

LEG. FINANCE - BILLS 1983 - 1984 2058

SB 219 cont. - CSSB 222

2058

Attachment to Fiscal Note for CSSB 219

- I. Assumes following new personnel to process and coordinate CZM and permitting for development on state and federal lands, including OCS leasing, mining and timber sales:

<u>Fairbanks</u>	<u>Annual Cost w/benefits</u>
Nat. Resource Manager I	48,735
Nat. Resource Officer II	42,570
Nat. Resource Officer I	36,945
Clerk III	25,095
 <u>Anchorage</u>	
Nat. Resource Manager I	42,570
Nat. Resource Officer II	36,945
Nat. Resource Officer I	32,175
Clerk III	22,305
 <u>Juneau</u>	
Nat. Resource Officer II	36,945
Clerk III	22,305

346.6

- II. Assumes travel costs for adopting regulations and occasional meetings. to resolve conflicts.
- III. Contractual -
For publishing of notices and general overhead costs (phone, rent, etc.).
- IV. Equipment costs include \$250,000 for a system linking the three permitting centers.

Costs beyond FY 84 are not estimated, but comparable. Assumes that CSSB 219 is amended to exclude conveyance-related permits such as material sales, ROW's, etc.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 219
 Title: "Processing of permits by state. . ."
 Sponsor: Senator Bennett
 Requestor: Senate Resources

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life & Property
 BRU, Program of Subprogram(s) Affected: Fire Prevention

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact anticipated

Prepared By: Paul Conger Phone: 465-4338
 Division: Administrative Services Date: 4-5-83
 Approved by Commissioner: [Signature] Date: 4/6/83
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 219
 Title: "...processing of permits..."
 Sponsor: Senator Bennett
 Requestor: Senate Resources Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director
 Division: Administrative Services Division

Phone: 465-3672
 Date: May 20, 1983

Approved by Commissioner: Norman C. Gorsuch, Attorney General
 Department: Department of Law

Date: May 20, 1983

Distribution:

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- Copy to Department (for Governor introduced bills)
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SB 219
Fiscal Note
Analysis

This bill greatly shortens the permitting process time of state agencies. Although this will cause us to assist with some new regulations necessary to establish a shortened permit process for the permitting agencies, this additional work will be on a single-time basis and will not be unduly burdening. Therefore, the bill will not have a significant fiscal impact on the Department of Law's operations. Considerable fiscal impact will occur on the part of agencies responsible for permits, such as Fish & Game, DEC, Natural Resources, and the Limited Entry Commission, as they gear up to review and issue permits in shortened times provided by the bill. Moreover, this bill does not seem to be limited to resources areas, as does the companion bill in the House, HB 14, and it appears that there may also be considerable impact in regulated industries such as transportation.

STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

I. REQUEST

Bill/Resolution No.: CSSB 219
 Title: Permit Reform
 Sponsor: Bennett
 Requestor: Senate Resources

II. FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program of Subprogram(s) Affected: Mgmt. of Land/Mineral/Energy Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		346.6				
200 TRAVEL		18.0				
300 CONTRACTUAL		94.5				
400 COMMODITIES		33.8				
500 EQUIPMENT		264.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		756.9				
CAPITAL		-				
REVENUE		-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	756.9					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	10					
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Unknown

IV. ANALYSIS: Attach a separate page for any Analysis (Attached)

Prepared By: Jim Barnett *James Barnett* Phone: 265-4131
 Division: Commissioner's Office - Anchorage Date: 5/20/83
 Approved by ^{for} Deputy Commissioner *Mary H. ...* Date: 5/20/83
 Department: Natural Resources

Distribution:

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Attachment to Fiscal Note for CSSB 219

- I. Assumes following new personnel to process and coordinate CZM and permitting for development on state and federal lands, including OCS leasing, mining and timber sales.

<u>Fairbanks</u>	<u>Annual Cost w/benefits</u>
Nat. Resource Manager I	48,735
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<u>Juneau</u>	
Nat. Resource Officer II	36,945
Clerk III	22,305
	<hr/>
	346.6

- II. Assumes travel costs for adopting regulations and occasional meetings to resolve conflicts.

III. Contractual -

For publishing of notices and general overhead costs (phone, rent, etc.).

- IV. Equipment costs include \$250,000 for a system linking the three permitting centers.

Costs beyond FY 84 are not estimated, but comparable. Assumes that CSSB 219 is amended to exclude conveyance-related permits such as material sales, ROW's, etc.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 219
 Title: "...processing of permits..."
 Sponsor: Senator Bennett
 Requestor: Senate Resources Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director

Division: Administrative Services Division

Approved by Commissioner: Norman C. Gorsuch, Attorney General

Department: Department of Law

Phone: 465-3672

Date: May 20, 1983

Date: May 20, 1983

Distribution:

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SB 219
Fiscal Note
Analysis

This bill greatly shortens the permitting process time of state agencies. Although this will cause us to assist with some new regulations necessary to establish a shortened permit process for the permitting agencies, this additional work will be on a single-time basis and will not be unduly burdening. Therefore, the bill will not have a significant fiscal impact on the Department of Law's operations. Considerable fiscal impact will occur on the part of agencies responsible for permits, such as Fish & Game, DEC, Natural Resources, and the Limited Entry Commission, as they gear up to review and issue permits in shortened times provided by the bill. Moreover, this bill does not seem to be limited to resources areas, as does the companion bill in the House, HB 14, and it appears there may also be considerable impact in regulated industries such as transportation.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/6/84

REQUEST

Bill/Resolution No.: SB 219
 Title: Act Relating to Processing of Permits
 Sponsor: Bennett and Fabrenkamp
 Requestor: Law
 Date of Request: 2/6/84

FISCAL DETAIL

Agency Affected: Environmental Conservation
 Program Category Affected: All permit programs of DEC
 BRU, Program or Subprogram(s) Affected: Environmental Quality Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		105.2				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		105.2				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		105.2				
FEDERAL FUNDS						
OTHER						
TOTAL		105.2				

POSITIONS:

FULL-TIME		4				
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General funds

ANALYSIS: Attach a separate page for analysis

Prepared By: Douglas Redburn Phone: 465-2634
 Division: Environmental Quality Management Date: 2/6/84
 Approved by Commissioner: [Signature] Date: 2/6/84
 Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

Fiscal Analysis

Personnel Services request is allocated as follows:

- 1 Clerk Typist III in Southeastern Regional permitting office in Juneau @ \$25,577
- 2 Clerk Typist III in Southcentral Regional permitting office in Anchorage @ \$25,577/position x 2
- 1 Clerk Typist III in Northern Regional permitting office in Fairbanks @ \$28,446

Total -----> \$105,177/year

Services provided include decreasing turnover time in typing permits and position paper to meet time frame requirements of the legislation, decrease time related to mailings/correspondence, and automating permit conditions into computer data base. No new professional positions are being requested.

DR/bp

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/1/84

REQUEST

Bill/Resolution No.: CSSB219
Title: Permit Reform

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NRMFC

Sponsor: Bennett
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____
Mgmt. of Land/Mineral/Energy Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		300.0				
200 TRAVEL		19.0				
300 CONTRACTUAL		99.0				
400 SUPPLIES		35.5				
500 EQUIPMENT		30.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		483.5				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		483.5				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		8				
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert Butts *Robert Butts* Phone: 465-2400
Division: Oil and Gas Date: 2/1/84

Approved by Commissioner: Wm D. Arnold, Jr. *Wm D. Arnold, Jr.* Date: 2/1/84
Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Attachment to Fiscal Note for CSSB 219

- I. Assumes the following additional personnel will be needed to process and coordinate CZM and permitting for development on state and federal lands, including OCS leasing, mining and timber sales. Other funds associated with permit reform are in the Governor's proposed FY85 DNR budget, Minerals & Energy Mgmt. BRU, Petroleum Mgmt. component, \$192.9 GF; and Land/Water Mgmt. BRU, Land/Water Public Use component, \$92.7 interagency receipts.

<u>Fairbanks</u>	<u>Annual Cost w/benefits</u>
Nat. Resource Manager I	54,600
Nat. Resource Officer I	40,700
Clerk III	28,000
<u>Anchorage</u>	
Nat. Resource Manager I	47,600
Nat. Resource Officer I	35,800
Clerk III	26,300
<u>Juneau</u>	
Nat. Resource Officer II	40,700
Clerk III	26,300
	<hr/>
	\$300,000

- II. Assumes travel costs for adopting regulations and occasional meetings to resolve conflicts.
- III. Contractual -
For publishing of notices and general overhead costs (phone, rent, etc.).
- IV. Equipment costs include \$30,000 for upgrading the existing communication system linking the three permitting centers.

Costs beyond FY 85 are not estimated, but comparable. Assumes that HB 14 is amended to exclude conveyance-related permits such as material sales, ROW's, etc.

SENATE AMENDMENT

By HALFORD *J. Ferguson*

To: _____ CS For SENATE BILL No. 219 (Resources)

To: _____ HOUSE BILL No. _____

PAGE: 3 LINE: 19

Delete "expertise"
Insert "responsibility"

PAGE: 4 LINE: 16

Delete "solely"

Page 4 Line 21-22

Delete all of (b) and renumber.

PAGE: 5 LINE: 7-12

Delete all of (f).

PAGE: 6 LINE: 9-10

Insert period (.) after word Game and
delete remainder of sentence.

Offered: 6/15/83
Referred: Finance

Original sponsors: Bennett and Fahrenkamp

SB 84

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 219 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state
7 agencies, and to administration of the Alaska coastal
8 management program."

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-
12 sarily delayed by the length of time required to obtain a permit from a
13 state agency, by the complexity of the permit process, and by the number of
14 agencies involved in the permit process;

15 (2) the uncertainties created by the lack of specific time
16 limits, the proliferation of state agency review, the number of state
17 agencies involved in the permit process, and duplicative state agency
18 requirements for the processing of permit applications have resulted in
19 excessive costs to the public in lost employment and higher prices;

20 (3) unnecessary delay in the processing of permit applications
21 is not in the public interest; and

22 (4) a reduction in the number of state agency reviews and review
23 time required in the permit process would promote the social, economic and
24 environmental health and well being of state residents.

25 * Sec. 2. AS 44.62 is amended by adding new sections to read:

26 ARTICLE 8A. PERMIT PROCESSING.

27 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) A state resource
28 agency shall by regulation classify each permit issued by that agency
29 in one of the following categories:

1 (1) class I, for which the state agency must issue a final
2 decision within 30 days after the date of receipt of a completed
3 application; and

4 (2) class II, for which, because of a necessary public
5 notice or interagency review period, a final decision cannot be issued
6 within 30 days; a final decision on a class II permit must be issued
7 within 65 days after the date of receipt of a completed permit appli-
8 cation, unless a public hearing is held on the permit, in which case a
9 final decision must be issued within 85 days of the date of receipt.

10 (b) Each state resource agency shall adopt final regulations
11 classifying its permits by October 1, 1983, following appropriate
12 notice and hearing. Permits applied for after October 1, 1983, must
13 be issued in accordance with the time periods specified in (a) of this
14 section, and the provisions of the implementing regulations.

15 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PRO-
16 CESSING. (a) An applicant and a resource agency may agree to waive
17 the time limit under AS 44.62.632(a).

18 (b) Upon a finding by the head of a resource agency that a
19 permit being considered by the agency involves unusually complex
20 issues so that the agency cannot render a final decision within the
21 time period specified in AS 44.62.632, the head of the agency may
22 prescribe a time period within which the final decision will be made.
23 The finding of the head of the agency may be appealed by the applicant
24 to the superior court under the Appellate Rules of Procedure.

25 (c) Subject to the provisions of (a) and (b) of this section and
26 AS 44.62.632, if the resource agency fails to make a final decision
27 within 30 days after the receipt of an application for a class I
28 permit or within the time specified in AS 44.62.632(a)(2) for a class
29 II permit, the permit application is approved.

1 (d) Unless otherwise required by law, a state agency may not
2 condition the issuance of a permit upon the issuance of a permit from
3 another governmental agency.

4 (e) The time period specified in AS 44.62.632(a) may be extended
5 if necessary to facilitate joint processing of a permit application by
6 state and federal agencies, but only if adherence to the time periods
7 established in AS 44.62.632(a) would cause a conflict with federal
8 statute or regulation.

