

**HB**

**361**

<TARGET><BILL>HB 361</BILL><SUBJECT>HB  
361</SUBJECT><COMM>HFIN27</COMM></TARGET>



# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version HB361CS(FIN)  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) HB361CS(FIN)-DNR-MLW -03-31-12 Dept. Affected Department of Natural Resources  
 Title Disposal of State Resources Appropriation Land & Water Resources  
 Allocation Mining Land & Water  
 Sponsor Rules by Request of the Governor  
 Requester (H)FIN OMB Component Number 3002

**Expenditures/Revenues** (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES	***	***	***	***	***	***	***
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

In the bill analysis section, this fiscal note reflects the changes made in the House Finance Committee. Sections were added in order to further clarify sections that were previously not included on auction procedures.

Prepared by Brent Goodrum, Director  
 Division Mining, Land & Water  
 Approved by Daniel S. Sullivan, Commissioner  
Department of Natural Resources

Phone 269-8600  
 Date/Time 3/31/12 2:00 PM  
 Date 3/31/2012

## FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB361CS(FIN)

### Analysis

CSHB361(FIN) proposes to make changes to the Alaska Land Act that are intended to increase efficiency, certainty and timeliness of DNR's land permitting, leasing, mining and land sales programs to permitting applicants.

These proposed changes are not anticipated to have a fiscal impact on the department or the State with the exception of the proposed revision to AS 38.05.212(a), Section 16 of the bill. Under that proposed revision the department would have the authority to exempt, by regulation, small operations from the production royalty. While the definition and threshold level for consideration would need to be established through regulation, DNR anticipates that the net reduction in actual royalties paid to the state under this exemption would be **less than \$10,000 per year**. This is because mining operations are allowed to deduct certain operating costs against any royalty due to the state and it is anticipated that the deductions allowed most small operations would equal or exceed any royalty due. Most small operations actually pay no royalty but are still required to go through the accounting and filing operations. The primary benefit of this proposed statute change would come from the cost savings of both DNR and the small operators' administrative efforts to track, calculate and report minimal royalty payments. DNR would then be able to apply this savings in staff time to other, more pressing mining issues.

Because the number of small operations and the threshold level for this exemption must be established through the regulatory process, and because of the variability of the price of metals, DNR cannot provide an estimate of the actual reduction in royalty income at this time. As such the actual reduction to the state's revenue is indeterminate.

Under AS 35.05.555(f) in Section 18, the state would provide incentives for the development of peat as a source of heat or power. Currently, peat is not being sold by the state and thus the sale of peat is bringing in no revenue. However, with this additional subsection, assuming that the sale of peat is negotiated, the state would lose the potential for revenue up to the thresholds stated in the bill. For personal use, up to 200 cubic yards/yr would be provided for free; for commercial use not more than 30,000 cubic yards during a single 10-year period would be provided for free; and if more than 30,000 cubic yards is sold for commercial use, the user would pay 20% of the representative regional sales price or 20% of the fair market value as determined by an appraisal for which the applicant pays for up to 10 years. Assuming peat is successfully used as an energy source, the state **stands to gain revenues in the future but currently would not gain or lose revenues in incentivizing the use of peat**.

The other sections of the bill will either create efficiencies or prevent inefficiencies. The revisions will benefit both the applicant and the State. The applicant will be saved time and cost by the changes.

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

Bill Version HB 361  
Fiscal Note Number 2  
Publish Date 2/29/12 (H)

Identifier (file name) LL0717-DOT-SWD-2-21-12 Dept. Affected DOT&PF  
Title Permit Reform Appropriation Design, Engineering & Construction  
Stwd Design & Eng Services  
Sponsor Governor  
Requester Rules by Request of the Governor OMB Component Number 2357

**Expenditures/Revenues** (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Services	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Commodities	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Capital Outlay	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Grants, Benefits	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0		0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003	GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004	GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005	GF/Prgm (DGF)	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037	GF/MH (UGF)	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1178	temp code (UGF)							
	<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

<b>CHANGE IN REVENUES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version

Prepared by Brenda Hewitt, Legislative Liaison  
Division DOT&PF  
Approved by Marc Luiken  
Commissioner

Phone 465-4772  
Date/Time 2/21/12 5:00 PM  
Date 2/21/12 5pm

FISCAL NOTE #2

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 361

**Analysis**

This legislation relates to the Alaska Land Act and the disposal of state land and materials expanding options for the method of sale. The department does not see any fiscal impact from the changes proposed in this legislation.

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

cost # codes

Bill Version  
Fiscal Note Number  
Publish Date

HB 361  
1  
2/29/12 (H)

Identifier (file name) 0717-DFG-SFD-2-22-12

Dept. Affected ADF&G

Title PERMIT REFORM

Appropriation Sport Fisheries

Allocation Sport Fisheries

Sponsor GOVERNOR

Requester Rules by Request of the Governor

OMB Component Number 464

**Expenditures/Revenues**

(Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required;  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Charles O. Swanton, Director  
Division Sport Fish Division  
Approved by Cora Campbell  
Commissioner

Phone 465-6189  
Date/Time 2/22/2012 3:18PM  
Date 2/22/2012

FISCAL NOTE #1

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 361

**Analysis**

There is no anticipated fiscal impact upon the Sport Fish Division.

**CS FOR HOUSE BILL NO. 361(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the Alaska Land Act, including certain leases, sales, and other  
2 disposals of state land and materials; relating to production royalties from miners; and  
3 providing for an effective date."

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

5 \* **Section 1.** AS 38.05.050 is amended to read:

6           **Sec. 38.05.050. Disposal of land for private ownership.** The commissioner  
7 shall determine the land to be disposed of for private use. The commissioner shall  
8 determine the time and place of disposal. A public [AN] auction sale, sale by sealed  
9 bid, a lottery sale, or a disposal of land for homesites may be held in a community that  
10 is near the land to be sold or disposed of.

11 \* **Sec. 2.** AS 38.05.055 is amended to read:

12           **Sec. 38.05.055. Auction sale or sealed bid procedures.** Unless another  
13 method of sale is required under this chapter, AS 38.08, or AS 38.09, the sale of state  
14 land shall be made at public auction or by sealed bid, at the discretion of the

1 **director**, to the highest qualified bidder as determined by the director. The director  
 2 may accept bids and sell state land under this section at **not** [NO] less than 70 percent  
 3 of the appraised fair market value of the land. To qualify to participate under this  
 4 section in a public auction **or sale by sealed bid** of state land that is other than  
 5 commercial, industrial, or agricultural land, a bidder shall have been a resident of the  
 6 state for at least one year immediately preceding the date of the **sale** [AUCTION] and  
 7 submit proof of that fact, as the commissioner requires by regulation. A bidder may be  
 8 represented by an attorney or agent at **a public** [THE] auction. An aggrieved bidder  
 9 may appeal to the commissioner within five days after the sale for a review of the  
 10 director's determination. The sale shall be conducted by the director, and, at the time  
 11 of sale, the successful bidder shall deposit an amount equal to five percent of the  
 12 purchase price. The director shall immediately issue a receipt containing a description  
 13 of the land or property purchased, the price bid, and the amount deposited. The receipt  
 14 shall be acknowledged in writing by the bidder.

15 \* **Sec. 3.** AS 38.05.065(a) is amended to read:

16 (a) The contract of sale for land sold at public auction **or by sealed bid** under  
 17 AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly,  
 18 quarterly, or annual installments over a period of not more than 20 years, with interest  
 19 at the rate provided in (i) of this section. Installment payments plus interest shall be set  
 20 on the level-payment basis.

21 \* **Sec. 4.** AS 38.05.069(a) is amended to read:

22 (a) After consulting with the Board of Agriculture and Conservation  
 23 (AS 03.09.010), on a determination that the highest and best use of unoccupied land is  
 24 for agricultural purposes and that it is in the best interests of the state to sell or lease  
 25 the land, the commissioner shall grant to an Alaska resident owning and using or  
 26 leasing and using land for agricultural purposes a first option [AT THE AUCTION] to  
 27 purchase or lease the unoccupied land situated adjacent to land presently held by the  
 28 Alaska resident for the amount of the high bid received at public auction **or by sealed**  
 29 **bid**. If more than one Alaska resident qualifies for a first option under this section,  
 30 eligibility for the first option shall be determined by lot, and the option must be  
 31 exercised on the conclusion of the public auction **or opening of sealed bids**. A parcel

1 of agricultural land sold under this section may not be less than 20 acres, and a parcel  
 2 of agricultural land that is acquired by exercise of the option granted in this subsection  
 3 may not exceed 320 acres. Agricultural land that is acquired under this section must be  
 4 used for agricultural purposes as required by law.

5 \* **Sec. 5.** AS 38.05.069(c) is amended to read:

6 (c) Under this section,

7 (1) the director may transfer state land classified for agriculture only  
 8 for agricultural purposes;

9 (2) the sale or lease shall be at public auction or by sealed bid.

10 \* **Sec. 6.** AS 38.05.070(b) is amended to read:

11 (b) The director, with the approval of the commissioner, shall determine the  
 12 land to be leased and the limitations, conditions, and terms of the lease. The director  
 13 shall preserve reasonable and traditional access to state land and water. If the  
 14 appraised value of the transaction is \$10,000 [\$5,000] a year or less the director may  
 15 negotiate a lease for a period not to exceed 10 years, and on the limitations,  
 16 conditions, and terms that the director considers are in the best interests of the state. A  
 17 lease negotiated under this subsection is not eligible for a preference under  
 18 AS 38.05.102.

19 \* **Sec. 7.** AS 38.05.070 is amended by adding new subsections to read:

20 (d) If, after notice under AS 38.05.945 soliciting interest for a competitive  
 21 auction, the department determines that only one potential bidder has expressed  
 22 interest in bidding, the director may cancel the competitive auction and negotiate a  
 23 lease and its conditions and terms that the director determines to be in the best  
 24 interests of the state.

25 (e) The director may renew a lease issued under this section, AS 38.05.075, or  
 26 38.05.810 upon its expiration if the lease is in good standing and the lease renewal is  
 27 determined to be in the best interests of the state. A renewal issued under this  
 28 subsection is not subject to AS 38.05.035(e). A lease may be renewed only once for a  
 29 term not longer than the initial term of the lease.

30 \* **Sec. 8.** AS 38.05.073(g) is amended to read:

31 (g) After soliciting proposals under (e) of this section, if the commissioner

1 determines that two or more potential lessees are acceptable, the commissioner may  
 2 select the potential lessee who submits the highest bid during a public [AN] auction or  
 3 by sealed bids, whichever method the commissioner chooses. The minimum bid must  
 4 equal the amount established by the commissioner plus the administrative fee  
 5 established under (k) of this section. The commissioner shall also require the potential  
 6 lessee to make an earnest money deposit under AS 38.05.860(b). After the  
 7 commissioner selects a potential lessee, the commissioner may begin negotiations with  
 8 the potential lessee to develop the terms and conditions for the lease.

