

LEG. FINANCE - BILLS 1977 - 1978 667  
CSHB 133 cont., 667

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER / 323 E. 4TH AVENUE - ANCHORAGE 99501

June 8, 1978

The Honorable John Sackett  
Chairman, Senate Finance Committee  
Pouch V  
Juneau, AK 99811

Re: Administration Comments on Municipal Land Selection Bill  
(SCS CSHB 133 (C&RA))

Dear Senator Sackett:

The Municipal Land Selection Bill reported out of Senator Orsini's Community and Regional Affairs Committee can be supported by the Administration with the relatively minor changes indicated below. Most of these changes are technical in nature. The new language suggested for section 29.18.207(b) is not a change of concept or substance, but rather an attempt to lessen the chance of confusion in the future. The page and line numbers refer to the referenced bill dated 5/31/78.

Page 2, lines 6-17: Section 4 of the Bill, found on page 16 at lines 20-28, belongs more appropriately in section 202 on page 2. Section 4 establishes the land entitlements of future municipalities, a determination made for existing non-borough municipalities in section 202. Unless this move is made, the substantial number of references within the body of this legislation which refer to municipal entitlements in sections 201 and 202 will not apply to future municipalities; this will cause severe implementation problems. Changes in the subsection designations on lines 6 and 14 will be needed to reflect the insertion of section 4 of the bill between lines 17 and 18 on page 2.

Page 5, line 18: The phrase "which is of greater than local concern" should be deleted. The criteria in this subsection (g) are the result of the detailed scrutiny and ultimate agreement by the municipalities and the State as to their respective interests. The management of fish and wildlife is clearly mandated to the State by the Constitution and has never been delegated to local municipalities to our knowledge in any state in the U. S. Unless some rare or endangered species is involved, considerable disagreement could arise as to whether destruction of habitat critical to

a local game population (e.g. moose) was of greater than local concern. All fish and wildlife are of state concern and this language should be deleted to return the phrase to its original meaning.

Page 5, line 20: The word "facilities" should be deleted. In a similar vein to the last comment, this word was added without opportunity for comment by the State or municipalities. The word "facilities" is undefined and will lead to considerable confusion if not deleted. For instance, is a highway right-of-way, requested by the Division of Transportation but not yet actually under construction, a "facility?" The legitimate needs for transportation which are of greater than local concern are generally clear and have caused little problem in the past.

Page 6, line 19: The subsection designation "(b)" should be deleted. This expands the universe of land entitlements determined by the Director under section 202 to include those determined for new municipalities (following the insertion of section 4 of this bill into section 202).

Page 7, line 6: This line should be amended to read "Within six months after approval of a municipal [A REQUEST BY A MUNICIPALITY FOR] selection of school, . . ." Since the Director now has nine months within which to approve or disapprove a municipal selection, as presently written the language would require the Director to approach the respective trust board to initiate the land exchange even before he has made a decision as to whether the municipal selection is appropriate. The suggested amendment pegs the start of the six-month period at the date the Director approves a municipal selection for trust lands.

Page 7, line 19: Should be amended to read ". . . are applicable to the designation of other general grant [STATE] land as school, university . . ." This is a technical change to conform to the definitions section.

Page 7, lines 27-29 and page 8, lines 1-2: These lines should be amended to read "(f) For purposes of determining the per capita entitlement under (a) of this section, the [RESIDENT] population of a [THE] municipality shall be the population determined [AS OF THE EFFECTIVE DATE OF THIS ACT] by the commissioner of the Department of Community and Regional Affairs for the FY 1979 state revenue sharing program [AND REPORTED TO THE DIRECTOR]. The figures which have been used throughout the genesis of this legislation are those published by the Department of Community and Regional Affairs for revenue sharing purposes. The FY '79

figures will represent the populations as of approximately July 1, 1978. By standardizing this language in this legislation, and later in section 207, problems resulting from conflicting population estimates or from a change in the effective date clause of this legislation are eliminated.

Page 8, line 13: Should be rewritten " . . .municipality having an entitlement under secs. 201 or [AND] 202 of this . . ." Since a municipality may only have an entitlement under section 201 or section 202, not both, the word "and" is inappropriate.

Page 9, line 19: Should be amended to read " . . . municipalities designated in sec. 201 of this chapter for certain general grant lands selected . . ." A technical change conforming to the definitions section.

Page 9, line 22: Subsection (b) as written should be replaced by the following language:

(b) A municipality shall receive payment for its land deficiency from the account established in (a) of this section. A municipality is eligible to receive payment for land deficiency if, on January 1, 1981, the amount of land physically suitable for the purposes described in sec. 204(g)(1) of this chapter for which approval has been given by the Director under sec. 204(g) of this chapter amounts to less than one-third acre per capita. An eligible municipality under this subsection is entitled to receive a payment for land deficiency equal to \$1,000 per acre for the number of acres equal to the difference between one-third of the population of that municipality less the number of acres physically suitable for the purposes described in sec. 204(g)(1) of this chapter for which approval has been given by the director under sec. 204(g) of this chapter by January 1, 1981 For the purpose of this subsection the population of a municipality shall be the population determined by the commissioner of the Department of Community and Regional Affairs for the FY 1979 state revenue sharing program. No payment may be made to a municipality under this subsection in excess of \$9,000,000.

As mentioned earlier, this amended language does not change the idea nor thrust of the existing language, but merely makes it clearer to remove the possibility of future confusion in interpretation.

Page 10, line 20: Should be amended to read " . . .subsection may not exceed \$1,000 per acre [FOR EACH ACRE], up to a maximum of . . ." The addition of the prefix "sub" is needed or the \$1,000-per-acre limit will apply to all payments in the entire section. That would bring it into direct

conflict with the limit imposed in subsection (b) of this section. The \$1,000-per-acre limit is really meant for subsection (c) only. The deletion of the three words "for each acre" deletes a redundancy.

Page 10, lines 24-25: Should be amended to read ". . . have elected [ARE ELIGIBLE] to receive payments under (b) or (c) [OR WHICH HAVE ELECTED TO RECEIVE PAYMENTS UNDER (c) OF THIS SECTION]. The phrase "have elected" clarifies that a municipality must elect to receive a payment before the Governor shall submit a request for such appropriation. The addition of the words "or (c)" and the subsequent deletion eliminates a redundant phrase.

Page 11, line 13: Should be amended to read ". . . distribution of payments is made under (b) or (c) of this section, the remaining . . ." Without this addition monies paid to municipalities for land deficiency under subsection (b) would not be deducted from that municipality's remaining entitlement. It is clearly everyone's understanding that payments received were to be debted against remaining entitlements for municipalities receiving payments under both (b) and (c).

Page 16, lines 12 through 14: This last sentence should be deleted. The reference as it stands is to a section which does not exist. If it applies to section 38.05.069(c), it would still not be appropriate as the procedures outlined in that subsection would not work in this case. That procedure outlines the process for the public auction of remaining nonagricultural rights in a parcel of land. Since this subsection 38.05.321(b) requires that those rights be transferred to the municipality without consideration, the process in the cited subsection 069(c) is inappropriate. Other statutes require the State to give public notice, and hold public hearings if necessary, before disposing of any interest in land. Therefore, any future transfer to a municipality of nonagricultural rights would automatically require such public notice and hearings.

Page 16, lines 20-28: As discussed in the second paragraph of this letter, section 4 of this bill should be inserted in section 202 on page 2 of this legislation. The subsection designations on lines 20 and 24 will have to be changed to agree with the subsection designations presently in section 202.

Page 16, line 29; and page 17, lines 4, 5, and 10: The section designations should be appropriately altered to reflect the elimination of section 4 above.

Page 17, line 11: It would appear that the word "enacted" should replace the word "added."

As mentioned earlier, these changes are basically all technical, but will ultimately make a substantial difference in the implementation of this complicated legislation if they are not corrected at this time. If the Department of Natural Resources may be of further assistance please let me know. I appreciate the opportunity to comment on this legislation.

Sincerely,



MICHAEL C. T. SMITH  
Assistant Commissioner

ADMINISTRATION RECOMMENDED

Original sponsors: Parr, Brown CHANGES SHOWN  
and Cowper

Offered: 5/31/78  
Referred: Finance

1 IN THE HOUSE

BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 133 (C&RA)

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 re-  
11 move uncertainties in the existing municipal land selection law of the state;  
12 to provide for an immediate, final determination and settlement of municipal  
13 land entitlement; to provide for the completion of rational ownership  
14 patterns for sound land management; to provide for expeditious patent of land  
15 to municipalities to fulfill their respective entitlements; and to provide  
16 payment for land within certain municipalities which are unable to receive  
17 full entitlement rights in appropriate vacant, unappropriated, unreserved  
18 land.

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 -- 44,893 acres;  
25 (2) City and Borough of Juneau -- 13,600 acres;  
26 (3) City and Borough of Sitka -- 9,200 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 -- 9,200 acres;  
3 (9) Kodiak Island Borough -- 56,500 acres;  
4 (10) Matanuska-Susitna Borough -- 355,210 acres;  
5 (11) North Slope Borough -- 89,850 acres.

6 Sec. 29.18.202. DETERMINATION OF ENTITLEMENT FOR CITIES. (a)(1)

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

14 <sup>2</sup>  
15 (b) Within six months of the effective date of this Act, the  
16 director shall determine the entitlement for each city eligible to  
17 receive general grant land under (a) of this section and certify that  
entitlement to the city.

18 INSERT EC. → Sec. 29.18.203. STATUS OF ENTITLEMENTS. (a) General grant land  
19 entitlements provided in secs. 201 and 202 of this chapter constitute  
20 vested property rights which shall be fulfilled as provided in sec. 204  
21 or sec. 207 of this chapter, but no municipal selection vests any inter-  
22 est in or right to receive a particular tract of land except as provided  
23 by sec. 204 of this chapter.

24 (b) General grant land entitlements vested under secs. 201 and 202  
25 of this chapter may be exercised at any time before the date which is  
26 two years after the expiration of the state's right to make selections  
27 under secs. 6(a) or (b) of the Alaska Statehood Act (P.L. 85-508);  
28 however, the time limitation imposed by this subsection does not apply

29 (1) to the portion of an entitlement which cannot be satis-

1           fied by that date because of a shortage of appropriate vacant, unappro-  
2           priated, unreserved land; or

3                       (2) to payments for land deficiency under sec. 207 of this  
4           chapter.

