

LEG. FINANCE - 1983 BILLS - 1984 - 2065

SB 222 cont.

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1 vice rendered;

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

5 (5) have jurisdiction over state land, except that land  
6 acquired by the Alaska World War II Veterans Board and the Agricultural  
7 Loan Board or the departments or agencies succeeding to their  
8 respective functions through foreclosure or default; to this end the  
9 commissioner has the power and shall perform the duties necessary to  
10 protect the state's rights and interest in state land, including the  
11 taking of all necessary action to protect and enforce the state's  
12 contractual or other property rights;

13 (6) maintain necessary records, administer oaths, and do  
14 all things incidental to the authority imposed; the following records  
15 and files shall be kept confidential upon request of the person supplying  
16 the information;

17 (A) the name of the person nominating or applying for  
18 the sale, lease, or other disposal of land by competitive bidding;  
19

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

22 (C) all geological, geophysical and engineering data  
23 supplied, whether or not concerned with the extraction or development  
24 of natural resources;

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

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

29 (F) requests for information or applications by public

1 agencies for land which is being considered for use for a public  
2 purpose;

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

10 (8) be the certifying agent of the state to select, accept  
11 and secure by whatever action is necessary in the name of the state,  
12 by deed, sale, gift, devise, judgment, operation of law, or other  
13 means any land, of whatever nature or interest, available to the  
14 state; and

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

19 (b) The commissioner may

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

27 (2) grant a preference right to a claimant who shows bona  
28 fide improvement of state land or federal land subsequently acquired  
29 by the state and who has in good faith sought to obtain title to the

1 land but who, through error or omission of others, has been denied  
2 title to it; upon a showing satisfactory to the commissioner, the  
3 claimant may lease or purchase the land at the price set on the date  
4 of original entry on the land or, if a price was not set at that time  
5 at a price determined by the department to fairly represent the value  
6 of unimproved land at the time the claim was established, but in no  
7 event less than the cost of administration including survey; the error  
8 or omission of a predecessor in interest or an agent, administrator,  
9 or executor which has clearly prejudiced the claimant may be the basis  
10 for granting a preference right;

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

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

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

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

1 (A) the commissioner determines that it is in the best  
2 interests of the state;

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

5 (C) the commissioner and the platting authority having  
6 land use planning jurisdiction agree that conveyance of the  
7 parcel to the adjoining landowner will result in boundaries that  
8 are convenient for the use of the land by the landowner and  
9 compatible with municipal land use plans;

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

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

16 (d) A parcel of land described in (b)(6) of this section must be  
17 sold at its fair market value as determined by the commissioner on the  
18 basis of an appraisal completed as provided in AS 38.05.310. Nothing  
19 in this subsection prevents the sale of land under AS 38.05.055 or  
20 38.05.057 to a person not qualifying as an adjoining landowner if the  
21 adjoining landowner declines to purchase the land.

22 (e) Upon a written finding that the interests of the state will  
23 be best served, the commissioner may approve contracts for the sale,  
24 lease, or other disposal of available land, resources, property or  
25 interests in them, and, in addition to the conditions and limitations  
26 imposed by law, may impose additional conditions or limitations in the  
27 contracts as the commissioner determines will best serve the interests  
28 of the state. Before a public hearing, if held, or in any case no  
29 less than 21 days before the sale, lease, or other disposal of

1 available land, property, resources, or interests in them, the  
2 commissioner shall make available to the public a written finding  
3 which sets out the facts and applicable law upon which the  
4 commissioner based the determination that the sale, lease, or other  
5 disposal will best serve the interests of the state. A written  
6 finding is not required before the approval of

7 (1) a contract for a negotiated sale authorized by AS 38.-  
8 05.115;

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

11 (3) a permit or other authorization revocable by the  
12 commissioner.

13 \* Sec. 36. AS 38.05.037 is amended to read:

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

19 (b) The department [DIVISION OF LANDS] may exercise its zoning  
20 power

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

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

28 (c) Any zoning done by the department [DIVISION OF LANDS] under  
29 (b) of this section is final unless disapproved by concurrent resolu-

1 tion at the next regular session of the legislature.