9 (f) In performing its functions under this section, the lead
10 agency shall consult with other resource agencies and with coastal
11 resource districts under AS 46.40. The lead agency shall consider
12 documented facts, data, opinion, conclusions, or recommendations
13 submitted by the commenting agency and the coastal resource districts
14 with an approved district coastal management program, within their
15 areas of expertise, but may, in its discretion, reach contrary opin-
16 ions, conclusions or recommendations according to the weight of the
17 evidence received. The lead agency shall balance competing factors in
18 reaching its final decision. No resource agency other than the lead
19 agency has primary expertise in the balancing of competing factors.

20 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource
21 agency receives a permit application that does not contain sufficient
22 information concerning compliance with the agency's statutes and
23 regulations, the agency shall notify the applicant within 15 days
24 after receipt of a permit application for a class I permit, and within
25 30 days after receipt for a class II permit.

26 (b) The notification must specify those particular facts or
27 issues concerning the proposal upon which the agency requires addi-
28 tional information in order to determine whether the project will
29 conform to the agency's statutes and regulations.

1 (c) If a timely request under (a) and (b) of this section is
2 made, the time period specified in AS 44.62.632 is suspended from the
3 date of request to the date of full compliance with the request.
4 Subsequent requests for additional information may be made, but must
5 relate only to new issues raised by the response to the initial noti-
6 fication.

7 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead
8 agency that is solely responsible for issuing coastal management
9 consistency determinations under AS 46.40. For resource development
10 activities on state and federal land, water, and submerged land, the
11 lead agency is the Department of Natural Resources. In all other
12 cases, the lead agency is that resource agency that has principal
13 administrative responsibility for the type of development for which
14 the consistency determination is required, even though the development
15 may require permits from more than one resource agency. The lead
16 agency is solely responsible for preparing and submitting state com-
17 ments on federal permit applications. For classes of activities for
18 which no agency with principal responsibility exists the governor
19 shall designate a resource agency to be a lead agency for each class
20 by administrative order no later than October 1, 1983.

21 (b) Except as required by federal law no state agency other than
22 the lead agency may comment to a federal permitting agency.

23 (c) For activities involving approval of a plan of operation and
24 a certificate under 33 U.S.C. 1341 (sec. 401 of the Clean Water Act),
25 the lead agency shall be the Department of Natural Resources.

26 (d) For activities occurring on privately owned land, and for
27 which one or more state permits or a disposal of interest in state
28 land is required to provide access to the privately owned land, or for
29 purposes otherwise ancillary to the activity, the lead agency shall be

1 the Department of Natural Resources.

2 (e) Nothing in this section or AS 46.40 authorizes a lead agency
3 or any resource agency to deny or condition a consistency determina-
4 tion because of effects that may be caused by activities not them-
5 selves requiring a state or federal permit or disposal of interest in
6 state land.

7 (f) In making a consistency determination under this section for
8 an activity occurring outside the boundaries of a coastal resource
9 district with an approved district plan, the lead agency or any re-
10 source agency may consider only those statewide standards and guide-
11 lines adopted by the Alaska Coastal Policy Council under AS 46.40.-
12 040(1).

13 * Sec. 3. AS 44.62.636 is amended by adding a new subsection to read:

14 (c) As used in AS 44.62.632 - 44.62.635,

15 (1) "date of receipt" means the date on which a state
16 agency physically receives an application filed in accordance with
17 agency regulations and at a place identified as appropriate for filing
18 in the agency's regulations;

19 (2) "permit" means a permit, license, certification, con-
20 sistency determination, comments on pending permit applications before
21 other governmental entities, or other authorization or approval issued
22 by a resource agency as a written document that is required to be
23 obtained or is solicited from a state agency before the construction
24 or operation of a project; "permit"

25 (A) does not include the approval of a unit agreement,
26 a unit development plan, or a unit exploration plan, or convey-
27 ances of interest in state land or water;

28 (B) does include all authorizations and approvals,
29 whether proprietary or regulatory, necessary to undertake a

1 project under a previously conveyed property interest;

2 (3) "project" means a new activity or expansion or addition
3 to an existing activity for which permits are required before con-
4 struction or operation; "project" does not include pursuing a trade or
5 profession, providing public health service, or operating a financial
6 institution;

7 (4) "resource agency" includes the Department of Natural
8 Resources, the Department of Environmental Conservation, and the
9 Department of Fish and Game with respect to permits issued for the
10 protection of fish habitat or the regulation of state sanctuaries,
11 refuges, and critical habitat areas.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 23, 1983

SUBJECT: Sectional analysis of CSSB 219 (Resources)

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have requested a sectional analysis of CSSB 219 (Resources).

Section 1 contains legislative findings. Essentially the findings are that the present system of processing permits results in unnecessary delay and excessive costs in development of state resources and that reduction in the number of state agencies involved and the time required to process permits would be in the public interest.

Section 2 adds a new article to AS 44.62 concerning permit processing consisting of Secs. 44.62.632 - 636.

Section 44.62.632 requires state resource agencies to classify permits by regulation adopted by October 1, 1983. Permits after that date must be issued in accordance with the time periods specified. Two classes of permits are established. These are:

- (1) Class I on which the final decision must be made in 30 days, and
- (2) Class II on which, because of necessary public notice or agency review, the final decision must be made in 65 days unless a public hearing is required in which case the period is 85 days.

Section 44.62.633 establishes other regulatory requirements:

- (a) Allows waiver by the applicant and agency of the

time requirements in Sec. 44.62.632.

- (b) Allows the head of a resource agency to prescribe a longer time period than that established in Sec. 44.62.632 if unusually complex issues are involved. This decision may be appealed to the Superior Court.
- (c) Provides, subject to (a) or (b) above if the final decision is not made in the prescribed time period the permit application is approved.
- (d) Provides issuance of a permit may not be conditioned on obtaining another permit unless the condition is required by law.
- (e) The time periods may be extended to allow joint federal - state permit processing if the time periods presented would cause a conflict with federal law or regulations.
- (f) A lead agency shall consult with other resource agencies and coastal resource districts in performing its functions. It may consider documentation submitted by a commenting agency or resource district but may reach its own conclusions based on the weight of evidence. The lead agency shall balance competing factors in reaching its final decisions. No other agency has primary expertise in balancing competing factors.

Section 44.62.634 regulates requirements of additional information.

- (a) If a permit application does not contain sufficient information concerning compliance with law and regulations the agency must notify the applicant within 15 days for a Class I permit and within 30 days for a Class II permit after date of receipt of the application.
- (b) Provides the notification shall specify the additional information required.
- (c) Provides that if a request is made under (a) or (b) the time period for final decision is suspended from the date of the request until the

request is complied with. Additional requests may be made only if they relate to new issues raised by the response.

Section 44.62.635 relates to lead agencies which solely are responsible for issuing coastal management consistency determinations under AS 44.40.

- (a) Establish lead agencies.
 - (1) For resource development on state and federal land or water the lead agency is the Department of Natural Resources.
 - (2) In other cases the lead agency is the agency with principal administration responsibility for the type of development for which the determination is required even though permits may be required from more than one agency. If no agency has principal responsibility the governor shall designate a resource agency as a lead agency for each class by October 1, 1983.
- (b) Unless required by federal law no state agency other than the lead agency may comment to a federal permitting agency.
- (c) The lead agency for activities involving a plan of operation and certificate under Sec. 401 of the federal Clean Water Act the lead agency is the Department of Natural Resources.
- (d) If activities for which a consistency determination is required occurs on private land but a permit to use or a disposal of state land is involved the lead agency is the Department of Natural Resources.
- (e) This section and AS 46.40 do not authorize a resource agency to deny or condition a consistency determination because of effects caused by activities not themselves requiring a permit or a disposal of state land.
- (f) If the activity for which the consistency

determination is required occurs outside a coastal resource district with an approved district plan the agency may only consider statewide standards and guidelines adopted by the Alaska Coastal Policy Council.

Section 44.62.636 defines terms used in the Article.

- (1) "date of receipt" means the date an agency physically receives an application filed in accordance with regulations at the place identified as appropriate for receiving filing.
- (2) "permit" is broadly defined as an authorization or approval issued on a written document that is required before construction or operation of a project. It includes authorization or approvals necessary to undertake a project on previously conveyed state property. It does not include the approval of a unit agreement, a unit development plan, or a unit exploration plan, or conveyances of interest in state land or water.
- (3) "project" means a new activity or expansion or addition to an existing activity for which a permit is required. It does not include an occupational license, providing public health services or operating a financial institution.
- (4) "resource agency" includes (1) the Department of Natural Resources, (2) the Department of Environmental Conservation, (3) the Department of Fish and Game with respect to permits issued for the protection of fish habitat or the regulation of state sanctuaries, refuges, and critical habitat areas.

1 (1) class I, for which the state agency must issue a final
2 decision within 30 days after the date of receipt of a completed
3 application; and

4 (2) class II, for which, because of a necessary public
5 notice or interagency review period, a final decision cannot be issued
6 within 30 days; a final decision on a class II permit must be issued
7 within 65 days after the date of receipt of a completed permit appli-
8 cation, unless a public hearing is held on the permit, in which case a
9 final decision must be issued within 85 days of the date of receipt.

10 (b) Each state resource agency shall adopt final regulations
11 classifying its permits by October 1, 1983, following appropriate
12 notice and hearing. Permits applied for after October 1, 1983, must
13 be issued in accordance with the time periods specified in (a) of this
14 section, and the provisions of the implementing regulations.

15 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PRO-
16 CESSING. (a) An applicant and a resource agency may agree to waive
17 the time limit under AS 44.62.632(a).

18 (b) Upon a finding by the head of a resource agency that a
19 permit being considered by the agency involves unusually complex
20 issues so that the agency cannot render a final decision within the
21 time period specified in AS 44.62.632, the head of the agency may
22 prescribe a time period within which the final decision will be made.
23 The finding of the head of the agency may be appealed by the applicant
24 to the superior court under the Appellate Rules of Procedure.

25 (c) Subject to the provisions of (a) and (b) of this section and
26 AS 44.62.632, if the resource agency fails to make a final decision
27 within 30 days after the receipt of an application for a class I
28 permit or within the time specified in AS 44.62.632(a)(2) for a class
29 II permit, the permit application is approved.

Offered: 6/15/83
Referred: Finance

Original sponsors: Bennett and Fahrenkamp

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 219 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state
7 agencies, and to administration of the Alaska coastal
8 management program."

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-
12 sarily delayed by the length of time required to obtain a permit from a
13 state agency, by the complexity of the permit process, and by the number of
14 agencies involved in the permit process;

15 (2) the uncertainties created by the lack of specific time
16 limits, the proliferation of state agency review, the number of state
17 agencies involved in the permit process, and duplicative state agency
18 requirements for the processing of permit applications have resulted in
19 excessive costs to the public in lost employment and higher prices;

20 (3) unnecessary delay in the processing of permit applications
21 is not in the public interest; and

22 (4) a reduction in the number of state agency reviews and review
23 time required in the permit process would promote the social, economic and
24 environmental health and well being of state residents.

25 * Sec. 2. AS 44.62 is amended by adding new sections to read:

26 ARTICLE 8A. PERMIT PROCESSING.

27 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) A state resource
28 agency shall by regulation classify each permit issued by that agency
29 in one of the following categories:

1 (1) class I, for which the state agency must issue a final
2 decision within 30 days after the date of receipt of a completed
3 application; and

4 (2) class II, for which, because of a necessary public
5 notice or interagency review period, a final decision cannot be issued
6 within 30 days; a final decision on a class II permit must be issued
7 within 65 days after the date of receipt of a completed permit appli-
8 cation, unless a public hearing is held on the permit, in which case a
9 final decision must be issued within 85 days of the date of receipt.

10 (b) Each state resource agency shall adopt final regulations
11 classifying its permits by October 1, 1983, following appropriate
12 notice and hearing. Permits applied for after October 1, 1983, must
13 be issued in accordance with the time periods specified in (a) of this
14 section, and the provisions of the implementing regulations.

15 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PRO-
16 CESSING. (a) An applicant and a resource agency may agree to waive
17 the time limit under AS 44.62.632(a).

18 (b) Upon a finding by the head of a resource agency that a
19 permit being considered by the agency involves unusually complex
20 issues so that the agency cannot render a final decision within the
21 time period specified in AS 44.62.632, the head of the agency may
22 prescribe a time period within which the final decision will be made.
23 The finding of the head of the agency may be appealed by the applicant
24 to the superior court under the Appellate Rules of Procedure.