9 \* **Sec. 9.** AS 38.05.075(a) is amended to read:

10 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.082,  
 11 38.05.083, 38.05.087, 38.05.102, 38.05.565, 38.05.600, 38.05.810, and this section,  
 12 when competitive interest has been demonstrated or the commissioner  
 13 determines that it is in the state's best interests, leasing shall be made at public  
 14 auction or by sealed bid, at the discretion of the director, to the highest qualified  
 15 bidder as determined by the commissioner. A bidder may be represented by an  
 16 attorney or agent at a public auction. In the public notice of a lease to be offered at  
 17 public auction or by sealed bid, the commissioner shall specify a minimum  
 18 acceptable bid and the lease compensation method. The lease compensation method  
 19 shall be designed to maximize the return on the lease to the state and shall be a form of  
 20 compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the  
 21 commissioner within five days for a review of the determination. The leasing shall be  
 22 conducted by the commissioner, and the successful bidder shall deposit at the public  
 23 auction or with the sealed bid the first year's rental or other lease compensation as  
 24 specified by the commissioner, or that portion of it that the commissioner requires in  
 25 accordance with the bid. The commissioner shall require, under AS 38.05.860,  
 26 qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably  
 27 incurred by another qualified bidder acting in accordance with the regulations of the  
 28 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If  
 29 a bidder making a deposit of survey or appraisal costs is determined by the  
 30 commissioner to be the highest qualified bidder under this subsection, the deposit shall  
 31 be paid to the unsuccessful bidder who incurred those costs or to the department if the

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

9 \* **Sec. 10.** AS 38.05.075(e) is amended to read:

10 (e) The commissioner may require prequalification of bidders for a lease to be  
 11 issued under AS 38.05.070. If the commissioner determines to require  
 12 prequalification, the procedures established by this section and the notice including  
 13 prequalification [PRE-QUALIFICATION] requirements required to be given under  
 14 AS 38.05.945 shall be completed within 75 days of the receipt of the first lease  
 15 application unless the commissioner grants additional time for the completion of the  
 16 procedures. Within the 75-day period or the additional time granted by the  
 17 commissioner, the commissioner shall complete

18 (1) classification under AS 38.05.300;

19 (2) the procedures required by AS 38.05.035(e);

20 (3) any other action required by law for the disposal of the lease to a  
 21 bidder except survey, appraisal, and the auction or sealed bid.

22 \* **Sec. 11.** AS 38.05.075(g) is amended to read:

23 (g) Notice of an auction or sealed bid required under this section shall be  
 24 made by certified mail to all prequalified bidders.

25 \* **Sec. 12.** AS 38.05.083(a) is amended to read:

26 (a) The commissioner may offer to the public for lease at public auction or by  
 27 sealed bid under AS 38.05.075 or by negotiation under AS 38.05.070 a site for  
 28 aquatic farming or related hatchery operations. Before a final decision to issue or  
 29 renew a lease under this section, the commissioner shall give notice and allow  
 30 opportunity for comment in accordance with AS 38.05.945 and may hold a hearing to  
 31 take testimony. Before a final decision to issue or renew a lease under this section, the

1 commissioner shall consider all relevant comment or testimony submitted under this  
2 section, AS 38.05.945, or 38.05.946.

3 \* **Sec. 13.** AS 38.05.110(a) is amended to read:

4 (a) The commissioner shall provide for cruises of timber on [AND  
5 APPRAISALS OF OTHER MATERIALS IN OR UPON] state land and shall assess  
6 the supply of and current markets for timber on [AND OTHER MATERIALS IN]  
7 privately owned land in close proximity to state land to determine

8 (1) the timber [AND OTHER MATERIALS] that should be offered for  
9 sale; and

10 (2) the terms of sale of the timber [OR OTHER MATERIALS].

11 \* **Sec. 14.** AS 38.05.115 is amended to read:

12 **Sec. 38.05.115. Limitations and conditions of sale.** (a) The commissioner  
13 shall determine the timber [AND OTHER MATERIALS] to be sold [,] and the  
14 limitations, conditions, and terms of sale. The limitations, conditions, and terms shall  
15 include the utilization, development, and maintenance of the sustained yield principle,  
16 subject to preference among other beneficial uses. The commissioner may negotiate  
17 sales of timber [OR MATERIALS] without advertisement and on the limitations,  
18 conditions, and terms that are considered to be in the best interests of the state. Within  
19 a one-year period, the commissioner may not negotiate a sale without advertisement to  
20 the same purchaser of

21 [(1)] more than 500 M.B.M. or equivalent other measure of timber [;

22 (2) EXCEPT AS PROVIDED IN (3) OF THIS SUBSECTION,  
23 MORE THAN 25,000 CUBIC YARDS OF MATERIALS; OR

24 (3) MORE THAN 100,000 CUBIC YARDS OF MATERIALS TO A  
25 COMMON CARRIER HOLDING A LEASE UNDER AS 38.35].

26 (b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure  
27 of timber [OR 2,500 CUBIC YARDS OF MATERIALS] are exempt from the  
28 provisions of AS 34.15.150.

29 (c) The limitations of this section are not applicable to timber that [WHICH]  
30 becomes state property under the provisions of AS 45.50.210 - 45.50.235.

31 \* **Sec. 15.** AS 38.05.120 is amended to read:

1           **Sec. 38.05.120. Disposal procedure.** Timber [AND OTHER MATERIALS]  
 2 shall be sold either by sealed bids or public auction, depending on which method is  
 3 determined by the commissioner to be in the best interests of the state, to the highest  
 4 qualified bidder as determined by the commissioner. An aggrieved bidder may appeal  
 5 to the commissioner within five days after the sale for a review of the determination.  
 6 The sale shall be conducted by the commissioner, and, at the time of sale, the  
 7 successful bidder shall deposit the amount specified in the terms of sale. The means by  
 8 which the amount of deposit is determined shall be prescribed by appropriate  
 9 regulation. The commissioner shall immediately issue a receipt containing a  
 10 description of the timber [OR MATERIALS] purchased, the price bid, and the terms  
 11 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a  
 12 form approved by the attorney general, shall be signed by the purchaser and the  
 13 contract shall be signed by the commissioner on behalf of the state. The commissioner  
 14 may impose conditions, limitations, and terms considered necessary and proper to  
 15 protect the interests of the state. Violation of any provision of this chapter or the terms  
 16 of the contract of sale subjects the purchaser to appropriate legal action.

17 \* **Sec. 16.** AS 38.05.212(a) is amended to read:

18           (a) In exchange for and to preserve the right to extract and possess the  
 19 minerals produced, the holder of a mining claim, leasehold location, or mining lease,  
 20 including a mining lease under AS 38.05.250, shall pay a royalty on all minerals  
 21 produced from land subject to the claim, leasehold location, or mining lease during  
 22 each calendar year, or each fiscal year if the miner does not file the mining license  
 23 tax on a calendar year basis. The department may exempt, by regulation, small  
 24 operations from the production royalty otherwise required by this section.

25 \* **Sec. 17.** AS 38.05.250(c) is amended to read:

26           (c) Each submerged land mining lease shall be for a period of up to 20 years  
 27 and for so long as there is production in paying quantities from the leased area. A  
 28 submerged land mining lease may be renewed for a period of up to 20 years at  
 29 the discretion of the director if the director determines that the renewal is in the  
 30 best interests of the state.

31 \* **Sec. 18.** AS 38.05 is amended by adding new sections to read:

1 **Article 13A. Material Sales.**

2 **Sec. 38.05.550. Disposal of materials.** (a) All materials owned by the state  
3 may be sold or conveyed as provided in AS 38.05.550 - 38.05.565.

4 (b) Materials may only be sold or removed from sources or sites designated by  
5 the department. The department shall issue a decision under AS 38.05.035(e) that the  
6 sale and extraction of materials from that location is in the best interests of the state at  
7 the time each source or site is designated. The department shall give notice, in  
8 accordance with AS 38.05.945, of the department's decision to designate a source or  
9 site for the sale and extraction of materials. After decision and notice, the department  
10 may sell materials continuously, without further finding or notice, from that  
11 designated source or site under this section until the source or site is closed by the  
12 department.

13 (c) Each sale of materials must be made through a materials sales contract on a  
14 form that has been approved by the attorney general. At the time of each sale, the  
15 department shall determine

16 (1) the location of the source or site from which materials are to be  
17 removed;

18 (2) the method of disposal as provided in AS 38.05.555 - 38.05.565;  
19 and

20 (3) the limitations, conditions, and terms of sale, which shall address  
21 the utilization, development, and maintenance of the source of the materials.

22 (d) The commissioner shall provide for valuation of materials in or upon state  
23 land. Materials sold or conveyed under AS 38.05.550 - 38.05.565 may, at the  
24 director's discretion, be sold at

25 (1) representative regional sales prices periodically determined by the  
26 commissioner for each type of material and for defined geographic regions, under  
27 procedures established by regulation; public notice under AS 38.05.945 must be made  
28 whenever the commissioner revises the representative regional sales prices;

29 (2) fair market value determined by appraisal completed and approved  
30 within two years of the date of sale; or

31 (3) a price less than appraised value, determined under

1 AS 38.05.810(a).

2 **Sec. 38.05.555. Negotiated sales and personal use of materials.** (a)  
3 Notwithstanding any other provision of AS 38.05.550 - 38.05.565, the director may  
4 negotiate the sale of any amount of materials from a source or site designated under  
5 AS 38.05.550(b). The period of a contract for a sale of materials negotiated under this  
6 section may not exceed five years.

7 (b) Sales of materials under this section must be made at a representative  
8 regional sales price set by the commissioner under AS 38.05.550(d)(1) unless

9 (1) the director determines that it is in the best interests of the state to  
10 sell the materials at fair market value determined by an appraisal provided by the  
11 department;

12 (2) the applicant, at its own cost, elects to provide an appraisal,  
13 acceptable to the department, determining the fair market value of the materials to be  
14 sold; or

15 (3) the sale is to a state or federal agency or political subdivision under  
16 AS 38.05.810(a) and the material to be extracted and removed is used for public  
17 purposes; sales under this paragraph may be at a price less than appraised value as  
18 determined by the director.

19 (c) Subsequent sales of similar materials from the same source or site may be  
20 made by the department at the price established by an appraisal provided under (b) of  
21 this section.

22 (d) Individual negotiated contracts for the sale of materials authorized by (a)  
23 of this section are not subject to AS 38.05.035(e) or 38.05.945.

24 (e) Materials from a source or site designated under AS 38.05.550(b) may be  
25 extracted and removed for personal use without cost up to a limit of two cubic yards a  
26 person within a one-calendar-year period. Extraction and removal of materials under  
27 this subsection must be approved by the department before extraction operations.

28 (f) Notwithstanding (a) - (e) of this section, for the purpose of creating  
29 incentives for the development of peat as a source of heat or power, the director may  
30 negotiate the sale of peat to individuals, organized or unorganized communities, tribal  
31 governments, or private profit or nonprofit organizations. Under this subsection, the

1 director may provide

2 (1) for personal use by an individual, not more than 200 cubic yards of  
3 peat a year at no cost;

4 (2) for commercial use, not more than 30,000 cubic yards of peat  
5 during a single 10-year period at no cost; or

6 (3) for commercial use requiring more than 30,000 cubic yards of peat,  
7 the amount required by the user during a 10-year period beginning when the user uses  
8 more than 30,000 yards of peat at the price of

9 (A) 20 percent of the representative regional sales price  
10 determined by the director under AS 38.05.550(d)(1); or

11 (B) 20 percent of the fair market value determined by an  
12 appraisal completed under AS 38.05.550(d)(2), if the applicant provides the  
13 appraisal at the applicant's expense and the appraisal is approved by the  
14 commissioner.

15 **Sec. 38.05.560. Competitive sales of materials.** (a) The department shall offer  
16 materials from a source or site designated under AS 38.05.550(b) for competitive sale  
17 if the department determines that

18 (1) the sale would result in an exclusive use by the purchaser of a  
19 designated source or site;

20 (2) materials available at a designated source or site are insufficient to  
21 supply all anticipated buyers;

22 (3) the size of the designated source or site is too small to  
23 accommodate the extraction operations of all anticipated buyers; or

24 (4) it is in the best interests of the state.

25 (b) Notice of a competitive sale of materials from a source or site designated  
26 under AS 38.05.550(b) shall be given under AS 38.05.945(a)(4) and shall

27 (1) describe the location of the designated source or site, and the type  
28 and quantity of the materials to be sold;

29 (2) solicit potential bidders to register with the department to  
30 participate in the proposed sale; only persons registered to bid at a proposed sale of  
31 materials may bid; and

1 (3) include the minimum bid for materials to be sold.

