres/parcel x \$900/parcel] = \$ 58,500

10% DOWN SALES (\$450/Parcel)
@ 80% [53 Parcels x \$450/parcel] = \$ 23,850

TOTAL FY07 SALES REVENUE = \$460,350

**I. INTEREST INCOME (5% return)
CASH DEPOSITS**

A & B. (7/1/05 – 6/30/06)	\$290,250, 12 mo. @ 5% monthly]	=	\$14,807
C. (3/1/06 - 6/30/06)	\$126,000, 12 mo. @ 5% monthly]	=	\$ 8,402
D. (7/1/06 – 9/30/06)	\$126,000, 9 mo. @ 5% monthly]	=	\$ 4,786
E. (10/1/06 – 12/31/06)	\$126,000, 6mo. @ 5% monthly]	=	\$ 3,165
F. (1/1/07 – 4/30/07)	\$126,000, 2mo @ 5% monthly]	=	\$ 1,035
G. (5/1/07 – 6/30/07)	\$ -0-	=	<u>\$ -0-</u>

TOTAL INTEREST INCOME FY07 = \$32,195

II. FY06 FINANCE REVENUES (7/01/06 – 6/30/07)

a. 10% DOWN SALES/90% FINANCED (10/31/05 – 12/31/05) [132 Parcels; \$4,050 @ 7%, 60 mo.] (\$80.21/mo. x 12 months)	=	\$ 127,052
b. 10% DOWN SALES/90% FINANCED (12/1/05 – 2/28/06) [53 Parcels; \$4,050 @ 7%, 60mo.] (\$80.21/mo. x 12 months)	=	\$ 51,013
c. 10% DOWN SALES/90% FINANCED (3/1/06 – 6/30/06) [106 Parcels; \$4,050 @ 7%, 60mo.] (\$80.21/mo. x 12 months)	=	\$102,027

IV. FY07 FINANCE REVENUES (7/01/06 – 6/30/07)

d. 10% DOWN SALES/90% FINANCED (7/1/06 – 9/30/06) [80 Parcels; \$4,050 @ 7%, 60 mo.] (\$80.21/mo. x 9 months)	=	\$ 57,751
e. 10% DOWN SALES/90% FINANCED (10/1/06 – 12/31/06) [80 Parcels; \$4,050 @ 7%, 60mo.] (\$80.21/mo. x 6 months)	=	\$ 38,500
f. 10% DOWN SALES/90% FINANCED (1/1/07 – 4/30/07) [80 Parcels; \$4,050 @ 7%, 60mo.] (\$80.21/mo. x 2 months)	=	\$ 12,833
G. SALES (5/1/07 – 6/30/07) = No Closings proceeds	=	\$ -0-

TOTAL OF PAYMENTS \$389,176

TOTAL FY07 PROJECTED REVENUE = \$881,721

FY06 REVENUE PROJECTION SUMMARY

A.	CASH SALES	DEPOSIT	=	\$ 148,500
		DEPOSIT	=	\$ 58,500
		DEPOSIT	=	\$ 117,000
B.	10% DOWN SALES	DEPOSIT	=	\$ 59,400
		DEPOSIT	=	\$ 23,850
		DEPOSIT	=	\$ 47,700
		TOTAL DEPOSITS to PRINCIPAL	=	\$ 454,950
C.	INTEREST INCOME OF INVESTMENT (5%) 12 mo.		=	\$ 6,591
E.	FINANCE INCOME ON LOANS (7%)			
	[132 parcels x 6 mos, \$(4,050 loans)		=	\$ 63,526
	[53 x 4 mos, \$(4,050 loans)		=	\$ 17,004
		TOTAL FINANCE INCOME	=	\$ 80,530
		TOTAL PROJECTED REVENUE FOR FY06	=	\$ 542,071

FY07 REVENUE PROJECTION SUMMARY

A.	CASH SALES	DEPOSITS	=	\$ 328,500
B.	10% DOWN SALES	DEPOSITS	=	\$ 131,850
		TOTAL DEPOSIT to PRINCIPAL		\$ 460,350
C.	INTEREST INCOME ON DEPOSITS		=	\$ 32,195
D.	FINANCE INCOME ON LOANS			
	FY06		=	\$127,052
			=	\$ 51,013
			=	\$102,027
	FY07		=	\$ 57,751
			=	\$ 38,500
			=	\$ 12,833
		TOTAL FINANCE INCOME	=	\$389,171
		TOTAL FY07 PROJECTED REVENUE	=	\$881,721

A. Parcel Size

This bill proposes the maximum size of **5.0** acres. Under the current program, applicants choose the size of their parcel. The average size chosen under the current program is approximately 13.6 acres. (The minimum size is 5 to 10 acres depending on the area. Minimum size is established to comply with local platting board or waste disposal requirements. Maximum parcel size is 20 acres). **5.0** acres is the size associated with this legislation.

B. Parcel Price

Remote land in Alaska is inexpensive. The selling price for Remote Recreation Cabin Parcels staked in FY01 and FY02, which was the first by lottery offer, averaged **\$620/acre**. Small parcels sell for less than larger parcels, though the per-acre price is higher. Currently, the average size Alaskans chose to stake is 13.6 acres. Department appraisers estimate, that all else being equal, the per-acre price ratio between a 13-acre parcel and a 5.0 acre parcel is **1.45**. The **\$620/average price per acre** is the lowest ever realized. Current sales have averaged **\$1238 – 1432 per acre**.

This fiscal note assumes that a 5.0 acre parcel will bring in **\$900 per acre**. (DNR's Ratio Conversion is: $\$620/\text{acre} \times 1.45 = 900$). That is, each parcel brings in **\$4,500** to the Department ($=\$900/\text{acre} \times 5.0 \text{ acres}$).

Total Potential Revenues: $\$4500/\text{parcel} \times 1000 \text{ applicants} = \mathbf{\$4,500,000}$

This would assume **100%** "cash buyers." With only **20%** cash buyers, **\$900,000** would be generated by FY06. From "Financed" buyers, conservatively, **\$500,000** will be generated in revenue the first year that applications are received.

C. Purchase Rate

In the current program, only **43%** of people issued staking authorizations go on to purchase their parcels. We assume there is higher demand for these parcels and the Department estimates **66%** will purchase. Willing applicants will result in **666** purchasers (**66%**). The remainder decide not to continue somewhere during the process. The Department is working to bring up the purchase rate. However, this rate is actually greater than similar historical programs. The Department's homestead/homesite programs allowed people to gain ownership through either purchase or prove-up.

Only **33%** of the people who initially sought remote parcels followed through to ownership (two-thirds dropped out). It is possible that those who apply in the program proposed by this bill will have a higher purchase rate than past programs. However, individuals do not understand the major cost in time and money until they try to hire a surveyor and appraiser. This fiscal note assumes a **66%** purchase rate or **666** parcels the first year. This is **below** historical trends.

D. Financing

The bill assumes current State practices for financing: Approximately 20% of applicants purchase outright and 80% finance their purchase over 10 years. The current interest rate is 7%. We assumed 5 years due to small loan amounts. DNR's terms would produce higher revenues than we project.

E. Schedule

The bill does modify DNR's existing survey and appraisal practice, but requires that reviews be completed within two years. Currently, the department contracts with private surveyors, on behalf of the individuals, and is able to complete the survey and appraisal process within two years. Individuals who are familiar with surveyors and appraisers take far less time. The Department believes that the minimum time for the process is two years: one summer for survey (survey instruction from DNR, survey by a private contractor, then review by DNR), and a second year for appraisal (instructions from DNR, appraisal by a private contractor, then review by fiscal year end). The schedule is as follows:

FY 05 to prepare regulations for this new program, information for the public, and begin receiving initial applications in the first half of FY05. DNR processing of applications (title search, best interest finding, public notice, etc.) would occur in FY05-06. Land surveys would occur primarily in FY06. DNR and Borough approval of surveys would occur in FY06. Half (50%) of the parcels may be purchased or will enter into sale contracts in FY06. Based on experience with past programs where applicants were required to get their own parcel surveyed and appraised, this is a very optimistic schedule.

This Department's timing is unreasonable as a "review" process is not as extensive through utilization of "qualified, state approved, surveyors and appraisers." Private Sector Contractors, based on market demand and financial ventures will provide faster results. The prime function of state appraisal and survey is not in the field, but to review work in the office, which reduces time and expense within the Department.

Since these parcels are chosen by private individuals, we anticipate a faster schedule (See **TIMELINE**).