25 (c) Subject to the provisions of (a) and (b) of this section and
26 AS 44.62.632, if the resource agency fails to make a final decision
27 within 30 days after the receipt of an application for a class I
28 permit or within the time specified in AS 44.62.632(a)(2) for a class
29 II permit, the permit application is approved.

1 (d) Unless otherwise required by law, a state agency may not
2 condition the issuance of a permit upon the issuance of a permit from
3 another governmental agency.

4 (e) The time period specified in AS 44.62.632(a) may be extended
5 if necessary to facilitate joint processing of a permit application by
6 state and federal agencies, but only if adherence to the time periods
7 established in AS 44.62.632(a) would cause a conflict with federal
8 statute or regulation.

9 (f) In performing its functions under this section, the lead
10 agency shall consult with other resource agencies and with coastal
11 resource districts under AS 46.40. The lead agency shall consider
12 documented facts, data, opinion, conclusions, or recommendations
13 submitted by the commenting agency and the coastal resource districts
14 with an approved district coastal management program, within their
15 areas of expertise, but may, in its discretion, reach contrary opin-
16 ions, conclusions or recommendations according to the weight of the
17 ev" nce received. The lead agency shall balance competing factors in
18 reaching its final decision. No resource agency other than the lead
19 agency has primary expertise in the balancing of competing factors.

20 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource
21 agency receives a permit application that does not contain sufficient
22 information concerning compliance with the agency's statutes and
23 regulations, the agency shall notify the applicant within 15 days
24 after receipt of a permit application for a class I permit, and within
25 30 days after receipt for a class II permit.

26 (b) The notification must specify those particular facts or
27 issues concerning the proposal upon which the agency requires addi-
28 tional information in order to determine whether the project will
29 conform to the agency's statutes and regulations.

1 (c) If a timely request under (a) and (b) of this section is
2 made, the time period specified in AS 44.62.632 is suspended from the
3 date of request to the date of full compliance with the request.
4 Subsequent requests for additional information may be made, but must
5 relate only to new issues raised by the response to the initial noti-
6 fication.

7 Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead
8 agency that is solely responsible for issuing coastal management
9 consistency determinations under AS 46.40. For resource development
10 activities on state and federal land, water, and submerged land, the
11 lead agency is the Department of Natural Resources. In all other
12 cases, the lead agency is that resource agency that has principal
13 administrative responsibility for the type of development for which
14 the consistency determination is required, even though the development
15 may require permits from more than one resource agency. The lead
16 agency is solely responsible for preparing and submitting state com-
17 ments on federal permit applications. For classes of activities for
18 which no agency with principal responsibility exists the governor
19 shall designate a resource agency to be a lead agency for each class
20 by administrative order no later than October 1, 1983.

21 (b) Except as required by federal law no state agency other than
22 the lead agency may comment to a federal permitting agency.

23 (c) For activities involving approval of a plan of operation and
24 a certificate under 33 U.S.C. 1341 (sec. 401 of the Clean Water Act),
25 the lead agency shall be the Department of Natural Resources.

26 (d) For activities occurring on privately owned land, and for
27 which one or more state permits or a disposal of interest in state
28 land is required to provide access to the privately owned land, or for
29 purposes otherwise ancillary to the activity, the lead agency shall be

1 the Department of Natural Resources.

2 (e) Nothing in this section or AS 46.40 authorizes a lead agency
3 or any resource agency to deny or condition a consistency determina-
4 tion because of effects that may be caused by activities not them-
5 selves requiring a state or federal permit or disposal of interest in
6 state land.

7 (f) In making a consistency determination under this section for
8 an activity occurring outside the boundaries of a coastal resource
9 district with an approved district plan, the lead agency or any re-
10 source agency may consider only those statewide standards and guide-
11 lines adopted by the Alaska Coastal Policy Council under AS 46.40.-
12 040(1).

13 * Sec. 3. AS 44.62.630 is amended by adding a new subsection to read:

14 (c) As used in AS 44.62.632 - 44.62.635,

15 (1) "date of receipt" means the date on which a state
16 agency physically receives an application filed in accordance with
17 agency regulations and at a place identified as appropriate for filing
18 in the agency's regulations;

19 (2) "permit" means a permit, license, certification, con-
20 sistency determination, comments on pending permit applications before
21 other governmental entities, or other authorization or approval issued
22 by a resource agency as a written document that is required to be
23 obtained or is solicited from a state agency before the construction
24 or operation of a project; "permit"

25 (A) does not include the approval of a unit agreement,
26 a unit development plan, or a unit exploration plan, or convey-
27 ances of interest in state land or water;

28 (B) does include all authorizations and approvals,
29 whether proprietary or regulatory, necessary to undertake a

1 project under a previously conveyed property interest;

2 (3) "project" means a new activity or expansion or addition
3 to an existing activity for which permits are required before con-
4 struction or operation; "project" does not include pursuing a trade or
5 profession, providing public health service, or operating a financial
6 institution;

7 (4) "resource agency" includes the Department of Natural
8 Resources, the Department of Environmental Conservation, and the
9 Department of Fish and Game with respect to permits issued for the
10 protection of fish habitat or the regulation of state sanctuaries,
11 refuges, and critical habitat areas.

Introduced: 3/30/83
Referred: Resources and
Finance

1 IN THE SENATE

BY BENNETT AND FAHRENKAMP

2

SENATE BILL NO. 219

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the processing of permits by
7 state agencies; and providing for an effective date."

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

9 * Section 1. FINDINGS. The legislature finds that

10 (1) the orderly development of state resources is being unneces-
11 sarily delayed by the length of time required to obtain permits from state
12 agencies, by the complexity of the permitting process, and by the number of
13 agencies involved in the permitting process;

14 (2) the uncertainties created by the lack of specific time
15 limits, the proliferation of agency reviews, the number of agencies in-
16 volved in the permit process, and unjustified agency requirements upon the
17 processing of permit applications have cost Alaskans millions of dollars in
18 lost employment and higher prices;

19 (3) the public interest has not been advanced by protracted
20 delay in the processing of permit applications by state agencies;

21 (4) by requiring state agencies to process permit applications
22 in an expeditious manner within a reasonable period of time, the state will
23 promote the social, economic, and environmental health and well-being of
24 its citizens.

25 * Sec. 2. AS 44.62 is amended by adding new sections to read:

26

ARTICLE 8A. ISSUANCE OF PERMITS.

27

Sec. 44.62.632. TIME LIMIT ON THE PROCESSING OF PERMITS. (a)

28

Upon receipt of a permit application or receipt of a federal agency

29

request for state review of an application for a federal permit, the

1 responsible state agency shall issue a final decision granting, deny-
2 ing, or reasonably conditioning the issuance of the permit, or issue a
3 final response to the federal agency's request for state review,
4 within the following time periods, unless the applicant and the agency
5 mutually agree to a different period of time:

6 (1) any time period specifically required by state law;

7 (2) 60 days if a time period is not specifically required
8 by state law and a public notice, public hearing, or comment period is
9 specifically required by state law in connection with the permit
10 application;

11 (3) 30 days if (1) or (2) of this subsection do not apply.

12 (b) The final decision on a permit application under (a) of this
13 section shall include:

14 (1) conclusions of the state agency that support its deci-
15 sion concerning the permit application, including the factual basis
16 and statutory authority for any conditions or stipulations to which
17 the permit is subject; and

18 (2) the granting, conditional granting, or denial of the
19 permit by the state agency.

20 (c) The final decision under (a) of this section must bear a
21 fair and substantial relation to the object of the law under which the
22 state agency is empowered to act.

23 (d) A permit may not be denied because of the lack of any other
24 permit, and may not be conditioned upon the acquisition of any other
25 permit.

26 (e) A permit application that has not been approved or rejected
27 by the responsible state agency within the time period specified in
28 (a) of this section is approved as submitted. The permit is approved
29 on the last day on which the state agency could have announced a final

1 decision under (a) of this section.

2 Sec. 44.62.634. DEFECTIVE APPLICATIONS; NOTICE TO APPLICANT.

3 (a) If a state agency receives a permit application requesting a
4 permit that the agency believes it does not have authority to issue,
5 or that it believes is unnecessary, it shall notify the applicant
6 within 10 days after its receipt of the application. A notice given
7 under this subsection is the final agency decision.

8 (b) If a state agency receives a permit application that it
9 believes does not contain sufficient information concerning the loca-
10 tion and nature of the project to allow the agency to determine
11 whether the project complies with state law, the agency shall notify
12 the applicant within 10 days after its receipt of the application.
13 The notice must specify all information the agency requires to deter-
14 mine whether the project complies with state law.

15 Sec. 44.62.635. REVIEW BY THE COMMISSIONER OR BOARD. A state
16 agency's final decision issued under AS 44.62.632 may be reviewed by
17 the commissioner or board of the issuing agency at the request of the
18 applicant. The applicant is entitled to a review de novo if requested
19 in the original request for review; otherwise the review is a review
20 on the record. The request must be filed with the commissioner or
21 board within 30 days of the applicant's receipt of the decision. The
22 commissioner or board shall issue a decision within 10 days of receipt
23 of the request if the review is a review on the record. If the appli-
24 cant has requested a hearing de novo, the hearing shall be held within
25 30 days of receipt of the request, and the decision of the commis-
26 sioner or board shall be made within 30 days of the conclusion of the
27 hearing. Unless the agency decision is confirmed in its entirety, the
28 commissioner or board shall issue a written decision setting out the
29 findings and conclusions in full.

1 Sec. 44.62.636. REVIEW BY THE SUPERIOR COURT. (a) Judicial
2 review by the superior court of a final decision issued by a state
3 agency under AS 44.62.632 or AS 44.62.634 or of a decision of the
4 commissioner or board issued under AS 44.62.635, may be had by filing
5 a notice of appeal in the superior court in accordance with the appli-
6 cable rules of appellate procedure. The right to appeal is not af-
7 fected by the failure to seek reconsideration or further review under
8 AS 44.62.635. The review shall be governed by the provisions of
9 AS 44.62.560(b) - (e) and AS 44.62.570.

10 (b) On an appeal by an applicant to the superior court, the
11 agency that issued the final decision has the burden of proving that
12 the decision is in accordance with AS 44.62.632 and AS 44.62.634.

13 (c) An appeal taken under this section has preference on the
14 calendar of civil actions before the court and shall be decided with-
15 out unnecessary delay.

16 * Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

17 (c) In AS 44.62.632 - 44.62.634,

18 (1) "permit" means a permit, license, certification, con-
19 sistency determination, comments on pending permit applications before
20 other governmental entities (including environmental impact statement
21 comments), plan review, or other authorization or approval issued as a
22 written document that is required to be obtained or is solicited from
23 a state agency before the construction or operation of a project;
24 "permit" does not include

25 (A) conveyances of interest in state land or water,
26 but does include all authorizations and approvals, whether pro-
27 prietary or regulatory, necessary to undertake a project under a
28 previously conveyed property interest; and

29 (B) the provision of financial assistance;

1 (2) "permit application" includes the following documents:

2 (A) a document requesting the issuance of a permit
3 that contains sufficient information concerning the location and
4 nature of a project to allow the state agency to which it is
5 directed to determine compliance of the project with state law;

6 (B) a document submitted to a state agency by a gov-
7 ernmental entity that solicits comments in connection with a
8 permit being processed by that governmental entity;

9 (3) "project" means a new activity or expansion or addition
10 to an existing activity for which permits are required before con-
11 struction or operation; "project" does not include pursuing a trade or
12 profession, providing public health service, or operating a financial
13 institution;

14 (4) "state agency" means a state department, commission,
15 board, or other agency of the state; "state agency" includes a local
16 or regional air pollution control authority established under AS 46.-
17 03.210 and a coastal resource district and coastal resource service
18 board established under AS 46.40.010 - 46.40.210.

19 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

I. REQUEST
 Bill/Resolution No.: CSSB 219
 Title: Permit Reform
 Sponsor: Bennett
 Requestor: Senate Resources

II. FISCAL DETAIL
 Agency Affected: Natural Resources
 Program Category Affected: NRMEC ERU, Program of Subprogram(s) Affected
 Mgmt. of Land/Mineral/Energy Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		346.6				
200 TRAVEL		18.0				
300 CONTRACTUAL		94.5				
400 COMMODITIES		33.8				
500 EQUIPMENT		264.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		756.9				
CAPITAL		-				
REVENUE		-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	756.9					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	10					
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Unknown

IV. ANALYSIS: Attach a separate page for any Analysis (Attached)

Prepared By: Jim Barnett *James Barnett* Phone: 265-4131
 Division: Commissioner's Office - Anchorage Date: 5/20/83
 Approved by ^{for} Deputy Commissioner *Mayhew* Date: 5/20/83
 Department: Natural Resources

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor

Attachment to Fiscal Note for CSSB 219

- I. Assumes following new personnel to process and coordinate CZM and permitting for development on state and federal lands, including OCS leasing, mining and timber sales.