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

10                      (b) All approved selections under former secs. 190 - 200 of this  
11           chapter for which patent has not been issued to a municipality on the  
12           effective date of this Act shall be reviewed by the director within  
13           nine months of the effective date of this Act. Any approved selec-  
14           tion of land which was vacant, unappropriated or unreserved on the date  
15           of selection is valid as of the date of the approval under the former  
16           secs. 190 - 200 of this chapter, and a patent shall be issued to the  
17           municipality within three months after approval by the director of a  
18           plat of survey. The acreage shall be credited toward fulfillment of the  
19           municipality's entitlement. No municipality is entitled to receive  
20           patent under this chapter to more than its entitlement determined under  
21           sec. 201 or 202 of this chapter. Any prior approval by the director of  
22           municipal selections for land which was not vacant, unappropriated  
23           or unreserved on the date of selection shall be rescinded, and patent  
24           may not be issued except when disposal to a third party by sale or  
25           lease has occurred. Transfers of land to municipalities under this  
26           chapter are subject to AS 38.05.321. Classification actions as re-  
27           flected upon the land status records of the Department of Natural  
28           Resources are determinative of land classification status for purposes  
29           of this chapter.

1 (c) All municipal land selections under former secs. 190 - 200 of  
2 this chapter not approved as of the effective date of this Act shall be  
3 recognized by the director as representing the priority interests of the  
4 municipalities, and the selections shall be given first consideration  
5 under (e) of this section unless the municipality indicates different  
6 priorities.

7 (d) On the effective date of this Act and for five years there-  
8 after, no classification of a parcel of general grant land in excess of  
9 3,200 acres under AS 38.05.300 shall be effective, unless otherwise  
10 required by law, if the municipality in which the parcel is located,  
11 within 30 days after receipt of notice of the proposed classification,  
12 advises the director in writing that it does not consent to the classi-  
13 fication and indicates the reasons for its nonconsent.

14 (e) Each eligible municipality and the director shall jointly  
15 consider which vacant, unappropriated, unreserved land, including feder-  
16 al land of interest to a municipality which may be selected by the state  
17 as general grant land, located within the boundaries of the munic-  
18 ipality, is appropriate for municipal selection and approval by the  
19 director to fulfill any remaining municipal general grant land entitle-  
20 ment. The joint consideration made by the parties shall include a  
21 cooperative land planning process which will, in addition to the normal  
22 objectives of such a process, seek to identify both local and state  
23 interests in tracts of vacant, unappropriated and unreserved land re-  
24 maining within the municipality. Adjacent tracts shall be considered  
25 simultaneously except when such simultaneous consideration would cause  
26 significant delay or expense. Once a tract has been jointly considered,  
27 it may be selected by a municipality.

28 (f) Each selection shall be approved or disapproved for patent by  
29 the director under (g) of this section within nine months of its selec-

1           tion by a municipality, and a patent shall be issued to the municipality  
2           within three months after approval by the director of a plat of survey.

3           (g) In reviewing a municipal selection, the director shall consi-  
4           der the state's responsibilities for developing and protecting values  
5           which are of greater than local concern, including development which  
6           will have statewide impact, and critical environmental concerns. Land  
7           considered appropriate for municipal selection is land that is suitable  
8           and appropriate for an identifiable present or future municipal use or  
9           for disposal to private use by the municipality by sale or other means.  
10          A selection by a municipality of land which is primarily of local con-  
11          cern shall be approved. When the interests of the state may be pro-  
12          tected through the conveyance of title that is less than a fee title,  
13          the municipality, at its option, may accept the title in acre-for-acre  
14          fulfillment of its entitlement. Specific state responsibilities to be  
15          considered, if those responsibilities have not been authorized or dele-  
16          gated by the state to a municipality, include air quality; water,  
17          minerals and energy; timber; agriculture; fish and wildlife and their  
18          habitat ~~which is of greater than local concern~~; public recreation,  
19          natural, historical, and archaeological areas of greater than local  
20          concern; transportation ~~facilities~~ of greater than local concern; com-  
21          munications; and public safety. Specific municipal interests to be  
22          considered include

23               (1) residential, commercial and industrial needs; and

24               (2) other responsibilities of the local government, including  
25          but not limited to, support of municipal services; education; local  
26          transportation; private recreation; public recreation, natural, histor-  
27          ical and archaeological areas of local concern; and other responsibili-  
28          ties authorized or delegated by the state to the municipality.

29          (h) Every decision of approval or disapproval of a municipal

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

15 (i) A municipality may appeal an adverse decision by the director  
16 to the superior court in accordance with AS 44.62.560 - 44.62.570.

17 Sec. 29.18.205. SCHOOL, UNIVERSITY AND MENTAL HEALTH LAND. (a)  
18 If the entitlement determined in sec. 201 of this chapter or certified  
19 by the director under sec. 202(✓) of this chapter results in a per  
20 capita entitlement for the municipality of less than one and one-half  
21 acre, the municipality may select vacant school, university or mental  
22 health land within the municipality in partial fulfillment of its land  
23 entitlement under this chapter. School, university or mental health  
24 land may be selected notwithstanding the fact that these lands are not  
25 unappropriated and unreserved within the meaning of this chapter and  
26 secs. 190 and 200 of this chapter, repealed by this Act, but each  
27 selection of school, university or mental health land by a municipality  
28 must be vacant, unappropriated, or unreserved land as defined in this  
29 chapter, except that it need not be general grant land.

1 (b) The acreage of school, university or mental health land, if  
2 any, within a municipality may not be included in the determination of  
3 entitlement under sec. 201 or 202 of this chapter.

4 (c) Land conveyed under this section will be credited against a  
5 municipality's remaining land entitlement under this chapter.

6 (d) Within six months after <sup>approval of a municipal</sup> ~~a request by a municipality for~~ selec-  
7 tion of school, university, or mental health land, the director shall  
8 identify state general grant land of approximately equal value to the  
9 land requested by the municipality, and shall propose the replacement  
10 land for the concurrence of the appropriate board. If a proposal by the  
11 director is rejected by the board, the director shall meet with the  
12 board as often as necessary to determine the type and amount of equal  
13 value replacement land that would be required to obtain the board's  
14 concurrence, and shall propose the replacement land for consideration by  
15 the board. The replacement land shall thereafter be managed for the  
16 purposes for which the land selected by the municipality was acquired by  
17 the Territory and State of Alaska.

18 (e) The notice and review provisions of AS 38.05.305 and 38.05.345  
19 are applicable to the designation of other <sup>GENERAL GRANT</sup> ~~state~~ land as school, univer-  
20 sity or mental health land in replacement of land selected under this  
21 section. The provisions of AS 38.50 and AS 38.05.032 do not apply to  
22 such designations under this section. The provisions of AS 38.05.-  
23 030(a), 38.05.030(e), and 38.05.035(a)(13) which require the approval of  
24 the respective trust board before disposal of lands by the director do  
25 not apply to selections of school, university or mental health land by a  
26 municipality under this section.

27 (f) For purposes of determining the per capita entitlement under  
28 (a) of this section, the ~~resident~~ population of <sup>the</sup> municipality shall  
29 be determined <sup>THE POPULATION</sup> ~~as of the effective date of this Act~~ by the commissioner

FOR THE FY 1979 STATE REVENUE SHARING PROGRAM.

1 of the Department of Community and Regional Affairs <sup>^</sup> and reported to the  
2 ~~director.~~

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

12 (b) By August 1 of each year the director shall certify to each  
13 municipality having an entitlement under secs. 201 <sup>OR</sup> and 202 of this  
14 chapter the acreage of patented selections, approved selections not yet  
15 patented, pending municipal land selections neither approved nor dis-  
16 approved by the director, and the remaining entitlement of the munic-  
17 ipality.

18 (c) If land selected by a municipality is unsurveyed at the time  
19 of approval, the director shall survey, or may approve the municipal-  
20 ity's survey of, the exterior boundaries of an approved selection with-  
21 out interior subdivision, and shall issue patent in terms of the ex-  
22 terior boundary survey. The cost of the survey shall be borne by the  
23 municipality. If land selected by a municipality has been surveyed at  
24 the time of its selection, the boundaries shall conform to the public  
25 land subdivisions established by the approved survey.

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

1 the director, but before patent to a municipality, the municipality may  
2 execute conditional leases and make conditional sales only with the  
3 consent of the director. Conditional sales and conditional leases made  
4 before the effective date of this Act do not require the consent of the  
5 director.

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

11 Sec. 29.18.207. PAYMENT FOR LAND DEFICIENCY. (a) There is  
12 established within the general fund the Alaska municipal land account  
13 for the following purposes:

14 (1) providing payment to the boroughs and unified municipali-  
15 ties designated in sec. 201 of this chapter for a deficiency of land  
16 physically suitable for the purposes described in sec. 204(g)(1) of this  
17 chapter; or

18 (2) providing payment to the boroughs and unified municipali-  
19 ties designated in sec. 201 of this chapter for <sup>GENERAL GRANT</sup> certain lands selected  
20 by the state and conveyed to a Native corporation under the provisions  
21 of the Alaska Native Claims Settlement Act.

22 (b) A municipality shall receive payment for its land deficiency  
23 from the account established in (a) of this section. A municipality is  
24 eligible to receive payment for land deficiency if, on January 1, 1981,  
25 the amount of land which it has selected and for which approval has been  
26 given by the director constitutes approval of an entitlement that  
27 amounts to less than one-third acre per capita of appropriate vacant,  
28 unappropriated, unreserved land which meets the needs of sec. 204(g)(1)  
29 of this chapter. A municipality entitled to payment under this subsec-

SEE

REMARKS

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REWRITE

tion may receive an amount not to exceed \$1,000 per acre for a number of acres equal to one-third acre per capita for the number of residents of the municipality on July 1, 1978, less any appropriate vacant, unappropriated, unreserved land selected by the municipality before January 1, 1981, which is physically suitable for the purposes described in sec. 204(g)(1) of this chapter. No payment may be made to a municipality under this subsection in excess of \$9,000,000 or of three-quarters of all sums appropriated by the legislature to meet the requirements of this subsection, whichever is lower.

