

LEG. FINANCE - BILLS 1977 - 1978 665

HB 133 cont. 665

(3)

AMENDMENT WITH RESPECT TO ACREAGE ENTITLEMENTS, ADDITIONAL ACREAGE
CONTINGENT UPON MAKING LAND AVAILABLE FOR RESIDENTIAL AND COMMERCIAL
PURPOSES . . .

1 *Page 2, following line 24, insert

2 Sec. 29.18.203. IN-LIEU ENTITLEMENTS FOR CERTAIN MUNICIPALITIES. (a)
3 The general grant land entitlement of each of the municipalities in this
4 subsection is the amount set out opposite each:

- 5 (1) Municipality of Anchorage -- 90,863 acres
6 (2) City and Borough of Juneau -- 19,584 acres
7 (3) City and Borough of Sitka -- 11,593 acres
8 (4) Bristol Bay Borough -- 2,898 acres
9 (5) Haines Borough -- 3,985 acres
10 (6) Ketchikan Gateway Borough -- 11,593 acres
11 (7) North Slope Borough -- 89,650 acres

12 (b) A municipality listed in (a) of this section may elect an entitle-
13 ment under this section in lieu of the benefits provided in sec. 202 of
14 this chapter. Election of the benefits of this section shall be made
15 by the municipality within one year of the effective date of this Act.

16 (c) The entitlement to be provided to each municipality designated in
17 (a) of this section and electing the benefits of this section vests on the
18 day following receipt by the director of the division of land and water
19 management of notice that the municipality has adopted an ordinance
20 providing for the disposition of municipal land to private ownership for
21 residential and commercial purposes and committing not less than 10 per
22 cent of the amount by which the entitlement to be provided the municipality
23 under this section exceeds the entitlement determined under sec. 202 of thi
24 chapter to disposal to private ownership in accordance with the provisions
25 of that ordinance.

26 (d) No ordinance ^{shall be} enacted by a municipality under this section unless
27 it provides that disposal of land received by the municipality by the oper-
28 ation of this subsection shall be offered for public sale in accordance wit
29 applicable provisions of state law and municipal ordinance within two years

1 following the effective date of this Act, or one year after receipt by the
2 municipality of an instrument of conveyance to the land selected, whichever
3 is later.

4 (e) The requirement of commitment of lands to disposal to private owner-
5 ship required by (c) of this section shall be waived by the director upon
6 submission of a resolution by the assembly manifestly demonstrating that
7 commitment of acreage to residential or commercial purposes required by
8 this section as a condition of election of an entitlement

9 (1) is not possible because of the absence of available acreage
10 for selection and commitment for that purpose; or

11 (2) would materially increase costs of services provided by
12 the municipality beyond the reasonable ability of the municipality to meet.

13 * Additional amendments in the nature of correction of cross-references
14 throughout the draft.

4

LIMITATION ON CASH PAYMENTS . . .

1 *Page 8, following line 28:

2 Add --

3 (f) The total payment to a municipality under this section may not
4 exceed \$ 100 per capita for each person resident in the municipality on
5 the July 1 preceding the effective date of this Act, as determined by the
6 department of community and regional affairs.

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A M E N D M E N T

1
2 Offered in the HOUSE

By _____

3 TO: CSHB 133
4

5 Page 6, between lines 5 and 6:
6

7 Insert the following:

8 Sec. 29.18.205. SCHOOL LAND, UNIVERSITY LAND
9 & MENTAL HEALTH LAND. (a) A municipality may se-
10 lect vacant school, university, and mental health
11 lands within the municipality in partial fulfillment
12 of its land entitlement under this chapter, notwith-
13 standing the fact that such lands, by their designation
14 as school, university or mental health lands, are there-
15 by not unappropriated and unreserved within the meaning
16 of this chapter and the former secs. 190-200 of this
17 chapter. Each such selection must be vacant, unappro-
18 priated, unreserved land as defined in this chapter, ex-
19 cept that it need not be general grant land.

20 (b) The acreage of school, university and mental health
21 lands, within a municipality may not be included in the
22 determination of eligibility under sec. 208(b) of this
23 chapter or in the determination of entitlement under
24 sec. 202 of this chapter.

25 (c) Upon receipt of such a selection, the director,
26 shall determine whether the land selection should
27 be approved, basing his decision upon the criteria
28 set out in sec. 204(F) of this chapter, and follow-
29 ing the procedures set out in sec. 204(g) of this

1 chapter. Land approved for selection under this
2 section will be credited against a municipality's
3 remaining land entitlement under this chapter in
4 a ratio of one acre of selected land for three
5 acres of entitlement. No selection of school, uni-
6 versity or mental health land may be approved by the
7 director under this section without the concurrence
8 of the State Board of Education, the Board of Regents
9 of the University of Alaska, or the Mental Health Land
10 Board created by AS 38.05.035(13), respectively.

11 (d) Within three years after the approval under (c)
12 of this section of a municipal selection of school,
13 university or mental health land, the director, with
14 the concurrence of the respective Board, shall desig-
15 nate appropriate state general grant land of approxi-
16 mately equal value as school, university or mental
17 health replacement land, and that land shall thereafter
18 be managed for the purposes for which the selected land
19 was acquired by the Territory and State of Alaska.

20 (e) The notice and review provisions of AS 38.05.305
21 and 38.05.345 are applicable to the designation of
22 other state land as school, university or mental health
23 land in replacement of land selected under this section.
24 The provisions of AS 38.50 do not apply to such designa-
25 tions under this section.

26 Page 11, between lines 16 and 17:

27 Insert the following and re-number succeeding paragraphs of
28 AS 29.18.218:

29 (4) "mental health land" means land granted under

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Title II, § 202 of Public Law 84-830, as amended before or after the effective date of this Act;

Page 12, between lines 3 and 4:

Insert the following and re-number succeeding paragraphs of AS 29.18.218:

(9) "school lands" means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under § 6(k), Alaska Statehood Act, 72 Stat. 339, and any other lands designated solely for school revenues:

(10) "university lands" means all sections 33 reserved to the university under 38 Stat. 1214, as amended (48 USC 353) and all lands granted to or reserved for the benefit of the university;

AMENDMENT

1 OFFERED IN THE HOUSE

2 TO: CSHB 133

3

4 (a) Following the date of incorporation of a new municipality pursuant
5 to secs. 50 - 110 of this chapter, the department of community and
6 regional affairs shall request a comprehensive planning program supple-
7 ment to that municipality's organizational grant under sec. 180 of this
8 chapter, not to exceed \$100,000. This comprehensive planning program
9 supplement is to be administered by the department of community and regional
10 affairs for the purpose of compiling a comprehensive development plan
11 in conjunction with the new municipality that would identify municipal land
12 needs associated with present and future community expansion and development.
13 Prior to being eligible to receive any grant of vacant, unappropriated
14 unreserved state land within its boundaries, the municipality must compile
15 and adopt that comprehensive development plan. The department of community
16 and regional affairs shall be responsible for administration, review
17 and approval of the new municipality's planning process.

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19 (b) After municipal adoption of the comprehensive development plan, and a
20 written request from the new municipality, the department of community
21 and regional affairs, after consultation with the municipality and the
22 department of natural resources, shall recommend to the Legislature the
23 amount of vacant, unappropriated, unreserved state land within the
24 municipality's boundaries which should be conveyed to the municipality.
25 Such recommendation shall be based upon needs identified in the adopted
26 comprehensive development plan and the state and local criteria
27 found in sec. 205 of this chapter.

28

29 (c) Following establishment of an entitlement for a new municipality by
30 the Legislature pursuant to subsection (b) of this section, the selection,
31 approval and conveyance procedures established under secs. 205 - 215 of this
32 chapter shall apply.

A M E N D M E N T

TO: CS FOR HOUSE BILL NO. 133 (FINANCE)

Page 17, following line 6:

Add the following new material:

(c) In furtherance of the completion of the balance of selections under secs. 6(a) and 6(b) of the Alaska Statehood Act, the commissioner of the Department of Natural Resources shall select not less than 25,000 acres of vacant, unappropriated and unreserved land within the boundaries of each regional educational attendance area established under AS 14.08.

(d) The provisions of AS 38.05.300 - 38.05.310 apply to land selected under secs. 6(a) and 6(b) of the Alaska Statehood Act after the effective date of this Act.

* Sec. 5. AS 29.18 is amended by adding a new section to read:

Sec. 29.18.185. STATE LAND FOR NEWLY INCORPORATED BOROUGHES. (a) In addition to the grant paid under sec. 180 of this chapter, a borough incorporated after July 1, 1978, may select 25,000 acres of the vacant, unappropriated and unreserved state land located within its boundaries.

(b) The provisions of secs. 204(a), 205(e) - (i), and 206 - 210 of this chapter apply to the fulfillment of land selections authorized by (a) of this section.

Renumber subsequent sections accordingly.

Original sponsors: Parr, Brown
and Cowper

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 133 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selection and transfer of state
7 land to municipalities; and providing for an effective
8 date."

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

10 * Section 1. STATEMENT OF PURPOSE. The purposes of this Act are to
11 remove uncertainties in the existing municipal land selection law of the
12 state; to provide for an immediate, final determination and settlement of
13 municipal land entitlement; to provide for the completion of rational owner-
14 ship patterns for sound land management; to provide for expeditious patent of
15 land to municipalities to fulfill their respective entitlements; and to
16 provide payment in lieu of land to certain municipalities unable to exercise
17 full entitlement rights to assist in meeting costs of acquisition of land to
18 meet public needs.

19 * Sec. 2. AS 29.18 is amended by adding new sections to read:

20 ARTICLE 3A. GENERAL GRANT LAND.

21 Sec. 29.18.201. DETERMINATION OF ENTITLEMENT OF BOROUGH AND
22 UNIFIED MUNICIPALITIES. The general grant land entitlement of each of
23 the municipalities in this section is the amount set out opposite each:

- 24 (1) Municipality of Anchorage -- 20,865 acres;
25 (2) City and Borough of Juneau -- 440 acres;
26 (3) City and Borough of Sitka -- 25 acres;
27 (4) Bristol Bay Borough -- 1,940 acres;
28 (5) Fairbanks-North Star Borough -- 112,000 acres;
29 (6) Haines Borough -- 1,080 acres;

- 1 (7) Kenai Peninsula Borough -- 155,780 acres;
- 2 (8) Ketchikan Gateway Borough -- 295 acres;
- 3 (9) Kodiak Island Borough -- 45,200 acres;
- 4 (10) Matanuska-Susitna Borough -- 355,210 acres;
- 5 (11) North Slope Borough -- 645 acres.

6 Sec. 29.18.202. IN-LIEU ENTITLEMENTS FOR CERTAIN BOROUGHES AND
7 UNIFIED MUNICIPALITIES. (a) The general grant land entitlement of each
8 of the municipalities in this subsection is the amount set out opposite
9 each:

- 10 (1) Municipality of Anchorage -- 90,863 acres;
- 11 (2) City and Borough of Juneau -- 19,584 acres;
- 12 (3) City and Borough of Sitka -- 11,593 acres;
- 13 (4) Bristol Bay Borough -- 2,898 acres;
- 14 (5) Haines Borough -- 3,985 acres;
- 15 (6) Ketchikan Gateway Borough -- 11,593 acres;
- 16 (7) North Slope Borough -- 89,850 acres;

17 (b) A municipality listed in (a) of this section may elect an
18 entitlement under this section in lieu of the benefits provided in sec.
19 201 of this chapter. Election of the benefits of this section shall be
20 made by the municipality within 60 days of the effective date of this
21 Act.

22 (c) The entitlement to be provided to each municipality designated
23 in (a) of this section which elects the benefits of this section becomes
24 effective on the day following receipt by the director of notice that
25 the municipality has adopted an ordinance providing for the disposition
26 of municipal land to private ownership for residential and commercial
27 purposes and committing not less than 30 per cent of the amount by which
28 the entitlement to be provided the municipality under this section
29 exceeds the entitlement determined under sec. 201 of this chapter to

1 disposal to private ownership in accordance with the provisions of that
2 ordinance.

3 (d) No ordinance enacted by a municipality under this section is
4 valid unless it provides that disposal of land suitable for residential
5 purposes received by the municipality by the operation of this subsec-
6 tion shall be offered for public sale in tracts no larger than two and
7 one-half acres in accordance with applicable provisions of state law and
8 municipal ordinance within two years following the effective date of
9 this Act, or one year after receipt by the municipality of an instrument
10 of conveyance to the land selected, whichever is later.

11 (e) The requirements of (c) of this section shall be waived by the
12 director as to a home rule municipality which manifestly demonstrates
13 that a commitment of acreage to residential or commercial purposes
14 required by this section as a condition of election of an entitlement

15 (1) is not possible because of the absence of available
16 acreage for selection and commitment for that purpose; or

17 (2) would materially increase costs of services provided by
18 the municipality beyond the reasonable capability of the municipality to
19 meet.

20 Sec. 29.18.203. DETERMINATION OF ENTITLEMENT FOR CITIES. (a) The
21 general grant land entitlement of a city eligible to receive general
22 grant land under the former provisions of secs. 190 - 200 of this chap-
23 ter repealed by this Act is 10 per cent of the maximum total acreage of
24 vacant, unappropriated, unreserved land within the boundaries of each
25 city at any time between the initial date of eligibility under former
26 secs. 190 - 200 of this chapter and the effective date of this Act.

27 (b) Within six months of the effective date of this Act, the
28 director shall determine the entitlement for each city eligible to
29 receive general grant land under (a) of this section and certify that

1 entitlement to the city.

2 Sec. 29.18.204. STATUS OF ENTITLEMENTS. (a) General grant land
3 entitlements provided in secs. 201 - 203 of this chapter constitute
4 vested property rights which shall be fulfilled as provided in sec. 205
5 or sec. 208 of this chapter, but no municipal selection vests any inter-
6 est in or right to receive a particular tract of land except as provided
7 by sec. 205 of this chapter.

8 (b) General grant land entitlements vested under secs. 201 - 203
9 of this chapter may be exercised at any time before the date which is
10 two years after the expiration of the state's right to make selections
11 under secs. 6(a) or (b) of the Alaska Statehood Act (P.L. 85-508);
12 however, the time limitation imposed by this subsection does not apply
13 to payments in lieu of land under sec. 208 of this chapter.

14 Sec. 29.18.205. FULFILLMENT OF LAND ENTITLEMENTS. (a) The acre-
15 age of each municipality's land selections under former secs. 190 - 200
16 of this chapter for which patent has been issued before the effective
17 date of this Act shall be credited toward fulfillment of the entitlement
18 of that municipality.

19 (b) All approved selections under former secs. 190 - 200 of this
20 chapter for which patent has not been issued to a municipality on the
21 effective date of this Act shall be reviewed by the director within nine
22 months of the effective date of this Act. Any approved selection of
23 land which was vacant, unappropriated or unreserved on the date of
24 selection is valid as of the date of the approval under the former secs.
25 190 - 200 of this chapter, and a patent shall be issued to the munici-
26 pality within three months after approval by the director of a plat of
27 survey. The acreage shall be credited toward fulfillment of the munic-
28 pality's entitlement. No municipality is entitled to receive patent
29 under this chapter to more than its entitlement determined under secs.