<u>Fairbanks</u>	<u>Annual Cost w/benefits</u>
Nat. Resource Manager I	48,735
Nat. Resource Officer II	42,570
Nat. Resource Officer I	36,945
Clerk III	25,095
<u>Anchorage</u>	
Nat. Resource Manager I	42,570
Nat. Resource Officer II	36,945
Nat. Resource Officer I	32,175
Clerk III	22,305
<u>Juneau</u>	
Nat. Resource Officer II	36,945
Clerk III	22,305

346.6

- II. Assumes travel costs for adopting regulations and occasional meetings to resolve conflicts.
- III. Contractual -
For publishing of notices and general overhead costs (phone, rent, etc.).
- IV. Equipment costs include \$250,000 for a system linking the three permitting centers.

Costs beyond FY 84 are not estimated, but comparable. Assumes that CSSB 219 is amended to exclude conveyance-related permits such as material sales, ROW's, etc.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 219
 Title: "Processing of permits by state. . ."
 Sponsor: Senator Bennett
 Requestor: Senate Resources

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life & Property
 BRL, Program of Subprogram(s) Affected: Fire Prevention

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact anticipated

Prepared By: Paul Conger Phone: 465-4338
 Division: Administrative Services Date: 4-5-83

Approved by Commissioner: [Signature] Date: 4/6/83
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 219
 Title: "...processing of permits..."
 Sponsor: Senator Bennett
 Requestor: Senate Resources Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: May 20, 1983
 Approved by Commissioner: Richard I. Pegues / FUR Date: May 20, 1983
 Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

SB 219
Fiscal Note
Analysis

This bill greatly shortens the permitting process time of state agencies. Although this will cause us to assist with some new regulations necessary to establish a shortened permit process for the permitting agencies, this additional work will be on a single-time basis and will not be unduly burdening. Therefore, the bill will not have a significant fiscal impact on the Department of Law's operations. Considerable fiscal impact will occur on the part of agencies responsible for permits, such as Fish & Game, DEC, Natural Resources, and the Limited Entry Commission, as they gear up to review and issue permits in shortened times provided by the bill. Moreover, this bill does not seem to be limited to resources areas, as does the companion bill in the House, HB 14, and it appears that there may also be considerable impact in regulated industries such as transportation.

Attachment to Fiscal Note for CSSB 219

- I. Assumes following new personnel to process and coordinate CZM and permitting for development on state and federal lands, including OCS leasing, mining and timber sales.

<u>Fairbanks</u>	<u>Annual Cost w/benefits</u>
Nat. Resource Manager I	48,735
Nat. Resource Officer II	42,570
Nat. Resource Officer I	36,945
Clerk III	25,095
 <u>Anchorage</u>	
Nat. Resource Manager I	42,570
Nat. Resource Officer II	36,945
Nat. Resource Officer I	32,175
Clerk III	22,305
 <u>Juneau</u>	
Nat. Resource Officer II	36,945
Clerk III	22,305
	<hr/> 346.6

- II. Assumes travel costs for adopting regulations and occasional meetings to resolve conflicts.

III. Contractual -

For publishing of notices and general overhead costs (phone, rent, etc.).

- IV. Equipment costs include \$250,000 for a system linking the three permitting centers.

Costs beyond FY 84 are not estimated, but comparable. Assumes that CSSB 219 is amended to exclude conveyance-related permits such as material sales, ROW's, etc.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SB 219
 Title: "...processing of permits..."
 Sponsor: Senator Bennett
 Requestor: Senate Resources Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director

Division: Administrative Services Division

Approved by Commissioner: Richard I. Pegues / Fox / Norman C. Gorsuch, Attorney General

Department: Department of Law

Phone: 465-3672

Date: May 20, 1983

Date: May 20, 1983

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

Copy to Requestor (if different from Sponsor)

SR 219
Fiscal Note
Analysis

This bill greatly shortens the permitting process time of state agencies. Although this will cause us to assist with some new regulations necessary to establish a shortened permit process for the permitting agencies, this additional work will be on a single-time basis and will not be unduly burdening. Therefore, the bill will not have a significant fiscal impact on the Department of Law's operations. Considerable fiscal impact will occur on the part of agencies responsible for permits, such as Fish & Game, DEC, Natural Resources, and the Limited Entry Commission, as they gear up to review and issue permits in shortened times provided by the bill. Moreover, this bill does not seem to be limited to resources areas, as does the companion bill in the House, HB 14, and it appears that there may also be considerable impact in regulated industries such as transportation.

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

5/5/84

Date: 5-11-84

The Committee on FINANCE has had CSB 222 (Fin) (Title at

"An Act relating to the responsibilities and functions of the Department of Natural Resources in connection with state land; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

REQUEST

Bill/Resolution No.: CSSB 222(Fin)(Title am)
 Title: Organization of DNR
 Sponsor: Senate Resources
 Requestor:

II. FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected:
 BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0			
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0			

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME						
PART-TIME						
TEMPORARY						
	0	0	0			

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Sharon Barton Phone: 465-2400
 Division: Commissioner's Office, DNR Date: April 22, 1983
 Approved by Commissioner: Mary Halloran Date: April 22, 1983
 Department: Natural Resources

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor

Offered: 4/18/84
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 222 (Finance)(title am)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to the responsibilities and
7 functions of the Department of Natural Resources in
8 connection with state land; and providing for an
9 effective date."

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

11 * Section 1. AS 19.30.060 is amended to read:

12 Sec. 19.30.060. PURPOSE. It is the purpose of AS 19.30.060 -
13 19.30.100 to provide access to state lands that [WHICH] are programmed
14 for surface or forest products disposal, and to provide access roads
15 at the lowest possible cost.

16 * Sec. 2. AS 19.30.070 is amended to read:

17 Sec. 19.30.070. PLANNING AND [CONTRACTS FOR] CONSTRUCTION OF
18 ROADS. The commissioner of natural resources [DIRECTOR OF THE DIVI-
19 SION OF LANDS] may plan and construct roads or contract with private
20 persons for the construction of roads to and on state land [LANDS]
21 programmed for surface or forest products disposal [WHICH ARE NOT MORE
22 THAN SIX MILES FROM EXISTING ROADS OR HIGHWAYS].

23 * Sec. 3. AS 19.30.080 is amended to read:

24 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTENANCE. An
25 access road constructed under AS 19.30.060 - 19.30.100 shall be of low
26 standard, not necessarily suitable for all weather use. The state is
27 not under obligation to maintain an access road constructed under
28 AS 19.30.060 - 19.30.100. If an access road is constructed outside a
29 municipality that has zoning ordinances, the right-of-way width for

1 the road shall be determined by the Department of Natural Resources
2 [DIVISION OF LANDS] and the Department of Transportation and Public
3 Facilities. If an access road is constructed within the boundaries of
4 a municipality that has zoning ordinances, the right-of-way width
5 shall conform to the subdivision control ordinances of the municipal-
6 ity. Contracts for the work on an access road shall be awarded to the
7 lowest responsible bidder qualified to contract with the state.

8 * Sec. 4. AS 19.30.090 is amended to read:

9 Sec. 19.30.090. PAYMENT OF CONSTRUCTION COSTS [IN LAND CREDIT
10 CERTIFICATES]. The cost of constructing access roads to state land
11 [LANDS] shall be paid in appropriated funds or freely transferable
12 land credit certificates which may be applied toward the purchase or
13 lease of any state land [LANDS] under the jurisdiction of the Depart-
14 ment of Natural Resources [DIVISION OF LANDS], except tide, submerged,
15 and shoreland and land [SHORELANDS AND LANDS] belonging to the state
16 which have been obtained by escheat, purchase, or any means other than
17 a general land grant. A land credit certificate is valid for a
18 period of 20 years after issue. After the expiration of 20 years from
19 date of issue the holder may not start an action against the state or
20 any person based upon the certificate. The method of disposing of
21 land [LANDS] and resources and restrictions upon their disposal estab-
22 lished by law or regulation are in no way affected by the use of land
23 credit certificates.

24 * Sec. 5. AS 29.18.202 is amended to read:

25 Sec. 29.18.202. DETERMINATION OF ENTITLEMENT FOR CITIES. The
26 general grant land entitlement of a city formerly eligible to receive
27 general grant land under the provisions of former AS 29.18.190 and
28 29.18.200 [AS REPEALED BY THIS ACT,] is 10 percent of the maximum
29 total acreage of vacant, unappropriated, unreserved land within the

1 boundaries of each city at any time between the initial date of eligi-
2 bility under former AS 29.18.190 and 29.18.200 and July 1, 1978.
3 Within six months of July 1, 1978, the commissioner [DIRECTOR] shall
4 determine the entitlement for each city eligible to receive general
5 grant land under this section and certify that entitlement to the
6 city.

7 * Sec. 6. AS 29.18.203(b) is amended to read:

8 (b) Within six months of the date of incorporation of a munici-
9 pality which is incorporated after July 1, 1978, the commissioner
10 [DIRECTOR] shall determine the entitlement of each municipality eli-
11 gible to receive general grant land under (a) of this section and
12 certify the entitlement to the municipality.

13 * Sec. 7. AS 29.18.204(c) is amended to read:

14 (c) Land may be selected or nominated for selection by a munic-
15 ipality to satisfy a general grant land entitlement under AS 29.18.201
16 and 29.18.202 at any time before October 1, 1980. However, if a
17 municipal selection or nomination or a part of a municipal selection
18 or nomination is rejected by the commissioner [DIRECTOR], the munic-
19 ipality may, not later than 90 days after receipt of the commission-
20 er's [DIRECTOR'S] rejection, select additional state land as necessary
21 to satisfy its entitlement.

22 * Sec. 8. AS 29.18.204(d) is amended to read:

23 (d) Land may be selected by a municipality to satisfy a general
24 grant land entitlement under AS 29.18.203 at any time within one year
25 after the commissioner [DIRECTOR] certifies the entitlement to the
26 municipality.

27 * Sec. 9. AS 29.18.205(b) is amended to read:

28 (b) All approved selections under former AS 29.18.190 and
29 29.18.200 for which patent has not been issued to a municipality on

1 July 1, 1978 shall be reviewed by the commissioner [DIRECTOR] within
2 nine months of July 1, 1978. Any approved selection of land which was
3 vacant, unappropriated or unreserved on the date of selection is valid
4 as of the date of the approval under former AS 29.18.190 and 29.18.-
5 200, and a patent shall be issued to the municipality within three
6 months after approval by the commissioner [DIRECTOR] of a plat of
7 survey. The acreage shall be credited toward fulfillment of the
8 municipality's entitlement. No municipality is entitled to receive
9 patent under AS 29.18.011 - 29.18.610 to more than its entitlement
10 determined under AS 29.18.201 - 29.18.203. Any prior approval by the
11 commissioner [DIRECTOR] of municipal selections for land which was not
12 vacant, unappropriated or unreserved on the date of selection shall be
13 rescinded, and patent may not be issued except when disposal to a
14 third party by sale or lease has occurred. Transfers of land to
15 municipalities under AS 29.18.011 - 29.18.610 are subject to AS 38.-
16 05.321. Classification actions as reflected upon the land status
17 records of the Department of Natural Resources are determinative of
18 land classification status for purposes of AS 29.18.011 - 29.18.610.

19 * Sec. 10. AS 29.18.205(f) is amended to read:

20 (f) The commissioner [DIRECTOR] shall approve each selection for
21 patent within nine months of its selection by a municipality, and a
22 patent shall be issued to the municipality for land selected in satis-
23 faction of a general grant land entitlement vested under AS 29.18.-
24 201 - 29.18.203 within three months after approval by the commissioner
25 [DIRECTOR] of a plat of survey.