HB 319 "TIME LINE"

- I. Regulations/Forms/Program Guidelines (90 Days)
 - a. July 1, 2004 – September 30, 2004

- II. Applications/Selections/Title Search/Staking Packets (1000 Applications)
 - a. October 1, 2004 – December 31, 2004
* 250 Applications Received
 - b. January 1 – April 30, 2005
* 100 Applications Received
 - c. May 1 – July 31, 2005
* 350 Applications Received
 - d. August 1 – October 31, 2005
* 300 Applications Received

- III. Best Interest Finding Period (90 days)
 - a. January 1 – March 31, 2005- Remote Cabin Best Interest determined - 250
 - b. April 1 – June 30, 2005 – 100
 - c. July 1 – September 30, 2005 – 350
 - d. October 1 – December 31, 2005 – 300

- IV. Public Notice Period (60 days)
 - a. April 1 – May 31, 2005- Publish "Draft" of Best Interest Finding.
 - b. June 1 – June 20, 2005 - (20 days) Appeal period - 250
 - c. July 1 – August 31, 2005 – 100
 - d. September 1 – September 20, 2005 – (20 days) Appeal period
 - e. October 1 - November 30, 2005 – 350
 - f. December 1 – December 20, 2005 – (20 days) Appeal period
 - g. January 1, 2006 – February 28, 2006 – 300
 - h. March 1 – March 20, 2006 – (20 days) Appeal period

- V. Appraisals/Surveys (30 days)
 - a. April 1 - July 31, 2005 - Applicant orders fee simple appraisal/surveys (250)
 - b. August 1 – October 31, 2005 – Applicant orders fee simple appraisal/surveys – (100)
 - c. November 1, 2005 – February 28, 2006 – Applicants order fee simple appraisals/surveys – (350)
 - d. March 1, 2005 – May 31, 2006 - Applicants order fee simple appraisal/surveys – (300)

- VI. **DNR Review of Appraisal and Surveys (30 days)**
 - a. May 1 – September 30, 2005 – DNR accepts Appraisals/Surveys (250)
 - b. September 1 – November 30, 2005 - DNR accepts Appraisals/Surveys (100)
 - c. December 1 – April 30, 2006 - DNR accepts Appraisals/Surveys (350)
 - d. May 1 – September 30, 2006 - DNR accepts Appraisals/Surveys (300)

- VII. **Document Preparation (30 days)**
 - a. October 1, 2005- June 30, 2006- DNR performs title search and prepares (600) "contract for sale" documents or issues patent for cash purchasers
 - b. July 1, 2006 – April 30, 2007 – (400)

- VIII. **Closings (60 days)**
 - FY06**
 - a. October 1 – December 31, 2005 – DNR Closes the sale transaction of 250 Applications
 - b. December 1, 2005 – February 28, 2006 – Close (100) Applications
 - c. March 1, 2006 – June 30, 2006 – Close (200) Applications
 - FY07**
 - d. July 1, 2006 – September 30, 2006 – Close (150) Applications
 - e. October 1 – December 31, 2006 – Close (150) Applications
 - f. January 1 – April 30, 2007 – Close (150) Applications
 - g. May 1 – June 30, 2007 – Close (100) Applications

DNR collects revenue, with proceeds deposited to the Land Disposal Fund

FY05/FY06

- A. Prepare regulations and information to public July 1, 2004 – Sept. 30, 2004
- B. September 30, 2004 –October 31, 2005 – First 1000 applicants with one year for DNR processing (title search, best interest finding, public notice, etc.)
- C. November 1, 2005 – June 30, 2006 – 550 Cash buyers, in revenue by year end.
- D. July 1, 2006 – June 30, 2007 – 550 closings to begin January 1, 2006 –April 30, 2007 (estimated revenues by year end FY07).

*Revenues begin in FY06 (18 months from the effective date).

Summary

The total amount of parcels (20%) sold for "cash" will be \$542,071 in FY06 and \$460,350 in FY07 (1100 parcels at \$4500/parcel). The total value "financed" will be 425 (parcels at \$4500/parcel) at 80%.

Income payments should generate \$80,530 in FY06 with another \$389,176 in payments in FY07 on financed parcels.

In total, by FY07 approximately \$1,423,792 revenues can be realized "conservatively" and can justify the \$476,000/year in expenses to administer the new program. Revenues will grow substantially after the word is out.

A. Technical Issues

This bill does not repeal the current program and provides that they continue indefinitely. Therefore, this fiscal analysis assumes the existing programs continue at their present level. The existing program is **not** a more cost-effective and revenue-efficient method to offer lands to Alaskans. The new program streamlines costs and passed this function on to private enterprise.

DNR feels it will take 5 years to realize revenue. This is inaccurate. Once the application is approved, a financially secure individual could have an appraisal and a survey within 30 days, 90 days maximum. A title company needs 10 days to close. It is not that complicated to sell land in Alaska.

This is a "fast track" purchase requiring only oversight by DNR. Participation is limited to selection and specifically NOT in surveying and appraising the selected lands other than to review contractor's work. That is the problem we have today. This bill changes that substantially to generate revenue and give everyone a chance to own "a Piece of Alaska."

Prepared by James F. Dieringer, III

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HB 319 House State Affairs

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PO Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

To: Members of the House State Affairs Committee
From: Matt Davidson, Legislative Director for the Alaska Conservation Voters
Date: February 2, 2004
Subject: HB 319

HB 319 establishes a new land disposal program within the Department of Natural Resources (DNR) that allows state residents the exclusive right to purchase state lands which they have three consecutive years of prior recreational use. HB 319 is very similar to HB 233, considered in the 22nd Legislature. During testimony on HB 233 (22nd), the Department of Natural Resources enumerated many concerns with the legislation. Given these and other problems with HB 319, this bill should not move from the House State Affairs Committee.

HB 319 Gives Exclusive Purchase Rights

The proposed program strays from all existing land sale programs by giving individuals the exclusive right to purchase state resources. The vast majority of existing state land sales are currently made through either an auction and/or lottery systems. (Sect 3. (a))

HB 319 Encourages Trespass

The program would encourage people to build illegal cabins and other structures to help demonstrate their use of the land, thereby qualifying for the program. (Sect 4. (g))

HB 319 Allows Misuse of Mining Claims

The existing mining law has a well established criterion for the legitimate granting of title to holders of mining claims. The program described in HB 319 (Sect 4. (g)) undercuts the current program and could make mining claims a backdoor to gain land not available to all Alaskans.

HB 319 Invites Conflict between Potential Owners, Users

HB 319 doesn't contain a mechanism to deal with conflicts between potential owners and other users of individual recreational lands. Under the bill, DNR will give a preference to the first applicant who establishes recreational use. It is not difficult to imagine a scenario where one user with three annual trips to a prime recreational location would beat out another potential owner with 30 years of use of the same parcel or a business who has a state permit to use the parcel. HB 319 contains no direction of how to settle conflict between potential owners, users.

HB 319 Is Costly/Cumbersome to the State of Alaska

The self selection provision outlined in HB 319 will result in individuals applying for isolated and scattered parcels. Under the current state land sale program, DNR groups parcels and offers them as well planned clusters. The program requires one title check, one best-interest finding and so on, proving to be more efficient than the proposed exclusive-right program.

Alaskans building a better future.

HB 319 Adversely Effects Wildlife

Fish and game resources are easily over harvested following the settlement of formerly wild lands and waters. Wildlife which attracts private development will soon be depleted with more continuous pressure to the detriment of occasional campers and private landowners alike.

HB 319 Fails to Recognize Expense and Threat of Forest Fires

HB 319 furthers the issue of increased and continuing costs of protecting scattered private cabins from forest fires. The bill adds to the burden of firefighting costs where fires are now simply monitored, but not fought.

HB 319 Conflicts with Municipality Acreage Requirements

As stated by DNR, 10 acres is what is generally considered the minimum size for onsite sewage disposal. The proposed program violates municipal platting rules in the Fairbanks North Star Borough and Kodiak Borough.

HB 319 Consents to Selling Land for Less than Market Value

The proposal program does not guarantee the state a good return on the sale of prime state land. In fact, Line 7 of Sec.1 states the commissioner may sell land by lottery for less than fair market value of the land on a determination that scarcity of land available in the area makes the market value unrealistic.

Alaskans building a better future.