(c) If a municipality selected vacant, unappropriated, unreserved land on or before December 18, 1971, to which the state had received tentative approval or patent, and such land was also selected by a Native corporation organized under the Alaska Native Claims Settlement Act (P.L. 92-203), and title to that land is ultimately vested in that Native corporation, the municipality may, at its option, request payment for land deficiency from the account established in (a) of this section. The acceptance of payment under this subsection by a municipality constitutes a relinquishment of any other right, title or claim to the land by that municipality. The total payment to a municipality under this ~~section~~ <sup>SUB</sup> section may not exceed \$1,000 per acre, ~~for each acre,~~ up to a maximum of 8,000 acres.

(d) The governor shall annually submit to the legislature a request for an appropriation to the account for the municipalities which ~~are eligible~~ <sup>HAVE ELECTED</sup> to receive payments under (b) <sup>OR (c)</sup> of this section, ~~or which have elected to receive payments under (c) of this section.~~ The request for appropriation shall distinguish between amounts necessary to make payments for land deficiency under (b) of this section and those required to make payments for land deficiency under (c) of this section.

(e) For purposes of fulfilling entitlements under this section,

1 the legislature is authorized to appropriate

2 (1) not more than \$4,000,000 per fiscal year, and not more  
3 than \$12,000,000 in total, for the purpose of paying entitlements under  
4 (b) of this section;

5 (2) not more than \$1,000,000 per fiscal year, and not more  
6 than \$8,000,000 in total, for the purpose of paying entitlements under  
7 (c) of this section.

8 (f) If an annual appropriation is not sufficient to meet the  
9 amount due to all municipalities which have elected to accept payment  
10 for land deficiency under (b) or (c) of this section, the governor shall  
11 apportion the appropriation among the municipalities in proportion to  
12 the payment calculated for each municipality for that year. When a  
13 distribution of payments is made under <sup>(b) or</sup> (c) of this section, the remain-  
14 ing entitlement of a municipality to which payment is made shall be  
15 reduced in an amount equal to the number of acres for which payment was  
16 received. An appropriation made under this section is in addition to  
17 other grants and entitlements authorized to eligible municipalities.

18 (g) Payments authorized by this section may not be made to a city.

19 Sec. 29.18.208. AUTHORIZATION FOR LAND EXCHANGES. The director,  
20 with the concurrence of the commissioner, and any municipality are  
21 authorized to exchange land or interests in land when it is in the  
22 public interest. Land or interests in land exchanged under this section  
23 must be of approximately equal value, including the non-monetary value  
24 of public benefits. Exchange procedures shall comply with applicable  
25 law and municipal ordinances. The notice and review provisions of AS  
26 38.05.305 and 38.05.345 are applicable to exchanges of land under this  
27 section. The provisions of AS 38.50 do not apply to exchanges of land  
28 under this section.

29 Sec. 29.18.209. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Consis-

1 tent with the best interests of the state, if a municipality does not  
2 contain and cannot reasonably acquire sufficient nonfederal land within  
3 its boundaries to meet its legitimate needs for public or private  
4 settlement or development, it shall be the policy of the state to select  
5 federal land reasonably necessary to meet the needs of the municipality  
6 and to make the land selected available to the municipality under AS  
7 38.05.315 or (b) of this section.

8 (b) Where state land is the most logical location for demonstrated  
9 municipal expansion for nonpublic settlement and development purposes,  
10 and when an exchange of land under sec. 208 of this chapter is not  
11 possible or is not in the public interest, it is the policy of the state  
12 to sell or lease the land at public auction. The state may contract  
13 with a municipality to act as its agent in an auction of state land  
14 under applicable statutes. When a municipality acts as the agent of the  
15 state in an auction, the municipality may retain from the proceeds of  
16 the auction the expenses which the director determines to be necessary  
17 and reasonable.

18 (c) Nothing in this chapter limits or impairs the authority of the  
19 director to transfer land to municipalities, without limit or considera-  
20 tion, for public purposes in accordance with AS 38.05.315. If there is  
21 a remaining entitlement of the municipality, land transferred under AS  
22 38.05.315 shall be credited toward fulfillment of the entitlement.

23 Sec. 29.18.210. ELECTION OF BENEFITS. (a) A municipality which  
24 on the effective date of this Act is engaged in litigation, or which  
25 becomes engaged in litigation, regarding a claim to state land under  
26 former secs. 190 - 200 of this chapter shall elect either to obtain the  
27 benefits provided in secs. 201 - 212 of this chapter or to pursue the  
28 litigation and thereby waive any claim to entitlement under secs. 201 -  
29 212 of this chapter. An election shall be made by filing a motion for

1 dismissal with prejudice in the court in which the litigation is pend-  
2 ing. If the claim involves a municipality identified in sec. 201 of  
3 this chapter, the municipality shall file its motion for dismissal  
4 within 60 days of the effective date of this Act. If the claim involves  
5 a municipality not listed in sec. 201 of this chapter, the municipality  
6 shall file its motion for dismissal within 60 days after receiving the  
7 certificate of entitlement provided by the director under sec. 202(b) of  
8 this chapter. Failure of the municipality to file a motion for dismis-  
9 sal during the time period provided in this subsection shall be con-  
10 sidered a waiver of entitlement under secs. 201 - 212 of this chapter.

11 (b) A municipality which was eligible to file land selections  
12 under the former secs. 190 - 200 of this chapter and which does not  
13 enter into litigation over a claim to rights under those sections before  
14 the expiration of the time period within which it could make an election  
15 under (a) of this section shall be considered to have elected to receive  
16 benefits under secs. 201 - 212 of this chapter and to have waived any  
17 claim which might have been raised under former secs. 190 - 200 of this  
18 chapter.

19 (c) The provisions of secs. 201 - 212 of this chapter do not  
20 affect the rights, if any, of any party to litigation regarding the  
21 former AS 29.18.190 - 29.18.200 or 29.18.420, which litigation is main-  
22 tained by a municipality that has elected not to obtain the benefits  
23 provided by secs. 201 - 212 of this chapter.

24 Sec. 29.18.211. ADMINISTRATION. The commissioner may adopt regu-  
25 lations in accordance with the Administrative Procedure Act (AS 44.62)  
26 necessary to carry out the purposes of secs. 201 - 212 of this chapter.

27 Sec. 29.18.212. DEFINITIONS. In secs. 201 - 212 of this chapter,  
28 unless the context otherwise requires,

29 (1) "appropriate vacant, unappropriated, unreserved land"

1 means vacant, unappropriated, unreserved land which meets the criteria  
2 for municipal selection under sec. 204(g) of this chapter;

3 (2) "approved selection" means a municipal land selection  
4 which has been approved in writing by the director for transfer by  
5 patent to a municipality;

6 (3) "director" means the director of the division of lands,  
7 Department of Natural Resources, or his designee;

8 (4) "general grant land" means land patented or tentatively  
9 approved to the state from the United States under secs. 6(a) or (b) of  
10 the Alaska Statehood Act;

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

14 (6) "municipal land selection" means a request by a munici-  
15 pality, filed in writing with the director under authority of secs.  
16 190 - 200 of this chapter repealed by this Act or under secs. 201 - 212  
17 of this chapter for vacant, unappropriated, unreserved general grant  
18 land within its municipal boundaries in partial fulfillment of its  
19 municipal entitlement;

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

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

27 (9) "remaining entitlement" means the general grant land  
28 entitlement determined in accordance with sec. 201 or 202 of this chap-  
29 ter, reduced by the total acreage of approved selections, including both

1 patented and unpatented parcels;

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

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

10 (12) "vacant, unappropriated, unreserved land" means general  
11 grant land as defined in (4) 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. 201 - 212 of this chapter or former secs. 190 - 200 of  
17 this chapter repealed by this Act; or

18 (C) is unclassified or, if classified under AS 38.05.-  
19 300, is classified for agricultural, grazing, commercial, indus-  
20 trial, private recreational, residential, utility or open-to-entry  
21 purposes, or where classified in accordance with an agreement  
22 between a municipality and the state providing for state management  
23 of land of the municipality.

24 \* Sec. 3. AS 38.05.321 is repealed and reenacted to read:

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

1 (b) State land classified as agricultural land which has been  
2 selected by a municipality under AS 29.18.190 - 29.18.200 or 29.18.204-  
3 (e) may be approved by the director for patent under AS 29.18.204(f);  
4 however, only rights in the land for agricultural purposes may be trans-  
5 ferred and all other interests in the land will remain with the state.  
6 Agricultural land approved for patent to a municipality under AS 29.18.-  
7 204(f) shall be credited, acre for acre, toward fulfillment of that  
8 municipality's entitlement under AS 29.18.201 or 29.18.202. If the  
9 director later determines it to be in the best interests of the state to  
10 transfer some or all of the additional rights in that approved or  
11 patented agricultural land, those rights shall pass without considera-  
12 ✓ tion to the municipality in which the land is located. ~~The provisions~~  
13 ✓ ~~of sec. 69(c) of this chapter apply to transfer of rights, other than~~  
14 ✓ ~~agricultural rights, transferred by the director under this section.~~

15 (c) The provisions of this section do not apply to state land  
16 classified as agricultural land which has been selected by a municipa-  
17 lity under the provisions of AS 29.18.190 - 29.18.200 if the selection  
18 is an approved selection before April 1, 1978 and is otherwise valid  
19 under AS 29.18.204(b).

20 \* Sec. 4. <sup>b (1)</sup> (a) The general grant land entitlement of a municipality in-  
21 corporated after the effective date of this Act is 10 per cent of the total  
22 acreage of vacant, unappropriated, unreserved land within the boundaries of  
23 the municipality on the date of incorporation of that municipality.

24 <sup>2</sup> (b) Within six months of the date of incorporation of a municipality  
25 which is incorporated after the effective date of this Act, the director  
26 shall determine the entitlement of each municipality eligible to receive  
27 general grant land under (a) of this section and certify the entitlement to  
28 the municipality.

29 ✓ \* Sec. <sup>4</sup> 5. Consistent with the best interests of the state, in the selec-

1 tion of general grant land it is the policy of the state to make available  
2 the maximum land area from which municipalities may fulfill land entitlements  
3 under AS 29.18.201 - 29.18.212.

✓ 4 \* Sec. <sup>5</sup> AS 29.18.190, 29.18.200, and 29.18.420 are repealed.

✓ 5 \* Sec. <sup>6</sup> REPORT. Within 30 days after the convening of each regular  
6 session of the Eleventh and Twelfth Legislatures and the first regular ses-  
7 sion of the Thirteenth Legislature, the director of the division of lands  
8 shall report to the legislature on the implementation of AS 29.18.201 -  
9 29.18.212 in sec. 2 of this Act.