2 (c) A notice of competitive sale required under (b) of this section may be  
3 combined with a notice required under AS 38.05.550.

4 (d) If, after notice under (b) of this section, only one potential bidder has  
5 registered to bid at a proposed competitive sale, the competitive sale may be cancelled  
6 and the materials sold by negotiation under AS 38.05.555.

7 (e) Materials sold under this section may be sold either by sealed bid or by  
8 public outcry or online auction, in the discretion of the department, to the highest  
9 qualified bidder as determined by the department. An aggrieved bidder may appeal to  
10 the commissioner under AS 44.37.011 within five days after the sale for a review of  
11 the determination. The sale shall be conducted by the director or the director's  
12 designee, and, at the time of sale, the successful bidder shall deposit the amount  
13 specified in the terms of sale. The means by which the amount of deposit is  
14 determined shall be prescribed by regulation. The director shall immediately issue a  
15 receipt containing a description of the materials purchased, the price bid, and the terms  
16 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a  
17 form approved by the attorney general, shall be signed by the purchaser, and the  
18 contract shall be signed by the director on behalf of the state. The director may impose  
19 conditions, limitations, and terms considered necessary and proper to protect the  
20 interests of the state.

21 **Sec. 38.05.562. Violations.** Violation of any provision of AS 38.05.550 -  
22 38.05.565 or the terms of the contract of sale subjects the purchaser to appropriate  
23 legal action.

24 **Sec. 38.05.565. Sale or disposal of materials for special purposes.** (a) The  
25 department may negotiate the sale or otherwise dispose of materials from sources or  
26 sites other than those designated under AS 38.05.550(b) to

27 (1) municipalities, other state and federal agencies, or other entities  
28 under AS 38.05.872; sales under this paragraph may be at less than fair market value,  
29 and materials may be disposed of free of charge if the director determines that the  
30 disposal is in the public interest;

31 (2) a licensed public utility or a licensed common carrier under

1 AS 38.05.810(e); sales under this paragraph shall be at representative regional sales  
2 prices determined under AS 38.05.550(d)(1); or

3 (3) a holder of a permit, land lease, or right-of-way issued by the  
4 department, if the materials to be extracted and removed during the construction, use,  
5 or maintenance of a facility authorized by a permit, land lease, or right-of-way, are  
6 necessary and incidental to the primary purpose of the permit, land lease, or right-of-  
7 way, and the materials are put to beneficial use in a way that alters the character,  
8 usefulness, or availability of the materials in their native forms; the department may  
9 authorize the sale of materials under terms of the permit, land lease, or right-of-way;  
10 sales of materials under this paragraph must be at

11 (A) the representative regional sales price established under  
12 AS 38.05.550(d)(1) unless the sale is to a state or federal agency, political  
13 subdivision, or other entity under AS 38.05.810(a); or

14 (B) a price less than appraised value as determined by the  
15 director if the sale is to a state or federal agency, political subdivision, or other  
16 entity under AS 38.05.810(a) and the materials to be extracted and removed  
17 are used for public purposes.

18 (b) If materials are moved within and not removed from the boundaries of a  
19 permit, land lease, or right-of-way issued by the department without altering the  
20 character, usefulness, or availability of the materials in their native forms, the  
21 applicant may not be required to purchase the materials.

22 (c) In this section, "land lease"

23 (1) means a lease issued under AS 38.05.070 - 38.05.105;

24 (2) does not include a lease issued under AS 38.05.131 - 38.05.275.

25 \* **Sec. 19.** AS 38.05.810(b) is amended to read:

26 (b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the director,  
27 upon application filed by an applicant eligible under (b) - (d) of this section, may, by  
28 negotiation and without competitive bid [PUBLIC AUCTION] in the manner  
29 prescribed in (b) - (d) of this section, lease state land for a term of not more than 55  
30 years. Before leasing, the director shall prepare a land use plan and a land  
31 classification to ensure [INSURE] that the proposed use is compatible with area

1 utilization. Before the land may be leased under (b) - (d) of this section, it must be  
 2 shown to the satisfaction of the director that the land is to be used for an established or  
 3 definitely proposed project, and that the eligible applicant has the financial ability to  
 4 carry out the project. The commissioner may establish limitations on the acreage **that**  
 5 [WHICH] may be leased under (b) - (d) of this section to an applicant.

6 \* **Sec. 20.** AS 38.05.810(e) is amended to read:

7 (e) The lease, sale, or other disposal of state land at appraised fair market  
 8 value may be negotiated with a licensed public utility or a licensed common carrier by  
 9 the director with the approval of the commissioner if the utility or carrier reasonably  
 10 requires the land for the conduct of its business under its license. **Notwithstanding**  
 11 **AS 38.05.550 - 38.05.565, the sale of materials necessary for construction, use, or**  
 12 **maintenance of property leased, sold, or disposed of under this section may be**  
 13 **negotiated by the director.** A lease with a licensed public utility that is an electric  
 14 utility entered into under this subsection may not include, as part of the rent or other  
 15 fee that is negotiated or charged, an amount that is based on or determined by a  
 16 percentage of gross revenue for renewable energy produced by the electric utility.

17 \* **Sec. 21.** AS 38.05.872 is repealed and reenacted to read:

18 **Sec. 38.05.872. Disposition of state land and resources for flood control**  
 19 **projects.** (a) The department may make conveyances of title or other interests in state  
 20 land, provide for exchange of land, or make other arrangements with respect to state  
 21 land, as necessary to meet federally established requirements of flood control projects  
 22 authorized inside the state by the United States.

23 (b) The commissioner may convey materials at less than fair market value to  
 24 municipalities, other state and federal agencies, or other entities, and make other  
 25 arrangements for land and materials as mitigation of a flooding area where excess  
 26 material deposition significantly contributes to the flooding, consistent with a site-  
 27 specific flood mitigation plan approved by the commissioner and determined to be in  
 28 the best interests of the public.

29 \* **Sec. 22.** AS 38.05.945(b) is amended to read:

30 (b) When notice is required to be given under this section,

31 (1) the notice must contain sufficient information in commonly

1 understood terms to inform the public of the nature of the action and the opportunity  
2 of the public to comment on it;

3 (2) if the notice is of a preliminary written finding described in  
4 (a)(3)(A) of this section, the department shall give notice at the beginning of the public  
5 comment period for the preliminary written finding, notifying the public of the right to  
6 submit comments; the department shall give notice by

7 (A) posting notice on the Alaska Online Public Notice  
8 System for at least 30 consecutive days [PUBLICATION OF A LEGAL  
9 NOTICE IN NEWSPAPERS OF STATEWIDE CIRCULATION AND IN  
10 NEWSPAPERS OF GENERAL CIRCULATION IN THE VICINITY OF  
11 THE PROPOSED ACTION AT LEAST ONCE A WEEK FOR TWO  
12 CONSECUTIVE WEEKS];

13 (B) publication of a notice in display advertising form  
14 describing the proposed action and referencing the online notice required  
15 in (A) of this paragraph in newspapers of statewide circulation and in  
16 newspapers of general circulation in the vicinity of the proposed action, if  
17 available, [IN THE NEWSPAPERS DESCRIBED IN (A) OF THIS  
18 PARAGRAPH] at least once a week for two consecutive weeks;

19 (C) public service announcements on the electronic media  
20 serving the area to be affected by the proposed action; and

21 (D) one or more of the following methods:

22 (i) publication of a legal notice in newspapers of  
23 statewide circulation or in newspapers of general circulation in the  
24 vicinity of the proposed action, if available, at least once a week for  
25 two consecutive weeks;

26 (ii) posting in a conspicuous location in the vicinity of  
27 the action;

28 (iii) [(ii)] notification of parties known or likely to be  
29 affected by the action; or

30 (iv) [(iii)] another method calculated to reach affected  
31 parties;

1 (3) if the notice is of an action described in (a) of this section, other  
 2 than notice of an action under (a)(3)(A) of this section, the department shall give  
 3 notice at least 30 days before the action by posting notice on the Alaska Online  
 4 Public Notice System for at least 30 consecutive days [PUBLICATION IN  
 5 NEWSPAPERS OF STATEWIDE CIRCULATION AND IN NEWSPAPERS OF  
 6 GENERAL CIRCULATION IN THE VICINITY OF THE PROPOSED ACTION]  
 7 and by one or more of the following methods:

8 (A) publication of a notice in display advertising form  
 9 describing the proposed action and referencing the online notice required  
 10 in this paragraph in newspapers of statewide circulation and in  
 11 newspapers of general circulation in the vicinity of the proposed action, if  
 12 available, at least once a week for two consecutive weeks;

13 (B) publication through public service announcements on the  
 14 electronic media serving the area affected by the action;

15 (C) [(B)] posting in a conspicuous location in the vicinity of  
 16 the action;

17 (D) [(C)] notification of parties known or likely to be affected  
 18 by the action;

19 (E) publication of a legal notice, at least 30 days before the  
 20 action, briefly describing the proposed action and referencing the online  
 21 notice required in this paragraph in newspapers of statewide circulation  
 22 and in newspapers of general circulation in the vicinity of the proposed  
 23 action, if available; or

24 (F) [(D)] another method calculated to reach affected persons.

25 \* **Sec. 23.** AS 38.05.945(b), as amended by sec. 22 of this Act, is amended to read:

26 (b) When notice is required to be given under this section,

27 (1) the notice must contain sufficient information in commonly  
 28 understood terms to inform the public of the nature of the action and the opportunity  
 29 of the public to comment on it;

30 (2) if the notice is of a preliminary written finding described in  
 31 (a)(3)(A) of this section, the department shall give notice at the beginning of the public

1 comment period for the preliminary written finding, notifying the public of the right to  
2 submit comments; the department shall give notice by

3 (A) posting notice on the Alaska Online Public Notice System  
4 for at least 30 consecutive days;

5 (B) publication of a notice in display advertising form  
6 describing the proposed action and referencing the online notice required in  
7 (A) of this paragraph in newspapers of statewide circulation and in newspapers  
8 of general circulation in the vicinity of the proposed action, if available, at least  
9 once a week for two consecutive weeks;

10 (C) public service announcements on the electronic media  
11 serving the area to be affected by the proposed action; and

12 (D) one or more of the following methods:

13 (i) publication of a legal notice in newspapers of  
14 statewide circulation or in newspapers of general circulation in the  
15 vicinity of the proposed action, if available, at least once a week for  
16 two consecutive weeks;

17 (ii) posting in a conspicuous location in the vicinity of  
18 the action;

19 (iii) notification of parties known or likely to be  
20 affected by the action; or

21 (iv) another method calculated to reach affected parties;

22 (3) if the notice is of an action described in (a) of this section, other  
23 than notice of an action under (a)(3)(A) of this section, the department shall give  
24 notice at least 30 days before the action by posting notice on the Alaska Online Public  
25 Notice System for at least 30 consecutive days and by one or more of the following  
26 methods:

27 (A) publication of a notice in display advertising form  
28 describing the proposed action and referencing the online notice required in  
29 this paragraph in newspapers of statewide circulation and in newspapers of  
30 general circulation in the vicinity of the proposed action, if available, at least  
31 once a week for two consecutive weeks;

1 (B) publication through public service announcements on the  
2 electronic media serving the area affected by the action;

3 (C) posting in a conspicuous location in the vicinity of the  
4 action;

5 (D) notification of parties known or likely to be affected by the  
6 action; or

7 (E) [PUBLICATION OF A LEGAL NOTICE, AT LEAST 30  
8 DAYS BEFORE THE ACTION, BRIEFLY DESCRIBING THE PROPOSED  
9 ACTION AND REFERENCING THE ONLINE NOTICE REQUIRED IN  
10 THIS PARAGRAPH IN NEWSPAPERS OF STATEWIDE CIRCULATION  
11 AND IN NEWSPAPERS OF GENERAL CIRCULATION IN THE  
12 VICINITY OF THE PROPOSED ACTION, IF AVAILABLE; OR

13 (F)] another method calculated to reach affected persons.