Representative
HUGH "BUD" FATE
Finance Committee
Energy Council-Executive Committee
119 N. Cushman St. Suite 213
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House District 7

House of Representatives

Memorandum

To: House State Affairs Committee
Fm: Representative Hugh Fate
Cc: Alaska Conservation Voters (via fax)
Date: February 3, 2004
Re: Alaska Conservation Voters Memo on HB 319 & Proven High Mineral

As requested by the Committee I would like to take this opportunity to response to Alaska Conservation Voters Memo on HB 319, submitted by Matt Davidson, Legislative Director on February 2, 2004.

The H version of HB 319 is language that existed in CS for HB 232 (RES) and served as a starting point based on discussions and amendments from the 22nd Alaska Legislature. I felt that this offered a better starting point for this legislature as some of the concerns had already been answered and resolved.

As the Memo was written prior to the amendments adopted as the CS for State Affairs I believe that the issues of, or at least a definition of, Exclusive Purchase Rights, Trespass, and Misuse of Mining Claims have been addressed.

Under the reference and scenario Invites Conflict: to a certain extent that concern has also been addressed in the amendment "...and request a right of first refusal." Since it is only a request, should the scenario conflict arise, the decision will be up to the Commissioner of DNR for resolution. Business issues are already addressed in statute:

AS 38.05.035 Powers and duties of the director states:

(f) **The director shall grant a preference right** to the purchase or lease **without competitive bid** of up to five acres of state land to an individual who has erected a building on the land and used the land for **bona fide business purposes** for five or more years under a federal permit or without the need for a permit and, after selection by the state, under a state use permit or lease, if the business

produced no less than 25 percent of the total income of the applicant for the five years preceding the application to purchase or lease the land. The director shall sell or lease the land at a price determined by the director to represent the current fair market value of the unimproved land but in no event less than the cost of administration including survey if required. If the director determines in a written finding that the purchase or lease of the land would interfere with public use by residents of the area, the director may condition the purchase or lease to mitigate the adverse effects on the public use or may reject the application for the preference right. A lease granted under this subsection may not be for a period in excess of 50 years. In this subsection, "business purposes" means a purpose permitted under the classification of the land at the time the land was entered. (emphasis added)

Costly and Cumbersome to the State of Alaska

As the Fiscal note indicates, an annual cost of \$433,000. I concur that those numbers are very close to reality. What the fiscal note does not address, in part because it was generated prior to the proposed amendments, are the advantages to, and therefore the increase in interest of these remote cabin sites. Presently, the Department offers land through the lottery, auction or over the counter sale. Much of the land currently being offered is either extremely remote with very limited access, or has inherent problems to topography to include wetlands. HB 319 will change that by allowing the public to identify sites that are preferred, and are of a more practical and economical size. This preference process will assist the Department by letting them know what people want. As indicated in the fiscal note, the price per acre will increase because of a simple supply and demand scenario meaning the land will have a higher value, conservatively between \$1,000 and \$1,500 per acre or \$5,000 to \$7,500 per site. I believe that once this program is in place the annual statewide demand could exceed 1,000 sites with a higher percentage of sites actually staked. Also because of a better quality of land, there will be a decrease in defaults. Essentially, the income for the state will far exceed the costs. I have attached some scenarios for your consideration.

Adversely Effects Wildlife

The wildlife impact is negligible as the five-acre site, combined with buffer zones both in existing statutes and this bill will eliminate an urban type private development situation. Under private ownership, people traditionally treat the wildlife on their property with more, not less respect. In many cases occasional campers are not necessarily the best stewards of the land they use, leaving signs of their visit behind or are there for the specific reason of hunting and fishing.

Expense and Threat of Forest Fires

The current policy of protecting remote cabins from forest fires is to say the least a nice gesture on behalf of firefighters, when in fact there is no requirement to do so.

AS 38.04.010 Public interest in making land available for private use.

(b) State land that is located beyond the range of existing schools and other necessary public services, or that is located where development of sources of employment is improbable, may be made **available for seasonal recreational purposes or for low density settlement**. The seasonal recreation use or low-density settlement shall have sufficient separation between residences so that **public services will not be necessary or expected**. The availability of timber, firewood, and water resources shall be considered in determining separation between residences. By considering the availability of timber, firewood, and water under this subsection or in making any disposal decision, the state does not by virtue of that consideration imply any right of the person receiving the disposal to an exclusive or other right to the timber, firewood, or water, that the state will not make any other disposals in the area, or that any disposals made will be limited in type or any other manner.
(emphasis added)

Again I would suggest that occasional campers with open fires pose a more serious threat of wildfire, as they have no vested interest in the land nor do they have a permanent type structure to protect.

Conflicts with Municipality acreage

Rules and regulations restricting the size of borough land sites within a borough are applicable on borough owned land. The state presently owns millions of acres that are not within an organized borough. Eventual determination of borough issues should be left in the hands of the land experts on both sides. Should a borough chose to lose the potential property tax base, then that decision is and should be up to the local assembly.

Consents to Selling Land for less than market value

This is language already in existing language and is only referenced in this bill to increase the amount of deposit from five to 10 percent. I believe the increased deposit will serve to impede the default rate. I also reference the definition of Fair Market Value

AS 38.04.910. Definitions.

(3) "fair market value" means the price at which a willing seller and a willing buyer will trade;

Finally on what we are referencing as Amendment # 3- Page 3 line 9-12

We propose a simple solution that addresses two issues presented by the committee.

Line 10 on the H version Line 11 on the Amendment H.1 [~~delete bracketed language~~]

...for mineral values[, except for lands having a proven high mineral potential] based on geophysical survey....

Thank you for the opportunity to respond to this memo. I look forward to continuing discussion on HB 319 as I feel this is an important economic bill that will bring the Alaska dream to many of our residents who will become better stewards of the land they own than the state.

Attachments

HB 319 Revenue Assumptions

I. FINANCIAL ASSUMPTIONS

- 1) 2500 Ready Applicants
 - 2) 1000 Ready Willing Buyer
 - A) Three (3) Categories of Buyers:
 - o 20 % 100% Cash Purchase/ 0 Financed
 - o 20 % 25% Down/50% Financed
 - o 60 % 10% Down/90 % Financed
 - 3) Average Price: \$ 1,000/acre
 - 4) Investments
 - A) 5% Annual Yield
 - 5) Financing
 - A) 6% Annual Percentage Rate (Prime +2% on loans)
 - B) 10% Down Payment
 - C) 60 Month Term
-

II. PARCEL ASSUMPTIONS

1) Desirable Remote Parcels:

- a. River Frontage
- b. Ocean Frontage
- c. Lakeshore Frontage
- d. Highway Frontage
- e. View Properties

2) Land Characteristics

- a. Fee Simple Ownership
- b. 5.0 acres Parcels/Subdividable into (4) 1.25 acre lots
- c. Some Ground Trans Access (snowmobile, 4-wheeler, boat, vehicle)
- d. Contracts for Sale/Lease option to purchase
- e. No State of Alaska Fire Protection
- f. No State of Alaska "Trail construction or maintenance.

3) Purchasers bears ALL cost of acquiring Fee Simple Title

- o Appraisals
- o Surveys
- o Title Insurance
- o Recording Costs
- o Legal Expenses (documentation)

4) Purchaser will pay for all site improvements:

- a. Roads and trail access construction/maintenance
- b. Structures/Buildings
- c. Materials/Supplies
- d. Real Estate Improvements (wells, septic, power, etc.)

5) The land purchase has Value Added Benefits:

- a. Labor/Construction
- b. Materials purchases
- c. Fuel/energy consumption
- d. Future Real estate transactions(Resale/subdivision)

III. NARRATIVE DESCRIPTION

The applicant pays for ALL related expenses of the purchase transaction. They then survey, appraise and purchase the parcel. Because HB 319 opens such large areas, there will be considerable public interest regarding what land is available. There will be some conflicting claims to parcels, specifically where Native Allotments have priority. These parcels can be purchased on a 5 year "lease option" until 2009 when all selections are completed by Native corporations.

Access concerns will be borne by the purchaser. DNR will not be expected to develop or maintain access routes. This new program will place considerable demands on DNR to provide information, particularly through the DNR public information offices in Anchorage, Fairbanks, and Juneau.

DNR will need to provide the public with accurate land status information for millions of acres of state land so the public knows what land is available, including the location of existing third-party interests, mining locations, Mental Health Trust Land, Native allotment locations, and trail and access information.