✓ 10 \* Sec. <sup>7</sup> This Act takes effect July 1, 1978, except that AS 29.18.207,  
✓ 11 <sup>ENACTED</sup> added by sec. 2 of this Act, takes effect January 1, 1981.

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January 31, 1978

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

Re: Fiscal Note for CSHB 133

Dear Representative Cowper:

Since the 1977 Legislature did not act upon the Municipal Land Selection Bill (CSHB 133), certain changes need to be made in the fiscal note which was submitted by the Department of Natural Resources for this bill in April 1977. A copy of the new fiscal note is attached and is fairly self explanatory.

While the amounts remain fairly similar, two changes are apparent. First, in the April 1977 fiscal note a request was made for a one-time cost of \$33.1 for the purpose of working with communities within the national forests in Alaska to enable the State to select a substantial portion of its national forest community grant land entitlement. Since this bill did not move last year, that money was granted elsewhere in the budget. Since this program, which was highly successful, has already been completed, that portion of the fiscal note request has been dropped.

The other change is an increase in salaries and benefits due to the APEA contractual agreements which automatically raised the salary level during the current fiscal year.

If you have any questions concerning this fiscal note, please contact me.

Sincerely,

Michael C. T. Smith  
Assistant Commissioner

Attachment

bcc: Bob Grogan  
Pat Conheady  
Bob Waldrop  
Steve Reeve  
Ted Smith

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HS 133  
 Title Grant Land Entitlements for Municipalities  
 Requested by House Finance Committee Date January 24, 1978

II. FISCAL DETAIL

Agency Affected DEPARTMENT OF NATURAL RESOURCES  
 Program Category Affected NEI/EC  
 Budget Request Unit(s) Affected Land Management; and District Operations; and  
 Land Administration and Support

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		227.0	240.6	255.0	270.3	286.5
200 TRAVEL		17.3	15.1	16.0	17.0	18.0
300 CONTRACTUAL		88.8	120.5	57.1	45.9	9.9
400 COMMODITIES		9.4	4.1	4.3	4.6	4.0
500 EQUIPMENT		7.1	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>349.6</b>	<b>380.3</b>	<b>332.4</b>	<b>337.8</b>	<b>319.3</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		349.6	380.3	332.4	337.8	319.3
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		7.0	7.0	7.0	7.0	7.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

CS HS 133 directs the Department of Natural Resources to accomplish a number of tasks within some relatively stringent time frames. Those requirements, and necessary personnel and fiscal needs to accomplish them, are shown below.

I. Short Range:

- A. Review, within six months, for every municipality in Alaska, state land status and certify each municipality's entitlement under Section 202(b).
- B. Review, within six months, 263,000 acres of approved selections within all municipalities and certify acreage to be patented under Section 204(b).
- C. Publish public notice, conduct necessary public hearings, and complete and issue patented documents for approximately 255,000 acres of approved selec-

IV. DATE January 24, 1978 PREPARED BY MICHAEL SMITH  
 AGENCY Division of Lands  
 PHONE 279-5577  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

*met* 1/31/78

tions within 90 days of survey.

Fiscal Requirement: Three positions required: land management officer III (Anchorage), land management officer II (Anchorage), and a cartographer III (Anchorage). The cartographer will also be used to accomplish medium range objectives shown below.

II. Medium Range:

With each municipality:

- A. Review approximately 12,000,000 acres of vacant, unappropriated, unreserved state land within all municipal boundaries to determine appropriate municipal selections for remaining 465,000 acres of entitlement.
- B. Review all remaining federal land (20,000,000 plus acres) within municipalities to determine municipal needs for future state general grant selections.

Fiscal Requirement: Four positions are needed to work closely with each municipality to accomplish the joint cooperative land planning and identification process mandated in Section 204(e). These are a principle planner (Anchorage), two land management officer III positions (one each Fairbanks and Juneau), and a land management officer II (Anchorage).

FISCAL BREAKDOWN

PERSONAL SERVICES:

<u>New Positions</u>	<u>Annual Salary</u>
Planning Supervisor	32,268
Land Mgmt. Officer III (Anchorage)	25,872
Land Mgmt. Officer III (Juneau)	25,872
Land Mgmt. Officer III (Fairbanks)	29,952
Land Mgmt. Officer II (Anchorage)	22,332
Land Mgmt. Officer II (Anchorage)	22,332
Cartographer III (Anchorage)	<u>22,332</u>

TOTAL SALARY \$180,960

Benefits \$180,960 X 17.25% = \$31,216

FICA \$1143 X 7 = 8,001

Health Insurance 84 IEM X 82.18 = 6,903

TOTAL BENEFITS 46,120

TOTAL PERSONAL SERVICES \$227,080

TRAVEL:

Per Diem	7.2
Transportation	<u>10.1</u>
	17.3

TOTAL TRAVEL \$17,300

CONTRACTURAL:

Socio-economic Analysis for Regional Plan	\$62.0	
Editing of Regional Plan	8.0	
Public Participation for three (3) Regional Plans	13.5	
Communication	2.3	
Advertising	.8	
Transportation of things	.4	
Equipment Rental	.6	
Printing	<u>1.2</u>	
TOTAL CONTRACTURAL		\$68,800.00

COERODITIES:

Cartographic Supplies	\$ 5.1	
Other Supplies	<u>4.3</u>	
TOTAL COERODITIES		\$9,400.00

EQUIPMENT:

Desks	5 @ 350 each	\$1,750	
Desk	1 @ 450	450	
Light Table	1 @ 1500	1,500	
Chairs	6 @ 120 each	720	
Draftsman's chair	4 @ 115 each	460	
Drafting machine	1 @ 235	235	
Leroy letting set	1 @ 160	160	
Layout tables	3 @ 350 each	1,050	
File cabinets	4 @ 160 each	<u>640</u>	
TOTAL EQUIPMENT			\$7,965.00

April 27, 1977

The Honorable Lisa Rudd  
Chairman, House Community &  
Regional Affairs Committee  
Pouch "V"  
Juneau, Alaska 99801

Dear Representative Rudd:

Attached is the fiscal note for the draft sponsor substitute for HB 133.

Just as the final federal determination of the "d(2)" question will decide which federal land shall be permanently retained by the United States, so too will the implementation of SB 241 decide the ultimate land ownership patterns on present state lands. Unlike the d(2) lands, however, the land ownership determined as a result of SB 241 will be for those lands upon which 80 per cent of the human use and activity will occur within Alaska in perpetuity. At a time when state government is wrestling with the question of what to do with its future revenue surpluses, we cannot think of a better way to use a small portion than for our greatest renewable natural resource - our land. This department feels strongly that the relatively insignificant monies needed to implement the municipal selection requirements of SB 241, for lands whose values are in the billions, are more than justified. We cannot provide the cooperative resource analysis and joint planning so desperately needed between the state and its municipalities without this funding.

Yours sincerely,

Michael C.T. Smith  
Assistant Commissioner

FISCAL DATA

I. REQUEST  
 Bill/Resolution No. CSHB 133  
 Title Relating to selection & transfer of state land to municipalities, eff da  
 Requested by Senate Community and Regional Affairs Committee Date April 21, 1977

II. FISCAL DETAIL  
 Agency Affected DEPARTMENT OF NATURAL RESOURCES  
 Program Category Affected NRREC  
 Budget Request Unit(s) Affected Land Management; and District Operations

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		232.0	210.9	223.6	237.0	251.0
200 TRAVEL		17.3	15.1	16.0	17.0	18.0
300 CONTRACTUAL		88.8	120.5	57.1	45.9	9.9
400 COMMODITIES		9.4	4.1	4.3	4.6	4.9
500 EQUIPMENT		7.1	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>354.6</b>	<b>350.6</b>	<b>301.0</b>	<b>304.5</b>	<b>283.8</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		354.6	350.6	301.0	304.5	283.8
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		7.0	7.0	7.0	7.0	7.0
PART TIME		2.0	-	-	-	-
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

SB 241 directs the Department of Natural Resources to accomplish a number of tasks within some relatively stringent time frames. Those requirements, and necessary personnel and fiscal needs to accomplish them, are shown below.

I. Short Range:

- A. Review, within six months, for every municipality in Alaska, state land status and certify each municipality's entitlement under Section 202(b).
- B. Review, within six months, 263,000 acres of approved selections within all municipalities and certify acreage to be patented under Section 204(b).
- C. Publish public notice, conduct necessary public hearings, and complete and issue patented documents for approximately 255,000 acres of approved selec-

IV. DATE 1/21/77 PREPARED BY Michael Smith  
 AGENCY Division of Lands  
 PHONE 279-5584

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

tions within 90 days of survey.

Fiscal Requirement: Three positions required: land management officer III (Anchorage), land management officer II (Anchorage), and a cartographer III (Anchorage). The cartographer will also be used to accomplish medium range objectives shown below.

II. Medium Range:

With each municipality:

- A. Review approximately 12,000,000 acres of vacant, unappropriated, unreserved state land within all municipal boundaries to determine appropriate municipal selections for remaining 455,000 acres of entitlement.
- B. Review all remaining federal land (20,000,000 plus acres) within municipalities to determine municipal needs for future state general grant selections.

Fiscal Requirement: Four positions are needed to work closely with each municipality to accomplish the joint cooperative land planning and identification process mandated in Section 204(e). These are a principle planner (Anchorage), two land management officer III positions (one each Fairbanks and Juneau), and a land management officer II (Anchorage).

III. Southeast Forest Selection:

To accomplish approximately 200,000 acres of forest community grant selections within FY 78, a total of 24 man months of temporary time is needed. This will be a onetime FY 78 expense only. This temporary time is needed to insure municipal input to state selections to guarantee the 32,000 acres of entitlement for Juneau, Sitka, and Ketchikan.