1 201 - 203 of this chapter. Any prior approval by the director of muni-
2 cipal selections for land which was not vacant, unappropriated or un-
3 reserved on the date of selection shall be rescinded, and patent may not
4 be issued except when disposal to a third party by sale or lease has
5 occurred. Transfers of land to municipalities under this chapter are
6 subject to AS 38.05.321. Classification actions as reflected upon the
7 land status records of the Department of Natural Resources are deter-
8 minative of land classification status for purposes of this chapter.

9 (c) All municipal land selections under former secs. 190 - 200 of
10 this chapter not approved as of the effective date of this Act shall be
11 recognized by the director as representing the priority interests of the
12 municipalities, and the selections shall be given first consideration
13 under (e) of this section unless the municipality indicates different
14 priorities.

15 (d) On the effective date of this Act and for five years there-
16 after, no classification of a parcel of general grant land in excess of
17 3,200 acres under AS 38.05.300 shall be effective, unless otherwise
18 required by law, if the municipality in which the parcel is located,
19 within 30 days after receipt of notice of the proposed classification,
20 advises the director in writing that it does not consent to the classi-
21 fication and indicates the reasons for its nonconsent.

22 (e) Each eligible municipality and the director shall jointly
23 consider which vacant, unappropriated, unreserved land, including
24 federal land of interest to a municipality which may be selected by the
25 state as general grant land, located within the boundaries of the muni-
26 cipality is appropriate for municipal selection and approval by the direc-
27 tor to fulfill any remaining municipal general grant land entitlement.
28 The joint consideration made by the parties shall include a cooperative
29 land planning process which will, in addition to the normal

1 objectives of such a process, seek to identify both local and state
2 interests in tracts of vacant, unappropriated and unreserved land re-
3 maining within the municipality. Adjacent tracts shall be considered
4 simultaneously except when such simultaneous consideration would cause
5 significant delay or expense. Once a tract has been jointly considered,
6 it may be selected by a municipality.

7 (f) Each selection must be approved or disapproved for patent by
8 the director under (g) of this section within nine months of its selec-
9 tion by a municipality, and a patent shall be issued to the municipality
10 within three months after approval by the director of a plat of survey.

11 (g) In reviewing a municipal selection, the director shall con-
12 sider the state's responsibilities for developing and protecting values
13 which are of greater than local concern, including development which
14 will have statewide impact, and critical environmental concerns. Speci-
15 fic state responsibilities to be considered, if such responsibilities
16 have not been authorized or delegated by the state to a municipality,
17 include air quality; water; minerals and energy; timber; agriculture;
18 grazing; fish and wildlife and their habitat; public recreation, na-
19 tural, historical, and archaeological areas of greater than local con-
20 cern; access to public land and water; transportation; communications;
21 and public safety. Specific municipal responsibilities to be considered
22 include residential, commercial and industrial needs; support of municipi-
23 pal services; education; local transportation; private recreation;
24 public recreation, natural, historical and archaeological areas of local
25 concern; and other responsibilities authorized or delegated by the state
26 to a municipality. A selection by a municipality of land which is
27 primarily of local concern shall be approved. When the interests of the
28 state may be protected through the conveyance of title that is less than
29 a fee title, the municipality, at its option, may accept the title in

1 acre-for-acre fulfillment of its entitlement.

2 (h) Every decision of approval or disapproval of a municipal
3 selection by the director under (f) of this section shall include a
4 written explanation of the decision based upon the criteria of (g) of
5 this section. Before issuing any decision to disapprove a selection,
6 the director shall notify the affected municipality in writing, by
7 certified mail, of his reasons for the proposed decision. The munici-
8 pality shall have 30 days from receipt of the proposed decision to
9 respond to the director in writing enumerating the reasons for which the
10 municipality believes the proposed decision to be in error. After
11 receipt of the municipality's statement of reasons, or after expiration
12 of the period in which the municipality may respond to the proposed
13 decision, the director shall, within 30 days, affirm, modify or reverse
14 his proposed decision in writing and give written notice of his decision
15 to the municipality. The decision of the director constitutes final
16 administrative action in the matter.

17 (i) A municipality may appeal an adverse decision by the director
18 to the superior court under AS 44.62.560 - 44.62.570.

19 Sec. 29.18.206. SCHOOL, UNIVERSITY AND MENTAL HEALTH LAND. (a) A
20 municipality may select vacant school, university or mental health land
21 within the municipality in partial fulfillment of its land entitlement
22 under this chapter. School, university or mental health land may be
23 selected notwithstanding the fact that these lands are not unappro-
24 priated and unreserved within the meaning of this chapter and secs. 190
25 and 200 of this chapter, repealed by this Act, but each selection of
26 school, university or mental health land by a municipality must be
27 vacant, unappropriated, or unreserved land as defined in this chapter,
28 except that it need not be general grant land.

29 (b) The acreage of school, university or mental health land, if

1 any, within a municipality may not be included in the determination of
2 entitlement under secs. 201 - 203 of this chapter.

3 (c) Upon receipt of a selection by a municipality of school,
4 university or mental health land, the director shall determine whether
5 the land selection should be approved. The decision of the director
6 shall be based upon the criteria of sec. 205(g) of this chapter, and
7 shall follow the procedures set out in sec. 205(h) of this chapter.
8 Land approved for selection under this section will be credited against
9 a municipality's remaining land entitlement under this chapter.

10 (d) No selection of school, university or mental health land may
11 be approved by the director under this section without the concurrence
12 of

13 (1) the state Board of Education, for school land;

14 (2) the Board of Regents of the University of Alaska, for
15 university land; or

16 (3) the members of the mental health land board specified in
17 AS 38.05.035(13), for mental health land.

18 (e) Within three years after the approval under (d) of this sec-
19 tion of a municipal selection of school, university or mental health
20 land, the director, with the concurrence of the respective board, shall
21 designate appropriate state general grant land of approximately equal
22 value as school, university or mental health replacement land. The re-
23 placement land shall thereafter be managed for the purposes for which
24 the land selected by the municipality was acquired by the Territory and
25 State of Alaska.

26 (f) The notice and review provisions of AS 38.05.305 and 38.05.345
27 are applicable to the designation of other state land as school, univer-
28 sity or mental health land in replacement of land selected under this
29 section. The provisions of AS 38.50 and AS 38.05.032 do not apply to

1 such designations under this section.

2 Sec. 29.18.207. SELECTION AND CONVEYANCE PROCEDURE. (a) All
3 municipal selections shall be made in reasonably compact tracts, taking
4 into account the use capabilities of a tract and its relationship to
5 surrounding land uses. A selection filed by a municipality which has
6 not been approved by the director may be relinquished at any time. An
7 approved selection may be relinquished by a municipality if the relin-
8 quishment is approved by the director. An approved selection relin-
9 quished by a municipality increases the remaining entitlement of the
10 municipality on an acre-for-acre basis.

11 (b) A municipality may maintain selections for not more than 110
12 per cent of its remaining entitlement. Municipal selections for general
13 grant land which was withdrawn under sec. 11(a)(2) and selected under
14 sec. 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et
15 seq., P.L. 92-203) is not included in the limitation of this subsection.

16 (c) If land selected by a municipality is unsurveyed at the time
17 of approval, the director shall survey, or may approve the munic-
18 ipality's survey of, the exterior boundaries of an approved selection
19 without interior subdivision, and shall issue patent in terms of the
20 exterior boundary survey. The cost of the survey shall be borne by the
21 municipality. If land selected by a municipality has been surveyed at
22 the time of its selection, the boundaries shall conform to the public
23 land subdivisions established by the approved survey.

24 (d) The director may approve municipal selections of land which
25 has been tentatively approved or patented to the state by the federal
26 government, but he may not issue patent to a municipality until the land
27 has first been patented to the state. After approval of a selection by
28 the director, but before patent to a municipality, the municipality may
29 execute conditional leases and make conditional sales only with the

1 consent of the director. Conditional sales and conditional leases made
2 before the effective date of this Act do not require the consent of the
3 director.

4 (e) Nothing in this chapter affects a valid existing claim, loca-
5 tion or entry under the laws of the state or the United States whether
6 for homestead, mineral, right-of-way or other purposes. Nothing in this
7 chapter affects the rights of an owner, claimant, locater or entryman to
8 the full use and enjoyment of the land so occupied.

9 Sec. 29.18.208. PAYMENT IN LIEU OF LAND. (a) There is estab-
10 lished within the general fund the Alaska municipal land account for the
11 purpose of allowing eligible municipalities to receive payment in lieu
12 of land entitlements provided in secs. 201 - 203 of this chapter.

13 (b) By August 1 of each year the director shall certify to each
14 municipality having an entitlement under secs. 201 - 203 of this chapter
15 the acreage of patented selections, approved selections not yet patent-
16 ed, pending municipal land selections neither approved nor disapproved
17 by the director, and the remaining entitlement of the municipality. If
18 at the time of certification the ratio of the remaining entitlement of
19 the municipality to the vacant, unappropriated, unreserved land within
20 the municipality is greater than two to one, or if there are less than
21 1,000 acres of vacant, unappropriated, unreserved land within the muni-
22 cipality, the municipality may, at its option, request payment in lieu
23 of land from the account established in (a) of this section; however, no
24 payment may be made to the City and Borough of Juneau, the City and
25 Borough of Sitka or the Ketchikan Gateway Borough under this subsection
26 until the fiscal year after cumulative appropriations to the account
27 exceed \$12,000,000 or until the fiscal year beginning July 1, 1985,
28 whichever occurs first.

29 (c) A municipality eligible for payment under this section may, by

1 October 1 of each fiscal year of eligibility, notify the director of its
2 election to accept payment in lieu of land from the account. A munici-
3 pality may accept payment for not more than 15 per cent of its entitle-
4 ment under secs. 201 - 203 of this chapter, to a maximum of 10,000
5 acres, in each fiscal year. A municipality which chooses to accept
6 payment in lieu of land shall be entitled to an amount based on the
7 cumulative total number of acres of remaining entitlement which it
8 relinquishes according to the following schedule:

- 9 (1) 10,000 acres or less -- \$1,500 per acre;
10 (2) 10,001 to 20,000 acres -- \$750 per acre; and
11 (3) more than 20,000 acres -- \$350 per acre.

12 (d) The governor shall annually submit to the legislature a
13 request for an appropriation to the account for the municipalities which
14 have elected to receive payment in lieu of land under this section.

15 (e) If the total appropriation is not sufficient to meet the
16 amount due to all municipalities which have elected to accept payment in
17 lieu of land under (c) of this section, the governor shall apportion the
18 appropriation among the municipalities in proportion to the payment
19 calculated for each municipality for that year. When a distribution of
20 payments is made under this subsection, the remaining entitlement of a
21 municipality to which payment is made shall be reduced in an amount
22 equal to the number of acres for which payment was received. An appor-
23 tionment may correspondingly increase the acreage for which a munici-
24 pality may request payment in a succeeding year, but this increase in
25 acreage does not authorize a municipality to request payment in lieu of
26 land of more than 10,000 acres in any one year.

27 (f) The total payment to a municipality under this section may not
28 exceed \$100 per capita for each person resident in the municipality on
29 the July 1 preceding the effective date of this Act, as determined by

1 the Department of Community and Regional Affairs.

2 Sec. 29.18.209. AUTHORIZATION FOR LAND EXCHANGES. The director,
3 with the concurrence of the commissioner, and any municipality are
4 authorized to exchange land or interests in land when it is in the
5 public interest. Land or interests in land exchanged under this section
6 must be of approximately equal value, including the non-monetary value
7 of public benefits. Exchange procedures shall comply with applicable
8 law and municipal ordinances. The notice and review provisions of AS
9 38.05.305 and 38.05.345 are applicable to exchanges of land under this
10 section. The provisions of AS 38.50 do not apply to exchanges of land
11 under this section.

12 Sec. 29.18.210. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Consis-
13 tent with the best interests of the state, if a municipality does not
14 contain and cannot reasonably acquire sufficient nonfederal land within
15 its boundaries to meet its legitimate needs for public or private settle-
16 ment or development, it shall be the policy of the state to select
17 federal land reasonably necessary to meet the needs of the municipality
18 and to make the land selected available to the municipality under AS
19 38.05.315 or (b) of this section.

20 (b) Where state land is the most logical location for demonstrated
21 municipal expansion for nonpublic settlement and development purposes,
22 and when an exchange of land under sec. 209 of this chapter is not
23 possible or is not in the public interest, it is the policy of the state
24 to sell or lease the land at public auction. The state may contract
25 with a municipality to act as its agent in an auction of state land
26 under applicable statutes. When a municipality acts as the agent of the
27 state in an auction, the municipality may retain from the proceeds of
28 the auction the expenses which the director determines to be necessary
29 and reasonable.

1 (c) Nothing in this chapter limits or impairs the authority of the
2 director to transfer land to municipalities, without limit or considera-
3 tion, for public purposes in accordance with AS 38.05.315. If there is
4 a remaining entitlement of the municipality, land transferred under AS
5 38.05.315 shall be credited toward fulfillment of the entitlement;
6 however, land conveyed to the state under sec. 12(d)(2) of Public Law
7 94-204 and subsequently conveyed by the state to a municipality under
8 secs. 201 - 215 of this chapter or AS 38.05.315 may not be credited
9 against the municipality's remaining entitlement.

10 Sec. 29.18.211. ELECTION OF BENEFITS. (a) A municipality which
11 on the effective date of this Act is engaged in litigation, or which
12 becomes engaged in litigation, regarding a claim to state land under
13 former secs. 190 - 200 of this chapter shall elect either to obtain the
14 benefits provided in secs. 201 - 215 of this chapter or to pursue the
15 litigation and thereby waive any claim to entitlement under secs. 201 -
16 215 of this chapter. An election shall be made by filing a motion for
17 dismissal with prejudice in the court in which the litigation is pending
18 If the claim involves a municipality identified in secs. 201(a) or
19 202(a) of this chapter, the municipality shall file its motion for
20 dismissal within 60 days of the effective date of this Act. If the
21 claim involves a municipality not listed in secs. 201(a) or 202(a) of
22 this chapter, the municipality shall file its motion for dismissal
23 within 60 days after receiving the certificate of entitlement provided
24 by the director under sec. 203(b) of this chapter. Failure of the
25 municipality to file a motion for dismissal during the time period
26 provided in this subsection shall be considered a waiver of entitlement
27 under secs. 201 - 215 of this chapter.

28 (b) A municipality which was eligible to file land selections
29 under the former secs. 190 - 200 of this chapter and which does not

1 enter into litigation over a claim to rights under those sections before
2 the expiration of the time period within which it could make an election
3 under (a) of this section shall be considered to have elected to receive
4 benefits under secs. 201 - 215 of this chapter and to have waived any
5 claim which might have been raised under former secs. 190 - 200 of this
6 chapter.