26 * Sec. 11. AS 29.18.206(d) is amended to read:

27 (d) Within six months after approval of a municipal selection of
28 school, university, or mental health land, the commissioner [DIRECTOR]
29 shall identify state general grant land of approximately equal value

1 to the land requested by the municipality, and shall propose the
2 replacement land for the concurrence of the appropriate board. If a
3 proposal by the commissioner [DIRECTOR] is rejected by the board, the
4 commissioner [DIRECTOR] shall meet with the board as often as neces-
5 sary to determine the type and amount of equal value replacement land
6 that would be required to obtain the board's concurrence, and shall
7 propose the replacement land for consideration by the board. The
8 replacement land shall thereafter be managed for the purposes for
9 which the land selected by the municipality was acquired by the Terri-
10 tory and State of Alaska.

11 * Sec. 12. AS 29.18.206(e) is amended to read:

12 (e) The notice and review provisions of AS [38.05.305 AND]
13 38.05.345 are applicable to the designation of other general grant
14 land as school, university or mental health land in replacement of
15 land selected under this section. The provisions of AS 38.50 [AND
16 38.05.032] do not apply to such designations under this section. [THE
17 PROVISIONS OF AS 38.05.030(a), 38.05.030(e), AND 38.05.035(a)(13)
18 WHICH REQUIRE THE APPROVAL OF THE RESPECTIVE TRUST BOARD BEFORE DIS-
19 POSAL OF LANDS BY THE DIRECTOR DO NOT APPLY TO SELECTIONS OF SCHOOL,
20 UNIVERSITY OR MENTAL HEALTH LAND BY A MUNICIPALITY UNDER THIS SEC-
21 TION.]

22 * Sec. 13. AS 29.18.207(c) is amended to read:

23 (c) If land selected by a municipality is unsurveyed at the time
24 of approval, the commissioner [DIRECTOR] shall survey, or may approve
25 the municipality's survey of, the exterior boundaries of an approved
26 selection without interior subdivision, and shall issue patent in
27 terms of the exterior boundary survey. The cost of the survey shall
28 be borne by the municipality. If land selected by a municipality has
29 been surveyed at the time of its selection, the boundaries shall

1 conform to the public land subdivisions established by the approved
2 survey.

3 * Sec. 14. AS 29.18.207(d) is amended to read:

4 (d) The commissioner [DIRECTOR] may approve municipal selections
5 of land which have been tentatively approved or patented to the state
6 by the federal government, but the commissioner [HE] may not issue
7 patent to a municipality until the land has first been patented to the
8 state. After approval of a selection by the commissioner [DIRECTOR],
9 but before patent to a municipality, the municipality may execute
10 conditional leases and make conditional sales only with the consent of
11 the commissioner [DIRECTOR]. Conditional sales and conditional leases
12 made before July 1, 1978 do not require the consent of the commissi-
13 sioner [DIRECTOR].

14 * Sec. 15. AS 29.18.209 is amended to read:

15 Sec. 29.18.209. AUTHORIZATION FOR LAND EXCHANGES. The [DIREC-
16 TOR, WITH THE CONCURRENCE OF THE] commissioner [,] and any municipal-
17 ity are authorized to exchange land or interests in land when it is in
18 the public interest. Land or interests in land exchanged under this
19 section must be of approximately equal value, including the non-
20 monetary value of public benefits. Exchange procedures shall comply
21 with applicable law and municipal ordinances. The notice and review
22 provisions of AS [38.05.305 AND] 38.05.345 are applicable to exchanges
23 of land under this section. The provisions of AS 38.50.010 - 38.50.-
24 170 do not apply to exchanges of land under this section.

25 * Sec. 16. AS 29.18.210(b) is amended to read:

26 (b) Where state land is the most logical location for demon-
27 strated municipal expansion for nonpublic settlement and development
28 purposes, and when an exchange of land under AS 29.18.209 is not
29 possible or is not in the public interest, it is the policy of the

1 state to sell or lease the land at public auction. The state may
2 contract with a municipality to act as its agent in an auction of
3 state land under applicable statutes. When a municipality acts as the
4 agent of the state in an auction, the municipality may retain from the
5 proceeds of the auction the expenses that [WHICH] the commissioner
6 [DIRECTOR] determines to be necessary and reasonable.

7 * Sec. 17. AS 29.18.210(c) is amended to read:

8 (c) Nothing in AS 29.18.011 - 29.18.610 limits or impairs the
9 authority of the commissioner [DIRECTOR] to transfer land to munic-
10 ipalities, without limit or consideration, for public purposes in
11 accordance with AS 38.05.315. If there is a remaining entitlement of
12 the municipality, land transferred under AS 38.05.315 shall be cred-
13 ited toward fulfillment of the entitlement.

14 * Sec. 18. AS 29.18.211(a) is amended to read:

15 (a) A municipality which on July 1, 1978 is engaged in litiga-
16 tion, or which becomes engaged in litigation, regarding a claim to
17 state land under former AS 29.18.190 and 29.18.200 shall elect either
18 to obtain the benefits provided in AS 29.18.201 - 29.18.213 or to
19 pursue the litigation and thereby waive any claim to entitlement under
20 AS 29.18.201 - 29.18.213. An election shall be made by filing a motion
21 for dismissal with prejudice in the court in which the litigation is
22 pending. If the claim involves a municipality identified in
23 AS 29.18.201, the municipality shall file its motion for dismissal
24 within 60 days of July 1, 1978. If the claim involves a city eligible
25 to receive an entitlement under AS 29.18.202, the city shall file its
26 motion for dismissal within 60 days after receiving the certificate of
27 entitlement provided by the commissioner [DIRECTOR] under AS 29.18.-
28 202. Failure of the municipality to file a motion for dismissal
29 during the time period provided in this subsection shall be considered

1 a waiver of entitlement under AS 29.18.201 - 29.18.213.

2 * Sec. 19. AS 29.18.213 is amended to read:

3 Sec. 29.18.213. DEFINITIONS. In AS 29.18.201 - 29.18.213,
4 unless the context otherwise requires,

5 [(1) Repealed]

6 (1) [(2)] "approved selection" means a municipal land
7 selection that [WHICH] has been approved in writing by the
8 commissioner [DIRECTOR] for transfer by patent to a municipality;

9 (2) [(3)] "commissioner" ["DIRECTOR"] means the
10 commissioner [DIRECTOR] of the [DIVISION OF LANDS,] Department of
11 Natural Resources, or the commissioner's [HIS] designee;

12 (3) [(4)] "general grant land" means land patented or
13 tentatively approved to the state from the United States under sec.
14 6(a) or (b) of the Alaska Statehood Act;

15 (4) [(5)] "mental health land" means land granted under
16 Title II, sec. 202 of P.L. 84-830, as amended before or after July 1,
17 1978;

18 (5) [(6)] "municipal land selection" means a request by a
19 municipality, filed in writing with the commissioner [DIRECTOR] under
20 authority of AS 29.18.190 and 29.18.200 repealed by this Act or under
21 AS 29.18.201 - 29.18.213 for vacant, unappropriated, unreserved
22 general grant land within its municipal boundaries in partial
23 fulfillment of its municipal entitlement;

24 (6) [(7)] "municipality" means a home rule or general law
25 city or organized borough of any class, and includes unified
26 municipalities established under AS 29.68.240 - 29.68.440;

27 (7) [(8)] "patent" means a document, issued by the
28 commissioner [DIRECTOR] to a municipality for a previously approved
29 selection, which conveys and quitclaims all the right, title and

1 interest of the state without reservation or condition except as may
2 be required by law;

3 (8) [(9)] "remaining entitlement" means the general grant
4 land entitlement determined in accordance with AS 29.18.201 -
5 29.18.213, reduced by the total acreage of approved selections,
6 including both patented and unpatented parcels;

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

12 (10) [(11)] "university land" has the meaning given that
13 term in AS 38.05.365 [MEANS ALL SECTIONS 33 RESERVED TO THE UNIVERSITY
14 UNDER 38 STAT. 1214, AS AMENDED (48 U.S.C. 353) AND ALL LAND GRANTED
15 TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY];

16 (11) [(12)] "vacant, unappropriated, unreserved land" means
17 general grant land as defined in (3) [(4)] of this section, excluding
18 minerals as required by sec. 6(i) of the Alaska Statehood Act, that
19 [WHICH]

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

22 (B) has not been approved for patent to a municipality
23 under AS 29.18.201 - 29.18.213 or former AS 29.18.190 and
24 29.18.200 repealed by this act; or

25 (C) is unclassified or, if classified under
26 AS 38.05.300, is classified for agricultural, grazing,
27 commercial, industrial, private recreational, residential,
28 utility or open-to-entry purposes, or where classified in
29 accordance with an agreement between a municipality and the state

1 providing for state management of land of the municipality.

2 * Sec. 20. AS 30.15.040 is amended to read:

3 Sec. 30.15.040. DISPOSITION OF STATE LAND FOR PORT FACILITIES
4 DEVELOPMENT PROJECTS. The [DIVISION OF LANDS IN THE] Department of
5 Natural Resources, subject to the applicable provisions of AS 38.05
6 and AS 38.10, may convey title or other interests in state land,
7 provide for the exchange of state land, or make other arrangements
8 with respect to state land that may be necessary to complete a project
9 for which a state grant is approved under this chapter.

10 * Sec. 21. AS 38.04.005(b) is amended to read:

11 (b) In classifying state land for private use and settlement
12 purposes, the commissioner [DIRECTOR] shall make adequate provision
13 for public open space which is accessible to communities so that
14 natural areas are easily reached from all communities and settled
15 areas. The amount of that land shall be sufficient to meet existing
16 and projected needs for accessible public recreation land. Special
17 care shall be taken to preserve public access to public water and to
18 retain state ownership of sufficient land which combine high value for
19 recreation and other public purposes with accessibility to settled
20 areas. This classification for public purposes does not constitute
21 dedication to open space, but the department's [DIVISION'S] management
22 of land so classified shall be in a manner to preserve the identified
23 values.

24 * Sec. 22. AS 38.04.010(a) is amended to read:

25 (a) The primary public interest in conveying rights to state
26 land surface to private parties is to make them available to individ-
27 uals and other persons for direct use in areas classified as suitable
28 for these purposes. In making state land available for private use,
29 the commissioner [DIRECTOR] shall seek to guide year-round settlement

1 to areas where public services already exist, or can be extended with
2 reasonable economy, or where development of a viable economic base is
3 probable.

4 * Sec. 23. AS 38.04.025 is amended to read:

5 Sec. 38.04.025. VARIETY OF USES. In making state land available
6 for private use, the commissioner [DIRECTOR] shall endeavor to accom-
7 modate persons with a current need and anticipated use for the land.
8 To this end, the commissioner [DIRECTOR] shall assess the nature of
9 the supply and demand for state land in different regions and loca-
10 tions of the state, taking into account the supply of available land
11 under other ownership, and shall make land available in locations and
12 under programs suited to the differing needs of prospective users
13 throughout the state.

14 * Sec. 24. AS 38.04.030 is amended to read:

15 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs which may
16 be used by the commissioner [DIRECTOR] to make the state's land sur-
17 face available for private use under this section include sale of
18 whole or partial rights to the fee simple estate, including conveyance
19 of agricultural use rights; leasing; [OPEN-TO-ENTRY;] homesteading;
20 homesteading; permitting for construction and occupation of cabins in
21 isolated locations on land retained in state ownership; and other
22 methods as provided by law.

23 * Sec. 25. AS 38.04.035 is amended to read:

24 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
25 which land availability program is appropriate for state land [LANDS]
26 in different locations, the commissioner [DIRECTOR] shall be guided by
27 the following criteria:

28 (1) To cover public costs associated with private land use
29 and to provide the public with a fair return for publicly owned

1 property, conveyance of state land to private parties should be at
2 fair market value except where otherwise authorized by statute, or by
3 an administrative regulation the adoption of which is specifically
4 permitted by statute.

5 (2) Sale or lease programs should be used where land is
6 readily accessible to a major community center or where, because of a
7 prime location on waterfront or a transportation route or some other
8 location characteristic, land has relatively high real estate value.

9 (3) Sale programs are preferred but lease programs should
10 be used

11 (A) where special land use controls are required and
12 there is a high public interest in having certain types of land
13 used for particular purposes;

14 (B) when the intended use is a temporary one;

15 (C) in commercial or industrial situations when a
16 leasehold can provide cash flow advantages to the lessee;

17 (D) when a unique location with special public values
18 is involved, as in a deep water port, hydroelectric site, or
19 aquaculture facility;

20 (E) where current demand for private use is high, but
21 projections suggest that, in the future, the land may be more
22 valuable for public use, as in accessible waterfront recreation
23 areas.