Specific tasks include:

- 1) DNR develops regulations to implement this disposal of land, establish qualifications, methods for resolving conflicting claims, etc.
- 2) DNR identifies land available for entry under this program-from state and federal status plats based upon state ownership, land classifications, municipal entitlements, existing private lands, Native allotments, etc. They would need to make available existing maps of several million acres available for selection.
 - a. Produce additional maps from existing supply.
 - b. Print and distribute maps
- 3) Purchaser stakes parcel, orders and pays for: survey, appraisal, recordation and documentation.
- 4) DNR approves a list of qualified appraisors and surveyors acceptable to the State of Alaska. That list will be provided to the purchasers to choose these services. Since these individuals are already approved by DNR, a review of their work will not be necessary. Appraisals and surveys will not be accepted by the State of Alaska from any individual who has not be qualified and accepted by the State of Alaska.

FY04 and following years- staking period opens-assume staking and filing period starts summer 2004 and continues indefinitely. (1) Staff positions for Public Information Office and (1) staff position to keep land status maps current; Cartographer (Anchorage), (2) staff positions to review and process applications (Fairbanks), (1) staff position for Public Information Office in Juneau, (1) staff position to issue deeds and conduct related title searches.

- 1) DNR Public Information Office staff to field program inquires
- 2) DNR accepts applications, certifies they qualify.
- 3) DNR reviews and approves applications and land available for selection.
- 4) DNR issues title documents

The purchaser performs the remaining functions and pays for the cost of implementation and acquisition of fee simple title.

2004
COMPARABLE SALES
(Average price/acre: Remote Parcels)

I. VERY REMOTE PARCELS (fly in only)			
a. Twin Lakes (Brooks Range)			
40 acres @ \$40,000	=		\$ 1,000/acre
b. Novy River "swampy" (Nuwitna)			
80 acres @ \$75,000	=		\$ 937/acre
c. Sand Lake "swampy" (Tok)			
50 acres @ 65,000	=		\$ 1,300/acre
II. REMOTE PARCELS (limited access)			
a. Clear, Ak			
70 acres @ \$45,000	=		\$ 642/acre
b. East Twin/West Twin Lakes (Woodriver)			
5 acres @ \$20,000	=		\$ 4,000/acre
c. Kendamina (Manley Flats)			
3 acres @ \$12,000	=		\$ 3,000/acre
III. DESIRABLE PARCELS (Waterfront lots, No road access)			
a. Delta Clearwater			
7 acres @ \$20,000	=		\$2,857/acre
5 acres @ \$25,000	=		\$5,000/acre
b. Good Pasteur River			
4.19 acres @ \$30,000	=		\$7,159/acre
c. Chena Angler Subdivision			
5 acres @ \$50,000	=		\$10,000/acre
IV. HIGHLY DESIRABLE PARCELS (Lakefront, Road access)			
a. Paxson Lake			
5 acres @ \$80,000	=		\$16,000/acre
5 acres @ \$50,000 (* 2 nd Tier lots)	=		\$10,000/acre
b. Fielding Lake			
5 acres @ \$35,000	=		\$ 7,000/acre

V. NATIVE ALLOTMENTS (VERY REMOTE)

a. Salmon Trout (Porcupine River) "Steep embankments" very remote 160 acres @ \$75,000	=	\$ 468/acre
b. (Nuwitna area) 80 acres @ \$75,000	=	\$ 937/acre
c. George Lake (Tok area) 40 acres @ \$60,000 (BIA appraised)	=	\$1,500/acre
10 acres @ \$30,000 (Waterfront lots)	=	\$3,000/acre

- The average price per acre on Native Allotments is \$500/acre. These parcels are large in size and very rural. They also have very limited access. These parcels take considerable time to sell and are equivalent to parcels offered in the past by DNR. These parcel are not as desirable to the average buyer, thus a per acre price of \$500 – 1000/ acre is reflected
- The average price per acre of \$1,000 for non-native allotment parcels is low and considered to be a conservative estimate of the value per acre for the types of parcels that would be selected. Most parcels selected will appraise and sell in excess of \$2,500/acre.

Data was provided by AK-Land (Robert A. Fox)

**REVENUE PROJECTION
FY 05**

I.	SALES REVENUE (1/1/05 – 1/31/05)	
	A. CASH SALES	
	[200 Parcels x 5.0 acres/ parcel x \$1,000/acre] =	\$1,000,000
	B. 50% CASH SALES	
	[200 Parcels x 5.0 acres/parcel x \$1,000/acre] =	\$ 250,000
	C) 10% DOWN SALES	
	[600 Parcels x 5.0 acres/parcel x \$1,000/acre] =	\$ 300,000

	TOTAL FY05 SALES REVENUE	\$1,550,000
II.	INTEREST INCOME (5% return)	
	A. CASH SALES	
	[\$1,550,000; 12mo. @ 5% compound daily)	
	Interest Income FY05 =	\$ 79,300
III.	FINANCE REVENUES (1/1/05 – 12/31/05)	
	A. CASH SALES	\$ 0
	B. 25% CASH SALES/75% FINANCED	
	[200 Parcels; \$3,750 @ 6%, 60 mo.]	
	Finance Income FY05 =	\$ 41,380
	C. 10% DOWN SALES/90% FINANCED	
	[600 Parcels; \$4,500 @ 6%, 60mo	
	Finance Income FY05 =	\$ 149,016

	TOTAL FY05 FINANCE INCOME	\$ 190,396
	TOTAL PROJECTED REVENUE FY05 =	\$1,819,696

HB 319 RECREATIONAL CABIN SITES

FY05 REVENUE PROJECTIONS BACKUP

A.	CASH SALES	(1/1/05)	DEPOSIT	=	\$1,000,000
B.	25% CASH SALES	(1/1/05)	DEPOSIT	=	\$ 250,000
C.	10% DOWN SALES	(1/1/05)	DEPOSIT	=	\$ 300,000
	TOTAL DEPOSITS to PRINCIPAL			=	\$1,550,000
D.	INTEREST INCOME OF INVESTMENT (5%) 12 mo.			=	\$ 79,300
E.	FINANCE INCOME ON LOANS (6%)				
	Accrued Interest	(206.90/yr x 200,	\$(3,750 loans)	=	\$ 41,380
	Accrued Interest	(206.16/yr x 600,	\$4,500 loans)	=	\$ 149,016

	TOTAL FINANCE INCOME			=	\$ 190,396

TOTAL REVENUE PROJECTED FOR FY05 = \$1,819,696

Subject: HB 319

Date: Thu, 29 Apr 2004 14:37:36 -0800

From: "Ron Swanson" <Ron.Swanson@matsugov.us>

To: <senator_scott_ogan@legis.state.ak.us>

CC: <Linda_Hay@legis.state.ak.us>

Dear Senator Ogan:

We were recently reviewing this bill and want to express our concern on the impact it will have on local government daily operations.

This bill will allow individuals to locate remote cabin sites and eventually obtain title to the property that they have identified. While we are not opposed to the concept of placing additional public land into private hands, we are concerned that the process of the private individual obtaining title is placing an onerous burden on local platting authorities.

Our current workload is at an all time high with a backlog of between 8 - 12 months. We have a citizen volunteer platting board that meets at least twice a month and it is not unusual that each meeting lasts all day. To add a workload of each individual parcel coming before our staff and the platting board to resolve property conflicts, access issues and approve plats is more than we can currently handle and places un-real expectations on the applicant being able to see quick and timely action.

While we have some concerns about the current process that DNR uses for remote parcels, particularly concerning access, it is a much more manageable system in that areas are consolidated, property conflicts are for the most part resolved before they reach us and the surveys are in large tracts which eliminates the need to review countless individual surveys.

We would request that this issue be addressed in a way favorable to local municipalities before it is considered for loption.

Ron Swanson, Director
Community Development

P.O. Box 766
Talkeetna, AK 99676
April 29, 2004

Senator Scott Ogan
Alaska State Senate

Via Fax: 465-3265

Dear Senator Ogan:

I wish to express my strong opposition to HB 319 [CSHB 319(F::)], which, if enacted, would amend the state land disposal statutes to allow for, among other things, the nomination of parcels of state land by Alaska residents for lease and/or purchase.

The State already has several land disposal programs that, on an ongoing basis, offer we Alaskans a wide variety of purchase options. And, there are other entities that regularly dispose of land to the public, including the University, the Mat-Su and other boroughs, the Mental Health Trust, and private individuals. There are large lots, small lots, remote cabin sites, subdivisions, and agriculture lands. Land is sold by lottery, by competitive bid, and over the counter. A dearth of available land is clearly not a problem facing the residents of this state.