14 \* **Sec. 24.** AS 38.05.965(10) is repealed and reenacted to read:

15 (10) "materials"

16 (A) means all common variety rock and minerals of any  
17 quality, that are saleable and not subject to location under state or federal  
18 mining laws;

19 (B) includes aggregate, riprap, railroad ballast, road ballast,  
20 road metal, peat, silt, loam, sand, gravel, stone, pumice, and common clay;

21 \* **Sec. 25.** AS 41.23.470(b) is amended to read:

22 (b) The commissioner may conduct only a negotiated timber [OR  
23 MATERIAL] sale under AS 38.05.115 to provide for personal use, including house  
24 logs and firewood, or for a use incidental to the construction of access, or for habitat  
25 enhancement.

26 \* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to  
27 read:

28 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change

29 (1) the heading of art. 4 of AS 38.05 from "Disposal of Timber and Materials"  
30 to "Disposal of Timber";

31 (2) the catch line of AS 38.05.110 from "Sale of timber and materials;

1 account" to "Sale of timber."

2 \* **Sec. 27.** Section 23 of this Act takes effect July 1, 2017.

3 \* **Sec. 28.** Except as provided in sec. 27 of this Act, this Act takes effect July 1, 2012.

AMENDMENT #31 <sup>6</sup>

*Withdrawn  
4/2/12*

OFFERED IN THE HOUSE FINANCE COMMITTEE

REPRESENTATIVE LES GARA

TO: CSHB 361, Version GH2717\B

- 1 Page 18, line 3:
- 2 Insert after "project": "if the current standards for issuing a temporary water use  
authorization under this
- 3 section are met."

AMENDMENT #14 5

Withdrawn  
4/2/12

OFFERED IN THE HOUSE FINANCE COMMITTEE

REPRESENTATIVE LES GARA

TO: CSHB 361, Version GH2717\B

- 1 Page 7, line 24:
- 2 Insert after the word "operations": " that generate less than \$10,000 in annual gross income"

*Adopted  
3/21/12*

27-GH2717B  
Bailey  
3/21/12

**CS FOR HOUSE BILL NO. 361(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the Alaska Land Act, including certain leases, sales, and other  
2 disposals of state land and materials; relating to production royalties from miners;  
3 relating to rights to use state water; and providing for an effective date."

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

5 \* **Section 1.** AS 38.05.050 is amended to read:

6       **Sec. 38.05.050. Disposal of land for private ownership.** The commissioner  
7 shall determine the land to be disposed of for private use. The commissioner shall  
8 determine the time and place of disposal. A public [AN] auction sale, sale by sealed  
9 bid, a lottery sale, or a disposal of land for homesites may be held in a community that  
10 is near the land to be sold or disposed of.

11 \* **Sec. 2.** AS 38.05.055 is amended to read:

12       **Sec. 38.05.055. Auction sale or sealed bid procedures.** Unless another  
13 method of sale is required under this chapter, AS 38.08, or AS 38.09, the sale of state  
14 land shall be made at public auction or by sealed bid, at the discretion of the

1 **director**, to the highest qualified bidder as determined by the director. The director  
2 may accept bids and sell state land under this section at **not** [NO] less than 70 percent  
3 of the appraised fair market value of the land. To qualify to participate under this  
4 section in a public auction **or sale by sealed bid** of state land that is other than  
5 commercial, industrial, or agricultural land, a bidder shall have been a resident of the  
6 state for at least one year immediately preceding the date of the **sale** [AUCTION] and  
7 submit proof of that fact, as the commissioner requires by regulation. A bidder may be  
8 represented by an attorney or agent at **a public** [THE] auction. An aggrieved bidder  
9 may appeal to the commissioner within five days after the sale for a review of the  
10 director's determination. The sale shall be conducted by the director, and, at the time  
11 of sale, the successful bidder shall deposit an amount equal to five percent of the  
12 purchase price. The director shall immediately issue a receipt containing a description  
13 of the land or property purchased, the price bid, and the amount deposited. The receipt  
14 shall be acknowledged in writing by the bidder.

15 \* **Sec. 3.** AS 38.05.065(a) is amended to read:

16 (a) The contract of sale for land sold at public auction **or by sealed bid** under  
17 AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly,  
18 quarterly, or annual installments over a period of not more than 20 years, with interest  
19 at the rate provided in (i) of this section. Installment payments plus interest shall be set  
20 on the level-payment basis.

21 \* **Sec. 4.** AS 38.05.069(a) is amended to read:

22 (a) After consulting with the Board of Agriculture and Conservation  
23 (AS 03.09.010), on a determination that the highest and best use of unoccupied land is  
24 for agricultural purposes and that it is in the best interests of the state to sell or lease  
25 the land, the commissioner shall grant to an Alaska resident owning and using or  
26 leasing and using land for agricultural purposes a first option [AT THE AUCTION] to  
27 purchase or lease the unoccupied land situated adjacent to land presently held by the  
28 Alaska resident for the amount of the high bid received at public auction **or by sealed**  
29 **bid**. If more than one Alaska resident qualifies for a first option under this section,  
30 eligibility for the first option shall be determined by lot, and the option must be  
31 exercised on the conclusion of the public auction **or opening of sealed bids**. A parcel

1 of agricultural land sold under this section may not be less than 20 acres, and a parcel  
2 of agricultural land that is acquired by exercise of the option granted in this subsection  
3 may not exceed 320 acres. Agricultural land that is acquired under this section must be  
4 used for agricultural purposes as required by law.

5 \* **Sec. 5.** AS 38.05.069(c) is amended to read:

6 (c) Under this section,

7 (1) the director may transfer state land classified for agriculture only  
8 for agricultural purposes;

9 (2) the sale or lease shall be at public auction or by sealed bid.

10 \* **Sec. 6.** AS 38.05.070(b) is amended to read:

11 (b) The director, with the approval of the commissioner, shall determine the  
12 land to be leased and the limitations, conditions, and terms of the lease. The director  
13 shall preserve reasonable and traditional access to state land and water. If the  
14 appraised value of the transaction is \$10,000 [\$5,000] a year or less the director may  
15 negotiate a lease for a period not to exceed 10 years, and on the limitations,  
16 conditions, and terms that the director considers are in the best interests of the state. A  
17 lease negotiated under this subsection is not eligible for a preference under  
18 AS 38.05.102.

19 \* **Sec. 7.** AS 38.05.070 is amended by adding new subsections to read:

20 (d) If, after notice under AS 38.05.945 soliciting interest for a competitive  
21 auction, the department determines that only one potential bidder has expressed  
22 interest in bidding, the director may cancel the competitive auction and negotiate a  
23 lease and its conditions and terms that the director determines to be in the best  
24 interests of the state.

25 (e) The director may renew a lease issued under this section, AS 38.05.075, or  
26 38.05.810 upon its expiration if the lease is in good standing and the lease renewal is  
27 determined to be in the best interests of the state. A renewal issued under this  
28 subsection is not subject to AS 38.05.035(e). A lease may be renewed only once for a  
29 term not longer than the initial term of the lease.

30 \* **Sec. 8.** AS 38.05.073(g) is amended to read:

31 (g) After soliciting proposals under (e) of this section, if the commissioner

1 determines that two or more potential lessees are acceptable, the commissioner may  
2 select the potential lessee who submits the highest bid during **a public** [AN] auction or  
3 by sealed bids, whichever method the commissioner chooses. The minimum bid must  
4 equal the amount established by the commissioner plus the administrative fee  
5 established under (k) of this section. The commissioner shall also require the potential  
6 lessee to make an earnest money deposit under AS 38.05.860(b). After the  
7 commissioner selects a potential lessee, the commissioner may begin negotiations with  
8 the potential lessee to develop the terms and conditions for the lease.

9 \* **Sec. 9.** AS 38.05.075(a) is amended to read:

10 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.082,  
11 38.05.083, 38.05.087, 38.05.102, 38.05.565, 38.05.600, 38.05.810, and this section,  
12 when competitive interest has been demonstrated or the commissioner  
13 determines that it is in the state's best interests, leasing shall be made at public  
14 auction or by sealed bid, at the discretion of the director, to the highest qualified  
15 bidder as determined by the commissioner. A bidder may be represented by an  
16 attorney or agent at a public auction. In the public notice of a lease to be offered at  
17 public auction or by sealed bid, the commissioner shall specify a minimum  
18 acceptable bid and the lease compensation method. The lease compensation method  
19 shall be designed to maximize the return on the lease to the state and shall be a form of  
20 compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the  
21 commissioner within five days for a review of the determination. The leasing shall be  
22 conducted by the commissioner, and the successful bidder shall deposit at the **public**  
23 auction or with the sealed bid the first year's rental or other lease compensation as  
24 specified by the commissioner, or that portion of it that the commissioner requires in  
25 accordance with the bid. The commissioner shall require, under AS 38.05.860,  
26 qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably  
27 incurred by another qualified bidder acting in accordance with the regulations of the  
28 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If  
29 a bidder making a deposit of survey or appraisal costs is determined by the  
30 commissioner to be the highest qualified bidder under this subsection, the deposit shall  
31 be paid to the unsuccessful bidder who incurred those costs or to the department if the

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

9 \* **Sec. 10.** AS 38.05.075(e) is amended to read:

10 (e) The commissioner may require prequalification of bidders for a lease to be  
11 issued under AS 38.05.070. If the commissioner determines to require  
12 prequalification, the procedures established by this section and the notice including  
13 **prequalification** [PRE-QUALIFICATION] requirements required to be given under  
14 AS 38.05.945 shall be completed within 75 days of the receipt of the first lease  
15 application unless the commissioner grants additional time for the completion of the  
16 procedures. Within the 75-day period or the additional time granted by the  
17 commissioner, the commissioner shall complete

18 (1) classification under AS 38.05.300;

19 (2) the procedures required by AS 38.05.035(e);

20 (3) any other action required by law for the disposal of the lease to a  
21 bidder except survey, appraisal, and the auction **or sealed bid**.

22 \* **Sec. 11.** AS 38.05.075(g) is amended to read:

23 (g) Notice of an auction **or sealed bid** required under this section shall be  
24 made by certified mail to all prequalified bidders.

25 \* **Sec. 12.** AS 38.05.083(a) is amended to read:

26 (a) The commissioner may offer to the public for lease at public auction **or by**  
27 **sealed bid** under AS 38.05.075 or by negotiation under AS 38.05.070 a site for  
28 aquatic farming or related hatchery operations. Before a final decision to issue or  
29 renew a lease under this section, the commissioner shall give notice and allow  
30 opportunity for comment in accordance with AS 38.05.945 and may hold a hearing to  
31 take testimony. Before a final decision to issue or renew a lease under this section, the

1 commissioner shall consider all relevant comment or testimony submitted under this  
2 section, AS 38.05.945, or 38.05.946.

3 \* **Sec. 13.** AS 38.05.110(a) is amended to read:

4 (a) The commissioner shall provide for cruises of timber on [AND  
5 APPRAISALS OF OTHER MATERIALS IN OR UPON] state land and shall assess  
6 the supply of and current markets for timber on [AND OTHER MATERIALS IN]  
7 privately owned land in close proximity to state land to determine

8 (1) the timber [AND OTHER MATERIALS] that should be offered for  
9 sale; and

10 (2) the terms of sale of the timber [OR OTHER MATERIALS].