24 (4) For enabling isolated cabin development in remote
25 locations where survey and conveyance is impractical, a system for
26 cabin permits on public land may be used.

27 (5) Limited or conditional title may be granted when the
28 state's best interest so dictates. Among other things, title limita-
29 tions may include grants of agricultural interest only, retention of

1 development rights, and retention of scenic or other easements. A
2 conditional title may be tied to a development schedule or other
3 standards of performance.

4 * Sec. 26. AS 38.04.045(b) is amended to read:

5 (b) Before the conveyance of surface rights to state land, an
6 official cadastral survey shall be accomplished, unless a comparable,
7 acceptable survey exists that has been conducted by the federal Bureau
8 of Land Management. The rectangular survey section corner positions
9 shall be monumented and shown on a cadastral survey plat approved by
10 the state. However, for those areas where the state may wish to
11 convey surface estate outside of an official cadastral survey grid,
12 the commissioner [DIRECTOR] may waive monumentation of all individual
13 section corner positions and substitute an official control survey
14 with control points being monumented at approximately two-mile inter-
15 vals and shown on control survey plats approved by the state. No
16 portion of land to be conveyed may be located more than two miles from
17 such a survey control monument. The lots and tracts in state subdivi-
18 sions shall be monumented and the cadastral survey and plats for the
19 subdivision shall be approved by the state. Where land is located
20 within a municipality with planning, platting, and zoning powers,
21 plats for state subdivisions shall comply with local ordinances and
22 regulations in the same manner and to the same extent as plats for
23 subdivisions by other landowners. State subdivisions shall be filed
24 in the district recorder's office. The requirements of this section
25 do not apply to land made available through a cabin permit system,
26 material sales, or short-term leases; however, for short-term leases
27 the lessee must comply with local subdivision ordinances unless waived
28 by the municipality under procedures specified by ordinance.

29 * Sec. 27. AS 38.04.050 is amended to read:

1 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state
2 land is surveyed for purposes of private use, adequate rights-of-way
3 and easements shall be reserved as necessary for access and, where
4 appropriate, for power and telephone service to each parcel of land.
5 Where necessary and appropriate for the use intended, the commissioner
6 [DIRECTOR] shall arrange for the development of surface access as part
7 of the land availability program. The direct cost of local access
8 development shall be borne by the recipient of the land unless other-
9 wise provided by state statutes or regulations.

10 * Sec. 28. AS 38.04.055 is amended to read:

11 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The commis-
12 sioner [DIRECTOR] shall reserve easements and rights-of-way on and
13 across land which is made available for private use as necessary to
14 reach or use public water and public and private land. An easement or
15 right-of-way reserved under this section may include established
16 trails traditionally used for commerce, recreation, or transportation.

17 * Sec. 29. AS 38.04.910(2) is amended to read:

18 (2) "department" means ["DIRECTOR" MEANS THE DIRECTOR OF
19 THE DIVISION OF LANDS OF] the Department of Natural Resources;

20 * Sec. 30. AS 38.04.910(5) is amended to read:

21 (5) "official cadastral survey" means a United States
22 public land survey or a survey executed under survey instructions
23 issued by the department [DIVISION] for the purpose of preparing a
24 cadastral survey plat, and approved and accepted by the department
25 [DIVISION] for the state's official records;

26 * Sec. 31. AS 38.04.910(6) is amended to read:

27 (6) "official control survey" means a position marked on
28 the ground by triangulation or traverse stations established in con-
29 formity with standards adopted by United States Coastal and Geodetic

1 Survey for first, second and third order work, whose geodetic posi-
2 tions have been rigidly adjusted on the North American datum of 1927
3 and approved by the department [DIVISION];

4 * Sec. 32. AS 38.05.020(b) is amended to read:

5 (b) The commissioner may

6 (1) establish reasonable procedures and adopt reasonable
7 [RULES AND] regulations necessary to carry out this chapter [AND MAY,
8 WHENEVER NECESSARY, ISSUE DIRECTIVES OR ORDERS TO THE DIRECTOR TO
9 CARRY OUT SPECIFIC FUNCTIONS AND DUTIES]; all [RULES AND] regulations
10 adopted by the commissioner shall be adopted under the Administrative
11 Procedure Act (AS 44.62); orders classifying land by the commissioner
12 [CLASSIFYING LANDS] issued after January 3, 1959, are not required to
13 be adopted under the Administrative Procedure Act (AS 44.62);

14 (2) enter into agreements that the commissioner [WHICH HE]
15 considers necessary to carry out the purposes of this chapter,
16 including agreements with federal and state agencies;

17 [(3) REVIEW ANY ORDER OR ACTION OF THE DIRECTOR;]

18 (3) [(4)] exercise the powers and do the acts necessary to
19 carry out the provisions and objectives of this chapter;

20 (4) [(5)] notwithstanding the provisions of any other
21 section of this chapter, grant an extension of the time within which
22 payments due on any lease or sale of state land, minerals, or
23 materials may be made, including payment of rental and royalties, if
24 the commissioner [HE] finds that compliance with the requirements is
25 or was prevented by reason of war, riots, or acts of God; [.]

26 (5) [(6)] classify tracts for agricultural uses and require
27 the prequalification, including the submission of conservation plans,
28 development plans, or other plans, schedules, or programs, of persons
29 who apply to participate in an agricultural development project under

1 AS 44.33.475.

2 * Sec. 33. AS 38.05.030(b) is amended to read:

3 (b) The provisions of this chapter do not apply to any power,
4 duty or authority now or in the future granted to the Department of
5 Transportation and Public Facilities [PUBLIC WORKS AND THE DEPARTMENT
6 OF HIGHWAYS] in the name of the state, to acquire, use, lease, dispose
7 of, or exchange real property, or any interest in real property.
8 Lands assigned by the department [DIVISION OF LANDS] to the Department
9 of Transportation and Public Facilities [PUBLIC WORKS AND THE DEPART-
10 MENT OF HIGHWAYS] shall be returned to the management of the depart-
11 ment [DIVISION OF LANDS] when they are no longer needed for the pur-
12 poses assigned.

13 * Sec. 34. AS 38.05.030(c) is amended to read:

14 (c) In addition to the requirements specified in AS 38.50.090,
15 the agencies referred to in (a) and (b) of this section and other
16 state agencies with authority to acquire or dispose of land shall give
17 written notification of the fact of acquisition, lease or exchange to
18 the department [DIVISION OF LANDS] within three months after the date
19 that they make the acquisition, lease or exchange.

20 * Sec. 35. AS 38.05.030(d) is amended to read:

21 (d) Real property acquired by, and under the management of, the
22 agencies referred to in (a) and (b) of this section, which is no
23 longer needed for its intended use, shall be returned to the jurisdic-
24 tion of the department [DIVISION OF LANDS], except that the Department
25 of Transportation and Public Facilities [HIGHWAYS] may dispose of real
26 property acquired by it under AS 19.05.040(2) and AS 19.05.080 -
27 19.05.120.

28 * Sec. 36. AS 38.05.035 is repealed and reenacted to read:

29 Sec. 38.05.035. POWERS AND DUTIES OF THE COMMISSIONER. (a) The

1 commissioner shall

2 (1) manage, inspect and control state land and improvements
3 on it belonging to the state and under the jurisdiction of the depart-
4 ment;

5 (2) prescribe application procedures and practices for the
6 sale, lease or other disposition of available land, resources, prop-
7 erty, or an interest in them;

8 (3) prescribe fees or service charges for any public ser-
9 vice rendered;

10 (4) under the conditions and limitations imposed by law,
11 issue deeds, leases or other conveyances disposing of available land,
12 resources, property or an interest in them;

13 (5) have jurisdiction over state land, except that land
14 acquired by the Alaska World War II Veterans Board and the Agricul-
15 tural Loan Board or the departments or agencies succeeding to their
16 respective functions through foreclosure or default; to this end the
17 commissioner has the power and shall perform the duties necessary to
18 protect the state's rights and interest in state land, including the
19 taking of all necessary action to protect and enforce the state's
20 contractual or other property rights;

21 (6) maintain necessary records, administer oaths, and do
22 all things incidental to the authority imposed; the following records
23 and files shall be kept confidential upon request of the person sup-
24 plying the information;

25 (A) the name of the person nominating or applying for
26 the sale, lease, or other disposal of land by competitive bid-
27 ding;

28 (B) before the announced time of opening, the names of
29 the bidders and the amounts of the bids;

1 (C) all geological, geophysical and engineering data
2 supplied, whether or not concerned with the extraction or devel-
3 opment of natural resources;

4 (D) except as provided in AS 38.05.036, cost data and
5 financial information submitted in support of applications,
6 bonds, leases and similar items;

7 (E) applications for rights-of-way or easements;

8 (F) requests for information or applications by public
9 agencies for land which is being considered for use for a public
10 purpose;

11 (7) account for the fees, licenses, taxes or other money
12 received in the administration of this chapter including the sale or
13 leasing of land, identify their source, and promptly transmit them to
14 the proper fiscal department after crediting them to the proper fund;
15 receipts from land application filing fees and charges for copies of
16 maps and records shall be deposited immediately in the general fund of
17 the state;

18 (8) be the certifying agent of the state to select, accept
19 and secure by whatever action is necessary in the name of the state,
20 by deed, sale, gift, devise, judgment, operation of law, or other
21 means any land, of whatever nature or interest, available to the
22 state; and

23 (9) be the certifying agent of the state, to select, accept
24 or secure by whatever action is necessary in the name of the state any
25 land, or title or interest to land available, granted, or subject to
26 being transferred to the state for any purpose.

27 (b) The commissioner may

28 (1) grant preference rights for the lease or purchase of
29 state land without competitive bid in order to correct the errors or

1 omissions of a state or federal administrative agency when inequitable
2 detriment would otherwise result to a diligent claimant or applicant
3 due to situations over which the claimant or applicant had no control;
4 the exercise of this discretionary power operates only to divest the
5 state of its title to or interests in land;

6 (2) grant a preference right to a claimant who shows bona
7 fide improvement of state land or federal land subsequently acquired
8 by the state and who has in good faith sought to obtain title to the
9 land but who, through error or omission of others, has been denied
10 title to it; upon a showing satisfactory to the commissioner, the
11 claimant may lease or purchase the land at the price set on the date
12 of original entry on the land or, if a price was not set at that time
13 at a price determined by the department to fairly represent the value
14 of unimproved land at the time the claim was established, but in no
15 event less than the cost of administration including survey; the error
16 or omission of a predecessor in interest or an agent, administrator,
17 or executor which has clearly prejudiced the claimant may be the basis
18 for granting a preference right;

19 (3) sell land by lottery for less than the appraised value
20 when, in the judgment of the commissioner, past scarcity of land
21 suitable for private ownership in any particular area has resulted in
22 unrealistic land values;

23 (4) when the commissioner determines it is in the best
24 interest of the state and will avoid injustice to a person or the
25 heirs or devisees of a person, dispose of land, by direct negotiation
26 to the person who presently uses and who used and made improvements to
27 the land before January 3, 1959, or to the heirs or devisees of the
28 person; the amount paid for the land shall be its fair market value on
29 the date that the person first entered the land, as determined by the

1 commissioner; a parcel of land disposed of under this paragraph shall
2 be of a size consistent with the person's prior use, but may not
3 exceed five acres;

4 (5) dispose of an interest in land limited to use for
5 agricultural purposes by lottery;

6 (6) convey to an adjoining landowner a parcel of land
7 created by a highway right-of-way alignment or realignment, or a
8 parcel created by the vacation of a state-owned right-of-way if

9 (A) the commissioner determines that it is in the best
10 interests of the state;

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

13 (C) the commissioner and the platting authority having
14 land use planning jurisdiction agree that conveyance of the
15 parcel to the adjoining landowner will result in boundaries that
16 are convenient for the use of the land by the landowner and
17 compatible with municipal land use plans;

18 (7) for good cause extend for up to 90 days the time for
19 rental or installment payments by a lessee or purchaser of state land
20 under this chapter if reasonable penalties and interest set by the
21 commissioner are paid.

22 (c) A parcel of land may be conveyed under (b) of this section
23 without classification or reclassification under AS 38.05.300.

24 (d) A parcel of land described in (b)(6) of this section must be
25 sold at its fair market value as determined by the commissioner on the
26 basis of an appraisal completed as provided in AS 38.05.310. Nothing
27 in this subsection prevents the sale of land under AS 38.05.055 or
28 38.05.057 to a person not qualifying as an adjoining landowner if the
29 adjoining landowner declines to purchase the land.