Given the large amount of land available to Alaskans, I am surprised that the legislature would contemplate adding an expensive twist to a program that is generally working fairly well. Administration of the provisions of this bill, should it become law, would cost the State far more than indicated in the fiscal note (component 2456) associated with this bill. The fiscal note is obviously flawed. For example, the expense calculations are based on 250 applications and the fee calculations are based on 500 applications, cost calculations assume that no appeals would be filed, the costs associated with public opposition or controversy are not even addressed. I could go on and on, but the bottom line is that the fiscal note grossly understates the expected net cost to the State of this program.

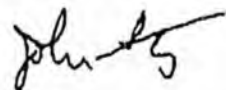
It disturbs me that the legislature, in these times of budget cuts of essential services, would consider wasting our scarce resources on an unneeded program. This, simply, is bad fiscal policy.

Furthermore, my reading of this bill is that a resident may nominate a parcel and then that individual alone may lease and/or purchase. This kind of provision is open to abuse and smacks of "good old boy" insider dealings. I surely hope that I misinterpret the language and that this bill does not provide for non-competitive sale or lease.

And finally, I believe that, should this bill become law in its present form, there will undoubtedly be parcels that evoke public opposition. Under the existing program, DNR decides where, how much, and when to dispose of land. Although there is some controversy associated with individual disposals, it is generally an orderly process that considers the broad interests of the public. Such would not be the case if parcel nominations are received willy nilly from locations scattered throughout the state. This bill has the potential for allowing disposals that are not in the public interest, and it is a formula for controversy. And my bet is that it would be an extraordinarily difficult and expensive program for DNR to administer.

This bill is bad public policy and I urge you to kill it.

Sincerely,



John Strassenburgh

5/02/04

Becky Long, Box 1088, Talkeetna, AK 99676

Dear Senator Scott Ogan and Resource Committee Members:

Re: CS HB 319. LAND DISPOSAL BILL***THIS BILL IS A DIRECT CONTRADICTION TO THE LEGISLATIVE INTENT TO CUT THE BUDGET.******IRRESPECTIVE OF WHETHER ONE SUPPORTS THIS BILL OR NOT, THE RESOURCE COMMITTEE NEEDS TO CLEAN THIS BILL UP FOR THE BEST INTEREST OF THE STATE.***

This bill definitely was improved when it came out of House Finance. The process set up is similar to what occurs in the Mat Su Borough except **THERE IS NO COMPETATIVE BIDDING**. This process caters to special interest and good ole boy grabbing of land. More specifically:

1. This bill has a fiscal note of \$330,000 to \$500,000 a year. I do not believe that the state will make that same money back through land sales. And I believe, due to the unintended consequences of the bill, that the state will loose even more money through relinquishments and foreclosure. Passing a bill with this high fiscal note is not cutting the state budget.
2. This bill is unnecessary. DNR has plenty of land over the counter to sell to Alaskans along with yearly land offerings through remote recreational cabin programs and regular land sales. In FY 03, DNR sold over 700 parcels totaling over 6600 acres.
3. The Resources Committee needs to ask informative questions on how this bill will actually work. The first question should be **WHAT ARE THE UNINTENDED CONSEQUENCES OF THIS BILL?**

In Southcentral, private land is interspersed everywhere amongst state public land. People will camp out and make fires to cook food and keep warm looking for their land. They will follow trails to private residences. We people on the ground will feel the effects of this bill

4. I suggest that the Resource Committee set parameters on this bill. There needs to be language conforming to state land management plans and state mandated borough comprehensive plans.

For Southcentral, there needs to be language inserted that is in accordance with the Susitna Area Plan, the MatSu Borough Comprehensive Plans of Talkeetna, Sutton, Chase, Big Lake and the upcoming Sunshine and Trapper Creek Comprehensive Plans. Also there must be language considering special use districts and the Open Space Plan of the Borough Asset Management Plan.

A lot of public money has been spent on these plans and residents have invested much time and energy in their participation and implementation. This bill threatens to render those efforts **MEANINGLESS**.

Subject: House Bill 319

Date: Wed, 28 Apr 2004 12:08:31 -0800

From: "Richard Leo" <theridgeline@hotmail.com>

To: Senator.Scott.Ogan@legis.state.ak.us

Dear Sen. Ogan and staff,

I am writing with great concern about House Bill 319. It is in direct opposition to state budget cutting needs. It furthers no desire to acquire land since so much private land is readily available now. It will make many residents of the rural areas upset when they find out about it (it has just come to my attention). It is totally unnecessary. PLEASE don't further move the bill. I live in Trapper Creek and know that there are others like me who are not at all happy with this bill.

Thank you,

Richard Leo
Box 13227
Trapper Creek, 99683

FREE pop-up blocking with the new MSN Toolbar - get it now!
<http://toolbar.msn.com/go/onm00200415ave/direct/01/>

Subject: CSHB 319 RELATING TO LAND DISPOSALS

Date: Wed, 28 Apr 2004 17:46:50 +0000

From: "b. long" <issues320@hotmail.com>

To: Senator.Scott.Ogan@legis.state.ak.us

CC: Senator.Thomas.Wagoner@legis.state.ak.us

THIS BILL IS A DIRECT CONTRADICTION TO THE LEGISLATIVE INENT TO CUT STATE BUDGET

IRRESPECTIVE OF WHETHER ONE SUPPORTS THIS BILL OR NOT, THE RESOURCE COMMITTEE NEEDS TO CLEAN THIS BILL UP FOR THE BEST INTEREST OF THE STATE.

1. This bill has a fiscal note of \$330,000 to \$500,000 a year. I do not believe that the state will make that same money back through land sales. And I believe, do to the unintentional consequences of this bill, that the state will loose even more money through relinquishments and foreclosure.
2. This bill is unnecessary. DNR has plenty of land over the counter to sell to Alaskans. There are yearly reofferings and remote recreational cabin programs. Yes, some of the land that is over the counter is there because of its low quality. But the prime settlement areas have already been offered. The best settlement lands are now for the most part in private hands.
3. The Resources Committee needs to ask informative questions on how this bill will actually work and the first question should be what are the unintended consequences of this bill.

There will be private property trespass problems because private land is interspersed everywhere in south central with state land. People will camp out and make fires to cook food and keep warm looking for their land. They will follow trails to private residences. Perhaps I am wrong about this.

The Resource and Finance Committees need to set parameters on this bill. There needs to be language conforming to state management plans like the Susitna Area Plan and to state mandated borough comprehensive plans. A lot of public money has been spent on these plans and residents have invested much time and energy in their participation. This bill threatens to make those efforts meaningless.

Please consider the above comments and realize that it is your constituents will have to live with the consequences from the land use conflicts in this bill.

Becky Long
Talkeetna, AK

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Subject: House Bill 319

Date: Wed, 05 May 2004 13:33:55 -0700

From: Lou Brown and Jon Miller <loubrown@gci.net>

To: Senator_Scott_Ogan@legis.state.ak.us

Dist. 8

Dear Senator Ogan:

I am writing to urge you not to pass House Bill 319 out of the Senate Resources Committee. I am a long-time Alaskan, and like many other Alaskans, I use portions of our public, state-owned lands for a variety of subsistence and recreational purposes. I am afraid that this bill could have very detrimental impacts on our precious public lands by quickly opening new areas up for conveyance without adequate agency planning or public oversight. The use and enjoyment of public lands is an extremely important issue to me, and to many of my friends and associates in Fairbanks.

I own a homestead in south central alaska, and I have experienced first hand both the allure of owning remote land (literally, a dream of mine since childhood!), and the mess that comes with allowing people to carve their own homesite out of valuable public recreational lands. The idea may be pretty, but the actuality often isn't. Alaska's scenic beauty, along with our magnificent fish and wildlife are truly our most precious resources and heritage; I hope you'll agree with me that safeguarding these resources for posterity should be a primary criterion that any legislation should pass. I do not believe that HB 319 does so.

In the case of our homestead area, we've lost a population of brown bears, had detrimental impacts to salmon spawning streams, curtailed hunting and other recreational access by the public, and tarnished the splendid scenery of a popular coastal recreation area, including a state marine park and National Forest lands. Poorly thought-out sanitation measures create a public health issue, and for practical purposes there is no recourse for issues such as trespass, rights of ways, and incremental degradation of critical wildlife habitat. And, please note, this is the result of a "carefully planned" DNR land disposal. These problems appear to be the rule, rather than the exception when it comes to remote land disposals. The public loses out, and the state spends more than it recovers. This is not good land or resource management.