FISCAL BREAKDOWN

PERSONAL SERVICES:

<u>New Positions</u>	<u>Annual Salary</u>	<u>Annual Benefits</u>	<u>Total</u>
Principal Planner	28,272	7,209	\$ 35,481
Land Mgmt. Officer III (Anchorage)	22,668	5,720	28,448
Land Mgmt. Officer III (Juneau)	22,668	5,720	28,448
Land Mgmt. Officer III (Fairbanks)	26,244	6,692	32,936
Land Mgmt. Officer II (Anchorage)	19,560	4,988	24,548
Land Mgmt. Officer II (Anchorage)	19,560	4,988	24,548
Cartographer III (Anchorage)	19,560	4,988	24,548
Sub-Total New Positions			\$198.9
<u>Temporary Positions</u>	<u>Annual Salary</u>	<u>Annual Benefits</u>	<u>Total</u>
Research, Analysis and Municipal Contact	15.7	1.5	17.2
Application Preparation	8.4	.8	9.2
Graphics, Map Work	6.1	.6	6.7
Sub-Total Temporary Positions ( <u>onetime</u> FY 78 costs <u>only</u> )			33.1
Total Personal Services			232.0

TRAVEL:

Per Diem	7.2
Transportation	10.1
	<u>17.3</u>

Total Travel \$17.3

CONTRACTUAL:

Socio-economic Analysis for Regional Plan	\$62.0
Editing of Regional Plan	8.0
Public Participation for three (3) Regional Plans	13.5
Communication	2.3
Advertising	.8
Transportation of things	.4
Equipment Rental	.6
Printing	1.2

Total Contract \$88.8

COMMODITIES:

Cartographic Supplies	\$ 5.1
Other Supplies	<u>4.3</u>

Total Commodities \$ 9.4

EQUIPMENT:

Desks	5 @ 350 each	\$1,750
Desk	1 @ 450	450
Light Table	1 @ 1500	1,500
Chairs	6 @ 120 each	720
Draftsman's chair	4 @ 115 each	460
Drafting machine	1 @ 235	235
Leroy letting set	1 @ 160	160
Layout tables	3 @ 350 each	1,050
File cabinets	4 @ 160 each	640

Total Equipment \$7,065

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES

2000 S. HARRISON, DENENKON

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*

Michael C.T. Smith  
Assistant Commissioner

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 133 (Finance)  
 Title "Municipal Land Selection Bill"  
 Requested by House Finance Committee Date March 13, 1978

II. FISCAL DETAIL

Agency Affected DEPARTMENT OF NATURAL RESOURCES  
 Program Category Affected NRM&EC  
 Budget Request Unit(s) Affected Land Management; and District Operations; and  
 Land Administration and Support

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		227.0	240.6	255.0	270.3	286.5
200 TRAVEL		17.3	15.1	16.0	17.0	18.0
300 CONTRACTUAL		88.8	120.5	57.1	45.9	9.9
400 COMMODITIES		9.4	4.1	4.3	4.6	4.9
500 EQUIPMENT		7.1	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>349.6</b>	<b>380.3</b>	<b>332.4</b>	<b>337.8</b>	<b>319.3</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		349.6	380.3	332.4	337.8	319.3
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		7.0	7.0	7.0	7.0	7.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

CSHB 133 (Finance) has two major fiscal implications. The first concerns moneys needed by the Division of Lands to implement the administrative requirements of the bill. The second impact is found in Section 208 of the bill entitled, "Payment in Lieu of Land." This section permits payments to municipalities where sufficient land does not exist to meet that municipality's land entitlement. Both these fiscal impacts are detailed below. CSHB 133 (Finance) directs the Department of Natural Resources to accomplish a number of tasks within some relatively stringent time frames. Those requirements, and necessary personnel and fiscal needs to accomplish them, are shown below.

I. Short Range:

- A. Review, within six months, for every municipality in Alaska, state land status and certify each municipality's entitlement under Section 202(b).

(Continued on Page 2)

IV. DATE March 13, 1978 PREPARED BY Michael C. T. Smith  
 AGENCY Division of Lands  
 PHONE 279-5577

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

*Michael C. T. Smith*

HB 133

- B. Review, within six months, 263,000 acres of approved selections within all municipalities and certify acreage to be patented under Section 204(b).
- C. Publish public notice, conduct necessary public hearings, and complete and issue patented documents for approximately 255,000 acres of approved selections within 90 days of survey.

Fiscal Requirement: Three positions required: land management officer III (Anchorage), land management officer II (Anchorage), and a cartographer III (Anchorage). The cartographer will also be used to accomplish medium range objectives shown below.

II. Medium Range:

With each municipality:

- A. Review approximately 12,000,000 acres of vacant, unappropriated, unreserved state land within all municipal boundaries to determine appropriate municipal selections for remaining 465,000 acres of entitlement.
- B. Review all remaining federal land (20,000,000 plus acres) within municipalities to determine municipal needs for future state general grant selections.

Fiscal Requirement: Four positions are needed to work closely with each municipality to accomplish the joint cooperative land planning and identification process mandated in Section 204(e). These are a principal planner (Anchorage), two land management officer III positions (one each in Fairbanks and Juneau), and a land management officer II (Anchorage).

FISCAL BREAKDOWN

PERSONAL SERVICES:

<u>New Positions</u>	<u>Annual Salary</u>
Planning Supervisor	\$ 32,268
Land Mgmt. Officer III (Anchorage)	25,872
Land Mgmt. Officer III (Juneau)	25,872
Land Mgmt. Officer III (Fairbanks)	29,952
Land Mgmt. Officer II (Anchorage)	22,332
Land Mgmt. Officer II (Anchorage)	22,332
Cartographer III (Anchorage)	<u>22,332</u>
TOTAL SALARY	\$180,960
Benefits \$180,960 X 17.25% =	\$31,216
FICA \$1143 X 7 =	8,001
Health Insurance 84 MM X 82.18 =	<u>6,903</u>
TOTAL BENEFITS	<u>46,120</u>

Continued on Page 3

TOTAL PERSONAL SERVICES \$227,080

TRAVEL:

Per Diem 7.2  
Transportation 10.1

TOTAL TRAVEL \$ 17,300

CONTRACTUAL:

Socio-economic Analysis for Regional Plan \$62.0  
Editing of Regional Plan 8.0  
Public Participation for three (3) Regional Plans 13.5  
Communication 2.3  
Advertising .8  
Transportation of things .4  
Equipment Rental .6  
Printing 1.2

TOTAL CONTRACTUAL \$88,800.00

COMMODITIES:

Cartographic Supplies \$ 5.1  
Other Supplies 4.3

TOTAL COMMODITIES \$ 9,400.00

EQUIPMENT:

Desks 5 @ 350 each \$1,750  
Desk 1 @ 450 each 450  
Light Table 1 @ 1500 each 1,500  
Chairs 6 @ 120 each 720  
Draftsman's chair 4 @ 115 each 460  
Drafting machine 1 @ 235 235  
Leroy letting set 1 @ 160 160  
Layout tables 3 @ 350 each 1,150  
File cabinets 4 @ 160 each 640

TOTAL EQUIPMENT \$ 7,065.00

Section 208 of the bill, entitled "Payment in Lieu of Land," permits affected municipalities to receive monetary payments when sufficient land does not exist from which to fulfill that municipality's land entitlement. The estimate of the minimum and maximum figures for these payments is based upon the following assumptions:

1. The land entitlements presently found in CSHB 133 remain constant (any upward change of entitlement will increase the projected costs).
2. The U. S. Forest Grant Selections made by the State in December, 1977, will be conveyed to the State by July 1, 1984 (so that they will be available for municipal selection).
3. Seventy-five percent of municipalities which form in the future, and which will automatically receive a land entitlement, will receive that entitlement in land. Twenty-five percent of such future municipalities will not have sufficient land to fulfill their entitlement, and will take payments in lieu of land under Section 208.

Continued on Page 4

## Municipal Land Selection Bill (CSHB 133-Finance)

Under the above assumptions, the maximum and minimum total projected requests (in millions of dollars) for qualified municipalities is:

<u>Minimum</u>	<u>Maximum</u>
19.0	23.0

The maximum request in any one year would be approximately 5.7 million dollars.

Section 29.18.208 permits qualified municipalities to request up to the above maximum amounts, but the actual appropriation could be less than that request in any particular year. Thus, the time period during which in-lieu payments might be made is under legislative control.

Original sponsors: Parr, Brown  
and Cowper

Offered: 4/27/78  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 133

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 BOROUGHES 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 -- 13,600 acres;

26

(3) City and Borough of Sitka -- 9,200 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 -- 9,200 acres;
- 3 (9) Kodiak Island Borough -- 56,500 acres;
- 4 (10) Matanuska-Susitna Borough -- 355,210 acres;
- 5 (11) North Slope Borough -- 89,850 acres.

6 Sec. 29.18.202. DETERMINATION OF ENTITLEMENT FOR CITIES. (a) The  
7 general grant land entitlement of a city eligible to receive general  
8 grant land under the former provisions of secs. 190 - 200 of this chap-  
9 ter repealed by this Act is 10 per cent of the maximum total acreage of  
10 vacant, unappropriated, unreserved land within the boundaries of each  
11 city at any time between the initial date of eligibility under former  
12 secs. 190 - 200 of this chapter and the effective date of this Act.

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

17 Sec. 29.18.203. STATUS OF ENTITLEMENTS. (a) General grant land  
18 entitlements provided in secs. 201 and 202 of this chapter constitute  
19 vested property rights which shall be fulfilled as provided in sec. 204  
20 or sec. 207 of this chapter, but no municipal selection vests any inter-  
21 est in or right to receive a particular tract of land except as provided  
22 by sec. 204 of this chapter.

23 (b) General grant land entitlements vested under secs. 201 and 202  
24 of this chapter may be exercised at any time before the date which is  
25 two years after the expiration of the state's right to make selections  
26 under secs. 6(a) or (b) of the Alaska Statehood Act (P.L. 85-508);  
27 however, the time limitation imposed by this subsection does not apply  
28 to payments in lieu of land under sec. 207 of this chapter.

29 Sec. 29.18.204. FULFILLMENT OF LAND ENTITLEMENTS. (a) The acre-

1 age of each municipality's land selections under former secs. 190 - 200  
2 of this chapter for which patent has been issued before the effective  
3 date of this Act shall be credited toward fulfillment of the entitlement  
4 of that municipality.

5 (b) All approved selections under former secs. 190 - 200 of this  
6 chapter for which patent has not been issued to a municipality on the  
7 effective date of this Act shall be reviewed by the director within nine  
8 months of the effective date of this Act. Any approved selection of  
9 land which was vacant, unappropriated or unreserved on the date of  
10 selection is valid as of the date of the approval under the former secs.  
11 190 - 200 of this chapter, and a patent shall be issued to the munici-  
12 pality within three months after approval by the director of a plat of  
13 survey. The acreage shall be credited toward fulfillment of the munici-  
14 pality's entitlement. No municipality is entitled to receive patent  
15 under this chapter to more than its entitlement determined under secs.  
16 201 and 202 of this chapter. Any prior approval by the director of  
17 municipal selections for land which was not vacant, unappropriated or  
18 unreserved on the date of selection shall be rescinded, and patent may  
19 not be issued except when disposal to a third party by sale or lease has  
20 occurred. Transfers of land to municipalities under this chapter are  
21 subject to AS 38.05.321. Classification actions as reflected upon the  
22 land status records of the Department of Natural Resources are deter-  
23 minative of land classification status for purposes of this chapter.