1 (e) Upon a written finding that the interests of the state will
2 be best served, the commissioner may approve contracts for the sale,
3 lease, or other disposal of available land, resources, property or
4 interests in them, and, in addition to the conditions and limitations
5 imposed by law, may impose additional conditions or limitations in the
6 contracts as the commissioner determines will best serve the interests
7 of the state. Before a public hearing, if held, or in any case no
8 less than 21 days before the sale, lease, or other disposal of
9 available land, property, resources, or interests in them, the
10 commissioner shall make available to the public a written finding
11 which sets out the facts and applicable law upon which the
12 commissioner based the determination that the sale, lease, or other
13 disposal will best serve the interests of the state. A written
14 finding is not required before the approval of

15 (1) a contract for a negotiated sale authorized by AS 38.-
16 05.115;

17 (2) the lease of land for a shore fishery site under
18 AS 38.05.082;

19 (3) a permit or other authorization revocable by the
20 commissioner.

21 * Sec. 37. AS 38.05.037 is amended to read:

22 Sec. 38.05.037. ZONING POWERS OF DEPARTMENT [REGULATIONS IN THE
23 UNORGANIZED BOROUGH TO FACILITATE FEDERAL LAND SALES]. (a) In areas
24 of the state outside first, second or third class boroughs where there
25 is no municipality with a zoning power, the department [DIVISION OF
26 LANDS] shall exercise the zoning power by adopting zoning regulations.

27 (b) The department [DIVISION OF LANDS] may exercise its zoning
28 power

29 (1) within federal land [LANDS] in the unorganized borough

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1 only at the times and in the areas it is requested to do so by the
2 Secretary of the Interior to facilitate sales of federal land [LANDS]
3 within the unorganized borough under P.L. 88-608, 78 Stat. 988;

4 (2) within any portion of a third class borough covered by
5 the Alaska coastal management program adopted in accordance with the
6 provisions of AS 46.40 [AS 46.35] if the municipality has not done so.

7 (c) Any zoning done by the department [DIVISION OF LANDS] under
8 (b) of this section is final unless disapproved by concurrent resolu-
9 tion at the next regular session of the legislature.

10 * Sec. 38. AS 38.05.040 is amended to read:

11 Sec. 38.05.040. COMMISSIONER [DIRECTOR] SHALL BE BONDED. Before
12 performing any [HIS] duties, the commissioner [DIRECTOR] shall execute
13 a corporate surety bond to the state in the sum of \$150,000, condi-
14 tioned upon the faithful performance of all [HIS] duties under this
15 chapter and upon the prompt and faithful accounting of all money
16 collected by the commissioner [HIM] or [HIS] deputies, assistants,
17 employees or agents of the commissioner. The bond together with
18 additional conditions or limitations considered necessary, shall be
19 approved by the attorney general and filed in the office of the gover-
20 nor. The premium upon the bond is payable from money appropriated for
21 operation of the department [DIVISION].

22 * Sec. 39. AS 38.05.050 is amended to read:

23 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
24 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-
25 mine the land to be disposed of for private use. The commissioner
26 [DIRECTOR] shall determine the time and place of disposal. An auction
27 sale, a lottery sale, or a disposal of land for homesites under
28 AS 38.04.020(g)(2)(C) must be held in the municipality that is closest
29 to the land to be sold or disposed of and in which regular sessions of

1 a court of the state are held.

2 * Sec. 40. AS 38.05.055 is amended to read:

3 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method
4 of sale is required under this chapter, [UNDER] AS 38.07, or [UNDER]
5 AS 38.08, the sale of state land shall be made at public auction to
6 the highest qualified bidder as determined by the commissioner
7 [DIRECTOR]. A bidder must appear in person at the auction unless
8 medical reasons, attendance at school, or military service outside the
9 state prevent attendance. A bidder may be represented by an attorney
10 or agent at the auction if the land offered for disposal is
11 commercial, industrial, or agricultural land. An aggrieved bidder may
12 appeal to the commissioner within five days after the sale for a
13 review of the commissioner's [DIRECTOR'S] determination. The sale
14 shall be conducted by the commissioner [DIRECTOR OR HIS
15 REPRESENTATIVE], and at the time of sale the successful bidder shall
16 deposit an amount equal to five percent of the purchase price, or if
17 the purchaser elects to use land discounts granted under AS 38.05.058,
18 five percent of the amount bid after deduction of the discount. The
19 commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall immediately issue
20 a receipt containing a description of the land or property purchased,
21 the price bid, the amount deposited, and the amount of any discount
22 allowed. The receipt shall be acknowledged in writing by the bidder.

23 * Sec. 41. AS 38.05.057(e) is amended to read:

24 (e) The commissioner [DIRECTOR] shall accept applications to
25 purchase particular parcels under the following procedures and condi-
26 tions:

- 27 (1) the application period may not be less than 45 days;
28 (2) no application may be accepted less than 15 days before
29 each lottery;

1 (3) notice of the application period and the date of the
2 lottery shall be given in accordance with AS 38.05.345; and

3 (4) the application shall be made on a form provided by the
4 department.

5 * Sec. 42. AS 38.05.057(g) is amended to read:

6 (g) After receiving the deposit required under (a) of this
7 section, the commissioner [DIRECTOR] shall immediately issue a receipt
8 containing a description of the land or property to be conveyed, the
9 price of the land, and the terms of disposal. The receipt shall be
10 acknowledged in writing by the purchaser.

11 * Sec. 43. AS 38.05.057(i) is amended to read:

12 (i) The commissioner [DIRECTOR] may include in contracts for
13 sale of land under this section terms which

14 (1) require purchasers to use or occupy, or both, the land
15 purchased for a reasonable period of time after a sale;

16 (2) prohibit the resale of land purchased by the initial
17 purchaser until the requirements imposed under (1) of this subsection,
18 if any, are satisfied.

19 * Sec. 44. AS 38.05.060 is amended to read:

20 Sec. 38.05.060. REJECTION OF BIDS. Before the signing of the
21 formal conveyance [BY THE DIRECTOR], the commissioner may reject all
22 bids when the best interests of the state justify this action. Land
23 [LANDS] offered at public sale but not sold may be made available at
24 private sale for not less than the [THEIR] appraised value.

25 * Sec. 45. AS 38.05.065(c) is amended to read:

26 (c) The commissioner [DIRECTOR] shall, for contracts under (a)
27 or (b) of this section, set for each sale the period for the payment
28 of installments and the total purchase price plus interest. The
29 [DIRECTOR, WITH THE CONSENT OF THE] commissioner [,] may also include

1 in contracts under this section conditions, limitations and terms
2 considered [WHICH HE CONSIDERS] necessary and proper to protect the
3 interest of the state. Violations of any provision of this chapter or
4 the terms of the contract of sale subject the purchaser to appropriate
5 administrative and legal action, including but not limited to specific
6 performance, foreclosure, ejectment, or other legal remedies in accor-
7 dance with applicable state law.

8 * Sec. 46. AS 38.05.067(a) is amended to read:

9 (a) Except as provided in (e) of this section, before offering
10 to the general public any unoccupied residential land [LANDS], the
11 commissioner [DIRECTOR] shall offer the land at a restricted sale at
12 which only veterans may buy.

13 * Sec. 47. AS 38.05.067(b) is amended to read:

14 (b) The commissioner [DIRECTOR] shall not sell the land [LANDS]
15 under this section at less than the [THEIR] fair appraised market
16 value. The commissioner [DIRECTOR] shall adopt [MAKE] regulations
17 necessary to ensure that land [LANDS] sold under this section is [ARE]
18 for bona fide residential use and not for speculation.

19 * Sec. 48. AS 38.05.068(a) is amended to read:

20 (a) Before offering to the public any land which is subject to a
21 valid existing United States Forest Service permit in effect on the
22 day before that land is tentatively approved for patent to the state,
23 or which is subject to a lease issued under AS 38.05.087, the commis-
24 sioner [DIRECTOR] shall offer the land for sale to the permittee or a
25 [HIS] successor in title, if the permittee or a successor in title of
26 the permittee [HE] can be found.

27 * Sec. 49. AS 38.05.069 is amended to read:

28 Sec. 38.05.069. PREFERENCE TO PERSONS FOR AGRICULTURAL PURPOSES.
29 (a) On a determination [IF THE DIRECTOR DETERMINES] that the highest

1 and best use of unoccupied land is for agricultural purposes [,] and
2 [IF HE DETERMINES] that it is in the best interests of the state to
3 sell or lease the land, the commissioner [HE] shall grant to an
4 Alaskan resident owning and using or leasing and using land for
5 agricultural purposes a 60-day first option after the date o the
6 auction to purchase or lease the unoccupied land situated adjacent to
7 or in the approximate vicinity of land presently held by the Alaska
8 resident [HIS PRESENTLY HELD LAND] for the amount of the high bid
9 received at public auction. A parcel of agricultural land sold under
10 this section may not be less than 20 acres and a parcel of
11 agricultural land that [WHICH] is acquired by exercise of the option
12 granted in this subsection may not exceed 320 acres. Agricultural
13 land that [WHICH] is acquired under this section must be used for
14 agricultural purposes as required by law.

15 (b) If more than one person is eligible for a first option under
16 (a) of this section, the commissioner [DIRECTOR] shall determine
17 priority by granting precedence first to the person who demonstrates
18 the greatest need for the unoccupied land in order to establish an
19 economic unit and, secondly, to the eligible person who occupies land
20 that is most readily accessible to unoccupied land to be sold or
21 leased. In the event that two or more persons have approximately
22 equal qualifications for priority under this section, the commissioner
23 [DIRECTOR] shall grant priority to that person who is a veteran. If
24 more than one person is approximately equally well qualified under
25 this section, the commissioner [DIRECTOR] shall determine priority by
26 lot.

27 (c) Under this section

28 (1) the commissioner [DIRECTOR] may convey or lease an
29 interest in the land only for agricultural purposes, and all other

1 interests in the land remain in the state;

2 (2) the sale or lease shall be at public auction;

3 (3) [(2)] the remaining interests may subsequently be
4 conveyed or leased by the commissioner [DIRECTOR] only upon the
5 request of the grantee or lessee or the [HIS] assigns of the grantee
6 or lessee and the determination of [THE DIRECTOR, WITH THE WRITTEN
7 CONCURRENCE OF] the commissioner [,] that the conveyance or lease is
8 in the public interest;

9 (4) [(3)] the conveyance or lease of the remaining
10 interests shall be at public auction;

11 (5) the original grantee or lessee or their [HIS] assigns
12 have a preference right to meet the high bid within 30 days after the
13 day of the auction;

14 (6) if the preference right is exercised, the value of
15 improvements owned by the holder of the preference right, included
16 with the remaining interests sold, shall be deducted from the purchase
17 price;

18 (7) [(4)] by requesting the conveyance or lease of the
19 remaining interest, the original grantee or lessee or the [HIS]
20 assigns of the grantee or lessee

21 (A) consents to the sale or lease, and
22 (B) if the preference right provided by (5) [(3)] of
23 this subsection is not exercised, consents to sell at fair market
24 value the improvements related to the remaining interest, as
25 appraised by the commissioner [DIRECTOR];

26 (8) [(5)] the remaining interests in the land may not be
27 conveyed or leased for less than their appraised value together with
28 improvements except for the deduction allowed by (6) [(3)] of this
29 subsection.

1 (d) When not in conflict with this section, the [OTHER] provi-
2 sions of AS 38.05.045 - 38.05.105 apply to disposals under this sec-
3 tion.

4 (e) In [FOR THE PURPOSES OF] this section,

5 (1) "agricultural purposes" includes farming, ranching,
6 grazing, and storage or control of agricultural crops or livestock;

7 (2) "approximate vicinity" includes an area in which the
8 land does not have a common boundary to presently held land or in
9 which the land is physically separated from presently held land by any
10 type of barrier.

11 (f) Nothing in (c) of this section affects the disposal of
12 minerals under AS 38.05.135 - 38.05.183.

13 * Sec. 50. AS 38.05.070(b) is amended to read:

14 (b) The [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,]
15 shall determine the land to be leased and the limitations, conditions
16 and terms of the lease. If the appraised value of the transaction is
17 \$250 a year or less the commissioner [DIRECTOR] may negotiate a lease
18 without advertisement for a period not to exceed five years, and on
19 the limitations, conditions and terms that the commissioner [WHICH HE]
20 considers are in the best interests of the state. A lease negotiated
21 under this subsection is not eligible for a preference under
22 AS 38.05.102.