11 \* **Sec. 14.** AS 38.05.115 is amended to read:

12 **Sec. 38.05.115. Limitations and conditions of sale.** (a) The commissioner  
13 shall determine the timber [AND OTHER MATERIALS] to be sold [,] and the  
14 limitations, conditions, and terms of sale. The limitations, conditions, and terms shall  
15 include the utilization, development, and maintenance of the sustained yield principle,  
16 subject to preference among other beneficial uses. The commissioner may negotiate  
17 sales of timber [OR MATERIALS] without advertisement and on the limitations,  
18 conditions, and terms that are considered to be in the best interests of the state. Within  
19 a one-year period, the commissioner may not negotiate a sale without advertisement to  
20 the same purchaser of

21 [(1)] more than 500 M.B.M. or equivalent other measure of timber [;

22 (2) EXCEPT AS PROVIDED IN (3) OF THIS SUBSECTION,  
23 MORE THAN 25,000 CUBIC YARDS OF MATERIALS; OR

24 (3) MORE THAN 100,000 CUBIC YARDS OF MATERIALS TO A  
25 COMMON CARRIER HOLDING A LEASE UNDER AS 38.35].

26 (b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure  
27 of timber [OR 2,500 CUBIC YARDS OF MATERIALS] are exempt from the  
28 provisions of AS 34.15.150.

29 (c) The limitations of this section are not applicable to timber that [WHICH]  
30 becomes state property under the provisions of AS 45.50.210 - 45.50.235.

31 \* **Sec. 15.** AS 38.05.120 is amended to read:

1           **Sec. 38.05.120. Disposal procedure.** Timber [AND OTHER MATERIALS]  
2 shall be sold either by sealed bids or public auction, depending on which method is  
3 determined by the commissioner to be in the best interests of the state, to the highest  
4 qualified bidder as determined by the commissioner. An aggrieved bidder may appeal  
5 to the commissioner within five days after the sale for a review of the determination.  
6 The sale shall be conducted by the commissioner, and, at the time of sale, the  
7 successful bidder shall deposit the amount specified in the terms of sale. The means by  
8 which the amount of deposit is determined shall be prescribed by appropriate  
9 regulation. The commissioner shall immediately issue a receipt containing a  
10 description of the timber [OR MATERIALS] purchased, the price bid, and the terms  
11 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a  
12 form approved by the attorney general, shall be signed by the purchaser and the  
13 contract shall be signed by the commissioner on behalf of the state. The commissioner  
14 may impose conditions, limitations, and terms considered necessary and proper to  
15 protect the interests of the state. Violation of any provision of this chapter or the terms  
16 of the contract of sale subjects the purchaser to appropriate legal action.

17 \* **Sec. 16.** AS 38.05.212(a) is amended to read:

18           (a) In exchange for and to preserve the right to extract and possess the  
19 minerals produced, the holder of a mining claim, leasehold location, or mining lease,  
20 including a mining lease under AS 38.05.250, shall pay a royalty on all minerals  
21 produced from land subject to the claim, leasehold location, or mining lease during  
22 each calendar year, or each fiscal year if the miner does not file the mining license  
23 tax on a calendar year basis. The department may exempt, by regulation, small  
24 operations from the production royalty otherwise required by this section.

25 \* **Sec. 17.** AS 38.05.250(c) is amended to read:

26           (c) Each submerged land mining lease shall be for a period of up to 20 years  
27 and for so long as there is production in paying quantities from the leased area. A  
28 submerged land mining lease may be renewed for a period of up to 20 years at  
29 the discretion of the director if the director determines that the renewal is in the  
30 best interests of the state.

31 \* **Sec. 18.** AS 38.05 is amended by adding new sections to read:

**Article 13A. Material Sales.**

**Sec. 38.05.550. Disposal of materials.** (a) All materials owned by the state may be sold or conveyed as provided in AS 38.05.550 - 38.05.565.

(b) Materials may only be sold or removed from sources or sites designated by the department. The department shall issue a decision under AS 38.05.035(e) that the sale and extraction of materials from that location is in the best interests of the state at the time each source or site is designated. The department shall give notice, in accordance with AS 38.05.945, of the department's decision to designate a source or site for the sale and extraction of materials. After decision and notice, the department may sell materials continuously, without further finding or notice, from that designated source or site under this section until the source or site is closed by the department.

(c) Each sale of materials must be made through a materials sales contract on a form that has been approved by the attorney general. At the time of each sale, the department shall determine

(1) the location of the source or site from which materials are to be removed;

(2) the method of disposal as provided in AS 38.05.555 - 38.05.565; and

(3) the limitations, conditions, and terms of sale, which shall address the utilization, development, and maintenance of the source of the materials.

(d) The commissioner shall provide for valuation of materials in or upon state land. Materials sold or conveyed under AS 38.05.550 - 38.05.565 may, at the director's discretion, be sold at

(1) representative regional sales prices periodically determined by the commissioner for each type of material and for defined geographic regions, under procedures established by regulation; public notice under AS 38.05.945 must be made whenever the commissioner revises the representative regional sales prices;

(2) fair market value determined by appraisal completed and approved within two years of the date of sale; or

(3) a price less than appraised value, determined under

1 AS 38.05.810(a).

2 **Sec. 38.05.555. Negotiated sales and personal use of materials.** (a)  
3 Notwithstanding any other provision of AS 38.05.550 - 38.05.565, the director may  
4 negotiate the sale of any amount of materials from a source or site designated under  
5 AS 38.05.550(b). The period of a contract for a sale of materials negotiated under this  
6 section may not exceed five years.

7 (b) Sales of materials under this section must be made at a representative  
8 regional sales price set by the commissioner under AS 38.05.550(d)(1) unless

9 (1) the director determines that it is in the best interests of the state to  
10 sell the materials at fair market value determined by an appraisal provided by the  
11 department;

12 (2) the applicant, at its own cost, elects to provide an appraisal,  
13 acceptable to the department, determining the fair market value of the materials to be  
14 sold; or

15 (3) the sale is to a state or federal agency or political subdivision under  
16 AS 38.05.810(a) and the material to be extracted and removed is used for public  
17 purposes; sales under this paragraph may be at a price less than appraised value as  
18 determined by the director.

19 (c) Subsequent sales of similar materials from the same source or site may be  
20 made by the department at the price established by an appraisal provided under (b) of  
21 this section.

22 (d) Individual negotiated contracts for the sale of materials authorized by (a)  
23 of this section are not subject to AS 38.05.035(e) or 38.05.945.

24 (e) Materials from a source or site designated under AS 38.05.550(b) may be  
25 extracted and removed for personal use without cost up to a limit of two cubic yards a  
26 person within a one-calendar-year period. Extraction and removal of materials under  
27 this subsection must be approved by the department before extraction operations.

28 (f) Notwithstanding (a) - (e) of this section, for the purpose of creating  
29 incentives for the development of peat as a source of heat or power, the director may  
30 negotiate the sale of peat to individuals, organized or unorganized communities, tribal  
31 governments, or private profit or nonprofit organizations. Under this subsection, the

1 director may provide

2 (1) for personal use by an individual, not more than 200 cubic yards of  
3 peat a year at no cost;

4 (2) for commercial use, not more than 30,000 cubic yards of peat  
5 during a single 10-year period at no cost; or

6 (3) for commercial use requiring more than 30,000 cubic yards of peat,  
7 the amount required by the user during a 10-year period beginning when the user uses  
8 more than 30,000 yards of peat at the price of

9 (A) 20 percent of the representative regional sales price  
10 determined by the director under AS 38.05.550(d)(1); or

11 (B) 20 percent of the fair market value determined by an  
12 appraisal completed under AS 38.05.550(d)(2), if the applicant provides the  
13 appraisal at the applicant's expense and the appraisal is approved by the  
14 commissioner.

15 **Sec. 38.05.560. Competitive sales of materials.** (a) The department shall offer  
16 materials from a source or site designated under AS 38.05.550(b) for competitive sale  
17 if the department determines that

18 (1) the sale would result in an exclusive use by the purchaser of a  
19 designated source or site;

20 (2) materials available at a designated source or site are insufficient to  
21 supply all anticipated buyers;

22 (3) the size of the designated source or site is too small to  
23 accommodate the extraction operations of all anticipated buyers; or

24 (4) it is in the best interests of the state.

25 (b) Notice of a competitive sale of materials from a source or site designated  
26 under AS 38.05.550(b) shall be given under AS 38.05.945(a)(4) and shall

27 (1) describe the location of the designated source or site, and the type  
28 and quantity of the materials to be sold;

29 (2) solicit potential bidders to register with the department to  
30 participate in the proposed sale; only persons registered to bid at a proposed sale of  
31 materials may bid; and

1 (3) include the minimum bid for materials to be sold.

2 (c) A notice of competitive sale required under (b) of this section may be  
3 combined with a notice required under AS 38.05.550.

4 (d) If, after notice under (b) of this section, only one potential bidder has  
5 registered to bid at a proposed competitive sale, the competitive sale may be cancelled  
6 and the materials sold by negotiation under AS 38.05.555.

7 (e) Materials sold under this section may be sold either by sealed bid or by  
8 public outcry or online auction, in the discretion of the department, to the highest  
9 qualified bidder as determined by the department. An aggrieved bidder may appeal to  
10 the commissioner under AS 44.37.011 within five days after the sale for a review of  
11 the determination. The sale shall be conducted by the director or the director's  
12 designee, and, at the time of sale, the successful bidder shall deposit the amount  
13 specified in the terms of sale. The means by which the amount of deposit is  
14 determined shall be prescribed by regulation. The director shall immediately issue a  
15 receipt containing a description of the materials purchased, the price bid, and the terms  
16 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a  
17 form approved by the attorney general, shall be signed by the purchaser, and the  
18 contract shall be signed by the director on behalf of the state. The director may impose  
19 conditions, limitations, and terms considered necessary and proper to protect the  
20 interests of the state.

21 **Sec. 38.05.562. Violations.** Violation of any provision of AS 38.05.550 -  
22 38.05.565 or the terms of the contract of sale subjects the purchaser to appropriate  
23 legal action.

24 **Sec. 38.05.565. Sale or disposal of materials for special purposes.** (a) The  
25 department may negotiate the sale or otherwise dispose of materials from sources or  
26 sites other than those designated under AS 38.05.550(b) to

27 (1) municipalities, other state and federal agencies, or other entities  
28 under AS 38.05.872; sales under this paragraph may be at less than fair market value,  
29 and materials may be disposed of free of charge if the director determines that the  
30 disposal is in the public interest;

31 (2) a licensed public utility or a licensed common carrier under

1 AS 38.05.810(e); sales under this paragraph shall be at representative regional sales  
2 prices determined under AS 38.05.550(d)(1); or

3 (3) a holder of a permit, land lease, or right-of-way issued by the  
4 department, if the materials to be extracted and removed during the construction, use,  
5 or maintenance of a facility authorized by a permit, land lease, or right-of-way, are  
6 necessary and incidental to the primary purpose of the permit, land lease, or right-of-  
7 way, and the materials are put to beneficial use in a way that alters the character,  
8 usefulness, or availability of the materials in their native forms; the department may  
9 authorize the sale of materials under terms of the permit, land lease, or right-of-way;  
10 sales of materials under this paragraph must be at

11 (A) the representative regional sales price established under  
12 AS 38.05.550(d)(1) unless the sale is to a state or federal agency, political  
13 subdivision, or other entity under AS 38.05.810(a); or

14 (B) a price less than appraised value as determined by the  
15 director if the sale is to a state or federal agency, political subdivision, or other  
16 entity under AS 38.05.810(a) and the materials to be extracted and removed  
17 are used for public purposes.

18 (b) If materials are moved within and not removed from the boundaries of a  
19 permit, land lease, or right-of-way issued by the department without altering the  
20 character, usefulness, or availability of the materials in their native forms, the  
21 applicant may not be required to purchase the materials.