Allowing individuals to nominate lands that they personally wish to own and, especially, granting them a right of first refusal to nominated lands is not a fair way to dispose of lands, and is likely to have the effect of pressuring DNR to open new areas without adequate planning or public review, both of which are essential for good management, I believe.

In summary, please send this bill back to the drawing board, and work with DNR to make it fair and accountable to public input.

I would appreciate hearing your views on this bill.

Sincerely,

Jon Miller
2630 Home Run
Fairbanks 99709
479-5629

Subject: HB 319

Date: Mon, 3 May 2004 17:13:34 -0800

From: "Shaune" <shaune@mosquitonet.com>

To: <Senator_Scott_Ogan@legis.state.ak.us>

Senator Ogan

I am writing to let you know that I am opposed to HB 319 as written. The bill as written will potentially allow any resident to purchase via lottery any piece of State land. I'm opposed to this because I have invested considerable amounts of money in remote parcels, just because they are remote, and surrounded by State land, and thereby will stay remote. This bill will destroy this.

Sincerely,

Shaune Grose

North Pole, Alaska

REMOTE CABIN SITE - HB. 319
FROM - Mick Moniz Committee of 50 T - 5704
907 479 -

A THIS BILL IS BADLY NEEDED
DO - PASS - PLEASE

B 2 - BILLION OF STATE MONEY
IS SPENT - EVERY YEAR,
EVERY - ALASKAN SHOULD
GET AT LEAST A PEICE
OF LAND TO CALL HIS
OR HER LAND - WHEN THE
STATE TAKES ALL THE
~~REVENUE~~ REVENUE FROM
THE PEOPLES OIL

C IT'S SICK WHEN THE
ALASKAN PEOPLE OWN
LESS THAN 1% OF THE
LAND

D - NATIVE LAND SELECTIONS
LOCKED UP ALL ALASKA
FROM - 68 TO 76 -

E D-2 LOCKED MUCH UP
FROM - 72 - TO 1980 -

F NATIONAL MONUMENTS LOCKED
156.000-000 ACRES FROM 78 TO 1981
ITS TIME ALASKANS GOT - LAND

5/5/2004

Alaska Fish and Trails Unlimited

Jerald D. Stansel * 1177 Shypoke Dr. * Fairbanks, AK 99709

Phone & Fax: (907) 479-7630 * (888) 409-7630

email: aktrails@alaska.com * website: <http://www.alaskafishandtrails.com>REF!

This letter is in response to Rep.
Bud FATES Bill # 319?? Regarding Remote
Cabin sites.

FOR 30 YEARS NOW I JERALD STANSEL
HAVE BEEN TRYING TO OBTAIN LAND FOR MY
6 children + 11 grandchildren plus myself
TO NO AVAIL!! IT'S ABOUT TIME WE WERE
ABLE TO GET SOME LAND FOR OUR FAMILYS
ETC. I PREFER THE BROOKS RANGE. EVERY
THING IS EITHER FEDERAL PARKS, OR SOME STATE
LAND THAT WAS OPENED UP IN THE MIDDLE OF
SOME TUNDRA SWAMP!! I AM FOR MR. FATES
BILL. IT'S ABOUT TIME SOMEONE HAD THE INTESTINAL
FORTITUDE TO INTRODUCE SUCH!!

Sincerely,
Jerald D. Stansel

Subject: HB 319-Comments

Date: Mon, 3 May 2004 15:24:17 -0800

From: Paul Costello <paulc@co.fairbanks.ak.us>

To: "Senator_Scott_Ogan@legis.state.ak.us" <Senator_Scott_Ogan@legis.state.ak.us>,
"Senator_Ralph_Seekins@legis.state.ak.us" <Senator_Ralph_Seekins@legis.state.ak.us>

CC: "linda_hay@legis.state.ak.us" <linda_hay@legis.state.ak.us>,
Jim Holt <jholt@co.fairbanks.ak.us>, 'Linda Anderson' <lindaa@gci.net>,
'Ron Swanson' <rswanson@msb.co.mat-su.ak.us>, 'bob loeffler' <bobl@dnr.state.ak.us>,
Bob Craig <bcraig@co.fairbanks.ak.us>

Senators,

I am the Director of the Department of Land Management at the Fairbanks North Star Borough. Our department is actively involved in land nominations and transfer here in the borough, support proactive transfer programs. However, we were recently made aware of the Progress of HB 319 and would like to support the comments made on this legislation by Ron Swanson, Director, Community Development. Those comments are as follows:

> Dear Senator Ogan: > > We were recently reviewing this bill and want to express our concern on the impact it will have on local government daily operations. > > This bill will allow individuals to locate remote cabin sites and eventually obtain title to the property that they have identified. While we are not opposed to the concept of placing additional public land into private hands, we are concerned that the process of the private individual obtaining title is placing an onerous burden on local platting authorities. > > Our current workload is at an all time high with a backlog of between 8 - 12 months. We have a citizen volunteer platting board that meets at least twice a month and it is not unusual that each meeting lasts all day. To add a workload of each individual parcel coming before our staff and the platting board to resolve property conflicts, access issues and approve plats is more than we can currently handle and places un-real expectations on the applicant being able to see quick and timely action. > > While we have some concerns about the current process that DNR uses for remote parcels, particularly concerning access, it is a much more manageable system in that areas are consolidated, property conflicts are for the most part resolved before they reach us and the surveys are in large tracts which eliminates the need to review countless individual surveys. > > We would request that this issue be addressed in a way favorable to local municipalities before it is considered for adoption. > > Ron Swanson, Director > Community Development >

The situation here in the Fairbanks North Star Borough is virtually identical to that found in the MatSu Borough. Our platting section is facing record numbers of plats filed by developers for the last two years with no end in site. Our platting staff and volunteer platting board are deluged with these requests, and just last week our senior platting officer retired after 30 years. Replacing his experience and getting up on step once a replacement is hired is going to take us quite a while. Our personnel issues aside, we faced this same situation a few years ago when the state planned to open areas around Fairbanks to staking. In addition to the impact on our already full staff work load, the program created significant problems with access to and within the staking areas. We were able to work with DNR to develop an orderly process of plat review by staking area that allowed the state's program to go forward, while complying with our subdivision ordinances. We encourage the Senate to carefully weight the impacts of this proposed legislation on municipalities before it is adopted.

Thank you,

Paul Costello, Director, Department of Land Management.



Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

www.co.fairbanks.ak.us

May 6, 2004

Senator Seekins
State Capital, Room 125
Juneau, AK 99801

Dear Senator Seekins:

The Fairbanks North Star Borough, Department of Community Planning has reservations regarding HB 319. Our department is concerned that this bill will allow individual parcel nomination and processing requirements. If this bill allows individual lot subdivisions it will severely affect our platting operations. Presently our staff is already overloaded with subdivision requests. Promoting single lot subdivisions would severely encumber and slow down our ability to process subdivision applications throughout our Borough. Moreover, this procedure will hamper our ability to ensure that adequate access is provided to parcels created through this new procedure.

Thank you for your consideration.

Sincerely,

Bernardo Hernandez
Director of Community Planning

Cc: Senator Ogan
Senator Wagner
Jim Holt, FNSB, Chief of Staff
Lori Backus, FNSB Special Assistant to the Mayor

CONTACT RECORD

Date Opened 4/26/04

Case Type (Dept)

LAST Name Nickols

FIRST Name Mike

Home Phone 733-2163

Work Phone

Aide

Mail Address PO Box 706 Talkeetna 99676

Email Address

Case Subject Re: HB 319 (remote cabin site). Sees this bill as a short term solution to a long term problem. It's another way for the state to generate revenue, but he doesn't see the government/legislature cutting the budget and overhead, especially conservative republicans. Doesn't like the fact that the government is spending more and growing, and wants to see cuts in government before taxes and controlled spending. Thinks this bill might also create a stampede-like situation with people running out to stake their claims. Since he runs a private lodge he sees this as a problem. Would like to speak with Senator if he had a chance.

Action Told him I hadn't had the chance to talk to the boss about this bill since it just passed House, but I let him know he agreed with him about cutting the government before taxes. Told him I'd pass message on to Senator.

*Spoke to
Mike
4-27-04*

Need to...