7 (c) The provisions of secs. 201 - 215 of this chapter do not
8 affect the rights, if any, of any party to litigation regarding the
9 former AS 29.18.190 - 29.18.200 or 29.18.420, which litigation is main-
10 tained by a municipality that has elected not to obtain the benefits
11 provided by secs. 201 - 215 of this chapter.

12 Sec. 29.18.212. ADMINISTRATION. The commissioner may adopt regu-
13 lations in accordance with the Administrative Procedure Act (AS 44.62)
14 necessary to carry out the purposes of secs. 201 - 215 of this chapter.

15 Sec. 29.18.213. DEFINITIONS. In secs. 201 - 215 of this chapter,
16 unless the context otherwise requires,

17 (1) "approved selection" means a municipal land selection
18 which has been approved in writing by the director for transfer by
19 patent to a municipality;

20 (2) "director" means the director of the division of land and
21 water management, Department of Natural Resources, or his designee;

22 (3) "general grant land" means land patented or tentatively
23 approved to the state from the United States under secs. 6(a) or (b) of
24 the Alaska Statehood Act;

25 (4) "mental health land" means land granted under Title II,
26 sec. 202 of P.L. 84-830, as amended before or after the effective date
27 of this Act;

28 (5) "municipal land selection" means a request by a munici-
29 pality, filed in writing with the director under authority of secs.

1 190 - 200 of this chapter repealed by this Act or under secs. 201 - 215
2 of this chapter for vacant, unappropriated, unreserved general grant
3 land within its municipal boundaries in partial fulfillment of its
4 municipal entitlement;

5 (6) "municipality" means a home rule or general law city or
6 organized borough of any class, and includes unified municipalities
7 established under AS 29.68.240 - 29.68.440;

8 (7) "patent" means a document, issued by the director to a
9 municipality for a previously approved selection, which conveys and
10 quitclaims all the right, title and interest of the state without reser-
11 vation or condition except as may be required by law;

12 (8) "remaining entitlement" means the general grant land
13 entitlement determined in accordance with secs. 201 - 203 of this chap-
14 ter, reduced by the total acreage of approved selections, including both
15 patented and unpatented parcels;

16 (9) "school land" means those rectangular sections 16 and 36
17 within each township surveyed on or before January 3, 1959, and con-
18 firmed and transferred to the State of Alaska upon its admission under
19 sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other land desig-
20 nated solely for school revenues;

21 (10) "university land" means all sections 33 reserved to the
22 university under 38 Stat. 1214, as amended (48 U.S.C. 353) and all land
23 granted to or reserved for the benefit of the university;

24 (11) "vacant, unappropriated, unreserved land" means general
25 grant land as defined in (3) of this section, excluding minerals as
26 required by sec. 6(i) of the Alaska Statehood Act, which

27 (A) has not been set aside by statute for one or more
28 particular uses or purposes;

29 (B) has not been approved for patent to a municipality

1 under secs. 202 - 218 of this chapter or former secs. 190 - 200 of
2 this chapter repealed by this Act; or

3 (C) is unclassified or, if classified under AS 38.05.-
4 300, is classified for agricultural, grazing, commercial, indus-
5 trial, private recreational, residential, utility or open-to-entry
6 purposes.

7 * Sec. 3. AS 38.05.321 is repealed and re-enacted to read:

8 Sec. 38.05.321. RESTRICTION ON SALE, LEASE OR OTHER DISPOSAL OF
9 AGRICULTURAL AND GRAZING LAND. (a) The sale, lease or other disposal
10 of state land classified as agricultural or grazing land transfers only
11 rights for agricultural and grazing purposes, and all other interests in
12 the land remain with the state unless otherwise required by law.

13 (b) State land classified as agricultural or grazing land which
14 has been selected by a municipality under AS 29.18.190 - 29.18.200 or
15 29.18.205(e) may be approved by the director for patent under AS 29.-
16 18.205(f); however, only rights in the land for agricultural or grazing
17 purposes may be transferred and all other interests in the land will
18 remain with the state. Agricultural or grazing land approved for patent
19 to a municipality under AS 29.18.205(f) shall be credited, acre for
20 acre, toward fulfillment of that municipality's entitlement under AS
21 29.18.201 - 29.18.203. If the director later determines it to be in the
22 best interests of the state to transfer some or all of the additional
23 rights in that approved or patented agricultural or grazing land, those
24 rights shall pass without consideration to the municipality in which the
25 land is located.

26 (c) The provisions of this section do not apply to state land
27 classified as agricultural or grazing land which has been selected by a
28 municipality under the provisions of AS 29.18.190 - 29.18.200 if the
29 selection is an approved selection before the date of enactment of this

1 Act and is otherwise valid under AS 29.18.205(b).

2 * Sec. 4. AS 38.05.290 is amended by adding a new subsection to read:

3 (b) Consistent with the best interests of the state, in the selec-
4 tion of general grant land it is the policy of the state to make avail-
5 able the maximum land area from which municipalities may fulfill land
6 entitlements under AS 29.18.201 - 29.18.215.

7 * Sec. 5. AS 29.18.190, 29.18.200, and 29.18.420 are repealed.

8 * Sec. 6. REPORT. Within 30 days after the convening of each regular
9 session of the Eleventh and Twelfth Legislatures and the first regular ses-
10 sion of the Thirteenth Legislature, the director of the division of land and
11 water management shall report to the legislature on the implementation of AS
12 29.18.201 - 29.18.215 in sec. 2 of this Act.

13 * Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-
14 070(c).

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Original sponsors: Parr, Brown
and Cowper

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 133 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the selection and transfer of
7 state land to municipalities."

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

9 * Section 1. STATEMENT OF PURPOSE. The purposes of this Act are to
10 remove uncertainties in the existing municipal land selection law of the
11 state; to provide for an immediate, partial determination and settlement of
12 municipal land entitlement; and to provide for expeditious conveyance of
13 state land to municipalities in furtherance of their respective entitlements.

14 * Sec. 2. AS 29.18.190 is amended by adding new subsections to read:

15 (b) The general grant land entitlement of a municipality eligible
16 to receive land under the provisions of secs. 190 - 205 of this chapter
17 is 10 per cent of the total acreage of vacant, unappropriated, unre-
18 served land within the boundaries of each municipality at any time
19 between the initial date of eligibility under (a) of this section and
20 the later of the effective date of this Act or the date of issuance of
21 documents providing for interim conveyance of land from the United
22 States to the state under sec. 6(a) or (b) of the Alaska Statehood Act.

23 (c) Within six months of the effective date of this Act and at
24 least once annually thereafter, the director shall determine the en-
25 titlement of each municipality eligible to receive general grant land
under this section and certify that entitlement to the municipality.

(d) General grant land entitlements provided in this section
constitute vested property rights which shall be fulfilled as provided
in sec. 191 or sec. 197 of this chapter, but no municipal selection

1 vests any interest in or right to receive a particular tract of land
2 except as provided by sec. 191 of this chapter.

3 (c) General grant land entitlements vested under this section may
4 be exercised at any time before the date which is two years after the
5 expiration of the state's right to make selections under sec. 6(a) or
6 (b) of the Alaska Statehood Act (P.L. 85-508); however, the time limi-
7 tation imposed by this subsection does not apply to payments in lieu of
8 land under sec. 197 of this chapter.

9 * Sec. 3. AS 29.18 is amended by adding new sections to read:

10 Sec. 29.18.191. FULFILLMENT OF LAND ENTITLEMENTS. (a) The acre-
11 age of each municipality's land selections under sec. 190 and former
12 sec. 200 of this chapter for which patent has been issued before the
13 effective date of this Act shall be credited toward fulfillment of the
14 entitlement of that municipality.

15 (b) All approved selections under sec. 190 and former sec. 200 of
16 this chapter for which patent has not been issued to a municipality on
17 the effective date of this Act shall be reviewed by the director within
18 nine months of the effective date of this Act. Any approved selection
19 of land which was vacant, unappropriated or unreserved on the date of
20 selection is valid as of the date of the approval under sec. 190 and
21 former sec. 200 of this chapter, and a patent shall be issued to the
22 municipality within 90 days after approval by the director of a plat of
23 survey. The acreage shall be credited toward fulfillment of the muni-
24 cipality's entitlement. Any prior approval by the director of municipa-
25 l selections for land which was not vacant, unappropriated or unreserved
26 on the date of selection shall be rescinded, and patent may not be
27 issued except when disposal to a third party by sale or lease has occur-
28 ed. Transfers of general grant land to municipalities under secs. 190 - 205
29 of this chapter are subject to AS 38.05.321. Classification

1 actions as reflected upon the land status records of the Department of
2 Natural Resources are determinative of land classification status for
3 purposes of this chapter.

4 (c) A municipality eligible to receive land under the provisions
5 of sec. 190 and former sec. 200 of this chapter may, as to land which it
6 has selected and which selection has been rejected because of a prior
7 classification, within 30 days of the effective date of this Act, enter
8 written objection to that classification.

9 (d) All municipal land selections under sec. 190 and former sec.
10 200 of this chapter not approved as of the effective date of this Act,
11 including land selections rejected because of prior classification and
12 challenged under (c) of this section, shall be recognized by the
13 director as representing the priority interests of the municipalities,
14 and the selections shall be given first consideration under (f) of this
15 section unless the municipality indicates different priorities.

16 (e) On the effective date of this Act and for five years there-
17 after, no classification of a parcel of general grant land in excess of
18 3,200 acres under AS 38.05.300 shall be effective, unless otherwise
19 required by law, if the municipality in which the parcel is located,
20 within 30 days after receipt of notice of the proposed classification,
21 advises the director in writing that it does not consent to the classi-
22 fication and indicates the reasons for its nonconsent.

23 (f) Each eligible municipality and the director shall jointly
24 consider which vacant, unappropriated, unreserved land, including
25 federal land of interest to a municipality which may be selected by the
26 state as general grant land, located within the boundaries of the muni-
27 cipality is appropriate for municipal selection and approval by the
28 director to fulfill any remaining municipal general grant land entitle-
29 ment. The joint consideration made by the parties shall identify the

1 respective interests of the state and the municipality in tracts of
2 vacant, unappropriated and unreserved land remaining within the mun-
3 icipality. Adjacent tracts shall be considered simultaneously except
4 when such simultaneous consideration would cause significant delay or
5 expense. Once a tract has been jointly considered, it may be selected
6 by a municipality.

7 (g) Each selection must be approved or disapproved for patent by
8 the director within 90 days of its selection by a municipality, and a
9 patent shall be issued to the municipality within 90 days after approval
10 by the director of a plat of survey.

11 (h) Every decision of approval or disapproval of a municipal
12 selection under (g) of this section shall include a written explanation
13 of the decision. The explanation shall be based upon the standards
14 applicable to review set out in sec. 193 of this chapter.

15 (i) Before issuing any decision to disapprove a selection, the
16 director shall notify the affected municipality in writing, by certified
17 mail, of his reasons for the proposed decision. The municipality shall
18 have 30 days from receipt of the proposed decision to respond to the
19 director in writing enumerating the reasons for which the municipality
20 believes the proposed decision to be in error. After receipt of the
21 municipality's statement of reasons, or after expiration of the period
22 in which the municipality may respond to the proposed decision, the
23 director shall, within 30 days, affirm, modify or reverse his proposed
24 decision in writing and give written notice of his decision to the
25 municipality. The decision of the director constitutes final adminis-
26 trative action in the matter.

27 (j) A municipality may appeal an adverse decision by the director
28 to the superior court under AS 44.62.560 - 44.62.570.

29 Sec. 29.18.193. STANDARDS APPLICABLE TO REVIEW OF MUNICIPAL SEL-

1 TIONS BY THE DIRECTOR. (a) The director shall approve a municipal
2 selection if that selection is made for a purpose which is consistent
3 with the municipality's comprehensive plan, adopted in the manner re-
4 quired by AS 29.33.085 or in accordance with comparable provisions of a
5 municipality's home rule charter, and the municipality, by zoning ordi-
6 nance adopted in furtherance of the comprehensive plan, provides for the
7 protection, use or development of the land selected for the purpose
8 intended. No selection may be approved under this subsection if the
9 director determines that enforcement of the zoning ordinances adopted by
10 the municipality to implement the comprehensive plan does not provide
11 adequate protection or does not permit use or development of land
12 selected for the purposes intended.

13 (b) When land is selected by a municipality which has not adopted
14 a comprehensive plan and zoning ordinances,

15 (1) if the selection appears to the director to represent an
16 that is of direct benefit to the municipality, he shall approve the
17 selection; a selection by a municipality is of direct benefit to that
18 municipality if

19 (A) the selection is located proximate to a densely
20 settled portion of the municipality and is made for purposes of

21 (i) providing land reasonably necessary to meet
22 demands for residential use;

23 (ii) providing land for commercial or industrial
24 purposes, the development of which will not adversely affect
25 the municipality;

26 (iii) accommodating public recreational needs which
27 are of benefit principally to residents of the municipality;

28 (iv) providing land necessary for the maintenance
29 extension of public services or essential for the discharge

1 critical public functions by the municipality, including
2 public educational facilities, public health, sanitation or
3 hospital facilities, facilities reasonably necessary to accom-
4 modate the transportation of passengers and goods to and
5 within the municipality, and watershed lands; or

6 (v) providing land reasonably necessary to meet
7 municipal revenue needs; or

8 (B) the selection is not located proximate to a settled
9 portion of the municipality but is made principally for the purpose
10 of protecting subsistence values and resources reasonably necessary
11 to sustain a substantial number of the residents of the munici-
12 pality;

13 (2) if the selection appears to the director to represent a
14 selection that is of other than direct benefit to the municipality as
15 provided in (1) of this subsection, he shall identify the respective
16 state and municipal interests bearing upon or affected by the selection;
17 specific interests, and the legal responsibilities attending protection
18 or development of those interests, which the director shall consider
19 include energy and mineral resources; renewable resources; fish and
20 wildlife and their habitat; agriculture; recreation; air and water
21 quality; transportation and communication; residential, commercial, and
22 industrial requirements; support of state and municipal services; and
23 land having archaeological, historical, cultural, or natural value;
24 except as to selections made by municipalities before the effective
25 date of this Act, the director may deny the selection only if, after
26 considering all identifiable interests, he determines that

27 (A) the public purpose and beneficial value or use
28 manifestly requires maintenance of title to the land in the state;
29 or

1 (B) approval of the selection would adversely affect the
2 ability of the state to

3 (i) manage the land for purposes of resource con-
4 servation; or

5 (ii) maintain, utilize or develop the land or its
6 resources for a public value or benefit which, by its magni-
7 tude or the magnitude of its effect on the economy of the
8 state, is reasonably likely to present issues of greater than
9 local significance.

10 (c) When the interests of the state may be protected through the
11 conveyance of title that is less than a fee title, the municipality, at
12 its option, may accept the title in acre-for-acre fulfillment of its
13 entitlement.