22 (c) In this section, "land lease"

23 (1) means a lease issued under AS 38.05.070 - 38.05.105;

24 (2) does not include a lease issued under AS 38.05.131 - 38.05.275.

25 \* **Sec. 19.** AS 38.05.810(b) is amended to read:

26 (b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the director,  
27 upon application filed by an applicant eligible under (b) - (d) of this section, may, by  
28 negotiation and without competitive bid [PUBLIC AUCTION] in the manner  
29 prescribed in (b) - (d) of this section, lease state land for a term of not more than 55  
30 years. Before leasing, the director shall prepare a land use plan and a land  
31 classification to ensure [INSURE] that the proposed use is compatible with area

1 utilization. Before the land may be leased under (b) - (d) of this section, it must be  
2 shown to the satisfaction of the director that the land is to be used for an established or  
3 definitely proposed project, and that the eligible applicant has the financial ability to  
4 carry out the project. The commissioner may establish limitations on the acreage **that**  
5 [WHICH] may be leased under (b) - (d) of this section to an applicant.

6 \* **Sec. 20.** AS 38.05.810(e) is amended to read:

7 (e) The lease, sale, or other disposal of state land at appraised fair market  
8 value may be negotiated with a licensed public utility or a licensed common carrier by  
9 the director with the approval of the commissioner if the utility or carrier reasonably  
10 requires the land for the conduct of its business under its license. **Notwithstanding**  
11 **AS 38.05.550 - 38.05.565, the sale of materials necessary for construction, use, or**  
12 **maintenance of property leased, sold, or disposed of under this section may be**  
13 **negotiated by the director.** A lease with a licensed public utility that is an electric  
14 utility entered into under this subsection may not include, as part of the rent or other  
15 fee that is negotiated or charged, an amount that is based on or determined by a  
16 percentage of gross revenue for renewable energy produced by the electric utility.

17 \* **Sec. 21.** AS 38.05.872 is repealed and reenacted to read:

18 **Sec. 38.05.872. Disposition of state land and resources for flood control**  
19 **projects.** (a) The department may make conveyances of title or other interests in state  
20 land, provide for exchange of land, or make other arrangements with respect to state  
21 land, as necessary to meet federally established requirements of flood control projects  
22 authorized inside the state by the United States.

23 (b) The commissioner may convey materials at less than fair market value to  
24 municipalities, other state and federal agencies, or other entities, and make other  
25 arrangements for land and materials as mitigation of a flooding area where excess  
26 material deposition significantly contributes to the flooding, consistent with a site-  
27 specific flood mitigation plan approved by the commissioner and determined to be in  
28 the best interests of the public.

29 \* **Sec. 22.** AS 38.05.945(b) is amended to read:

30 (b) When notice is required to be given under this section,

31 (1) the notice must contain sufficient information in commonly

1 understood terms to inform the public of the nature of the action and the opportunity  
2 of the public to comment on it;

3 (2) if the notice is of a preliminary written finding described in  
4 (a)(3)(A) of this section, the department shall give notice at the beginning of the public  
5 comment period for the preliminary written finding, notifying the public of the right to  
6 submit comments; the department shall give notice by

7 (A) posting notice on the Alaska Online Public Notice  
8 System for at least 30 consecutive days [PUBLICATION OF A LEGAL  
9 NOTICE IN NEWSPAPERS OF STATEWIDE CIRCULATION AND IN  
10 NEWSPAPERS OF GENERAL CIRCULATION IN THE VICINITY OF  
11 THE PROPOSED ACTION AT LEAST ONCE A WEEK FOR TWO  
12 CONSECUTIVE WEEKS];

13 (B) publication of a notice in display advertising form  
14 describing the proposed action and referencing the online notice required  
15 in (A) of this paragraph in newspapers of statewide circulation and in  
16 newspapers of general circulation in the vicinity of the proposed action, if  
17 available. [IN THE NEWSPAPERS DESCRIBED IN (A) OF THIS  
18 PARAGRAPH] at least once a week for two consecutive weeks;

19 (C) public service announcements on the electronic media  
20 serving the area to be affected by the proposed action; and

21 (D) one or more of the following methods:

22 (i) publication of a legal notice in newspapers of  
23 statewide circulation or in newspapers of general circulation in the  
24 vicinity of the proposed action, if available, at least once a week for  
25 two consecutive weeks;

26 (ii) posting in a conspicuous location in the vicinity of  
27 the action;

28 (iii) [(ii)] notification of parties known or likely to be  
29 affected by the action; or

30 (iv) [(iii)] another method calculated to reach affected  
31 parties;

1 (3) if the notice is of an action described in (a) of this section, other  
2 than notice of an action under (a)(3)(A) of this section, the department shall give  
3 notice at least 30 days before the action by posting notice on the Alaska Online  
4 Public Notice System for at least 30 consecutive days [PUBLICATION IN  
5 NEWSPAPERS OF STATEWIDE CIRCULATION AND IN NEWSPAPERS OF  
6 GENERAL CIRCULATION IN THE VICINITY OF THE PROPOSED ACTION]  
7 and by one or more of the following methods:

8 (A) publication of a notice in display advertising form  
9 describing the proposed action and referencing the online notice required  
10 in this paragraph in newspapers of statewide circulation and in  
11 newspapers of general circulation in the vicinity of the proposed action, if  
12 available, at least once a week for two consecutive weeks;

13 (B) publication through public service announcements on the  
14 electronic media serving the area affected by the action;

15 (C) [(B)] posting in a conspicuous location in the vicinity of  
16 the action;

17 (D) [(C)] notification of parties known or likely to be affected  
18 by the action;

19 (E) publication of a legal notice, at least 30 days before the  
20 action, briefly describing the proposed action and referencing the online  
21 notice required in this paragraph in newspapers of statewide circulation  
22 and in newspapers of general circulation in the vicinity of the proposed  
23 action, if available; or

24 (F) [(D)] another method calculated to reach affected persons.

25 \* Sec. 23. AS 38.05.945(b), as amended by sec. 22 of this Act, is amended to read:

26 (b) When notice is required to be given under this section,

27 (1) the notice must contain sufficient information in commonly  
28 understood terms to inform the public of the nature of the action and the opportunity  
29 of the public to comment on it;

30 (2) if the notice is of a preliminary written finding described in  
31 (a)(3)(A) of this section, the department shall give notice at the beginning of the public

1 comment period for the preliminary written finding, notifying the public of the right to  
2 submit comments; the department shall give notice by

3 (A) posting notice on the Alaska Online Public Notice System  
4 for at least 30 consecutive days;

5 (B) publication of a notice in display advertising form  
6 describing the proposed action and referencing the online notice required in  
7 (A) of this paragraph in newspapers of statewide circulation and in newspapers  
8 of general circulation in the vicinity of the proposed action, if available, at least  
9 once a week for two consecutive weeks;

10 (C) public service announcements on the electronic media  
11 serving the area to be affected by the proposed action; and

12 (D) one or more of the following methods:

13 (i) publication of a legal notice in newspapers of  
14 statewide circulation or in newspapers of general circulation in the  
15 vicinity of the proposed action, if available, at least once a week for  
16 two consecutive weeks;

17 (ii) posting in a conspicuous location in the vicinity of  
18 the action;

19 (iii) notification of parties known or likely to be  
20 affected by the action; or

21 (iv) another method calculated to reach affected parties;

22 (3) if the notice is of an action described in (a) of this section, other  
23 than notice of an action under (a)(3)(A) of this section, the department shall give  
24 notice at least 30 days before the action by posting notice on the Alaska Online Public  
25 Notice System for at least 30 consecutive days and by one or more of the following  
26 methods:

27 (A) publication of a notice in display advertising form  
28 describing the proposed action and referencing the online notice required in  
29 this paragraph in newspapers of statewide circulation and in newspapers of  
30 general circulation in the vicinity of the proposed action, if available, at least  
31 once a week for two consecutive weeks;

1 (B) publication through public service announcements on the  
2 electronic media serving the area affected by the action;

3 (C) posting in a conspicuous location in the vicinity of the  
4 action;

5 (D) notification of parties known or likely to be affected by the  
6 action; or

7 (E) [PUBLICATION OF A LEGAL NOTICE, AT LEAST 30  
8 DAYS BEFORE THE ACTION, BRIEFLY DESCRIBING THE PROPOSED  
9 ACTION AND REFERENCING THE ONLINE NOTICE REQUIRED IN  
10 THIS PARAGRAPH IN NEWSPAPERS OF STATEWIDE CIRCULATION  
11 AND IN NEWSPAPERS OF GENERAL CIRCULATION IN THE  
12 VICINITY OF THE PROPOSED ACTION, IF AVAILABLE; OR

13 (F)] another method calculated to reach affected persons.

14 \* **Sec. 24.** AS 38.05.965(10) is repealed and reenacted to read:

15 (10) "materials"

16 (A) means all common variety rock and minerals of any  
17 quality, that are saleable and not subject to location under state or federal  
18 mining laws;

19 (B) includes aggregate, riprap, railroad ballast, road ballast,  
20 road metal, peat, silt, loam, sand, gravel, stone, pumice, and common clay;

21 \* **Sec. 25.** AS 41.23.470(b) is amended to read:

22 (b) The commissioner may conduct only a negotiated timber [OR  
23 MATERIAL] sale under AS 38.05.115 to provide for personal use, including house  
24 logs and firewood, or for a use incidental to the construction of access, or for habitat  
25 enhancement.

26 \* **Sec. 26.** AS 46.15.155(a) is amended to read:

27 (a) Notwithstanding any contrary provision of this chapter, the commissioner  
28 may authorize the temporary use of a significant amount of water, as determined by  
29 the department by regulation, for a period of time not to exceed five consecutive years  
30 for each authorization, if the water applied for has not been appropriated in  
31 accordance with this chapter. In the commissioner's discretion, a new authorization

1           for the temporary use of a significant amount of water may be issued for a  
2           project at or before the expiration of the existing authorization issued for the  
3           same project.

4           \* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6           REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change

7                   (1) the heading of art. 4 of AS 38.05 from "Disposal of Timber and Materials"  
8 to "Disposal of Timber";

9                   (2) the catch line of AS 38.05.110 from "Sale of timber and materials;  
10 account" to "Sale of timber."

11           \* **Sec. 28.** Section 23 of this Act takes effect July 1, 2017.

12           \* **Sec. 29.** Except as provided in sec. 28 of this Act, this Act takes effect July 1, 2012.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

### DIVISION OF MINING, LAND AND WATER

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The Honorable Representative Bill Stoltze, Co-Chair House Finance Committee  
State Capitol Room 519  
Juneau AK, 99801

March 28, 2012

Dear Representative Stoltze and members of the House Finance Committee,

The following questions were asked during House Finance on 3/21/12. I have attempted to answer the questions to the best of my ability while attempting to provide a timely response. I have also included one clarification statement.

**1. How much time and cost savings will be realized if the bill passes?**

Because of unknown future statistics, it is difficult for the Division of Mining, Land and Water to predict the total time and cost savings that would be gained if the bill passes; however, here are some examples that may help shed some light on the issue. To provide an example of time saved by the new process explained in AS 38.05.550-555 for material sales, a chart explaining approximate time allocations for the existing material sale process is shown below. Total time for processing a new material sale is about 160 days. However if DMLW sells material from an existing designated site, the time is shortened to about 30 days because an adjudicator would only have to review the application, double check to insure that no conflicts will be created within the material site, prepare the contract and collect any required deliverables such as proof of insurance or bond.

Consider that DMLW issues 30-50 material sales per year. Most of these are not from new sites. Even considering only half of the sites would be sales out of existing sites: 20 sites x 130 day time savings per sale = 2600 days of time savings to the applicants in a year. The savings to staff would be less because the time factors do not represent someone working 100% of the time on those cases. In this scenario, the average applicant will also save approximately \$300 for public notice posting costs x 20 sales = \$6,000 saved by applicants in a year because the initial area was already publicly noticed for sale of material. Cost for publishing in Anchorage Daily news is significantly higher.