23 * Sec. 51. AS 38.05.070(c) is amended to read:

24 (c) A lease may be issued for a period up to 55 years, if it
25 appears to be in the best interests of the state [AND IF THE COMMIS-
26 SIONER APPROVES]. If the commissioner determines that the land or a
27 part of it which is the subject of a grazing lease is not being used
28 for the purpose issued, the lease may be declared void. [HOWEVER, A
29 NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO

1 EXCEED 99 YEARS.]

2 * Sec. 52. AS 38.05.075 is amended to read:

3 Sec. 38.05.075. LEASING PROCEDURES. The leasing shall be made
4 at public auction to the highest qualified bidder as determined by the
5 commissioner [DIRECTOR]. An aggrieved bidder may appeal to the com-
6 missioner within five days for a review of the [DIRECTOR'S] determina-
7 tion. When a valid existing federal grazing lease is cancelled to
8 allow state selection of the area under lease, the lessee of the land
9 [LANDS] has the preference right to lease the land [LANDS] without
10 competitive bidding for a term equal to that originally granted in the
11 cancelled federal lease and upon terms as favorable to the lessee as
12 those contained in the cancelled federal lease. The leasing shall be
13 conducted by the commissioner [DIRECTOR, OR HIS REPRESENTATIVE,] and
14 the successful bidder shall deposit the first year's rental, or that
15 portion of it which the commissioner requires, in accordance with the
16 [HIS] bid. The commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall
17 immediately issue a receipt containing a description of the land or
18 interest leased, the price bid, and terms of the lease. The receipt
19 shall be acknowledged in writing by the bidder. A lease, on a form
20 approved by the attorney general, shall be signed by the lessee and [,
21 UPON APPROVAL BY] the commissioner [, SHALL BE SIGNED BY THE DIREC-
22 TOR].

23 * Sec. 53. AS 38.05.080 is amended to read:

24 Sec. 38.05.080. REJECTION OF BIDS. Before signing [THE DIRECTOR
25 SIGNS] the lease, the commissioner may reject all bids for leases when
26 the best interest of the state justifies this action.

27 * Sec. 54. AS 38.05.082 is amended to read:

28 Sec. 38.05.082. LEASES FOR SHORE FISHERIES DEVELOPMENT. (a)
29 The [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,] may lease

1 tide and submerged land [LANDS] for fisheries development. Fisheries
2 development includes the utilization of shore gill nets or set nets
3 for the taking of fish. Every lease issued under this section shall
4 reserve to the public a right-of-way for access to navigable waters
5 and other tide and submerged land [LANDS].

6 (b) The commissioner [DIRECTOR] may classify land [LANDS] as
7 subject to leases for fisheries development, and publicly invite
8 applications for lease of the selected areas. Each application shall
9 be accompanied by an affidavit to the effect that the applicant pres-
10 ently intends to personally utilize the leased area for fishing pur-
11 poses the following season. If two or more applications are received
12 for the same shore area, the commissioner [DIRECTOR] shall award the
13 lease to the most qualified applicant. In determining the qualifica-
14 tions of applicants, the commissioner [DIRECTOR] shall consider the
15 length of time during which the applicant has been engaged in set
16 netting, the proximity of the [HIS] past fishing sites of the appli-
17 cant to the land to be leased, the [HIS] present ability of the appli-
18 cant to utilize the location to its maximum potential, and other
19 factors relevant to the equitable assignment of the disputed area. If
20 the commissioner [DIRECTOR] cannot determine a preference between
21 conflicting applicants for the same lease site on the basis of quali-
22 fications, the commissioner [HE] shall select between the applicants
23 by lot. An aggrieved applicant may appeal to the commissioner within
24 five days for a review of the [DIRECTOR'S] determination.

25 (c) A lease for set net fishing may be issued for any period not
26 exceeding 10 years. If the commissioner determines that the land is
27 not being utilized for the purpose for which the lease is issued, the
28 lease may be declared void. The commissioner [DIRECTOR] shall estab-
29 lish a reasonable rental for the lease, equal to the administrative

1 costs involved in processing the leasehold applications.

2 (d) Subleasing and renewals of leases are governed by AS 38.05.-
3 095 and AS 38.05.102.

4 (e) The lease of submerged land [LANDS] conveys no interest in
5 the water above the land or in the fish in the water.

6 * Sec. 55. AS 38.05.085(b) is amended to read:

7 (b) When it becomes necessary to determine the fair market value
8 of property as required by (a) of this section, the commissioner
9 [DIRECTOR] shall have the property appraised by a qualified appraiser.
10 If the lessee disagrees with the appraisal obtained by the commis-
11 sioner, the lessee [DIRECTOR, HE] may appoint a qualified appraiser to
12 make an appraisal of the property in question. If the two appraisers
13 agree upon the fair market value, the determination is binding on the
14 parties. In the event the two appraisers are unable to agree, they
15 shall appoint a third qualified appraiser who shall then make an [HIS]
16 appraisal of the property in question. When the third appraisal is
17 completed, the two of the three appraisals which are nearest each
18 other in their determination of the fair market value shall be av-
19 eraged and the resultant sum shall be the fair market value of the
20 property in question and absolutely binding on the parties. All costs
21 incurred in making the appraisals provided for in this subsection
22 shall be borne by the state and the lessee equally.

23 * Sec. 56. AS 38.05.085(c) is amended to read:

24 (c) The lessee shall make advance payments of the annual rent or
25 portion of it as the [DIRECTOR, WITH THE APPROVAL OF THE] commissioner
26 [.] may require.

27 * Sec. 57. AS 38.05.087(a) is amended to read:

28 (a) Before offering to the public any land for lease which is
29 subject to a valid existing United States Forest Service permit in

1 effect in a state-selected area on the day before the area was tenta-
2 tively approved for patent to the state, the commissioner [DIRECTOR]
3 shall offer the land for leasing to the permittee at not less than its
4 fair appraised market value before offering it to the general public.

5 * Sec. 58. AS 38.05.090 is amended to read:

6 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON TER-
7 MINATION OF LEASES. (a) Improvements owned by a lessee on state land
8 shall, within 60 days after the termination of the lease, be removed
9 by the lessee [HIM] if removal will not cause injury or damage to the
10 land. The commissioner [DIRECTOR] may extend the time for removing
11 improvements in cases where hardship is proven. The retiring lessee
12 or permittee may, with the consent of the commissioner [DIRECTOR],
13 sell [HIS] improvements to the succeeding lessee or permittee.

14 (b) If improvements or chattels, or both, having an appraised
15 value exceeding \$10,000 as determined by the commissioner [DIRECTOR]
16 are not removed within the time allowed, the improvements or chattels
17 or both shall, upon notice to the lessee, be sold at public sale under
18 the direction of the commissioner [DIRECTOR]. The proceeds of sale
19 inure to the lessee who placed the improvements or chattels on the
20 land after paying to the state all rents due and expenses incurred in
21 making the sale. If there are no other bidders at the sale, the
22 commissioner [DIRECTOR] may bid in the name of the state. The bid
23 money shall be taken from the fund to which the land belongs and the
24 fund shall receive all money or other value subsequently derived from
25 the sale or leasing of the improvements or chattels. The state ac-
26 quires all the rights that any other purchaser could acquire by reason
27 of the purchase.

28 (c) If improvements or chattels, or both, having an appraised
29 value of \$10,000 or less, as determined by the commissioner

1 [DIRECTOR], are not removed within the time allowed, they revert to
2 the state and absolute title vests in the state. The preference right
3 lessees of grazing or forest land [LANDS] may follow the provisions
4 for removal of improvements upon termination of the lease as autho-
5 rized in the cancelled federal lease or permit.

6 (d) Improvements of the lessee which have become fixtures of the
7 land shall be purchased by the subsequent purchaser or lessee of the
8 land if the improvements were authorized in the former lease or by
9 permit from the commissioner [DIRECTOR]. Upon the termination of a
10 lease, and at additional times which may be necessary, the value of
11 the authorized fixtures remaining on the land shall be set by agree-
12 ment between the former lessee and the commissioner [DIRECTOR] or, if
13 agreement cannot be reached, by an independent appraisal made at cost
14 to the former lessee.

15 (e) A notice or offer by the state to sell or lease formerly
16 leased land shall state

17 (1) the value of the authorized fixtures remaining on the
18 land;

19 (2) that the purchaser or lessee will be required, as a
20 condition of the sale or lease, to purchase the fixtures from the
21 former lessee for an amount equal to the value specified.

22 * Sec. 59. AS 38.05.095(a) is amended to read:

23 (a) Except as provided in (b) of this section, a lessee may
24 sublease or assign the land or a portion of it [UPON WHICH HE HAS A
25 LEASE] if, after application to the commissioner, the commissioner
26 [DIRECTOR, THE DIRECTOR] issues a permit. The commissioner [DIRECTOR]
27 may issue a permit upon a finding [IF HE FINDS] that it is in the best
28 interests of the state to do so.

29 * Sec. 60. AS 38.05.097(c) is amended to read:

1 (c) A nonprofit organization which satisfies the requirements of
2 this section that is using land under a lease in effect before July 1,
3 1978 may convert its lease to a new lease with terms exempting it from
4 the payment of rent by submitting a written request to the commis-
5 sioner [DIRECTOR].

6 * Sec. 61. AS 38.05.102 is amended to read:

7 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold
8 created under AS 38.05.070 - 38.05.105 is offered for sale or
9 long-term lease at the termination of the existing leasehold, the
10 commissioner [DIRECTOR] may, upon a finding that it is in the best
11 interest of the state, allow the holder in good standing of that
12 leasehold to purchase or lease the land for its appraised fair market
13 value at the time of the sale or long-term lease.

14 * Sec. 62. AS 38.05.103 is amended to read:

15 Sec. 38.05.103. RIGHTS OF HOLDER OF SECURITY INTEREST. (a) If
16 there is a breach or default of a term of a lease or of the provisions
17 of this chapter relating to a lease, the department [DIVISION] shall
18 provide written notice of the breach or default by personal service or
19 by registered or certified mail to the lessee and to any holder of
20 record having a security interest in the leased property. The notice
21 shall also make demand upon the lessee to cure or remedy the breach or
22 default within 60 days from the date of receipt of the notice and
23 demand. If a lessee fails to cure or remedy the breach or default
24 within 60 days, or within the additional time which the department
25 [DIVISION] may allow for good cause, the state may, subject to (b) of
26 this section, exercise any right which it may have at law or as set
27 out in the lease.

28 (b) If a lessee fails to cure or remedy a breach or default
29 within the time allowed in (a) of this section, a holder of a security

1 interest who has received notice under (a) of this section may cure or
2 remedy the breach or default if the breach or default can be cured by
3 the payment of money or, if this cannot be done, by performing or
4 undertaking in writing to perform the terms, covenants, restrictions
5 and conditions of the lease capable of performance by the holder. The
6 holder shall act within 60 days from the date of receipt of notice
7 under (a) of this section, or within an additional period as the
8 commissioner [DIRECTOR] may allow for good cause.

9 * Sec. 63. AS 38.05.105(a) is amended to read:

10 (a) Each lease shall stipulate that at the conclusion of the
11 initial 25-year period of the lease and at intervals of 10 years
12 thereafter the annual rent payment is subject to adjustment. Charges
13 or adjustments shall be based primarily on an adjusted fair market
14 value. However, if the commissioner [DIRECTOR OF THE DIVISION OF
15 LANDS] determines that single-family residential development is the
16 best use of the land, the reappraisal period may be lengthened or the
17 readjustment waived in accordance with regulations adopted by the
18 department. Before a waiver of rent adjustment is issued, the land
19 shall have a current reappraisal. A waiver is valid only if single-
20 family residential development actually occurs. The regulations
21 adopted under this section shall ensure that the state receives a fair
22 return from the land.

23 * Sec. 64. AS 38.05.110 is amended to read:

24 Sec. 38.05.110. SALE OF TIMBER AND MATERIALS. The commissioner
25 [DIRECTOR] shall provide for cruises of timber and appraisals of other
26 materials in or upon state land to determine [LANDS AND TRANSMIT THIS
27 DATA TO THE COMMISSIONER, TOGETHER WITH HIS RECOMMENDATIONS WITH
28 RESPECT TO] (1) the timber and other materials which should be offered
29 for sale, and (2) the terms of sale of the timber or other materials.