14 Sec. 29.18.195. SELECTION AND CONVEYANCE PROCEDURE. (a) All
15 municipal selections shall be made in reasonably compact tracts, taking
16 into account the use capabilities of a tract and its relationship to
17 surrounding land uses. A selection filed by a municipality which has
18 not been approved by the director may be relinquished at any time. An
19 approved selection may be relinquished by a municipality if the relin-
20 quishment is approved by the director. An approved selection relin-
21 quished by a municipality increases the remaining entitlement of the
22 municipality on an acre-for-acre basis.

23 (b) A municipality may maintain selections for not more than 110
24 per cent of its remaining entitlement. Municipal selections for general
25 grant land which is withdrawn under sec. 11(a)(2) of the Alaska Native
26 Claims Settlement Act (43 U.S.C. 1601 et seq., P.L. 92-203) is not
27 included in the limitation of this subsection.

28 (c) If land selected by a municipality is unsurveyed at the time
29 of approval, the director shall survey, or may approve the municipal-

1 -ity's survey of, the exterior boundaries of an approved selection with-
2 out interior subdivision, and shall issue patent in terms of the ex-
3 terior boundary survey. The cost of the survey shall be borne by the
4 municipality. If land selected by a municipality has been surveyed at
5 the time of its selection, the boundaries shall conform to the public
6 land subdivisions established by the approved survey.

7 (d) The director may approve municipal selections of land which
8 has been tentatively approved or patented to the state by the federal
9 government, but he may not issue patent to a municipality until the land
10 has first been patented to the state. After approval of a selection by
11 the director, but before patent to a municipality, the municipality may
12 execute conditional leases and make conditional sales only with the con-
13 sent of the director. The consent of the director may be withheld only
14 if the lease is for an invalid public purpose or is otherwise unlawful.
15 Conditional sales and conditional leases made before the effective date
16 of this Act do not require the consent of the director.

17 Sec. 29.18.197. PAYMENT IN LIEU OF LAND. (a) There is estab-
18 lished within the general fund the Alaska municipal land account for the
19 purpose of allowing eligible municipalities to receive payment in lieu
20 of land entitlements provided in sec. 190 of this chapter.

21 (b) By September 15 of each year the director shall certify to
22 each municipality having an entitlement under sec. 190 of this chapter
23 the acreage of patented selections, approved selections not yet pat-
24 ented, pending municipal land selections neither approved nor disapprov-
25 ed by the director, and the remaining entitlement of the municipality. If
26 at the time of certification the ratio of the remaining entitlement of
27 the municipality to the vacant, unappropriated, unreserved land within
28 the municipality is greater than two to one, or if there are less than
29 1,000 acres of vacant, unappropriated, unreserved land within the munic

1 pality, the municipality may, at its option, request payment in lieu of
2 land from the account established in (a) of this section.

3 (c) A municipality eligible for payment under this section may, by
4 November 1 of each fiscal year of eligibility, notify the director of
5 its election to accept payment in lieu of land from the account. A
6 municipality may accept payment for not more than 15 per cent of its
7 entitlement under sec. 190 of this chapter, to a maximum of 10,000
8 acres, in each fiscal year. A municipality which chooses to accept
9 payment in lieu of land shall be entitled to an amount based on the
10 cumulative total number of acres of remaining entitlement which it
11 relinquishes according to the following schedule:

- 12 (1) 10,000 acres or less -- \$1,500 per acre;
13 (2) 10,001 to 20,000 acres -- \$750 per acre; and
14 (3) more than 20,000 acres -- \$350 per acre.

15 (d) The governor shall annually submit to the legislature a re-
16 quest for an appropriation to the account for the municipalities which
17 have elected to receive payment in lieu of land under this section.

18 (e) If the total appropriation is not sufficient to meet the
19 amount due to all municipalities which have elected to accept payment in
20 lieu of land under (c) of this section, the governor shall apportion the
21 appropriation among the municipalities in proportion to the payment
22 calculated for each municipality for that year. When a distribution of
23 payments is made under this subsection, the remaining entitlement of a
24 municipality to which payment is made shall be reduced in an amount
25 equal to the number of acres for which payment was received. An appor-
26 tionment may increase the acreage for which a municipality may request
27 payment in a succeeding year, but this increase in acreage does not
28 authorize a municipality to request payment in lieu of land of more than
29 10,000 acres in any one year.

1 Sec. 29.18.199. AUTHORIZATION FOR LAND EXCHANGES. The director,
2 with the concurrence of the commissioner, and any municipality, with the
3 approval of its assembly or council, are authorized to exchange land or
4 interests in land when it is in the public interest. Land or interests
5 in land exchanged under this section must be of approximately equal
6 value, including the non-monetary value of public benefits. Exchange
7 procedures shall comply with applicable law and municipal ordinances.
8 The notice and review provisions of AS 38.05.305 and 38.05.345 are
9 applicable to exchanges of land under this section. The provisions of
10 AS 38.50 do not apply to exchanges of land under this section.

11 Sec. 29.18.201. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Consis-
12 tent with the best interests of the state, if a municipality does not
13 contain and cannot reasonably acquire sufficient nonfederal land within
14 its boundaries to meet its legitimate needs for public or private settle-
15 ment or development, it shall be the policy of the state to select
16 federal land reasonably necessary to meet the needs of the municipality
17 and to make the land selected available to the municipality under AS
18 38.05.315 or (b) of this section.

19 (b) Where state land is the most logical location for demonstrated
20 municipal expansion for nonpublic settlement and development purposes,
21 and when an exchange of land under sec. 199 of this chapter is not
22 possible or is not in the public interest, it is the policy of the state
23 to sell or lease the land at public auction. The state may contract
24 with a municipality to act as its agent in an auction of state land
25 under applicable statutes. When a municipality acts as the agent of the
26 state in an auction, the municipality may retain from the proceeds of
27 the auction the expenses which the director determines to be necessary
28 and reasonable.

29 (c) Nothing in this chapter limits or impairs the authority of the

1 director to transfer land to municipalities, without limit or considera-
2 tion, for public purposes in accordance with AS 38.05.315. If there is
3 a remaining entitlement of the municipality, land transferred under AS
4 38.05.315 may not be credited toward fulfillment of the entitlement.
5 Land conveyed to the state under sec. 12(d)(2) of Public Law 94-204, and
6 subsequently conveyed by the state to a municipality under secs. 190 -
7 205 of this chapter or AS 38.05.315 may not be credited against the
8 municipality's remaining entitlement.

9 Sec. 29.18.203. ADMINISTRATION. The commissioner shall adopt
10 regulations in accordance with the Administrative Procedure Act (AS
11 44.62) necessary to carry out the purposes of secs. 190 - 205 of this
12 chapter.

13 Sec. 29.18.205. DEFINITIONS. In secs. 190 - 205 of this chapter,
14 unless the context otherwise requires,

15 (1) "approved selection" means a municipal land selection
16 which has been approved in writing by the director for transfer by
17 patent to a municipality;

18 (2) "director" means the director of the division of land and
19 water management, Department of Natural Resources, or his designee;

20 (3) "general grant land" means land patented or tentatively
21 approved to the state from the United States under secs. 6(a) or (b) of
22 the Alaska Statehood Act;

23 (4) "municipal land selection" means a request by a munici-
24 pality, filed in writing with the director under authority of secs.
25 190 - 205 of this chapter for vacant, unappropriated, unreserved general
26 grant land within its municipal boundaries in partial fulfillment of its
27 municipal entitlement;

28 (5) "municipality" means a home rule or general law city or
29 organized borough of any class, and includes unified municipalities

1 established under AS 29.68.240 - 29.68.440;

2 (6) "patent" means a document, issued by the director to a
3 municipality for a previously approved selection, which conveys and
4 quitclaims all the right, title and interest of the state without reser-
5 vation or condition except as may be required by law;

6 (7) "remaining entitlement" means the general grant land
7 entitlement determined in accordance with secs. 190 - 205 of this chap-
8 ter, reduced by the total acreage of approved selections, including both
9 patented and unpatented parcels;

10 (8) "vacant, unappropriated, unreserved land" means general
11 grant land as defined in (3) of this section, excluding minerals as
12 required by sec. 6(i) of the Alaska Statehood Act, which

13 (A) has not been set aside by statute for one or more
14 particular uses or purposes;

15 (B) has not been approved for patent to a municipality
16 under secs. 190 - 205 of this chapter; or

17 (C) is unclassified or, if classified under AS 38.05.-
18 300, is classified for agricultural, grazing, commercial, indus-
19 trial, industrial development, private recreational, residential,
20 resource management, utility or open-to-entry purposes.

21 * Sec. 4. AS 38.05.321 is repealed and re-enacted to read:

22 Sec. 38.05.321. RESTRICTION ON SALE, LEASE OR OTHER DISPOSAL OF
23 AGRICULTURAL AND GRAZING LAND. (a) The sale, lease or other disposal
24 of state land classified as agricultural or grazing land transfers only
25 rights for agricultural and grazing purposes, and all other interests in
26 the land remain with the state unless otherwise required by law.

27 (b) State land classified as agricultural or grazing land which is
28 selected by a municipality under AS 29.18.190 - 29.18.205 may be ap-
29 proved by the director for patent under AS 29.18.191; however, only

1 rights in the land for agricultural or grazing purposes may be trans-
 2 ferred and all other interests in the land will remain with the state.
 3 Agricultural or grazing land approved for patent to a municipality under
 4 AS 29.18.191 shall be credited, acre for acre, toward fulfillment of
 5 that municipality's entitlement under AS 29.18. If the director later
 6 determines it to be in the best interests of the state to transfer some
 7 or all of the additional rights in that approved or patented agricul-
 8 tural or grazing land, those rights shall pass without consideration to
 9 the municipality in which the land is located.

10 (c) The provisions of this section do not apply to state land
 11 classified as agricultural or grazing land which has been selected by a
 12 municipality under the provisions of AS 29.18.190 and 29.18.200 if the
 13 selection is an approved selection valid under AS 29.18.

14 * Sec. 5. AS 38.05.290 is amended by adding a new subsection to read:

15 (b) Consistent with the best interests of the state, in the selec-
 16 tion of general grant land it is the policy of the state to make avail-
 17 able the maximum land area from which municipalities may fulfill land
 18 entitlements under AS 29.18.190 - 29.18.205.

19 * Sec. 6. AS 29.18.200 and 29.18.420 are repealed.

20 * Sec. 7. MINIMUM LAND ENTITLEMENT FOR BOROUGH AND UNIFIED MUNICIPAL-
 21 TIES. The general grant land entitlement due to organized boroughs and
 22 unified municipalities under AS 29.18.190 - 29.18.205 in secs. 2 and 3 of
 23 this Act may not be less than the amount set out opposite each:

- 24 (1) Municipality of Anchorage - 45,000 acres
 25 (2) City and Borough of Juneau - 28,000 acres
 26 (3) City and Borough of Sitka - 24,200 acres
 27 (4) Bristol Bay Borough - 16,940 acres
 28 (5) Fairbanks-North Star Borough - 127,000 acres
 29 (6) Haines Borough - 16,080 acres

1 (7) Kenai Peninsula Borough - 155,780 acres

2 (8) Ketchikan Gateway Borough - 24,200 acres

3 (9) Kodiak Island Borough - 60,200 acres

4 (10) Matanuska-Susitna Borough - 366,210 acres

5 (11) North Slope Borough - 300,000 acres

6 * Sec. 8. LIMITATION ON PAYMENT IN LIEU OF LAND. Notwithstanding the
7 provisions of AS 29.18.197(b) in sec. 3 of this Act,

8 (1) no payment may be made to the City and Borough of Juneau,
9 the City and Borough of Sitka, or the Ketchikan Gateway Borough under AS
10 29.18.197 until the fiscal year after cumulative appropriations to the
11 Alaska municipal land account exceed \$12,000,000 or until the fiscal
12 year beginning July 1, 1984, whichever occurs first;

13 (2) no payment may be made to the North Slope Borough.

14 * Sec. 9. REPORT. Within 30 days after the convening of the First Ses-
15 sion of the Eleventh Alaska Legislature and the First Session of the Twelfth
16 Alaska Legislature, the director of the division of land and water management
17 shall report to the legislature on the implementation of AS 29.18.190 - 29.-
18 18.205 in secs. 2 and 3 of this Act.

Original sponsors: Parr, Brown
and Cowper

Offered: 5/4/77
Referred: Finance

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 133

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to selection and transfer of state

7

land to municipalities; and providing for an effective

8

date."

9

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

10

* Section 1. STATEMENT OF PURPOSE. The purposes of this Act are to

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remove uncertainties in the existing municipal land selection law of the

12

state; to provide for an immediate, final determination and settlement of

13

municipal land entitlement; to provide for the completion of rational owner-

14

ship patterns for sound land management; and to provide for timely patent of

15

land to municipalities to fulfill their respective entitlements.

16

* Sec. 2. AS 29.18 is amended by adding new sections to read:

17

ARTICLE 3A. GENERAL GRANT LAND.

18

Sec. 29.18.202. DETERMINATION OF ENTITLEMENT. (a) The general

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grant land entitlement of each of the municipalities in this subsection

20

is the amount set out opposite each:

21

(1) Municipality of Anchorage -- 20,865 acres;

22

(2) City and Borough of Juneau -- 13,600 acres;

23

(3) City and Borough of Sitka -- 9,200 acres;

24

(4) Bristol Bay Borough -- 1,940 acres;

25

(5) Fairbanks-North Star Borough -- 112,000 acres;

26

(6) Haines Borough -- 1,080 acres;

27

(7) Kenai Peninsula Borough -- 155,780 acres;

28

(8) Ketchikan Gateway Borough -- 9,200 acres;

29

(9) Kodiak Island Borough -- 45,200 acres;

1 (10) Matanuska-Susitna Borough -- 355,210 acres;

2 (11) North Slope Borough -- 645 acres.

3 (b) The general grant land entitlement of a city eligible to
4 receive general grant land under the former provisions of secs. 190 -
5 200 of this chapter repealed by this Act is 10 per cent of the maximum
6 total acreage of vacant, unappropriated, unreserved land within the
7 boundaries of each city at any time between the initial date of eligi-
8 bility under former secs. 190 - 200 of this chapter and the effective
9 date of this Act.

10 (c) Within six months of the effective date of this Act, the
11 director shall determine the entitlement for each city eligible to
12 receive general grant land under (b) of this section and certify that
13 entitlement to the city.

14 (d) General grant land entitlements provided in this section consti-
15 tute vested property rights which shall be fulfilled as provided in sec.
16 204 or sec. 208 of this chapter, but no municipal selection vests any
17 interest in or right to receive a particular tract of land except as
18 provided by sec. 204 of this chapter.

19 (e) General grant land entitlements vested under this section
20 may be exercised at any time before the date which is two years after
21 the expiration of the state's right to make selections under secs. 6(a)
22 or (b) of the Alaska Statehood Act (P.L. 85-508); however, the time
23 limitation imposed by this subsection does not apply to payments in lieu
24 of land under sec. 208 of this chapter.

25 Sec. 29.18.204. FULFILLMENT OF LAND ENTITLEMENTS. (a) The acre-
26 age of each municipality's land selections under former secs. 190 - 200
27 of this chapter for which patent has been issued before the effective
28 date of this Act shall be credited toward fulfillment of the entitlement
29 of that municipality.