To reiterate, the table below shows the current process and time estimates for material sales. This process would remain the same for the initial designation of a material site; however, subsequent sales of material from that site would not warrant this process. Instead, because we have gone through this process of designating all materials in a site for sale, we would allow the sale of additional material from this site without needing additional decisions by the Division.

*"To responsibly develop Alaska's resources by making them available for maximum use and benefit consistent with the public interest."*

	Task	Notes	Time	Cumulative time
1	DMLW Receives Application	Need complete application. Time increases if not complete.		
2	Send to Agency Review	2 days to send out after review of completeness – often requires follow up from applicant.	2 days	2 days
3	Agency Review Period	Process could be shortened to 15 days but not getting appropriate feedback from agencies can lead to delays further in process, especially for larger projects. Often comments come back at end of period.	30 days	32 days
4	Review and address comments	There may need to be internal and external meetings, revisions from applicant, address issues	30 days	62 days
5	Draft Preliminary Decision	Address the issues raised	1 week	69 days
6	Public Notice Period	Statutory 30 day requirement. May need to do public meetings. Would request interest in competitive sale.	30 days	99 days
7	Write Final Decision	Review and deal with issues raised. Hopefully have a full development plan for accurate review. DMLW would have to address the potential of how to deal with the existing mining claims under the proposed area if they exist. Notify all who commented and post on website.	30 days	129 days
8	Appeal Period	Open to all who commented.	20 days	149 days
9	Reconsideration period	Additional 10 days that can be waived by Commissioner if no appeals are brought forward.	10 days	159 days
10	Auction	99% of sales will have no competitive interest, however if there is interest we would have to give an additional 30 day notice for auction and hold the auction before issuing the contract. Plus there will need to be a 5 day auction appeal period.	35 days	
11	Issue Contract	Unless Appeal received. If appeal received it automatically stays decision. Appeal and court action could significantly lengthen the process to allow work to begin.	1 day	160 days

Another cost savings is in appraisals. A typical appraisal would cost around \$5,000. If we issue 20 material sites in a year that need appraisals, by using the representative regional sales price we can eliminate that appraisal cost to the applicant, which is savings of \$100,000 per year for applicants that would have been paid to third party appraisers. DMLW would have to issue appraisal instruction for each of those appraisals and then review and approve each one taking about 3 days each. Therefore we could save 60 days per year of our appraiser's time.

**2. What prevents miners from switching their royalty reporting production year back and forth?**

The proposed language requires that miners file per calendar year unless they don't file the mining license tax on a calendar year basis, in which case they can use fiscal year. This means that the only way to change the filing is if they have changed their filing year with the Department of Revenue for mining license tax reporting.

Under federal law, a person must seek approval from the IRS before changing their tax year from a fiscal year to calendar year and vice versa. Also under federal law, a person who changes its tax period must also file a transition period return ensuring that no period of activity goes unreported.

The Department of Revenue's mining license tax regulation 15 AAC 65.030(b) states that "the mining license tax year is the same as that person's tax year for federal income tax purposes." Our intent is to allow miners to report and pay mining royalty on a fiscal year only if that is the year used on their mining license tax filing. Given the tie in to the federal tax filing requirements through the Department of Revenue's regulations, DMLW believes that a person would not be able to switch back and forth between calendar and fiscal year and effectively "game" the system. Instead, if we keep the statute as is, there are miners who file their MLT on a fiscal year basis and have to redo their accounting system entirely in order to comply with our statutes.

**3. How much benefit does the state get from doing sealed bid versus outcry auction?**

Unfortunately, it is impossible to tell how an auction would have turned out if done another way. I can however state some figures from past auctions. During the last two sealed bid auctions we conducted for land leases: one parcel sold for 200% of the market value and another sold for 120% of market value. After speaking with our appraiser, it would be safe to say that the majority of sealed bid auctions produce 20-70% above the market value. In the last outcry land lease auction we held, only one bidder attended and the lease went for the minimum bid. The outcry auction previous to that had the same results. Also if the state had to conduct its land sales by outcry auction, the program would suffer as many people participate remotely in the sealed bid auctions. As mentioned before, these revisions for consistency are to limit litigation risk.

**4. How many leases that need to be offered competitively under AS 38.05.070 would be moved to negotiated lease after lack of competitive interest is established?**

We issue approximately 10 leases per year. Approximately half of those leases would have to be offered competitively without this change. Going negotiated saves approximately 30 days and \$300 in display ads for each lease. On average, this change would save total applicants 300 days per year and \$3,000 in cost over the course of a year.

5. To correct something stated in earlier testimony. The language for the Temporary Water Use Authorization being issued for another 5 years does not substantially reduce the processing time and there is no public notice required in law or given for TWUAs. There are other statutes that still require notice to other agencies. The department believes that we have existing authority to issue another TWUA in the same location to the same entity for another 5 years after the first one expires. However, by legislatively clarifying the ability to offer another TWUA to the same company in the same location does remove a potential legal challenge. The mining, oil and gas, and construction are the primary industries that may benefit from this change.

If you have any further questions, please do not hesitate to contact me.

Sincerely,



Wyn Menefee  
DMLW Chief of Operations

**AMENDMENT #1**

OFFERED IN THE HOUSE FINANCE COMMITTEE

REPRESENTATIVE LES GARA

TO: CSHB 361, Version GH2717\B

- 1 Page 7, line 24:
- 2 Insert after the word "operations": " that generate less than \$10,000 in annual gross revenue"

**AMENDMENT #2**

OFFERED IN THE HOUSE FINANCE COMMITTEE

REPRESENTATIVE LES GARA

TO: CSHB 361, Version GH2717\B

- 1 Page 7, line 22:
- 2 Delete "or each fiscal year if the miner does not file the mining license tax on a calendar year basis."

**AMENDMENT #3**

OFFERED IN THE HOUSE FINANCE COMMITTEE

REPRESENTATIVE LES GARA

TO: CSHB 361, Version GH2717\B

- 1 Page 18, line 3:
- 2 Insert after "project": "if the current standards for issuing a water use permit under this
- 3 section are met."

*Adopted*  
4/2/12

AMENDMENT #4

OFFERED IN THE HOUSE FINANCE COMMITTEE  
TO: CSHB 361 (FIN)  
Version 27-GH2717\B

BY Representative Edgmon

Page 17, Line 26 through Page 18, Line 3:

Delete all material.

Renumber following bill sections accordingly.

# CSHB 361(FIN): DISPOSALS OF STATE RESOURCES

## SUMMARY OF CHANGES

FOR THE HOUSE FINANCE COMMITTEE • MARCH 21, 2012

### **This is a summary of changes between CSHB361(RES)\M and CSHB361(FIN)\B**

During the drafting of CSHB361(RES), Legislative Legal found that not all references to auctions made a distinction between a public auction and sealed bid. DNR agreed that these statutes could be further clarified.

Therefore, the following references to auctions were changed to include either sealed bid sale or public auction. These changes are reflected in:

- Section 1 was added to amend AS 38.05.050 on page 1, lines 8-9
- Section 10 amends AS 38.05.075(e)(3) on page 5, line 21; and
- Section 11 amends 38.05.075(g) on page 5, line 23.

With the addition of these new sections, the sections that followed them were renumbered.

The other change made in the CS was in Section 9, which adds AS 38.05.565 on page 4, line 11 to the number of sections listed as exceptions to normal leasing procedures (i.e. leasing shall be given to highest qualified bidder). In creating Article 13A governing material sales, the newly created section AS 38.05.565, which allows materials to be sold for the representative regional sales price, was not omitted from AS 38.05.075(a). If we do not include this reference, it would cause confusion in how DNR should sell materials under 38.05.565.

# CSHB 361(RES): DISPOSALS OF STATE RESOURCES

## BRIEFING PAPER

FOR THE HOUSE FINANCE COMMITTEE • MARCH 21, 2012

The Division of Mining, Land and Water in the Department of Natural Resources has identified over 30 statutory changes that would help reduce applicant costs, create efficiencies by streamlining processes, reduce redundancies, and reduce opportunities for legal challenges. These changes would reduce the permitting burden on the applicant and free more time for staff to work on processing applications. Department of Law has drafted a bill that includes some of the highest priority changes that relate to the certain leasing and disposal programs and to water rights that are administered by the Department of Natural Resources.

### The bill would accomplish the following primary objectives:

- 1) Give the department more flexibility on when to issue negotiated land leases, as opposed to using a competitive bid process
  - The proposed changes would give DNR more flexibility to negotiate leases after solicitation of competitive interest where only one party seeks the lease.
  - Negotiating leases rather than conducting the full process for a competitive lease will improve processing times and decrease administrative expenses.
  - Monetary caps would be raised from \$5,000 to \$10,000 on negotiated leases. The consumer Price Index and land values have increased statewide over the last decade and the monetary cap for negotiating leases has not been adjusted to reflect these changes in value. This would allow more leases to be negotiated rather than having to be offered competitively, which is more time consuming and delays the issuance of the lease.<sup>1</sup>
  - Offering more negotiated leases reduces the time it takes to issue leases and reduces costs to the applicant. This will help us reduce the backlog, and help ensure we are not hampering private-sector development by unnecessarily delaying lease issuances.
  - This change does not apply to oil and gas leases.
- 2) Allow department discretion in renewing certain land leases in good standing for term equal to initial term
  - Significantly reduces the administrative cost to the state for executing a new lease at the end of the primary term for these types of lease.

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1. Often leases that are offered competitively do not receive any competitive bidders, thus the time does not add any benefit to the process. This change would not prevent the state from offering competitively if it determined there was a competitive interest.

- Includes the requirement for a lease to be used for purpose of original decision in order to be considered in good standing.
  - Reduces cost and processing time for lessee at point of renewal when lessee is in good standing and following all the terms of their initial authorization.
  - This change does not apply to oil and gas leases.
- 3) Separate out the respective rules and procedures for timber sales and material sales (such as for rock and gravel)
- Timber and material sale statutes are intertwined, which has led to misinterpretations because many of the existing statutes are specific to only timber or material sales, but not both.
  - The proposed changes would provide clarity and efficiency for the material sales process by:
    - Allowing the state to solicit competitive interest in material sales, and if there is none, avoid the longer competitive process. This would allow sales to be offered through a more efficient negotiated sale process
    - Eliminating multiple duplicative decision processes for material sites that will have multiple sales
    - Establishing how prices would be determined and allowing for more use of the representative regional sales price rather than requiring appraisals of the material, thus reducing cost and processing time for applicants
    - Clarifying that material may be sold at less than fair market value for certain instances that are in the public interest
    - Allowing material use that is incidental to other authorizations to be sold without a separate material sale authorization, reducing processing time and cost for applicants
    - Defining materials in such a way as to add clarity and avoid lengthy disputes
    - Allowing the department to convey materials as needed for certain flood control purposes
  - The proposed statute changes would ease the permitting burden on the private sector by allowing material sales to be issued more quickly and efficiently. Also, these changes would improve access to state materials for public benefit, such as to municipalities.
- 4) Clarify that temporary water use permits may be renewed
- Under current statutes, a permittee must reapply for a Temporary Water Use Authorization (TWUA) permit if their project lasts longer than five years. The application must be submitted at the five-year mark and re-adjudicated by staff, even if the use is for the same amount of water from the same source for the same purposes.