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

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

8 (e) Each eligible municipality and the director shall jointly  
9 consider which vacant, unappropriated, unreserved land, including feder-  
10 al land of interest to a municipality which may be selected by the state  
11 as general grant land, located within the boundaries of the munici-  
12 pality, is appropriate for municipal selection and approval by the  
13 director to fulfill any remaining municipal general grant land entitle-  
14 ment. The joint consideration made by the parties shall include a  
15 cooperative land planning process which will, in addition to the normal  
16 objectives of such a process, seek to identify both local and state  
17 interests in tracts of vacant, unappropriated and unreserved land re-  
18 maining within the municipality. Adjacent tracts shall be considered  
19 simultaneously except when such simultaneous consideration would cause  
20 significant delay or expense. Once a tract has been jointly considered,  
21 it may be selected by a municipality.

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

26 (g) In reviewing a municipal selection, the director shall consi-  
27 der the state's responsibilities for developing and protecting values  
28 which are of greater than local concern, including development which  
29 will have statewide impact, and critical environmental concerns. Speci-

1       fic state responsibilities to be considered, if such responsibilities  
2       have not been authorized or delegated by the state to a municipality,  
3       include air quality; water; minerals and energy; timber; agriculture;  
4       fish and wildlife and their habitat; public recreation, natural, his-  
5       torical, and archaeological areas of greater than local concern; access  
6       to public land and water; transportation; communications; and public  
7       safety. Specific municipal responsibilities to be considered include  
8       residential, commercial and industrial needs; support of municipal  
9       services; education; local transportation; private recreation; public  
10      recreation, natural, historical and archaeological areas of local con-  
11      cern; and other responsibilities authorized or delegated by the state to  
12      a municipality. A selection by a municipality of land which is pri-  
13      marily of local concern shall be approved. When the interests of the  
14      state may be protected through the conveyance of title that is less than  
15      a fee title, the municipality, at its option, may accept the title in  
16      acre-for-acre fulfillment of its entitlement.

17           (h) Every decision of approval or disapproval of a municipal  
18      selection by the director under (f) of this section shall include a  
19      written explanation of the decision based upon the criteria of (g) of  
20      this section. Before issuing any decision to disapprove a selection,  
21      the director shall notify the affected municipality in writing, by  
22      certified mail, of his reasons for the proposed decision. The munic-  
23      ipality shall have 30 days from receipt of the proposed decision to  
24      respond to the director in writing enumerating the reasons for which the  
25      municipality believes the proposed decision to be in error. After  
26      receipt of the municipality's statement of reasons, or after expiration  
27      of the period in which the municipality may respond to the proposed  
28      decision, the director shall, within 30 days, affirm, modify or reverse  
29      his proposed decision in writing and give written notice of his decision

1 to the municipality. The decision of the director constitutes final  
2 administrative action in the matter.

3 (i) A municipality may appeal an adverse decision by the director  
4 to the superior court in accordance with AS 44.62.560 - 44.62.570.

5 Sec. 29.18.205. SCHOOL, UNIVERSITY AND MENTAL HEALTH LAND. (a) A  
6 municipality may select vacant school, university or mental health land  
7 within the municipality in partial fulfillment of its land entitlement  
8 under this chapter. School, university or mental health land may be  
9 selected notwithstanding the fact that these lands are not unappro-  
10 priated and unreserved within the meaning of this chapter and secs. 190  
11 and 200 of this chapter, repealed by this Act, but each selection of  
12 school, university or mental health land by a municipality must be  
13 vacant, unappropriated, or unreserved land as defined in this chapter,  
14 except that it need not be general grant land.

15 (b) The acreage of school, university or mental health land, if  
16 any, within a municipality may not be included in the determination of  
17 entitlement under secs. 201 and 202 of this chapter.

18 (c) Land conveyed under this section will be credited against a  
19 municipality's remaining land entitlement under this chapter.

20 (d) No selection of school, university or mental health land may  
21 be approved under this section without the concurrence of

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

23 (2) the Board of Regents of the University of Alaska, for  
24 university land; or

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

27 (e) Within six months after a request by a municipality for selec-  
28 tion of school, university, or mental health land, the director shall  
29 identify state general grant land of approximately equal value to the

1 land requested by the municipality, and shall propose the replacement  
2 land for the concurrence of the appropriate board under (d) of this  
3 section. If a proposal by the director is rejected by the board, the  
4 director shall meet with the board as often as necessary to determine  
5 the type and amount of equal value replacement land that would be re-  
6 quired to obtain the board's concurrence under (d) of this section, and  
7 shall propose the replacement land for consideration by the board. The  
8 replacement land shall thereafter be managed for the purposes for which  
9 the land selected by the municipality was acquired by the Territory and  
10 State of Alaska. Nothing in this subsection precludes the appropriate  
11 board from approving a municipality's selection of school, university or  
12 mental health land before the identification of specific replacement land.

13 (f) The notice and review provisions of AS 38.05.305 and 38.05.345  
14 are applicable to the designation of other state land as school, univer-  
15 sity or mental health land in replacement of land selected under this  
16 section. The provisions of AS 38.50 and AS 38.05.032 do not apply to  
17 such designations under this section.

18 Sec. 29.18.206. SELECTION AND CONVEYANCE PROCEDURE. (a) All  
19 municipal selections shall be made in reasonably compact tracts, taking  
20 into account the use capabilities of a tract and its relationship to  
21 surrounding land uses. A selection filed by a municipality which has  
22 not been approved by the director may be relinquished at any time. An  
23 approved selection may be relinquished by a municipality if the relin-  
24 quishment is approved by the director. An approved selection relin-  
25 quished by a municipality increases the remaining entitlement of the  
26 municipality on an acre-for-acre basis.

27 (b) If land selected by a municipality is unsurveyed at the time  
28 of approval, the director shall survey, or may approve the municipality's  
29 survey of, the exterior boundaries of an approved selection without

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

6 (c) The director may approve municipal selections of land which  
7 has been tentatively approved or patented to the state by the federal  
8 government, but he may not issue patent to a municipality until the land  
9 has first been patented to the state. After approval of a selection by  
10 the director, but before patent to a municipality, the municipality may  
11 execute conditional leases and make conditional sales only with the  
12 consent of the director. Conditional sales and conditional leases made  
13 before the effective date of this Act do not require the consent of the  
14 director.

15 (d) Nothing in this chapter affects a valid existing claim, loca-  
16 tion or entry under the laws of the state or the United States whether  
17 for homestead, mineral, right-of-way or other purposes. Nothing in this  
18 chapter affects the rights of an owner, claimant, locater or entryman to  
19 the full use and enjoyment of the land so occupied.

20 Sec. 29.18.207. PAYMENT IN LIEU OF LAND. (a) There is estab-  
21 lished within the general fund the Alaska municipal land account for the  
22 purpose of allowing eligible municipalities to receive payment in lieu  
23 of land entitlements provided in secs. 201 and 202 of this chapter.

24 (b) By August 1 of each year the director shall certify to each  
25 municipality having an entitlement under secs. 201 and 202 of this  
26 chapter the acreage of patented selections, approved selections not yet  
27 patented, pending municipal land selections neither approved nor dis-  
28 approved by the director, and the remaining entitlement of the munic-  
29 pality. If at the time of certification the ratio of the remaining

1 entitlement of the municipality to the vacant, unappropriated, unre-  
2 served land within the municipality is greater than two to one, or if  
3 there are less than 1,000 acres of vacant, unappropriated, unreserved  
4 land within the municipality, the municipality may, at its option,  
5 request payment in lieu of land from the account established in (a) of  
6 this section; however, no payment may be made to the City and Borough of  
7 Juneau, the City and Borough of Sitka or the Ketchikan Gateway Borough  
8 under this subsection until the fiscal year after cumulative appropria-  
9 tions to the account exceed \$12,000,000 or until the fiscal year be-  
10 ginning July 1, 1985, whichever occurs first.

11 (c) A municipality eligible for payment under this section may, by  
12 October 1 of each fiscal year of eligibility, notify the director of its  
13 election to accept payment in lieu of land from the account. A munici-  
14 pality may accept payment for not more than 15 per cent of its entitle-  
15 ment under secs. 201 and 202 of this chapter, to a maximum of 10,000  
16 acres, in each fiscal year. A municipality which chooses to accept  
17 payment in lieu of land shall be entitled to an amount based on the  
18 cumulative total number of acres of remaining entitlement which it  
19 relinquishes or on the number of acres which were selected and to which  
20 title vested in another entity under (g) of this section. Payment shall  
21 be made according to the following schedule:

- 22 (1) 10,000 acres or less -- \$1,500 per acre;  
23 (2) 10,001 to 20,000 acres -- \$750 per acre; and  
24 (3) more than 20,000 acres -- \$350 per acre.

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

28 (e) If the total appropriation is not sufficient to meet the  
29 amount due to all municipalities which have elected to accept payment in

1 lieu of land under (c) of this section, the governor shall apportion the  
2 appropriation among the municipalities in proportion to the payment  
3 calculated for each municipality for that year. When a distribution of  
4 payments is made under this subsection, the remaining entitlement of a  
5 municipality to which payment is made shall be reduced in an amount  
6 equal to the number of acres for which payment was received. An appor-  
7 tionment may correspondingly increase the acreage for which a munici-  
8 pality may request payment in a succeeding year, but this increase in  
9 acreage does not authorize a municipality to request payment in lieu of  
10 land of more than 10,000 acres in any one year. An appropriation made  
11 under this section is in addition to other grants and entitlements  
12 authorized to municipalities.

13 (f) Except as provided in (g) of this section, the total payment  
14 to a municipality under this section may not exceed \$250 per capita for  
15 each person resident in the municipality on the July 1 preceding the  
16 effective date of this Act, as determined by the Department of Community  
17 and Regional Affairs.