1 (b) All approved selections under former secs. 190 - 200 of this
2 chapter for which patent has not been issued to a municipality on the
3 effective date of this Act shall be reviewed by the director within nine
4 months of the effective date of this Act. Any approved selection of land
5 which was vacant, unappropriated or unreserved on the date of selection
6 is valid as of the date of the approval under the former secs. 190 -
7 200 of this chapter, and a patent shall be issued to the municipality
8 within three months after approval by the director of a plat of survey.
9 The acreage shall be credited toward fulfillment of the municipality's
10 entitlement. No municipality is entitled to receive patent under this
11 chapter to more than its entitlement determined under sec. 202 of this
12 chapter. Any prior approval by the director of municipal selections for
13 land which was not vacant, unappropriated or unreserved on the date of
14 selection shall be rescinded, and patent may not be issued except when
15 disposal to a third party by sale or lease has occurred. Transfers of
16 general grant land to municipalities under this chapter are subject to
17 AS 38.05.321. Classification actions as reflected upon the land status
18 records of the Department of Natural Resources are determinative of land
19 classification status for purposes of this chapter.

20 (c) All municipal land selections under former secs. 190 - 200 of
21 this chapter not approved as of the effective date of this Act shall be
22 recognized by the director as representing the priority interests of the
23 municipalities, and the selections shall be given first consideration
24 under (e) of this section unless the municipality indicates different
25 priorities.

26 (d) On the effective date of this Act and for five years thereafter,
27 no classification of a parcel of general grant land in excess of 3,200
28 acres under AS 38.05.300 shall be effective, unless otherwise required
29 by law, if the municipality in which the parcel is located, within 30

1 days after receipt of notice of the proposed classification, advises
2 the director in writing that it does not consent to the classification
3 and indicates the reasons for its nonconsent.

4 (e) Each eligible municipality and the director shall jointly
5 consider which vacant, unappropriated, unreserved land, including federal
6 land of interest to a municipality which may be selected by the state as
7 general grant land, located within the boundaries of the municipality is
8 appropriate for municipal selection and approval by the director to ful-
9 fill any remaining municipal general grant land entitlement. The joint
10 consideration made by the parties shall include a cooperative land
11 planning process which will, in addition to the normal objectives of
12 such a process, seek to identify both local and state interests in
13 tracts of vacant, unappropriated and unreserved land remaining within
14 the municipality. Adjacent tracts shall be considered simultaneously
15 except when such simultaneous consideration would cause significant delay
16 or expense. Once a tract has been jointly considered, it may be selected
17 by a municipality. Each selection must be approved or disapproved for
18 patent by the director under (f) of this section within nine months of
19 its selection by a municipality, and a patent shall be issued to the
20 municipality within three months after approval by the director of a plat
21 of survey.

22 (f) In reviewing a municipal selection, the director shall consider
23 the state's responsibilities for developing and protecting values which
24 are of greater than local concern, including development which will have
25 statewide impact, and critical environmental concerns. Specific state
26 responsibilities to be considered, if such responsibilities have not
27 been authorized or delegated by the state to a municipality, include air
28 quality; water; minerals and energy; timber; agriculture; grazing; fish
29 and wildlife and their habitat; public recreation, natural, historical,

1 and archaeological areas of greater than local concern; access to public
2 land and water; transportation; communications; and public safety.
3 Specific municipal responsibilities to be considered include residential,
4 commercial and industrial needs; support of municipal services; educa-
5 tion; local transportation; private recreation; public recreation,
6 natural, historical and archaeological areas of local concern; and other
7 responsibilities authorized or delegated by the state to a municipality.
8 A selection by a municipality of land which is primarily of local concern
9 shall be approved. When the interests of the state may be protected
10 through the conveyance of title that is less than a fee title, the
11 municipality, at its option, may accept the title in acre-for-acre
12 fulfillment of its entitlement.

13 (g) Every decision of approval or disapproval of a municipal
14 selection by the director under (f) of this section shall include a
15 written explanation of the decision based upon the criteria of that
16 subsection. Before issuing any decision to disapprove a selection, the
17 director shall notify the affected municipality in writing, by certified
18 mail, of his reasons for the proposed decision. The municipality shall
19 have 30 days from receipt of the proposed decision to respond to the
20 director in writing enumerating the reasons for which the municipality
21 believes the proposed decision to be in error. After receipt of the
22 municipality's statement of reasons, or after expiration of the period
23 in which the municipality may respond to the proposed decision, the
24 director shall, within 30 days, affirm, modify or reverse his proposed
25 decision in writing and give written notice of his decision to the
26 municipality. The decision of the director constitutes final adminis-
27 trative action in the matter. A municipality may appeal an adverse
28 decision by the director to the superior court under AS 44.62.560 -
29 44.62.570.

1 (h) Within 30 days after convening of the first regular session of
2 the Eleventh Alaska Legislature and the first and second regular sessions
3 of the Twelfth Alaska Legislature, the director shall report to the
4 legislature on the implementation of secs. 202 - 218 of this chapter.

5 Sec. 29.18.206. SELECTION AND CONVEYANCE PROCEDURE. (a) All
6 municipal selections shall be made in reasonably compact tracts, taking
7 into account the use capabilities of a tract and its relationship to
8 surrounding land uses. A selection filed by a municipality which has
9 not been approved by the director may be relinquished at any time. An
10 approved selection may be relinquished by a municipality if the relin-
11 quishment is approved by the director. An approved selection relin-
12 quished by a municipality increases the remaining entitlement of the
13 municipality on an acre-for-acre basis.

14 (b) A municipality may maintain selections for not more than 110
15 per cent of its remaining entitlement. Municipal selections for general
16 grant land which is withdrawn under sec. 11(a)(2) of the Alaska Native
17 Claims Settlement Act (43 U.S.C. 1601 et seq., P.L. 92-203) is not
18 included in the limitation of this subsection.

19 (c) If land selected by a municipality is unsurveyed at the time
20 of approval, the director shall survey, or may approve the municipality's
21 survey of, the exterior boundaries of an approved selection without
22 interior subdivision, and shall issue patent in terms of the exterior
23 boundary survey. The cost of the survey shall be borne by the munici-
24 pality. If land selected by a municipality has been surveyed at the
25 time of its selection, the boundaries shall conform to the public land
26 subdivisions established by the approved survey.

27 (d) The director may approve municipal selections of land which
28 has been tentatively approved or patented to the state by the federal
29 government, but he may not issue patent to a municipality until the land

1 has first been patented to the state. After approval of a selection by
2 the director, but before patent to a municipality, the municipality may
3 execute conditional leases and make conditional sales only with the con-
4 sent of the director. Conditional sales and conditional leases made
5 before the effective date of the Act do not require the consent of the
6 director.

7 (e) Nothing in this chapter affects a valid existing claim, loca-
8 tion or entry under the laws of the state or the United States whether
9 for homestead, mineral, right-of-way or other purposes. Nothing in this
10 chapter affects the rights of an owner, claimant, locater or entryman to
11 the full use and enjoyment of the land so occupied.

12 Sec. 29.18.208. PAYMENT IN LIEU OF LAND. (a) There is estab-
13 lished within the general fund the Alaska municipal land account for the
14 purpose of allowing eligible municipalities to receive payment in lieu
15 of land entitlements provided in sec. 202 of this chapter.

16 (b) By August 1 of each year the director shall certify to each
17 municipality having an entitlement under sec. 202 of this chapter the
18 acreage of patented selections, approved selections not yet patented,
19 pending municipal land selections neither approved nor disapproved by
20 the director, and the remaining entitlement of the municipality. If at
21 the time of certification the ratio of the remaining entitlement of the
22 municipality to the vacant, unappropriated, unreserved land within the
23 municipality is greater than two to one, or if there are less than 1,000
24 acres of vacant, unappropriated, unreserved land within the municipality,
25 the municipality may, at its option, request payment in lieu of land from
26 the account established in (a) of this section; however, no payment may
27 be made to the City and Borough of Juneau, the City and Borough of Sitka
28 or the Ketchikan Gateway Borough under this subsection until the fiscal
29 year after cumulative appropriations to the account exceed \$12,000,000

1 or until the fiscal year beginning July 1, 1984, whichever occurs first.

2 (c) A municipality eligible for payment under this section may,
3 by October 1 of each fiscal year of eligibility, notify the director
4 of its election to accept payment in lieu of land from the account.
5 A municipality may accept payment for not more than 15 per cent of its
6 entitlement under sec. 202 of this chapter, to a maximum of 10,000 acres,
7 in each fiscal year. A municipality which chooses to accept payment in
8 lieu of land shall be entitled to an amount based on the cumulative total
9 number of acres of remaining entitlement which it relinquishes according
10 to the following schedule:

- 11 (1) 10,000 acres or less -- \$1,500 per acre;
12 (2) 10,001 to 20,000 acres -- \$750 per acre; and
13 (3) more than 20,000 acres -- \$350 per acre.

14 (d) The governor shall annually submit to the legislature a request
15 for an appropriation to the account for the municipalities which have
16 elected to receive payment in lieu of land under this section.

17 (e) If the total appropriation is not sufficient to meet the amount
18 due to all municipalities which have elected to accept payment in lieu
19 of land under (c) of this section, the governor shall apportion the
20 appropriation among the municipalities in proportion to the payment
21 calculated for each municipality for that year. When a distribution of
22 payments is made under this subsection, the remaining entitlement of a
23 municipality to which payment is made shall be reduced in an amount
24 equal to the number of acres for which payment was received. An appor-
25 tionment may increase the acreage for which a municipality may request
26 payment in a succeeding year, but this increase in acreage does not
27 authorize a municipality to request payment in lieu of land of more than
28 10,000 acres in any one year.

29 Sec. 29.18.210. AUTHORIZATION FOR LAND EXCHANGES. The director,

1 with the concurrence of the commissioner, and any municipality are
2 authorized to exchange land or interests in land when it is in the
3 public interest. Land or interests in land exchanged under this section
4 must be of approximately equal value, including the non-monetary value
5 of public benefits. Exchange procedures shall comply with applicable
6 law and municipal ordinances. The notice and review provisions of AS
7 38.05.305 and 38.05.345 are applicable to exchanges of land under this
8 section. The provisions of AS 38.50 do not apply to exchanges of land
9 under this section.

10 Sec. 29.18.212. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Consis-
11 tent with the best interests of the state, if a municipality does not
12 contain and cannot reasonably acquire sufficient nonfederal land within
13 its boundaries to meet its legitimate needs for public or private settle-
14 ment or development, it shall be the policy of the state to select
15 federal land reasonably necessary to meet the needs of the municipality
16 and to make the land selected available to the municipality under AS
17 38.05.315 or (b) of this section.

18 (b) Where state land is the most logical location for demonstrated
19 municipal expansion for nonpublic settlement and development purposes,
20 and when an exchange of land under sec. 210 of this chapter is not
21 possible or is not in the public interest, it is the policy of the state
22 to sell or lease the land at public auction. The state may contract
23 with a municipality to act as its agent in an auction of state land
24 under applicable statutes. When a municipality acts as the agent of the
25 state in an auction, the municipality may retain from the proceeds of
26 the auction the expenses which the director determines to be necessary
27 and reasonable.

28 (c) Nothing in this chapter limits or impairs the authority of the
29 director to transfer land to municipalities, without limit or considera-

1 tion, for public purposes in accordance with AS 38.05.315. If there is
2 a remaining entitlement of the municipality, land transferred under AS
3 38.05.315 shall be credited toward fulfillment of the entitlement;
4 however, land conveyed to the state under sec. 12(d)(2) of Public Law
5 94-204 and subsequently conveyed by the state to a municipality under
6 secs. 202 - 218 of this chapter or AS 38.05.315 may not be credited
7 against the municipality's remaining entitlement.

8 Sec. 29.18.214. ELECTION OF BENEFITS. (a) A municipality which
9 on the effective date of this Act is engaged in litigation, or which
10 becomes engaged in litigation, regarding a claim to state land under
11 former secs. 190 - 200 of this chapter shall elect either to obtain the
12 benefits provided in secs. 202 - 218 of this chapter or to pursue the
13 litigation and thereby waive any claim to entitlement under secs. 202 -
14 218 of this chapter. An election shall be made by filing a motion for
15 dismissal with prejudice in the court in which the litigation is pending.
16 If the claim involves a municipality identified in sec. 202(a) of this
17 chapter, the municipality shall file its motion for dismissal within 60
18 days of the effective date of this Act. If the claim involves a muni-
19 cipality not listed in sec. 202(a) of this chapter, the municipality
20 shall file its motion for dismissal within 60 days after receiving the
21 certificate of entitlement provided by the director under sec. 202(c) of
22 this chapter. Failure of the municipality to file a motion for dis-
23 missal during the time period provided in this subsection shall be
24 considered a waiver of entitlement under secs. 202 - 218 of this chapter.
25 (b) A municipality which was eligible to file land selections under
26 the former secs. 190 - 200 of this chapter and which does not enter into
27 litigation over a claim to rights under those sections before the expira-
28 tion of the time period within which it could make an election under (a)
29 of this section shall be considered to have elected to receive benefits

1 under secs. 202 - 218 of this chapter and to have waived any claim which
2 might have been raised under former secs. 190 - 200 of this chapter.

3 Sec. 29.18.216. ADMINISTRATION. The commissioner may adopt regula-
4 tions in accordance with the Administrative Procedure Act (AS 44.62)
5 necessary to carry out the purposes of secs. 202 - 218 of this chapter.

6 Sec. 29.18.218. DEFINITIONS. In secs. 202 - 218 of this chapter,
7 unless the context otherwise requires,

8 (1) "approved selection" means a municipal land selection
9 which has been approved in writing by the director for transfer by patent
10 to a municipality;

11 (2) "director" means the director of the division of lands,
12 Department of Natural Resources, or his designee;

13 (3) "general grant land" means land patented or tentatively
14 approved to the state from the United States under secs. 6(a) or (b)
15 of the Alaska Statehood Act;

16 (4) "municipal land selection" means a request by a munici-
17 pality, filed in writing with the director under authority of secs.
18 190 - 200 of this chapter repealed by this Act or under secs. 202 - 218
19 of this chapter for vacant, unappropriated, unreserved general grant
20 land within its municipal boundaries in partial fulfillment of its
21 municipal entitlement;

22 (5) "municipality" means a home rule or general law city
23 or organized borough of any class, and includes third class boroughs and
24 unified municipalities established under AS 29.68.240 - 29.68.440;

25 (6) "patent" means a document, issued by the director to a
26 municipality for a previously approved selection, which conveys and
27 quitclaims all the right, title and interest of the state without reser-
28 vation or condition except as may be required by law;

29 (7) "remaining entitlement" means the general grant land

1 entitlement determined in accordance with sec. 202 of this chapter, re-
2 duced by the total acreage of approved selections, including both
3 patented and unpatented parcels;

4 (8) "vacant, unappropriated, unreserved land" means general
5 grant land as defined in (3) of this section, excluding minerals as
6 required by sec. 6(i) of the Alaska Statehood Act, which

7 (A) has not been set aside by statute for one or more
8 particular uses or purposes;

9 (B) has not been approved for patent to a municipality
10 under secs. 202 - 218 of this chapter or former secs. 190 - 200 of
11 this chapter repealed by this Act; or

12 (C) is unclassified or, if classified under AS 38.05.300,
13 is classified for agricultural, grazing, commercial, industrial,
14 private recreational, residential, utility or open-to-entry pur-
15 poses.