- The proposed change would allow the division to provide a new TWUA at the five-year mark—if the water use is the same—without a formal decision process. This would allow applicants to avoid delays during renewal, and would save the division staff time which could be utilized for processing other authorizations.
  - TWUA are not permanent water rights. The division may change or revoke TWUA as necessary.
- 5) Allow the department to use sealed bid procedures, rather than public auction, where appropriate
- This change would clarify that DNR can use sealed bids to facilitate public auctions. The sealed-bid auction option is a more efficient and often more revenue positive option. Using this option will reduce the time it takes to sell or lease state land.
  - Without this change, DNR could be challenged on the fact that it cannot utilize sealed bid auctions for public auctions, creating inefficiencies, and making it more difficult for the private sector to obtain state land.
  - This change addresses statutes that affect land sales, land leasing, contracts, agricultural preferences, and aquatic farm leasing, but does not affect oil and gas leasing.
- 6) Modernize public notice requirements for disposals of property rights
- Enables the department to notice disposals of property rights via the Alaska Online Public Notice System and de-emphasize notice given in printed media.
  - Helps to limit the cost of public noticing, as the cost for noticing in newspapers is continuing to increase as the popularity of print media decreases.
  - Increases flexibility for the department on how we issue public notice.
  - Existing statutes require 30 day public notice for disposals of property rights.
- 7) Give the department the authority to exempt small mining operations from having to pay production royalties
- Creates a savings for small-production miners and the state—amounts of locatable minerals being produced from these operations are diminutive and the state's cost to complete the accounting and processing of the royalty is more than the revenue collected.
- 8) Revise a portion of the mining royalty law to allow companies to file their mining royalty by either calendar year or fiscal year
- Allows for a simplified process and administrative savings for filing, both for the state and the company.
  - Helps to coordinate mining royalty processing between the state and company, which creates efficiencies.

9) Allow the director of the Division of Mining, Land and Water to extend or renew a submerged land mining lease for up to a period of 20 years

- Significantly reduces the administrative cost to the state for executing a new lease at the end of the primary term for these types of lease.
- Benefits the lessee by providing them more certainty in renewing their lease, pending that they are in good standing with the state with adequate production and in compliance with the terms of their lease.

# CSHB 361(RES): DISPOSALS OF STATE RESOURCES

## SUMMARY OF CHANGES

FOR THE HOUSE FINANCE COMMITTEE • MARCH 21, 2012

**This document summarizes the changes between HB 361 (27-GH2717\A) and CSHB361(RES) (27-GH2717\M).**

**Section 11** is a new section that amends AS 38.05.115 to make it consistent with other changes captured in HB361 that separate the timber and material sales. All provisions necessary for material sales have already been addressed in AS 38.05.550 – 565, AS 38.05.810 and AS 38.05.872.

The limitations of volumes on timber sales have not been carried over because of the revised process for material sales. Material sites will be designated through best interest decisions and with public notice per AS 38.05.550. When designating a site with a defined boundary, DNR will notify the public that all the materials will be sold from the site through subsequent sales. The subsequent negotiated material sales made at the representative regional sales price from those designated sites will not need a size limitation as long as the extraction is from the existing designated site.

Because of the insertion of this section, all of the following sections had to be renumbered.

**Section 15** was modified in the following two ways:

In **AS 38.05.550(a)**, the words “in fee” were removed to eliminate the unintended consequence of limiting material sales where the state does not own the land “in fee”. This terminology is typically used to explain that the owner does not own all of the rights. For instance, if the state owns the surface estate but not the mineral estate, it can be stated that the state does not own the land in fee; however, DNR would be able to sell material from that land. In the realm of ownership, the state can sell material from any surface estate land that it owns, whether Tentatively Approved or Patented.

A new subsection **AS 38.05.555(f)** was inserted to incentivize the use and sale of peat to create another alternative fuel for heat and power generation. This amendment addresses three levels of use. First it provides personal use of a limited amount of peat at no cost to encourage more people to use peat. Second it allows commercial use of peat at no cost for an initial volume of less than 30,000 cubic yards in a 10 year period in order to encourage businesses to invest in product and market development of commercial peat production. So as to not dampen those developing markets, the amendment further allows the next ten years of peat extraction or those applicants who initially apply for over 30,000 cubic yards to be sold at a 20% value.

**Section 21** was amended in order to revert part of the materials definition language back to the original language that exists in statute. This is mostly precautionary so that the public does not infer by the replacement of “stone, pumice, and common clay” with “quarry stone” as being a legislative action to remove pumice, common clay and non-quarry stone as being included in the definition.

This does not change the legal implications because the word "includes" is legally read as "the following are examples but are not limited to these examples".

**Section 22** is a new section that separates out material sales from this statute. This statute guides actions in the Recreational Rivers Public Use Area. There was a conflict with a reference to AS 38.05.115 once material sales were separated out in that section. Nothing in the allowable management of these lands is affected by the removal of the reference to materials in this statute.

Because of the insertion of this section, all of the following sections had to be renumbered.

# CSHB 361(RES): DISPOSALS OF STATE RESOURCES

## SECTIONAL ANALYSIS

FOR THE HOUSE FINANCE COMMITTEE • MARCH 21, 2012

**Sections 1 through 4** of the bill revise land sales statutes to clarify that the Division of Mining, Land, and Water can use sealed bids instead of public auctions as the Department of Natural Resources has done for many years.

**Sec. 5** revises leasing statutes to increase the appraised value of the transaction from \$5,000 to \$10,000 per year in order to qualify for negotiated leases.

**Sec. 6** revises the statute by adding new subsections to the land leasing laws:

(d) This section revises land leasing laws to provide for conversion of a public, competitive offering process to a negotiated, non-competitive process if after public notice only one interested party expresses interest in acquiring the lease.

(e) This section revises land leasing laws to provide for renewals upon expiration of a lease issued under AS 38.05.070, 38.05.075, or 38.05.810. This would allow for a lease to be renewed one time at the discretion of the director of MLW if certain established conditions are satisfied.

**Sections 7 through 9** revise land leasing statutes to clarify that MLW can use sealed bids instead of public auctions.

**Sections 10 through 12** separate material sales from timber sales in the statutes. Timber sales would remain under AS 38.05.110 – 123 and a new section would be established for material sales (sand, gravel, rip-rap, stone etc.) under Section 15 of this bill. This will clarify the purposes, methods and procedures for these two different types of property sales, which would provide more certainty to the sales processes.

**Sec. 13** changes this statute to conform to the Department of Revenue's mining license tax laws and allow miners to file MLT either by calendar year or the company's fiscal year. This section also gives DNR the authority to exempt, by regulation, small operations from the production royalty.

**Sec. 14** revises mining statutes to allow the director of the Division of Mining, Land and Water to extend or renew a submerged land mining lease for up to a period of 20 years.

**Sec. 15** revises the Alaska Land Act by adding new sections under a new Article (13A) to deal specifically with Material Sales. This proposed change, associated with proposed changes under Sections 10 through 12, is intended to separate the two very different types of property sales.

The substantive changes to the material sales statutes under this section separate out the respective rules and procedures for timber sales and material sales (such as for rock and gravel).

The proposed changes would:

- Allow the state to solicit competitive interest in material sales, and if there is none, avoid the longer competitive process;
- Establish how prices would be determined and allow for more use of the representative regional sales price rather than requiring appraisals of the material for each sale;
- Clarify that material may be sold at less than fair market value for certain instances that are in the public interest as related to conditions set in AS 38.05.872;
- Allow material use that is incidental to other authorizations to be sold without a separate material sale authorization; and
- Allow the use and sale of peat to create another alternative fuel for heat and power generation for personal and commercial use.

**Sec. 16** revises public and charitable use statutes to clarify that DNR may negotiate the lease of state land without competitive bid as opposed to public auction. This change amends this section of the law to conform to changes proposed in Sections 1-4, and 6-9 of the bill.

**Sec. 17** revises public and charitable use statutes to allow DMLW to negotiate within the leasing process the sale of material necessary for construction, use, maintenance of property leased under AS 38.05.810.

**Sec. 18** repeals and reenacts the statute that allows the department to convey materials as needed for certain flood control purposes.

**Sec. 19** revises public notice statutes in order to modernize public notice requirements for disposals of property rights.

**Sec. 20** repeats Sec. 19 except that it removes the option to post a legal notice referencing the online notification in a newspaper of statewide circulation as of July 1, 2017 per section 25. That option was included as a transitional option to help the public transition to online methods.

**Sec. 21** changes the definition of "materials" within the Alaska Lands Act.

**Sec. 22** separates out material sales from AS 41.23.470(b). There was a conflict with a reference to AS 38.05.115 once material sales were separated out in that section.

**Sec. 23** changes Alaska Water Law to clarify that temporary water use permits may be renewed.

**Sec. 24** provides instruction to the revisor of statutes to make organizational changes to correspond with the proposed separation of timber sales and material sales being proposed in Sections 10, 11, and 14 of this bill.

**Sec. 25** provides that Section 20 of the Act takes effect on July 1, 2017.

**Sec. 26** provides that, except as provided in sec. 25 of the Act, the Act takes effect July 1, 2012.

Leasing actions required by CSHB361(RES)

Lease Application defines request	Below \$10,000 and less than 10 year term	Over \$10,000 or over 10 year term	
	Option to Negotiate without soliciting competitive interest	Through public notice solicit for competitive interest	
		<i>No competitive interest expressed</i>	<i>Competitive interest expressed</i>
	Requires best interest decision	Negotiate any terms	Prepare and hold auction
	Requires formal public notice	Requires best interest decision	Requires best interest decision
		Requires formal public notice, although initial notice would suffice	Requires formal public notice both at the outset and for auction
			Requires publication of auction brochure
			Requires additional 30 day public notice of auction

Information provided by the Department of Natural Resources, Division of Mining, Land and Water.

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Governor Sean Parnell  
STATE OF ALASKA

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February 27, 2012

The Honorable Mike Chenault  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Chenault,

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to the Alaska Land Act, including certain lease, sale, and other disposal of State land and materials; relating to production royalties from miners; and relating to rights to use State water. This bill will reduce the permitting burden and costs of applicants by creating efficiencies, streamlining, and eliminating redundancies in the permit application process.

This bill would accomplish the following:

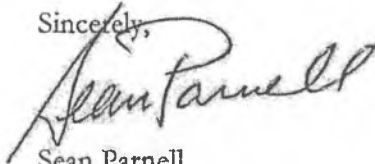
- (1) Allow the Department of Natural Resources to use sealed bid procedures, rather than public auction, if appropriate, for certain leasing and disposal of State land;
- (2) Raise the monetary cap for negotiating leases of State land from \$5,000 to \$10,000;
- (3) Give the Department of Natural Resources more flexibility regarding when to issue negotiated leases of land, as opposed to using a competitive bid process;
- (4) Allow the Department of Natural Resources to renew mineral and land leases under certain conditions without conducting the same process for initiating a new lease;
- (5) Separate out the respective rules and procedures for timber sales and material sales, such as for rock and gravel;
- (6) Allow the Department of Natural Resources to convey materials as needed for flood control purposes;
- (7) Allow the Department of Natural Resources to exempt small mining operations from having to pay production royalties; and

The Honorable Mike Chenault  
February 27, 2012  
Page 2

- (8) Provide more flexibility to the Department of Natural Resources in how they notify the public of proposed decisions.

Collectively, these various changes represent an effort by the Department of Natural Resources to make its administration of these programs more efficient. If enacted, these changes will help the Department improve its ability to responsibly manage the State's land and resources in accordance with constitutional principles and statutory directives.

Sincerely,

A handwritten signature in cursive script that reads "Sean Parnell". The signature is written in dark ink and is positioned above the printed name and title.

Sean Parnell  
Governor

Enclosure

Alaska State Legislature  
HOUSE FINANCE COMMITTEE

Agenda  
9:30AM

Monday, April 2, 2012

HB 361-DISPOSALS OF STATE RESOURCES  
CS WORKDRAFT 27-GH2717\B adopted  
AMENDMENTS GARA 1, 2, 3

New Fiscal Note (DNR) zero previous #3

*Amendment #4 Edgmon*