Status Open Closed Info Only Referred to Other Legislator

Closure Card/Letter Sent

District Folder Alpha file

Constituent

Yes No

[Empty box]

[Empty box]

POMS Main Menu

4/28/04

POMS Unviewed Message Summary for Senator Ogan

as

Denis S Ransy
Po Box 344
Po Box 344
Talkeetna AK, 99676

Email:

Constituent

BILL#: HB 319 REC.CABIN SITES/ LOTTERY SALE/RTS. RESERV

SUBJECT:

MESSAGE: This bill's cost is very expensive with no return. We need to cut the budget not increase it. There is a lot of state land for sale over the counter at all times. There is already a remote land program already in effect so it is repetative and unnecessary.

DISTRIBUTION: 12

ALASKA CONSTITUTION

Section 8.1 - Statement of Policy.

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 the public interest.

Section 8.2 - General Authority.

The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Section 8.9 - Sales and Grants.

Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

Section 8.10 - Public Notice.

No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Section 8.17 - Uniform Application.

Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

AS 38.04.010. Public interest in making land available for private use.

(a) The primary public interest in conveying rights to state land surface to private parties is to make them available to individuals and other persons for direct use in areas classified as suitable for these purposes. In making state land available for private use, the director shall seek to guide year-round settlement to areas where public services already exist, or can be extended with reasonable economy, or where development of a viable economic base is probable.

(b) State land that is located beyond the range of existing schools and other necessary public services, or that is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low density settlement shall have sufficient separation between residences so that public services will not be necessary or expected. The availability of timber, firewood, and water resources shall be considered in determining separation between residences. By considering the availability of timber, firewood, and water under this subsection or in making any disposal decision, the state does not by virtue of that consideration imply any right of the person receiving the disposal to an exclusive or other right to the timber, firewood, or water, that the state will not make any other disposals in the area, or that any disposals made will be limited in type or any other manner.

AS 38.04.015. Public interest in retaining state land in public ownership.

The primary public interests in retaining areas of state land surface in public ownership are

(1) to make them available on a sustained-yield basis for a variety of beneficial uses including subsistence, energy development, aquaculture, forestry, grazing, sport hunting and fishing, hiking, snowmobiling, skiing, and other activities of a type which can generally be made available to more people and conducted more successfully if the land is in public rather than private ownership;

(2) to facilitate mining and mineral leasing by managing appropriate public land for surface uses which are compatible with subsurface uses;

(3) to protect critical wildlife habitat and areas of special scenic, recreational, scientific, or other environmental concern;

(4) to restrict development in hazardous locations such as floodplains and avalanche zones; and

(5) to guide the location of settlement and development to minimize public costs and maximize social and economic benefits.

Article 02. LAND AVAILABILITY FOR PRIVATE USE

AS 38.04.020. Land disposal bank.

(a) The commissioner shall establish a land disposal bank containing state land classified for disposal into private ownership.

(b) The land disposal bank does not include

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

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

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

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

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.05.300. Land outside a municipality to be retained in state ownership consists of land classified for retention in

state ownership by the commissioner by July 1, 1985. Land conveyed to the state by the federal government that is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by a municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

(d) By January 15 of the first session of each legislature, the commissioner shall notify the legislature that the commissioner has available a report on the status of land in the land disposal bank under the following categories:

- (1) land suitable for homestead disposal;
- (2) land suitable for subdivision disposal;
- (3) land suitable for agricultural, commercial, or industrial disposal; and
- (4) land suitable for other purposes.

(e) The commissioner shall annually submit to the governor an appropriation request for funding estimated to be necessary for the next two years to allow

- (1) survey and disposal of land proposed to be made available for homestead staking, with the general location of the land;
- (2) survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;
- (3) the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

(4) preliminary feasibility studies, engineering design work, right-of-way acquisition, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting authority;

(5) identification of land that will be proposed for disposal under this subsection in future fiscal years.

(f) The request of the commissioner under (e) of this section shall include an analysis and an assessment of the market demand for the land proposed for disposal.

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

(1) land designated as suitable for homestead disposal shall be classified and surveyed under this chapter and AS 38.05 and made available for staking and lease under AS 38.09;

(2) land designated as suitable for subdivision and homesite disposal shall be surveyed, subdivided, classified, and disposed of under this chapter, AS 38.05, and AS 38.08;

(3) land designated commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057;

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

(h) Individual parcels disposed of in subdivisions intended for private residential or recreational use may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with municipal ordinances; to permit the design of a

viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision; to increase the return to the state from the sale of the parcels; to minimize adverse effect on wildlife, fishery, public recreation, timber, or other significant resources in the area; or to minimize adverse effect on other residential uses in the area.

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

(j) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and with notice under AS 38.05.945. The commissioner shall make a written determination within six months after receipt of a nomination if the commissioner determines that the land nominated will not be classified or reclassified as requested.

(k) The commissioner may withdraw from the land disposal bank state land that has been offered for disposal but not conveyed within five years after the inclusion in the land disposal bank. State land withdrawn from the land disposal bank under this section must be reclassified under AS 38.04.065 .

AS 38.04.030. Land availability programs.

Programs that may be used by the director to make the state's land surface available for private use under AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple estate, including conveyance of agricultural use rights; leasing; open-to-entry; homesiting; homesteading; permitting for construction and occupation of cabins in isolated locations on land retained in state ownership; and other methods as provided by law. However, agricultural use rights may be conveyed only after consulting with the Board of Agriculture and Conservation.

AS 38.05.035. Powers and duties of the director.

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

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

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

(i) the occurrence of the error or omission;

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

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

(3) grant a preference right to a claimant who shows bona fide improvement of state land or of federal land subsequently acquired by the state and who has in good faith

sought to obtain title to the land but who, through error or omission of others occurring within the three years before (A) the application for the preference right, (B) the date of acquisition by the state of the land, or (C) the date of a court decision or settlement nullifying a disposal of state land, has been denied title to it; upon a showing satisfactory to the commissioner, the claimant may lease or purchase the land at the price set on the date of original entry on the land or, if a price was not set at that time at a price determined by the director to fairly represent the value of unimproved land at the time the claim was established, but in no event less than the cost of administration including survey; the error or omission of a predecessor in interest or an agent, administrator, or executor which has clearly prejudiced the claimant may be the basis for granting a preference right;

(5) when the director determines it is in the best interest of the state and will avoid injustice to a person or the heirs or devisees of a person, dispose of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959, or to the heirs or devisees of the person; the amount paid for the land shall be its fair market value on the date that the person first entered the land, as determined by the director; a parcel of land disposed of under this paragraph shall be of a size consistent with the person's prior use, but may not exceed five acres;

(10) (e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property, or interests in them. In approving a contract under this subsection, the director need only prepare a single written finding. In addition to the conditions and limitations imposed by law, the director may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. The preparation and issuance of the written finding by the director are subject to the following:

(f) The director shall grant a preference right to the purchase or lease without competitive bid of up to five acres of state land to an individual who has erected a building on the land and used the land for bona fide business purposes for five or more years under a federal permit or without the need for a permit and, after selection by the state, under a state use permit or lease, if the business produced no less than 25 percent of the total income of the applicant for the five years preceding the application to purchase or lease the land. The director shall sell or lease the land at a price determined by the director to represent the current fair market value of the unimproved land but in no event less than the cost of administration including survey if required. If the director determines in a written finding that the purchase or lease of the land would interfere with public use by residents of the area, the director may condition the purchase or lease to mitigate the adverse effects on the public use or may reject the application for the preference right. A lease granted under this subsection may not be for a period in excess of 50 years. In this subsection, "business purposes" means a purpose permitted under the classification of the land at the time the land was entered.

AS 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. Sales under this section shall be at fair market value determined as of the time of entry, 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 determined as of the time of entry. 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 lessee 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 .

AS 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 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, and below-ground tanks, 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.

Reference Statute Language in HB 319

(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 costs upon the lessee.

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

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

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

AS 38.05.127. Access to navigable or public water.

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the commissioner shall,

(1) determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or rights-of-way necessary to ensure free access to and along the body of water, unless the commissioner finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The department shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights or limits in any way the constitutional right of the public to use and have free access to the navigable or public waters of the state.

(d) Upon application by a municipality or an affected owner of land, the department may vacate, release, modify, or relocate an easement and right-of-way for public access to or along navigable or public waters reserved by the department in a patent issued under AS 29.65 or former AS 29.18, if the commissioner determines the action is consistent with the public interest.

(e) The establishment of easements or rights-of-way for oil and gas and mineral leases under (a) of this section need not be made until the leases are ready to be developed.