16 * Sec. 3. AS 38.05.321 is repealed and re-enacted to read:

17 Sec. 38.05.321. RESTRICTION ON SALE, LEASE OR OTHER DISPOSAL OF
18 AGRICULTURAL AND GRAZING LAND. (a) The sale, lease or other disposal
19 of state land classified as agricultural or grazing land transfers only
20 rights for agricultural and grazing purposes, and all other interests
21 in the land remain with the state unless otherwise required by law.

22 (b) State land classified as agricultural or grazing land which
23 has been selected by a municipality under AS 29.18.190 - 29.18.200 or
24 29.18.204(e) may be approved by the director for patent under AS 29.-
25 18.204(f); however, only rights in the land for agricultural or grazing
26 purposes may be transferred and all other interests in the land will
27 remain with the state. Agricultural or grazing land approved for patent
28 to a municipality under AS 29.18.204(f) shall be credited, acre for acre,
29 toward fulfillment of that municipality's entitlement under AS 29.18.202.

1 If the director later determines it to be in the best interests of the
2 state to transfer some or all of the additional rights in that approved
3 or patented agricultural or grazing land, those rights shall pass with-
4 out consideration to the municipality in which the land is located.

5 (c) The provisions of this section do not apply to state land
6 classified as agricultural or grazing land which has been selected by a
7 municipality under the provisions of AS 29.18.190 - 29.18.200 if the
8 selection is an approved selection valid under AS 29.18.204(b).

9 * Sec. 4. AS 38.05.290 is amended by adding a new subsection to read:

10 (b) Consistent with the best interests of the state, in the selec-
11 tion of general grant land it is the policy of the state to make
12 available the maximum land area from which municipalities may fulfill
13 land entitlements under AS 29.18.202 - 29.18.218.

14 * Sec. 5. AS 29.18.190, 29.18.200, and 29.18.420 are repealed.

15 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
16 070(c).

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THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

DATE: February 17, 1978

FILE NO.

SUBJECT:

Honorable Steve Cowper
Chairman
House Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Cowper:

The assembly of the City and Borough of Juneau has reviewed CSHB 133, the status of potential state nominations of national forest selections and the current extensive holdings of land in the mental health trust in our municipality. For reasons set forth below, we believe the entitlement for Juneau should be established at 30,000 acres. However, the assembly believes it is necessary to allow some municipal entitlements to be selected in the mental health trust lands and that some effort should be made to treat more equitably those municipalities whose proposed entitlements under the bill are unfair or patently inadequate. If the municipality is given assured, realistic access to mental health lands on a reasonable basis and the settlement entitlements for the inequitably treated municipalities are recomputed on some more rational formula which takes into account factors which tend to reflect need and land availability, the city and borough would give its wholehearted support to the bill, even at a figure somewhat lower than the 30,000 acres we have requested.

Last year, when it was discovered that SB 241 (from which CSHB 133 had its origin) as introduced almost totally ignored the needs of the three largest communities in Southeast Alaska, we were able to gain some concessions from the State of Alaska regarding the amount of land to be made available to Juneau, Sitka and Ketchikan. We believed at that time, and continue to believe, that based on geographic size, population, and future needs, the City and Borough of Juneau should have been given an entitlement of 50,000 to 60,000 acres of land.

The acreages which appear in CSHB 133 for the three Southeast communities are a division of the 32,000 acres which the State said was the maximum amount it believed could be made available to these three Southeast communities.

Representative Steve Cowper
February 17, 1978
Page Two

Because the State had served notice that it was about to begin the selection process for the 6(a) community purpose national forest lands, we felt it imperative that there be a legislative mandate to guide the administration in its selection of community purpose lands in the national forest. Also, because the substantive action on the bill did not come until late in the session, it was clear that if any bill at all was to go through during the last legislative session, differences in the acreages desired by various communities would have to be set aside. Even though there was concurrence to facilitate passage last year, the bill did not pass.

Committee Substitute for House Bill 133 is to be a final settlement of municipal land entitlements. The bill incorporates the concept that for those municipalities which are unable to receive their proposed entitlement, an in lieu of payment is to be made. Thus, the bill expresses concern not only with how much land can be made available for conveyance to municipalities but also how much should be made available. This is a clear recognition that equity should play a part in this final settlement. If the State is to share its resources with its municipalities it should do so on a basis which has more to recommend it than the happenstance of 10% of the vacant unappropriated unreserved state lands within the municipality. The City and Borough of Juneau is not interested in payments-in-lieu because land is and can be made available to the municipality in what we believe is a reasonable and equitable amount considering the status of land nominations and availability today.

The State has now identified land in and around the national forest communities which it believes is appropriate for selection under Section 6(a) of the Statehood Act. This includes selections to be made in both the Tongass and the Chugach National Forests. Following are the larger acreages identified for selection in the two national forests rounded to the nearest thousand acres.

Kenai Peninsula	30,000 acres
Prince William Sound	28,000
Juneau	24,000*
Ketchikan	22,000
Prince of Wales Island	19,000
Wrangell Area	16,000
Cordova Area	13,000**
Petersburg Area	12,000

* Of the 24,000 acres identified for selection in the Juneau area, approximately 6,000 of these acres have already been identified by Goldbelt Corporation for selection under the Alaska

Representative Steve Cowper
February 17, 1978
Page Three

Native Claims Settlement Act and will take priority over state selections under 6(a). This will reduce the acreage available to Juneau to about 18,000 acres, but does not change the fact that of the approximately 300,000 acres selected in the national forest, the state allocated 24,000 to the Juneau area.

** Eyak Corporation selections and Alaska Native Claims Settlement Act withdrawals cover much of the Cordova selections.

Thus, the State of Alaska has recognized in its recent national forest selections that of the 300,000 acres identified for community and recreation purposes under 6(a) of the Statehood Act, 24,000 acres should be allocated for selection in the City and Borough of Juneau. Whether one looks at this 24,000 acres or the 18,000 or fewer acres which will probably remain after the Goldbelt selection, it is clear that the national forest selections within the City and Borough of Juneau do not approach the acreage which can and should be made available to a community the size of Juneau.

Considering the remaining national forest allocation of approximately 100,000 acres for community and recreation purposes, Juneau's size, both in terms of population and area, the need to get the maximum amount of acreage out of the national forest in urbanizing areas, the availability of land for selection in the City and Borough of Juneau, and the need to make an effort to treat all municipalities of the State equitably to the extent state resources are reasonably available, we believe that Juneau should have an entitlement in the bill of 30,000 acres. While this amount may not come up to full equity when compared to some other boroughs in the State, we do recognize that there are limitations on the availability of land. However, the State has already allocated to Juneau 24,000 of the 300,000 acres it has selected in the national forest. With 100,000 acres remaining to be selected, there is little reason to believe that the State would be unable to allocate the additional 6,000 acres which would be necessary to bring the available land up to the requested 30,000 acre figure.

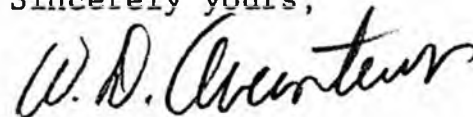
In addition, the State now owns almost 13,000 acres in the City and Borough which are in the mental health trust. Most of this acreage is in the urbanizing areas of the municipality and its unavailability for development is creating numerous problems. There is a proposal to allow municipalities to make some of their entitlement selections out of these trust lands and to allow the trust to select other lands of equal value to maintain the trust. We wholeheartedly

Representative Steve Cowper
February 17, 1978
Page Four

support this approach. If some of these trust lands can be made available for municipal selections, it is clear that there will be no real difficulty in making a reasonable entitlement available to Juneau. We strongly urge the addition of such a provision to the bill.

The assembly of the City and Borough requests that its entitlement in CSHB 133 be established as 30,000 acres and that a section be added to the bill allowing some municipal selections to be made in the mental health trust lands.

Sincerely yours,



W. D. Overstreet
Mayor

cc: Thelma Buchholdt
Jim Duncan
Oral Freeman
Clark Gruening
Phillip Guy
E. L. Haugen
Russ Meekins
Leo Rhode
Leo Schaeffer
Leslie Swanson

HB 133

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 E. 4TH AVENUE - ANCHORAGE 99501

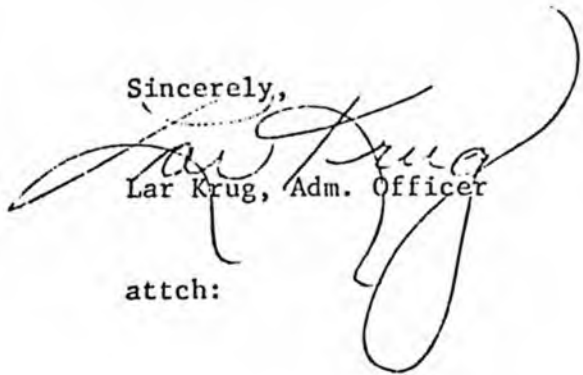
Mr. Max F. Gruenberg, Jr.
880 H. Street, Suite 205
Anchorage, Ak. 99501

February 14, 1978

Dear Mr. Gruenberg,

Your letter of February 10th was received today. Attached for your review and use is a list of the Mental Health Receipts since 1959 as collected from the Annual Reports put out by the State of Alaska. If there is any other information that we may help you with please feel free to call us at the Division of Lands, Accounting Office.

Sincerely,


Lar Krug, Adm. Officer

attch:

MENTAL HEALTH RECEIPTS (Taken from the Annual Reports)

COLUMN - WRITE

	YEAR	AMOUNT				
1	1959	9				
2						
3	1960	13952				
4						
5	1961	7116759				
6						
7	1962	91596				
8						
9	1963	2931158				
10						
11	1964	697371				
12						
13	1965	442431				
14						
15	1966	1836086				
16						
17	1967	969398				
18						
19	1968	1641264				
20						
21	1969	715241				
22						
23	1970	659447				
24						
25	1971	739664				
26						
27	1972	1095233				
28						
29	1973	1205952				
30						
31	1974	1286253				
32						
33	1975	1645348				
34						
35	1976	1199680				
36						
37	1977	1424167				
38						
39						
40	TOTAL	25110430				

BURR, PEASE & KURTZ, INC.

E. L. ARNELL 1913-1958

D. A. BURR
THEODORE M. PEASE, JR.
L. S. KURTZ, JR.
EDWARD G. BURTON
CHARLES P. FLYNN
RICHARD A. HELM
A. E. PAGE
J. W. SEDWICK
RONALD H. BUSSEY
RUSSELLYN S. CARRUTH
R. E. DUERRE
LARRY MEYER
ANN C. LIBURD
ROBERT A. MINTZ

825 WEST EIGHTH AVENUE

ANCHORAGE, ALASKA 99501

February 13, 1978

TELEPHONE
AREA CODE 907
279-2411

TELEX NO.
09026405

Steve Cowper
Chairman
House Finance Committee
Pouch V
Juneau, Alaska 99811

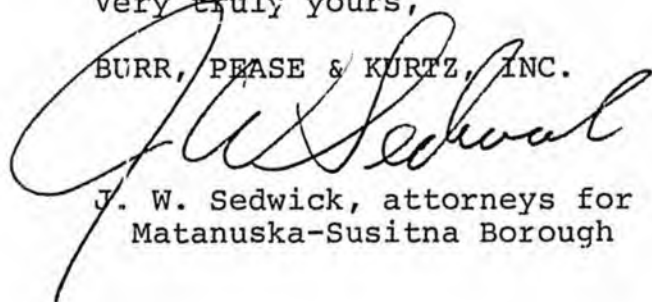
Re: CHSB 133 and letter to you from
Michael C. T. Smith dated
February 10, 1978

Dear Representative Cowper:

Recently I received a copy of the letter referred to above. As attorney for the Matanuska-Susitna Borough I reviewed the various amendments set forth in the letter. It is the position of the Matanuska-Susitna Borough that the amendments are appropriate and that inclusion of the amendments in CHSB 133 will be to the benefit of all concerned. With respect to Mr. Smith's comments concerning page 11 - line 3 and a proposed new subparagraph (c) I should indicate that my client has no preference between the language suggested by Mr. Smith and that discussed previously with Oral Freeman, for passage of CHSB 133 would result in the withdrawal of the lawsuit filed by the Matanuska-Susitna Borough against the State of Alaska.

Very truly yours,

BURR, PEASE & KURTZ, INC.



J. W. Sedwick, attorneys for
Matanuska-Susitna Borough

JWS/cc
cc: Wesley Howe



Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF ADMINISTRATION

February 10, 1978

Representative Steve Cowper, Chairman
House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Cowper:

Subject: CSHB 133 Municipal Land Selections

This is to reaffirm the Matanuska-Susitna Borough's support of CSHB 133 which lies in the House Finance Committee.

This bill has been the subject of intensive negotiations between the various municipalities and the state administration. The substitution of any bill which would fail to resolve the municipal land selection question would not accomplish the purposes for which the bill was originated, and, therefore, would not be acceptable.

Passage of this bill should eliminate the need for expensive litigation and carry forth the State Legislature's municipal land selection intent as expressed in the original law. We urge that CSHB 133 be reported out by the Committee with a "do pass" recommendation for action by the House of Representatives.

Very truly yours,

Wesley M. Howe
Borough Manager

WMH:er

BURR, PEASE & KURTZ, INC.

E. L. ARNELL 1913-1958

D. A. BURR
THEODORE M. PEASE, JR.
L. S. KURTZ, JR.
EDWARD G. BURTON
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ROBERT A. MINTZ

825 WEST EIGHTH AVENUE

ANCHORAGE, ALASKA 99501

February 13, 1978

TELEPHONE
AREA CODE 907
279-2411

TELEX NO.
09026405

Steve Cowper
Chairman
House Finance Committee
Pouch V
Juneau, Alaska 99811

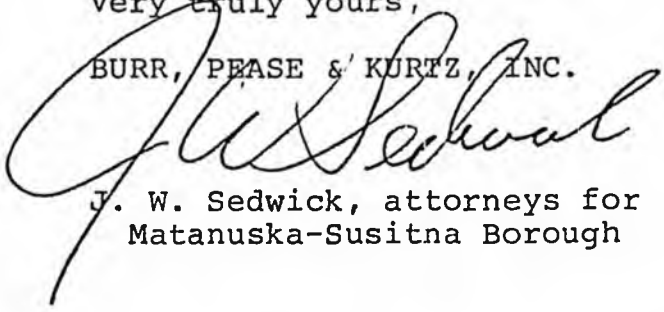
Re: CHSB 133 and letter to you from
Michael C. T. Smith dated
February 10, 1978

Dear Representative Cowper:

Recently I received a copy of the letter referred to above. As attorney for the Matanuska-Susitna Borough I reviewed the various amendments set forth in the letter. It is the position of the Matanuska-Susitna Borough that the amendments are appropriate and that inclusion of the amendments in CHSB 133 will be to the benefit of all concerned. With respect to Mr. Smith's comments concerning page 11 - line 3 and a proposed new subparagraph (c) I should indicate that my client has no preference between the language suggested by Mr. Smith and that discussed previously with Oral Freeman, for passage of CHSB 133 would result in the withdrawal of the lawsuit filed by the Matanuska-Susitna Borough against the State of Alaska.