18 (g) If a municipality selected vacant, unappropriated, unreserved  
19 land on or before December 18, 1971, to which the state had received  
20 tentative approval or patent, and such land was also selected by a  
21 Native corporation organized under the Alaska Native Claims Settlement  
22 Act (P.L. 92-203), and title to that land is ultimately vested in that  
23 Native corporation, the municipality is entitled to payment under (c) of  
24 this section. The acceptance of payment under this subsection by a  
25 municipality constitutes a relinquishment of any other right, title or  
26 claim to the land by that municipality.

27 Sec. 29.18.208. AUTHORIZATION FOR LAND EXCHANGES. The director,  
28 with the concurrence of the commissioner, and any municipality are  
29 authorized to exchange land or interests in land when it is in the

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

8 Sec. 29.18.209. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Consis-  
9 tent with the best interests of the state, if a municipality does not  
10 contain and cannot reasonably acquire sufficient nonfederal land within  
11 its boundaries to meet its legitimate needs for public or private  
12 settlement or development, it shall be the policy of the state to select  
13 federal land reasonably necessary to meet the needs of the municipality  
14 and to make the land selected available to the municipality under AS  
15 38.05.315 or (b) of this section.

16 (b) Where state land is the most logical location for demonstrated  
17 municipal expansion for nonpublic settlement and development purposes,  
18 and when an exchange of land under sec. 208 of this chapter is not  
19 possible or is not in the public interest, it is the policy of the state  
20 to sell or lease the land at public auction. The state may contract  
21 with a municipality to act as its agent in an auction of state land  
22 under applicable statutes. When a municipality acts as the agent of the  
23 state in an auction, the municipality may retain from the proceeds of  
24 the auction the expenses which the director determines to be necessary  
25 and reasonable.

26 (c) Nothing in this chapter limits or impairs the authority of the  
27 director to transfer land to municipalities, without limit or considera-  
28 tion, for public purposes in accordance with AS 38.05.315. If there is  
29 a remaining entitlement of the municipality, land transferred under AS

1 38.05.315 shall be credited toward fulfillment of the entitlement.

2 Sec. 29.18.210. ELECTION OF BENEFITS. (a) A municipality which  
3 on the effective date of this Act is engaged in litigation, or which  
4 becomes engaged in litigation, regarding a claim to state land under  
5 former secs. 190 - 200 of this chapter shall elect either to obtain the  
6 benefits provided in secs. 201 - 212 of this chapter or to pursue the  
7 litigation and thereby waive any claim to entitlement under secs. 201 -  
8 212 of this chapter. An election shall be made by filing a motion for  
9 dismissal with prejudice in the court in which the litigation is  
10 pending. If the claim involves a municipality identified in sec. 201 of  
11 this chapter, the municipality shall file its motion for dismissal  
12 within 60 days of the effective date of this Act. If the claim involves  
13 a municipality not listed in sec. 201 of this chapter, the municipality  
14 shall file its motion for dismissal within 60 days after receiving the  
15 certificate of entitlement provided by the director under sec. 202(b) of  
16 this chapter. Failure of the municipality to file a motion for dismiss-  
17 sal during the time period provided in this subsection shall be con-  
18 sidered a waiver of entitlement under secs. 201 - 212 of this chapter.

19 (b) A municipality which was eligible to file land selections  
20 under the former secs. 190 - 200 of this chapter and which does not  
21 enter into litigation over a claim to rights under those sections before  
22 the expiration of the time period within which it could make an election  
23 under (a) of this section shall be considered to have elected to receive  
24 benefits under secs. 201 - 212 of this chapter and to have waived any  
25 claim which might have been raised under former secs. 190 - 200 of this  
26 chapter.

27 (c) The provisions of secs. 201 - 212 of this chapter do not  
28 affect the rights, if any, of any party to litigation regarding the  
29 former AS 29.18.190 - 29.18.200 or 29.18.420, which litigation is main-

1           tained by a municipality that has elected not to obtain the benefits  
2           provided by secs. 201 - 212 of this chapter.

3           Sec. 29.18.211. ADMINISTRATION. The commissioner may adopt regu-  
4           lations in accordance with the Administrative Procedure Act (AS 44.62)  
5           necessary to carry out the purposes of secs. 201 - 212 of this chapter.

6           Sec. 29.18.212. DEFINITIONS. In secs. 201 - 212 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  
10          patent 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) of  
15          the Alaska Statehood Act;

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

19          (5) "municipal land selection" means a request by a munici-  
20          pality, filed in writing with the director under authority of secs.  
21          190 - 200 of this chapter repealed by this Act or under secs. 201 - 212  
22          of this chapter for vacant, unappropriated, unreserved general grant  
23          land within its municipal boundaries in partial fulfillment of its  
24          municipal entitlement;

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

28          (7) "patent" means a document, issued by the director to a  
29          municipality for a previously approved selection, which conveys and

1 quitclaims all the right, title and interest of the state without reser-  
2 vation or condition except as may be required by law;

3 (8) "remaining entitlement" means the general grant land  
4 entitlement determined in accordance with secs. 201 and 202 of this  
5 chapter, reduced by the total acreage of approved selections, including  
6 both patented and unpatented parcels;

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

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

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

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

20 (B) has not been approved for patent to a municipality  
21 under secs. 201 - 212 of this chapter or former secs. 190 - 200  
22 of this chapter repealed by this Act; or

23 (C) is unclassified or, if classified under AS 38.05.-  
24 300, is classified for agricultural, grazing, commercial,  
25 industrial, private recreational, residential, utility or  
26 open-to-entry purposes, or where classified in accordance with  
27 an agreement between a municipality and the state providing  
28 for state management of land of the municipality.

29 \* Sec. 3. AS 38.05.321 is repealed and reenacted to read:

1           Sec. 38.05.321. RESTRICTION ON SALE, LEASE OR OTHER DISPOSAL OF  
2 AGRICULTURAL LAND. (a) The sale, lease or other disposal of state land  
3 classified as agricultural land transfers only rights for agricultural  
4 purposes, and all other interests in the land remain with the state  
5 unless otherwise required by law.

6           (b) State land classified as agricultural land which has been  
7 selected by a municipality under AS 29.18.190 - 29.18.200 or 29.18.204(e)  
8 may be approved by the director for patent under AS 29.18.204(f);  
9 however, only rights in the land for agricultural purposes may be trans-  
10 ferred and all other interests in the land will remain with the state.  
11 Agricultural land approved for patent to a municipality under AS 29.18.-  
12 204(f) shall be credited, acre for acre, toward fulfillment of that  
13 municipality's entitlement under AS 29.18.201 and 29.18.202. If the  
14 director later determines it to be in the best interests of the state to  
15 transfer some or all of the additional rights in that approved or  
16 patented agricultural land, those rights shall pass without considera-  
17 tion to the municipality in which the land is located.

18           (c) The provisions of this section do not apply to state land  
19 classified as agricultural land which has been selected by a municipa-  
20 lity under the provisions of AS 29.18.190 - 29.18.200 if the selection  
21 is an approved selection before the date of enactment of this Act and is  
22 otherwise valid under AS 29.18.205(b).

23       \* Sec. 4. (a) It is the intention of the legislature that future municipi-  
24 palities shall have the benefit of sec. 2 of this Act. Within 180 days of  
25 passage of this Act, the Department of Natural Resources shall adopt regula-  
26 tions which shall, as closely as is practicable, apply the provisions of sec.  
27 2 of this Act to future municipalities.

28           (b) Consistent with the best interests of the state, in the selection  
29 of general grant land it is the policy of the state to make available the

1 maximum land area from which municipalities may fulfill land entitlements  
2 under AS 29.18.201 - 29.18.212.

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

4 \* Sec. 6. REPORT. Within 30 days after the convening of each regular  
5 session of the Eleventh and Twelfth Legislatures and the first regular ses-  
6 sion of the Thirteenth Legislature, the director of the division of lands  
7 shall report to the legislature on the implementation of AS 29.18.201 -  
8 29.18.212 in sec. 2 of this Act.

9 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-  
10 070(c), except that AS 29.18.207, enacted in sec. 2 of this Act, takes effect  
11 July 1, 1982.

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Original sponsors: Parr, Brown  
and Cowper

Offered: 3/8/78  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 133 (Finance) am  
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;

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

Sec. 29.18.202. IN-LIEU ENTITLEMENTS FOR CERTAIN BOROUGHES AND UNIFIED MUNICIPALITIES. (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 -- 90,863 acres;
- (2) City and Borough of Juneau -- 19,584 acres;
- (3) City and Borough of Sitka -- 11,593 acres;
- (4) Bristol Bay Borough -- 2,898 acres;
- (5) Haines Borough -- 3,985 acres;
- (6) Ketchikan Gateway Borough -- 11,593 acres;
- (7) North Slope Borough -- 89,850 acres;

(b) A municipality listed in (a) of this section may elect an entitlement under this section in lieu of the benefits provided in sec. 201 of this chapter. Election of the benefits of this section shall be made by the municipality within 60 days of the date on which written notice from the director of the requirements of the election is actually received by the municipality.

(c) The entitlement to be provided to each municipality designated in (a) of this section which elects the land benefits of this section becomes effective on the day following receipt by the director of

(1) a copy of an ordinance which provides for the disposition of municipal land to private ownership for residential and commercial purposes and which limits disposition of land under this section to one parcel per person; and

(2) a notice from the municipality that, in accordance with

1 the provisions of the ordinance adopted under (1) of this subsection,  
2 not less than 30 per cent of the total amount by which the entitlement  
3 to be provided the municipality under (a) of this section exceeds the  
4 entitlement determined in sec. 201 of this chapter is committed to dis-  
5 posal to private ownership.

6 (d) Adoption of an ordinance by a municipality under this subsec-  
7 tion is a prerequisite to conveyance of title to all or any portion of  
8 an entitlement by the director under sec. 207 of this chapter. Each  
9 ordinance adopted under this subsection shall

10 (1) provide that disposal of suitable land which the munici-  
11 pality will receive shall be offered for sale for residential purposes  
12 by the municipality, or by the grantee of the municipality in accordance  
13 with covenants or agreements for the purpose, in parcels not larger  
14 than two and one-half acres, except that parcels may be larger than two  
15 and one-half acres if necessary to conform to physical conditions or to  
16 maximize opportunities for residential use;

17 (2) contain a schedule indicating the amount and location of  
18 acreage expected to be received and indicating the portion of the acre-  
19 age which the municipality will make available for sale to the public  
20 and the anticipated date or dates, terms and conditions of that sale;  
21 and

22 (3) include a determination of the governing body of the  
23 municipality indicating the manner in which the provisions of the ordi-  
24 nance fulfill or partially fulfill the obligation of the municipality  
25 under (c)(2) of this section and set out the balance of the acreage re-  
26 quired to satisfy that obligation.