(f) Rights-of-way or easements to waterways established under (a)(2) of this section shall be established approximately once each mile unless the commissioner makes a written finding that regulating or limiting access is necessary for other beneficial uses or public purposes.

(g) The commissioner may exchange land under AS 38.50 to create access to public water of the state.

Sec. 38.05.128. Obstructions to navigable water.

(a) A person may not obstruct or interfere with the free passage or use by a person of any navigable water unless the obstruction or interference is

(1) authorized by a federal agency and a state agency;

(2) authorized under a federal or state law or permit;

(3) exempt under 33 U.S.C. 1344(f) (Clean Water Act);

(4) caused by the normal operation of freight barging that is otherwise consistent with law;
or

(5) authorized by the commissioner after reasonable public notice.

(b) An unauthorized obstruction or interference is a public nuisance and is subject to abatement. The cost of abatement shall be borne by the violator and is in addition to any penalty imposed by the court.

(c) This section may not be construed to affect or abridge valid existing rights.

(d) Free passage or use of any navigable water includes the right to use land below the ordinary high water mark to the extent reasonably necessary to use the navigable water consistent with the public trust.

(e) Free passage or use of any navigable water includes the right to enter adjacent land above the ordinary high water mark as necessary to portage around obstacles or obstructions to travel on the water, provided

(1) entry is made without injury or damage to the land;

(2) entry is made in the least obtrusive manner possible;

(3) there is no reasonable alternative available to avoid the use of the adjacent land above the ordinary high water mark; and

(4) the navigable water is reentered immediately below the obstacle or obstruction at the nearest point where it is safe to do so.

(f) A violation of (a) of this section is a class B misdemeanor.

Sec. 38.04.010. Public interest in making land available for private use.

(b) State land that is located beyond the range of existing schools and other necessary public services, or that is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low density settlement shall have sufficient separation between residences so that public services will not be necessary or expected. The availability of timber, firewood, and water resources shall be considered in determining separation between residences. By considering the availability of timber, firewood, and water under this subsection or in making any disposal decision, the state does not by virtue of that consideration imply any right of the person receiving the disposal to an exclusive or other right to the timber, firewood, or water, that the state will not make any other disposals in the area, or that any disposals made will be limited in type or any other manner.

History

(§ 5 ch 181 SLA 1978; am § 4 ch 152 SLA 1984; am § 2 ch 91 SLA 1997)

Annotations

Administrative Code. - For remote recreational cabin sites, see 11 AAC 67, art. 8B.

Effect of amendments. The 1997 amendment, effective July 1, 1997, added the last sentence in subsection (b).

ANILCA provisions

However, § 1326 of ANILCA limits the authority of the President or the Secretary of the Interior to create large withdrawals in Alaska. Subsection (a) of that section states that a large withdrawal of public lands in Alaska terminates unless Congress extends the withdrawal by approving it in legislation enacted within one year after the withdrawal is made:

No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress. 10

This provision appears to limit a withdrawal to create a national monument to one year duration unless Congress legislates to "approve" the withdrawal.11 Congress has acted in the past to terminate national monuments, 12 and could terminate a new monument withdrawal in Alaska before the expiration of the one-year period. Various political considerations might affect whether Congress might affirmatively enact approval of an ANWR monument. Absent such approval, it appears the monument designation would terminate and the situation as to the coastal plain would be as it is now - - that oil and gas development in the Refuge is prohibited until Congress acts to approve development.

Another section of ANILCA also appears relevant. Section 101(d) of ANILCA stated the sentiment of Congress in 1980 that ANILCA presented a balance between conservation units and development and disposal of lands:

This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

Technically, this section speaks of types of conservation units other than national monuments, 13 and it is true that one Congress cannot tie the hands of another. It could also be argued that because the fate of the coastal plain was expressly left to be decided in the future after additional studies of the area, the possibility of additional protection for the coastal plain was contemplated as part of ANILCA. Also, it could be noted that the President's 1906 authority was left intact as to Alaska, and §1326 expressly recognizes that additional large withdrawals might be made. Therefore, arguably, designation of the coastal plain might not be subject to the § 101 policy. However, that policy may ensure a lively debate if Congress is faced with considering approval of an ANWR national monument.

Footnotes

1 Act of June 8, 1906, ch. 3060, 34 Stat. 225, codified at 16 U.S.C. §§431 et seq. For a discussion of monument issues, see Carol Hardy Vincent and Pamela Baldwin, National Monuments and the Antiquities Act, CRS Report RL30528, updated regularly.

2 Pub. L. No. 96-487, 94 Stat. 2374, codified in part at 16 U.S.C. §§ 3101 et seq. Section 1002 of the Act (16 U.S.C. §3142) directed studies of the coastal plain, and §1003 (16 U.S.C. §3143) precluded oil development in the Refuge unless authorized by Congress.

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4 The District Court for Alaska granted partial summary judgment for the United States on the issue of construction of the 1906 Act. The court concluded that, although the Act limited the authority of the President as to size and subject matter of withdrawals, the outermost parameters of that authority had not yet been articulated and the withdrawals before the court did not exceed the authority of the President. Unreported bench opinion, *Anaconda Copper Company v. Andrus*, A79-161 Civ., (D.AI. July 1, 1980).

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6 Proc. 7265, January 11, 2000; 65 Fed. Reg. 2825 (January 18, 2000).

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8 *Wyoming v. Franke*, 58 F. Supp. 890, 895 (D. Wyo. 1945).

9 *Cameron v. United States*, 252 U.S. 450 (1919), upheld the Grand Canyon National Monument and noted that the Grand Canyon was an object of unusual scientific interest; *Cappaert v. United States*, 426 U.S. 128, 142 (1975), upheld the Devil's Hole National Monument which protected a cave, pool and type of fish; and *United States v. California*, 436 U.S. 32 (1978), upheld Presidential action to protect fossils and examples of volcanism. See also *Wyoming v. Franke*, 58 F. Supp. 890 (D. WY. 1945), which dismissed for lack of a reviewable question (on whether the discretion given the President had been improperly exercised with regard to the size of the Jackson Hole National Monument and its protection of natural phenomena), and *Anaconda Copper*, supra.

10 16 U.S.C. § 3213. Note that the section applies to withdrawals of "public lands" in Alaska. That term can have diverse meanings and inquiry must always be made as to its meaning in any particular instance. At times, "public lands" is interpreted as meaning unreserved federal public domain lands, and hence would not include ANWR lands as subject to §1326. However, ANILCA defines public lands as federal lands (title in the U.S.) situated in Alaska, except for certain Native lands and lands subject to sections by natives or the State. Therefore, arguably even reserved lands are subject to §1326.

11 This provision seems to be a grant of temporary withdrawal authority, with the power reserved to Congress to extend or make permanent any such withdrawal through an act of Congress. (Joint resolutions are acted upon by both chambers and presented to the President and hence are laws.) As such, this does not appear to present the same constitutional issues as did the partial congressional action ("legislative veto") that was the subject of *INS v. Chadha*, 462 U.S. 919 (1983).

12 Congress has sometimes converted a national monument into a national park, but also terminated some of the Carter monuments in ANILCA and replaced them with enacted conservation units.

13 Section 102 of ANILCA defines "national conservation unit" in a manner that does not include national monuments.

Sec. 3213. - Future executive branch actions

(a)

No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b)

No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress

ANILCA provisions

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House of Representatives

Memorandum

To: Senator Scott Ogan, Chair, Senate Resources Committee
Fm: Representative Hugh Fate
Cc:

A handwritten signature in black ink, appearing to be "H. Fate".

Date: April 26, 2004

Re: CSHB 319(FIN) am "REMOTE REC.CABIN SITE SALES/LOTTERY SALE"

Please accept this memo and attached documents as a request for the Senate Resources Committee to hear for CS for House Bill 319 (FIN) am, "Remote Recreational Cabin site sales/lottery sale." This legislation will help many Alaskans find their piece of the Great Land and assist local communities by moving currently tax-free state land into private hands. Thank you for your consideration in this matter.

Attached: Sponsor Statement, Sectional Analysis, CSHB 319 (FIN) am, Fiscal Note for FIN, Sponsor's Analysis of costs/income, Changes between Resources and Finance amended, CSHB 319 (RES), CSHB 319 (STA), HB 319, Fiscal Note, Journal text, House Floor, Finance, Resources and State Affairs Committee, Memo and Response to Alaska Conservation Voters, Reference Statutes, ANILCA Provisions