Very truly yours,

BURR, PEASE & KURTZ, INC.


J. W. Sedwick, attorneys for
Matanuska-Susitna Borough

JWS/cc
cc: Wesley Howe

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

May 4, 1977

OFFICE OF THE COMMISSIONER

POUCH M—JUNEAU 99811

The Honorable Steve Cowper
Chairman, House Finance Committee
Pouch "V"
Juneau, Alaska 99811

Dear Representative Cowper:

Re: CS for HB 133

Representative Lisa Rudd, Chairman of the House Community and Regional Affairs Committee, requested that this department provide additional information to the fiscal note for CS for HB 133. Representative Rudd was specifically interested in the amount of money which might be appropriated to eligible municipalities as payment in lieu of land titlement under Section 208 of the subject bill.

As there are several variables which would influence such estimates, firm figures are impossible to predict. However, I believe the following projections to be fairly accurate. One of the assumptions made here is that the Legislature will fund the requests of eligible municipalities in their entirety for each fiscal year.

ESTIMATED APPROPRIATIONS (Millions)

<u>FY</u>	<u>MAX</u>	<u>MIN.</u>
79	4	4
80	4	3
81	7	3
82	6	2
83	5	-
84	4	-
85	3	-
86	3	-
87	2	-
88	1	-
	<u>39</u>	<u>12.0</u>

As these figures represent the estimated maximum and minimum values, actual appropriations will undoubtedly lie somewhere between these figures and will almost surely take approximately ten years to accomplish.

Sincerely,



Michael C.T. Smith
Assistant Commissioner

TELEGRAM

ROA ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

JUNEAU, ALASKA 99801

20002 KENAI ALASKA 23 02-14 1010A AST

1978 FEB 14 AM 12 22

PMS REP STEVE COWPER 465-3726 465 3707

POUCH V CAPITOL BLDG 413

JUN 99811

THE KENAI PENINSULA BOROUGH SUPPORTS CSHR133 AUTHORED
BY THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE AS IT
WAS REFERRED BY FINANCE AND OFFERED 5-4-77.

CAROLYN LEWIS LAND MANAGEMENT AGENT

OF KENAI PENINSULA BOROUGH

HB 133-

DALE P. TUBBS
LAND MANAGEMENT CONSULTANT
715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-2314

HB 133-

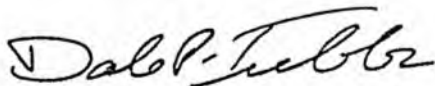
February 10, 1978

Honorable Merle G. Snider
Pouch V
Juneau, Alaska 99811

Dear Representative Snider:

Mr. Stuart Denslow, Manager, Kodiak Island Borough, has asked I forward you a copy of CSSB 241 relating to selection and transfer of land to municipalities. Also included is correspondence regarding the selection entitlement to the Kodiak Island Borough. As stated in the February 2nd letter to Denslow, the Division of Lands used a "Catch 22" in computing the borough's entitlement. They excluded acreage from being eligible that was classified at the request of the borough and as required in the Borough-State Management Agreement. The borough is looking for a 60,000 acre entitlement as opposed to the 45,200 acres indicated in the bill.

Sincerely,



Dale P. Tubbs

DPT/lv
encl.

cc: Stuart O. Denslow

DALE P. TUBBS
LAND MANAGEMENT CONSULTANT
715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-2314

February 8, 1978

Mr. Robert L. Hartig, Attorney
Cole, Hartig, Rhodes, Norman & Mahoney
717 K Street, Suite 201
Anchorage, Alaska 99501

Re: Kodiak Island Borough Land Selection Entitlement.

Dear Mr. Hartig:

Following our meeting with Michael Smith, Director, Division of Lands, January 30, 1978, I have been furnished a new summary of TA'ed, occupied and vacant lands within the Kodiak Island Borough. Four new columns have been added propoiting to show lands classified at the borough request and selected, lands classified at the borough request but not selected by the borough and a new summary column in each case to show a new net vacant acreage. I do not follow the logic or significance of the borough selecting or not selecting acreage that it requested the classification thereof.

In reference to the occupied column (A) of the summary sheet, the division has included acres approved to the borough. The impact amounts to approximately 9800 acres. Therefore, the occupied column acreage is made up of lands classified as grazing-timber, timber, public recreation, watershed, resource management and acres conveyed to the borough. The inclusion of the borough TA'ed acres is reducing its own entitlement. I do not follow the logic put forth by the division and it is not the understanding I had on determining the base acreage.

The following list summerizes the classification orders affecting the land selectability.

Item #	Classification Order #	Date of Class. Order	Total Acres Involved	Classification
1	130	10/31/62	11,070	Grazing-timber (Marmot Island)
2	315	10/28/65	183	Public Recreation (Fort Abercombie)

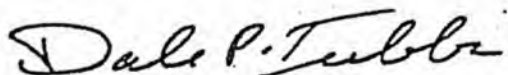
Mr. Robert L. Hartig, Attorney
Page 2
February 8, 1978

3	139 380	5/19/66	7,630	Watershed (Monashka Bay)
4	479	1/18/68	50,342	Timber (Shuyak Island)
5	656	9/7/69	4,316	Watershed (Port Lions)
6	715 (A-2)	4/15/71	15,548	OTE to Res. Mgmt.
7	715 (A-4)	1/24/72	1,990	OTE to Res. Mgmt.
8	805	3/10/72	10,980	Resource Mgmt. (Red Meat Lease)

My interpretation of classifications that may preclude borough selectability are Items 1, 2 and possibly 3. Item #1 established a land classification prior to the formation of a borough; Item #2 involves the classification of the State Park at Fort Abercrombie; and Item #3 classifies the area involved in the Red Meat lease to the University. Item #3 was done without consultation with the borough to legalize the lease to the University of Alaska. At the most, I would say 22,233 acres could be used to reduce the 623,997 acres TA'ed to the State. By accident this closely corresponds to the net vacant column (NV3) for 12/31/75.

Ron Swanson indicated to me Mike Smith does not concur in the 12/31/75 date for establishing entitlement. My understanding is, he is picking the high point prior to ANCSA. I do not concur in this logic as the new acres TA'ed to the State after ANCSA do not involve village withdrawal acreage. We should discuss these points with Mr. Denslow to formulate a stand we can fall back on.

Sincerely,



Dale P. Tubbs

DPT/lv
encl.

cc: Stuart O. Denslow

2/1/70

(TA) Tentative Approval	(A) Occupied	(NV1) Net Vacant NV1=TA - A	(B) ^{at Boro request} Classified and Boro Sel. (by Sel date)	(NV2) Net Vacant NV2=TA - (A - B)	(C) Classified and Not Boro Sel. (by Cl. date)	(NV3) Net Vacant NV3=TA - (A - C)
0	0	0	0	0	but class. at the request of the Borough	0
0	0	0	0	0		12
0	0	0	0	0		0
0	0	0	0	0		0
0	0	0	0	0		0
11,070.00	11,070.00	0	0	0		0
11,070.00	11,070.00	0	0	0		0
229,897.55	11,070.00	218,827.55	0	218,827.55	0	218,827.55
361,737.62	11,070.00	350,667.62	0	350,667.62	0	350,667.62
435,176.32	11,070.00	424,106.32	0	424,106.32	0	424,106.32
435,194.38	11,070.00	424,124.38	0	424,124.38	0	424,124.38
435,194.38	11,315.49	423,878.89	0	423,878.89	182.72	424,061.61
435,475.38	19,165.80	416,309.58	0	416,309.58	182.72	416,492.30
464,788.38	19,220.96	445,567.42	969	445,577.11	182.72	445,759.79
525,396.12	19,426.21	505,969.91 *	22.82	505,992.73 *	182.72	506,175.45
525,396.12	19,875.93	505,520.19	342.82	505,863.01	182.72	506,045.73
525,396.12	77,685.29	447,710.83	14,675.31	462,386.14	36,194.31	498,580.45
525,396.12	77,672.29	447,723.83	14,675.31	462,399.14	36,194.31	498,593.45
525,396.12	77,694.50	447,701.62	14,675.31	462,376.93	36,194.31	498,571.22
525,396.12	82,028.35	443,367.77	14,675.31	458,043.08	40,510.31	498,553.39
525,396.12	82,341.81	443,054.31	14,675.31	457,729.62	40,510.31	498,239.99
525,396.12	82,341.81	443,054.31	14,675.31	457,729.62	40,510.31	498,239.99
525,396.12	82,341.81	443,054.31	14,675.31	457,729.62	40,510.31	498,239.99

Kodiak BOROUGH (2)

(TA) Tentative Approval	(A) Occupied	(NV1) Net Vacant NV1=TA - A	(B) ^{at Boro request} Classified and Boro Sel. (by Sel. date)	(NV2) Net Vacant NV2=TA -(A - B)	(C) Classified and NOT Boro Sel. (by Cl. date) <small>but class. at the Boro request</small>	(NV3) Net Vacant NV3=TA-(A-B-C)
525,396.12	82,342.73	443,053.39	14,675.31	457,728.70	40,510.31	498,239.01
525,396.12	95,632.73	429,763.39	14,675.31	444,438.70	53,480.31	497,919.01
525,396.12	95,632.73	429,763.39	22,180.31	451,943.70	53,480.31	505,424.01
525,396.12	96,545.15	428,850.97	22,180.31	451,031.28	53,480.31	504,511.59
525,396.12	102,152.15	423,243.97	22,180.31	445,424.28	57,363.31	502,787.59
525,396.12	102,152.15	423,243.97	22,180.31	445,424.28	57,363.31	502,787.59
525,396.12	102,152.15	423,243.97	22,180.31	445,424.28	57,363.31	502,787.59
525,396.12	102,152.15	423,243.97	22,180.31	445,424.28	57,363.31	502,787.59
623,997.12	102,152.15	521,844.97	22,180.31	544,025.28	57,363.31	601,388.59
620,163.12	102,152.15	518,010.97	22,180.31	540,191.28	57,363.31	597,554.59
620,163.12	102,152.15	518,010.97	22,180.31	540,191.28	57,363.31	597,554.59
611,734.29	102,152.15	509,582.14	22,180.31	531,762.45	57,363.31	589,125.76
611,734.29	102,152.15	509,582.14	25,829.31	535,411.45	57,363.31	592,774.76

* Maximum Net Vacant per Column

Note 1: These figures do not reflect
the acreage affected by The AMCSA
(Should be around 325-350 thousand acres)

Note 2: 9,145.00 acres classified Timber before Boro formation.
Balance of 11,070.00 acre classification selected by Boro in late 1977.

DALE P. TUBBS
LAND MANAGEMENT CONSULTANT
715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-2314

February 2, 1978

Mr. Stuart O. Denslow
Kodiak Island Borough
P. O. Box 1246
Kodiak, Alaska 99615

Re: Meeting with ADL - Land Selection Base

Dear Mr. Denslow:

This capsulizes the meeting held with the Alaska Division of Lands to resolve the acreage base to be used in determining Kodiak Island Borough's land selection entitlement.

Persons in attendance:

Michael C.T. Smith - Director, Division of Lands
Thomas Meachum - Assistant District Attorney
Ronald Swanson - Staff employee - ADL
Robert L. Hartig - Attorney representing Kodiak Island Borough
Dale Tubbs - Land Management Consultant representing Kodiak Island
Borough

Date and Place of Meeting:

January 30, 1978 - Division of Lands

Reason for meeting:

The meeting was held to express KIB's disagreement with the 45,200 acres entitlement as stated in House Bill 241 and get it adjusted.

Prior to the meeting I had several meetings with Ron Swanson to substantiate the total acres tentative approved to the State within the KIB. This resulted in more than 24,000 acres being added to the States total T.A. acreage figures. The State then calculated an acreage figure for vacant, unappropriated and unreserved land at six month intervals. The six month interval began in 1962. With refinement the State now arrived at a maximum of 521,844.97 acres to be used to determine KIB's base. (See attach table.)

Mr. Stuart O. Denslow
Page 2
February 2, 1978

The new base figure takes into account a reduction in acreage based on lands being classified Timber, Grazing-Timber, Watershed, Public Recreation, Resource Management and acres already conveyed to the borough. Our argument at this point was, the reduction is a "Catch 22" to the borough. Reason: The State-Borough land management agreement required the land be classified prior to disposal action or to implement management. The total acres classified is 92,000+ acres. Most of these classifications were requested by the borough or to assist in the States procedures to conduct a disposal for the borough's interest. Smith admitted the "Catch 22" and agreed to change the figures where classification were for borough management. I am to work with Ron Swanson to present evidence of the boroughs involvement in the classifications.

18,897 acres were classified resource management. This was done in an overnight exercise by ADL to close the open to entry program. No consultation was made with the borough. At that time, lands classified as resource management were borough selectable. Now ADL's interpretation is they are not. If the borough had known this was going to happen they would have opposed the reclassification as such. This battle is not won.

The maximum selectable acreage remains reduced by acreage conveyed to the borough. This point needs to be discussed with you and Hartig to determine if it should be challenged. If the high point in column 2 was 1967 I would say forget it. However, the high point is now in 197~~5~~ and reflects a 10,000 acre base reduction due to borough title. (1000 acre selection right).

Smith was upset over the KIB land selection made September 6, 1977. He accused the borough of bad faith in not holding a status quo while the present legislation is being considered. Hartig explained the legal rationale but didn't phase Mr. Smith.

Final resolution of the meeting is to recalculate the acres involved in the "Catch 22" and adjust upward in favor of the borough. I'm not convinced at this point both parties are on the same wave length. As Mr. Smith learns more about anything the more adept he becomes in burying it with further study.