27 (e) The requirements of (c) and (d) of this section shall be  
28 waived by the director as to a home rule municipality which manifestly  
29 demonstrates that a commitment of acreage to residential or commercial

1 purposes required by this section as a condition of election of an  
2 entitlement

3 (1) is not possible because of the absence of available  
4 acreage to meet the requirements of (c)(2) of this section; or

5 (2) would materially increase costs of services provided by  
6 the municipality beyond the reasonable capability of the municipality to  
7 meet.

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

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

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

25 (b) General grant land entitlements vested under secs. 201 - 203  
26 of this chapter may be exercised at any time before the date which is  
27 two years after the expiration of the state's right to make selections  
28 under secs. 6(a) or (b) of the Alaska Statehood Act (P.L. 85-506);  
29 however, the time limitation imposed by this subsection does not apply

1 to payments in lieu of land under sec. 208 of this chapter.

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

7 (b) All approved selections under former secs. 190 - 200 of this  
8 chapter for which patent has not been issued to a municipality on the  
9 effective date of this Act shall be reviewed by the director within nine  
10 months of the effective date of this Act. Any approved selection of  
11 land which was vacant, unappropriated or unreserved on the date of  
12 selection is valid as of the date of the approval under the former secs.  
13 190 - 200 of this chapter, and a patent shall be issued to the munici-  
14 pality within three months after approval by the director of a plat of  
15 survey. The acreage shall be credited toward fulfillment of the munici-  
16 pality's entitlement. No municipality is entitled to receive patent  
17 under this chapter to more than its entitlement determined under secs.  
18 201 - 203 of this chapter. Any prior approval by the director of muni-  
19 cipal selections for land which was not vacant, unappropriated or un-  
20 reserved on the date of selection shall be rescinded, and patent may not  
21 be issued except when disposal to a third party by sale or lease has  
22 occurred. Transfers of land to municipalities under this chapter are  
23 subject to AS 38.05.321. Classification actions as reflected upon the  
24 land status records of the Department of Natural Resources are deter-  
25 minative of land classification status for purposes of this chapter.

26 (c) All municipal land selections under former secs. 190 - 200 of  
27 this chapter not approved as of the effective date of this Act shall be  
28 recognized by the director as representing the priority interests of the  
29 municipalities, and the selections shall be given first consideration

1 under (e) of this section unless the municipality indicates different  
2 priorities.

3 (d) On the effective date of this Act and for five years there-  
4 after, no classification of a parcel of general grant land in excess of  
5 3,200 acres under AS 38.05.300 shall be effective, unless otherwise  
6 required by law, if the municipality in which the parcel is located,  
7 within 30 days after receipt of notice of the proposed classification,  
8 advises the director in writing that it does not consent to the classi-  
9 fication and indicates the reasons for its nonconsent. This subsection  
10 applies only to land to which the state has received patent from the  
11 federal government prior to the effective date of this Act.

12 (e) Each eligible municipality and the director shall jointly  
13 consider which vacant, unappropriated, unreserved land, including feder-  
14 al land of interest to a municipality which may be selected by the state  
15 as general grant land, located within the boundaries of the munici-  
16 pality, is appropriate for municipal selection and approval by the  
17 director to fulfill any remaining municipal general grant land entitle-  
18 ment. Adjacent tracts shall be considered simultaneously except when  
19 such simultaneous consideration would cause significant delay or expense.  
20 Once a tract has been jointly considered, it may be selected by a  
21 municipality.

22 (f) Each selection shall be approved for patent by the director  
23 within nine months of its selection by a municipality, and a patent  
24 shall be issued to the municipality within three months after approval  
25 by the director of a plat of survey.

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

28 Sec. 29.18.206. SCHOOL, UNIVERSITY AND MENTAL HEALTH LAND. (a) A  
29 municipality may select vacant school, university or mental health land  
CSHB 133(Finance) am

1 within the municipality in partial fulfillment of its land entitlement  
2 under this chapter. School, university or mental health land may be  
3 selected notwithstanding the fact that these lands are not unappro-  
4 priated and unreserved within the meaning of this chapter and secs. 190  
5 and 200 of this chapter, repealed by this Act, but each selection of  
6 school, university or mental health land by a municipality must be  
7 vacant, unappropriated, or unreserved land as defined in this chapter,  
8 except that it need not be general grant land.

9 (b) The acreage of school, university or mental health land, if  
10 any, within a municipality may not be included in the determination of  
11 entitlement under secs. 201 - 203 of this chapter.

12 (c) Upon receipt of a selection by a municipality of school,  
13 university or mental health land, the director shall determine whether  
14 the land selection should be approved. Land approved for selection  
15 under this section will be credited against a municipality's remaining  
16 land entitlement under this chapter.

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

- 20 (1) the state Board of Education, for school land;  
21 (2) the Board of Regents of the University of Alaska, for  
22 university land; or  
23 (3) the members of the mental health land board specified in  
24 AS 38.05.035(13), for mental health land.

25 (e) Within three years after the approval under (d) of this sec-  
26 tion of a municipal selection of school, university or mental health  
27 land, the director, with the concurrence of the respective board, shall  
28 designate appropriate state general grant land of approximately equal  
29 value as school, university or mental health replacement land. The re-

1 placement land shall thereafter be managed for the purposes for which  
2 the land selected by the municipality was acquired by the Territory and  
3 State of Alaska.

4 (f) The notice and review provisions of AS 38.05.305 and 38.05.345  
5 are applicable to the designation of other state land as school, univer-  
6 sity or mental health land in replacement of land selected under this  
7 section. The provisions of AS 38.50 and AS 38.05.032 do not apply to  
8 such designations under this section.

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

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

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

1 the director, but before patent to a municipality, the municipality may  
2 execute conditional leases and make conditional sales only with the  
3 consent of the director. Conditional sales and conditional leases made  
4 before the effective date of this Act do not require the consent of the  
5 director.

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

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

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

1           whichever occurs first.

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

17          (e) If the total appropriation is not sufficient to meet the  
18          amount due to all municipalities which have elected to accept payment in  
19          lieu 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 correspondingly increase the acreage for which a munici-  
26          pality may request payment in a succeeding year, but this increase in  
27          acreage does not authorize a municipality to request payment in lieu of  
28          land of more than 10,000 acres in any one year.

29          (f) The total payment to a municipality under this section may not

1 exceed \$100 per capita for each person resident in the municipality on  
2 the July 1 preceding the effective date of this Act, as determined by  
3 the Department of Community and Regional Affairs.

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

14 Sec. 29.18.210. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Consis-  
15 tent with the best interests of the state, if a municipality does not  
16 contain and cannot reasonably acquire sufficient nonfederal land within  
17 its boundaries to meet its legitimate needs for public or private settle-  
18 ment or development, it shall be the policy of the state to select  
19 federal land reasonably necessary to meet the needs of the municipality  
20 and to make the land selected available to the municipality under AS  
21 38.05.315 or (b) of this section.

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

1 the auction the expenses which the director determines to be necessary  
2 and reasonable.

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

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

1 (b) A municipality which was eligible to file land selections  
2 under the former secs. 190 - 200 of this chapter and which does not  
3 enter into litigation over a claim to rights under those sections before  
4 the expiration of the time period within which it could make an election  
5 under (a) of this section shall be considered to have elected to receive  
6 benefits under secs. 201 - 215 of this chapter and to have waived any  
7 claim which might have been raised under former secs. 190 - 200 of this  
8 chapter.

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

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

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

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

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

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

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

1 (5) "municipal land selection" means a request by a municipi-  
2 pality, filed in writing with the director under authority of secs.  
3 190 - 200 of this chapter repealed by this Act or under secs. 201 - 215  
4 of this chapter for vacant, unappropriated, unreserved general grant  
5 land within its municipal boundaries in partial fulfillment of its  
6 municipal entitlement;

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

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

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

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

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

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

29 (A) has not been set aside by statute for one or more

1 particular uses or purposes;

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

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

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

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

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

28 (c) The provisions of this section do not apply to state land  
29 classified as agricultural or grazing land which has been selected by a

1 municipality under the provisions of AS 29.18.190 - 29.18.200 if the  
2 selection is an approved selection before the date of enactment of this  
3 Act and is otherwise valid under AS 29.18.205(b).

4 \* Sec. 4. It is the intention of the legislature that future municipali-  
5 ties shall have the benefit of \* Sec. 2. of this Act. Within 90 days of  
6 passage of this Act, the Department of Natural Resources shall adopt regula-  
7 tions which shall, as closely as is practicable, apply the provisions of  
8 \* Sec. 2. of this Act to future municipalities. After adoption of such  
9 regulations, the department shall transfer all lands to which a municipality  
10 is entitled under this section to such municipality within three years of the  
11 date upon which the municipality assumes a legal existence.

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

13 \* Sec. 6. REPORT. Within 30 days after the convening of each regular  
14 session of the Eleventh and Twelfth Legislatures and the first regular ses-  
15 sion of the Thirteenth Legislature, the director of the division of lands  
16 shall report to the legislature on the implementation of AS 29.18.201 -  
17 29.18.215 in sec. 2 of this Act.

18 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-  
19 070(c).

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  
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; 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

19

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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Introduced: 1/28/77  
Referred: Community & Regional  
Affairs and Finance

1 IN THE HOUSE

BY PARR, BROWN AND COWPER

2 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 of state land by munici-  
7 palities."

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

9 \* Section 1. AS 29.18.200(b) is amended to read:

10 (b) If land desired by the borough or city is unsurveyed at the  
11 time of its selection, the Department of Natural Resources shall survey  
12 or approve a survey by the borough or city of the exterior boundaries of  
13 the area requested without interior subdivision and shall issue a patent  
14 for the selected area in terms of the exterior boundary survey. The  
15 cost of survey is borne by the borough or city. If land desired by the  
16 borough or city has been surveyed at the time of its selection, the  
17 boundaries of the areas requested must conform to the public land sub-  
18 divisions established by the approval of the survey. Land selected by  
19 the borough or city under this chapter is patented to the borough or  
20 city by the Department of Natural Resources. The department shall issue  
21 final patent to the land within one year of the date of its selection  
22 by the borough or city.

29