Sincerely,



Dale P. Tubbs

DPT/lv
attachment

BOROUGH

lands that have

Tentative Approval

(Occupied
Because of Classification
Timber-Crossing
Public Use
Resource Management
or other
Circumstances)

Net Vacant

Date	Tentative Approval	(Occupied Because of Classification Timber-Crossing Public Use Resource Management or other Circumstances)	Net Vacant
6/30/60	0		0
12/31/60	"		"
6/30/61	"		"
12/31/61	"		"
6/30/62	"		"
12/31/62	11,070.00	11,070.00	"
6/30/63	"	"	"
12/31/63	229,897.55	"	218,827.55
6/30/64	361,737.62	"	350,667.62
12/31/64	435,176.52	"	424,106.52
6/30/65	435,194.38	"	424,124.38
12/31/65	"	11,315.49	423,878.99
6/30/66	435,475.32	19,165.80	416,309.58
12/31/66	464,785.52	19,220.96	445,567.42
6/30/67	525,296.12	19,426.21	505,969.91 *
6/31/67	"	19,875.95	505,520.19
6/30/68	"	77,675.29	447,710.85
12/31/68	"	77,672.29	447,723.83
6/30/69	525,396.12	77,694.50	447,701.62
12/31/69	"	82,023.35	443,317.77
6/30/70	"	82,341.81	443,754.31
12/31/70	"	"	443,051.21
6/30/71	"	82,342.72	443,053.29
12/31/71	"	"	443,055.29
6/30/72	"	95,622.72	429,763.39
12/31/72	"	"	429,763.39

BOROUGH (Cont)

	Tentative Approval	Occupied	Net Vacant
6/30/73	525,396.12	96,545.15	428,850.97
12/31/73	"	102,152.15	423,243.97
6/30/74	"	"	423,243.97
12/31/74	"	"	423,243.97
6/30/75	"	"	423,243.97
12/31/75	623,997.12	"	521,644.97
6/30/76	620,163.12	"	518,010.97
10/31/76	"	"	518,010.97
6/30/77	611,734.29	N/A	N/A
12/31/77	"	N/A	N/A

Note: These figures do not reflect the increase affected by The AWCSA

MOENING-GREY & ASSOCIATES, INC.
GEOLOGISTS AND ENGINEERS

715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501

TELEPHONE 274-2314

December 20, 1977

Mr. Robert L. Hartig, Attorney
Cole, Hartig, Rhodes, Norman & Mahoney
717 K Street - Suite 201
Anchorage, Alaska 99501

Re: Kodiak Island Borough Land Selection Entitlement.

Dear Bob:

My meeting with Ron Swanson, employee of the Alaska Division of Lands, on December 19, 1977 was brief and to the point. He had reviewed my acreage figures relating to the total number of acres tentatively approved and/or patent to the State in the Kodiak Island Borough. His recalculations of the state documents indicate 600,765.31 acres have been conveyed. This compares to the 618,957 acres I used. My figures were based on a combination of T.A. documents and dot counting the land configuration on the state status plats. Mr. Swanson indicated a number of the T.A. documents have been modified by BLM to exclude some of the water. The true acreage will never be known until survey is completed. This will not be known in many instances because some state T.A. is being revoked to benefit the native village selections. The 18,191.69 acre difference between his and my figures can stand without challenge. The 600,765.31 acre figure is within acceptable limits with the present data.

Mr. Swanson stated the Division of Lands would be notifying the Kodiak Island Borough of the increased total state acres within the borough boundary. From the new total they will then deduct the following acreages to determine the boroughs base:

Land classified Grazing & Timber	11,070.00 acres
Land classified Timber	50,342.00 acres
Land classified Public Recreation	214.62 acres
Land classified Watershed	11,821.00 acres
Land classified Resource Management	18,897.00 acres
	<u>92,344.62 acres</u>

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These acreage deductions must be challenged for the following reasons:

Grazing-Timber - This is the acreage for Marmot Island. The island was classified prior to borough existence. A grazing lease was issued for the island but has since been terminated. The lessee did not place any stock on the lease. The classification was never reviewed with the borough.

Timber - This classification is for Shuyokⁱⁱ Island. The island was classified timber to authorize the sale of timber from lands selected by the borough. The Borough-State Management Agreement states, "All leases, sales or other disposals which are made by the State on behalf of the Borough pursuant to this agreement - - - - shall be conducted in accordance with the Alaska Land Act and the regulations promulgated by the State pursuant thereto." The borough had selected lands on the island to benefit from a timber sale that was advertised but did not sell at auction. The State did not approve the selection but only because of lag in paper work. When the sale did not receive an acceptable offer there was no urgency to approve the selection to validate the transfer of timber revenue to the borough.

Watershed - This acreage is made up of the Port Lions and Monashka Bay-Pillar Creek Watersheds. Again the classification was made by borough request to protect values and conform to the Borough-State Management Agreement.

Resource Management - This acreage was placed on lands that were once open-to-entry. When the OTE lands were closed to entry the state in an overnight action, without consultation with the borough, reclassified the lands to resource management. No input was requested of the borough or indication given by the division. The reclassification would take the acreage out of reach from borough selection.

Public Recreation - No challenge is necessary for the public recreation lands at Fort Abercrombie (182.72 acres), however, the remaining public recreation lands are included in lands already conveyed to the Borough.

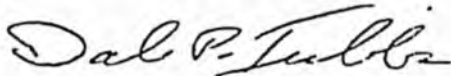
It is apparent the division also figures any of the acreage conveyed to the state with an existing grazing lease are not available for selection. No acreage deduction has been made for those leases to date but may surface once a borough selection is adjudicated.

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I am available to discuss the above points at your convenience.

Sincerely,

MOENING-GREY & ASSOCIATES, INC.

A handwritten signature in cursive script, reading "Dale P. Tubbs".

Dale P. Tubbs

DPT/lv
encl.

RECEIVED NOV 7 1977

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J. MICHAEL ROBBINS
ROGER H. BEATY
STEPHEN D. ROUTH

November 3, 1977

KODIAK:
MICHAEL W. SHARON

REPLY TO: Anchorage

Mr. Dale P. Tubbs
Moening-Grey & Associates, Inc.
715 "L" Street, Suite 8
Anchorage, AK 99501

Re: Legislation
Our File 101-28

Dear Dale:

Last year legislation was introduced in the State Legislature to compensate municipalities for lands which they were entitled to select under state statutes but which, however, were not available for selection. As you are well aware, the Kodiak Island Borough faces serious deficiency in the availability of lands for selection under the Alaska Native Claims Act.

Assuming that legislation is passed, providing for their compensation for these lands, it may be that this procedure not only is a fair approach to the problem, but is the only method by which the problem can be resolved.

In a meeting with Mike Smith, Jack Roderick, representatives from each of the municipal governments of Kenai, Matanuska-Susitna and Fairbanks, and myself, on October 30, 1977, the group was unanimous in its desire to again pursue passage of legislation during this session.

The purpose of my letter is to ask that you review the maps prepared by the Division of Lands which depict some 450,000 acres of state land within the Kodiak Island Borough which, in turn, would mean that the borough's eligibility under the 10% clause of the applicable statute would be 45,000 acres. Mr. Smith stated that it was the Division's estimate that the 450,000 acres was the total amount of land which was ever selected, and that the 45,000 acres then available for selection by the borough was a

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top figure. I remember, in our earlier discussions, that you expressed the opinion that, rather than 45,000 acres, it may be slightly higher. Mr. Smith requested that we bring to his attention any errors which we may have found with regard to the maps and that we do this as soon as possible, in order that, if it becomes necessary, we can change the total figures in the legislation.

For your information, I have also enclosed a copy of the proposed legislation so that you might know what is attempted to be accomplished. Should you have any questions concerning it or have comments, I would appreciate receiving them.

Yours truly,

COLE, HARTIG, RHODES,
NORMAN & MAHONEY

By:


Robert L. Hartig

RLH:kh

Enclosure

cc: Client

MOENING-GREY & ASSOCIATES, INC.

GEOLOGISTS AND ENGINEERS

715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501

TELEPHONE 274-2314

August 23, 1977

Mr. Stuart Denslow
Borough Manager
Kodiak Island Borough
Box 1246
Kodiak, Alaska 99615

Re: Kodiak Island Borough Land Selections - 77-209

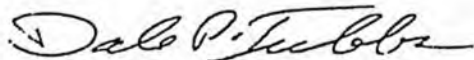
Dear Mr. Denslow:

An acreage count of state tentative approved and patented land within the Kodiak Island Borough is approximately 619,000 acres. This base will give the borough a 61,900 acre selection right. According to my recap of the existing selections 38,187 acres have been selected to date. This figure includes some acreage that is not available and will be rejected. In addition, if the borough selected acreage is rejected in areas selected by eligible native villages the 38,187 acre figure will be reduced accordingly.

At present the difference between the selected and the selectable acreage is 23,713 acres. This differs considerably from the 9000 acres indicated by the Alaska Division of Lands. The Division of Lands based their figures only on land that was vacant, unappropriated and unreserved. We are taking the position that the entire state acreage is to be used in determining the borough selection base.

Sincerely,

MOENING-GREY & ASSOCIATES, INC.



Dale P. Tubbs

DPT/lv

MANAGEMENT AGREEMENT

This agreement made and entered into this 17 day of June, 1965 between the State of Alaska, Department of Natural Resources, Division of Lands, hereinafter referred to as the State and the Kodiak Island Borough, organized and existing pursuant to the laws of the State of Alaska, hereinafter referred to as the Borough.

WITNESSETH:

WHEREAS, Title 7 - Article 2 - Sec. 07.10.150, Alaska Statutes vests the Borough with the authority to select certain of those state-owned lands which lie within the Borough boundaries, and,

WHEREAS, the aforementioned statute further provides that the Borough is vested with the authority to manage, lease or sell the lands so selected, and,

WHEREAS, the Borough does not at this time have the financial ability nor the manpower to initiate and maintain an efficient land management program, and,

WHEREAS, the State, through the Division of Lands, does maintain the staff capability and is willing to enter into an agreement for the management of Borough selected lands, NOW THEREFORE,

The Borough does by these presents delegate to the State the authority to manage Borough selected lands and the State, through the Division of Lands, agrees to accept management authority over said lands upon the following terms and conditions to wit:

1. All lands disposed of by the State, pursuant to this agreement, shall first be subjected to a land use plan and such plan shall, prior to becoming final, be reviewed jointly and agreed upon by the Borough and the State.
2. Prior to disposal by the State of any lands selected pursuant to Section 6(b) Public Law 85-508, General Grant lands, the Borough shall first be afforded the opportunity to select the same for its use or disposal in accordance with the terms of this agreement.

3. Upon selection of eligible lands by the Borough, the State shall, without delay, note the same on the records to be maintained by the Division of Lands, and the State shall periodically thereafter make an accounting to the Borough revealing acreage entitlement, acreage selected, acreage disposed of and such other information as shall be deemed necessary for the purpose of keeping the Borough properly informed.

4. All leases, sales or other disposals which are made by the State on behalf of the Borough pursuant to this agreement shall be made only with consent of the Borough and shall be conducted in accordance with the Alaska Land Act (Title 38, A.S.) and the regulations promulgated by the State pursuant thereto. All lands which have been selected by the Borough, as herein provided, and which the Borough may wish to sell, lease or otherwise dispose of shall be sold, leased or disposed of in accordance with the provisions of this agreement for so long as the agreement shall remain in full force and effect.

5. All monies received by the State from the sale, lease or other disposal of Borough lands shall be deposited with the Department of Revenue, State of Alaska. Upon request of Borough Assembly and certification by the Director that payment is in order, the monies so deposited shall be transferred to the Borough. The State shall, during the month of January of each year that this agreement is in effect, render an accounting of all monies received from disposals conducted during the course of the year. Concurrent with the final accounting the State shall withhold survey, appraisal and other appropriate direct management costs, exclusive of overhead costs, from the total receipts.

6. To preserve the principle and integrity of sustained yield forest management and protection, those forest and grazing lands selected by the Borough shall remain under the direct management of the Division of Lands with all revenues from such forest and grazing lands or forest products being transferred to the Borough at the same time and in the same manner as stipulated in Item #5 of this agreement.

Nothing in this agreement shall prevent, through mutual agreement, the reclassification of any lands subject to this contract as provided in the Classification regulations of the Division of Lands, State of Alaska.

This agreement shall remain in full force and effect until such time as it may be cancelled or modified by mutual agreement between the parties. This agreement may also be cancelled by one party provided it gives the other party one (1) year notice of such cancellation.

KODIAK ISLAND BOROUGH

By *Russell M. Smith*
President of the Assembly

By *Charles R. Rasmussen*
Borough Chairman

ATTEST:

Leo L. Jensen
Borough Assembly Clerk

STATE OF ALASKA

By *[Signature]*
Director, Division of Lands

CONCURRED:

[Signature]
Commissioner, Department of Natural Resources

APPROVED AS TO FORM:

for *Theodore E. Fleischer*
Attorney General, State of Alaska

City of Anchorage
Norman & Mackay
1000
Anchorage, Alaska

original sponsor: Rules Committee by
request of the Governor

IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 241

IN THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to selection and transfer of state
land to municipalities; and providing for an effective
date."

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

* Section 1. STATEMENT OF PURPOSE. The purposes of this Act are to
remove uncertainties in the existing municipal land selection law of the state;
to provide for an immediate, final determination and settlement of municipal
land entitlement; to provide for the completion of rational ownership patterns
for sound land management; and to provide for timely patent of land to muni-
cipalities to fulfill their respective entitlements.

* Sec. 2. AS 29.18 is amended by adding new sections to read:

ARTICLE 3A. GENERAL GRANT LAND.

Sec. 29.18.202. DETERMINATION OF ENTITLEMENT. (a) The general
grant land entitlement of each of the municipalities in this subsection
is the amount set out opposite each:

- (1) Municipality of Anchorage -- 20,865 acres;
- (2) City and Borough of Juneau -- 13,600 acres;
- (3) City and Borough of Sitka -- 9,200 acres;
- (4) Bristol Bay Borough -- 1,940 acres;
- (5) Fairbanks-North Star Borough -- 112,000 acres;
- (6) Haines Borough -- 1,080 acres;
- (7) Kenai Peninsula Borough -- 155,780 acres;
- (8) Ketchikan Gateway Borough -- 9,200 acres;
- (9) Kodiak Island Borough -- ~~45,200~~ 60,140 acres.

(10) Matanuska-Susitna Borough -- 355,210 acres;

(11) North Slope Borough -- 645 acres.

(b) The general grant land entitlement of a city eligible to receive general grant land under the former provisions of secs. 190 - 200 of this chapter repealed by this Act is 10 per cent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of each city at any time between the initial date of eligibility under former secs. 190 - 200 of this chapter and the effective date of this Act.

(c) Within six months of the effective date of this Act, the director shall determine the entitlement for each city eligible to receive general grant land under (b) of this section and certify that entitlement to the city.

(d) General grant land entitlements provided in this section constitute vested property rights which shall be fulfilled as provided in sec. 204 or sec. 208 of this chapter, but no municipal selection vests any interest in or right to receive a particular tract of land unless first approved by the director under sec. 204(f) of this chapter.

(e) General grant land entitlements vested under this section may be exercised at any time before the date which is two years after the expiration of the state's right to make selections under secs. 6(a) or (b) of the Alaska Statehood Act (P.L. 85-508); however, the time limitation imposed by this subsection does not apply to payments in lieu of land under sec. 208 of this chapter.

Sec. 29.18.204. FULFILLMENT OF LAND ENTITLEMENTS. (a) The acreage of each municipality's land selections under former secs. 190 - 200 of this chapter for which patent has been issued before the effective date of this Act shall be credited toward fulfillment of the entitlement of that municipality.