2 \* Sec. 37. AS 38.05.040 is amended to read:

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

14 \* Sec. 38. AS 38.05.050 is amended to read:

15 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The  
16 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-  
17 mine the land to be disposed of for private use. The commissioner  
18 [DIRECTOR] shall determine the time and place of disposal. An auction  
19 sale, a lottery sale, or a disposal of land for homesites under  
20 AS 38.04.020(g)(2)(C) must be held in the municipality that is closest  
21 to the land to be sold or disposed of and in which regular sessions of  
22 a court of the state are held.

23 \* Sec. 39. AS 38.05.055 is amended to read:

24 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method  
25 of sale is required under this chapter, [UNDER] AS 38.07, or [UNDER]  
26 AS 38.08, the sale of state land shall be made at public auction to  
27 the highest qualified bidder as determined by the commissioner  
28 [DIRECTOR]. A bidder must appear in person at the auction unless  
29 medical reasons, attendance at school, or military service outside the

1 state prevent attendance. A bidder may be represented by an attorney  
2 or agent at the auction if the land offered for disposal is  
3 commercial, industrial, or agricultural land. An aggrieved bidder may  
4 appeal to the commissioner within five days after the sale for a  
5 review of the commissioner's [DIRECTOR'S] determination. The sale  
6 shall be conducted by the commissioner [DIRECTOR OR HIS  
7 REPRESENTATIVE], and at the time of sale the successful bidder shall  
8 deposit an amount equal to five percent of the purchase price, or if  
9 the purchaser elects to use land discounts granted under AS 38.05.058,  
10 five percent of the amount bid after deduction of the discount. The  
11 commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall immediately issue  
12 a receipt containing a description of the land or property purchased,  
13 the price bid, the amount deposited, and the amount of any discount  
14 allowed. The receipt shall be acknowledged in writing by the bidder.

15 \* Sec. 40. AS 38.05.057(e) is amended to read:

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

19 (1) the application period may not be less than 45 days;

20 (2) no application may be accepted less than 15 days before  
21 each lottery;

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

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

26 \* Sec. 41. AS 38.05.057(g) is amended to read:

27 (g) After receiving the deposit required under (a) of this  
28 section, the commissioner [DIRECTOR] shall immediately issue a receipt  
29 containing a description of the land or property to be conveyed, the

1 price of the land, and the terms of disposal. The receipt shall be  
2 acknowledged in writing by the purchaser.

3 \* Sec. 42. AS 38.05.057(i) is amended to read:

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

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

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

11 \* Sec. 43. AS 38.05.060 is amended to read:

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

17 \* Sec. 44. AS 38.05.065(c) is amended to read:

18 (c) The commissioner [DIRECTOR] shall, for contracts under (a)  
19 or (b) of this section, set for each sale the period for the payment  
20 of installments and the total purchase price plus interest. The  
21 [DIRECTOR, WITH THE CONSENT OF THE] commissioner [,] may also include  
22 in contracts under this section conditions, limitations and terms  
23 considered [WHICH HE CONSIDERS] necessary and proper to protect the  
24 interest of the state. Violations of any provision of this chapter or  
25 the terms of the contract of sale subject the purchaser to appropriate  
26 administrative and legal action, including but not limited to specific  
27 performance, foreclosure, ejectment, or other legal remedies in accor-  
28 dance with applicable state law.

29 \* Sec. 45. AS 38.05.067(a) is amended to read:

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

5 \* Sec. 46. AS 38.05.067(b) is amended to read:

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

11 \* Sec. 47. AS 38.05.068(a) is amended to read:

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

19 \* Sec. 48. AS 38.05.069 is amended to read:

20 Sec. 38.05.069. PREFERENCE TO PERSONS FOR AGRICULTURAL PURPOSES.

21 (a) On a determination [IF THE DIRECTOR DETERMINES] that the highest  
22 and best use of unoccupied land is for agricultural purposes [,] and  
23 [IF HE DETERMINES] that it is in the best interests of the state to  
24 sell or lease the land, the commissioner [HE] shall grant to an  
25 Alaskan resident owning and using or leasing and using land for  
26 agricultural purposes a 60-day first option after the date of the  
27 auction to purchase or lease the unoccupied land situated adjacent to  
28 or in the approximate vicinity of land presently held by the Alaska  
29 resident [HIS PRESENTLY HE LD LAND] for the amount of the high bid

1 received at public auction. A parcel of agricultural land sold under  
2 this section may not be less than 20 acres and a parcel of  
3 agricultural land that [WHICH] is acquired by exercise of the option  
4 granted in this subsection may not exceed 320 acres. Agricultural  
5 land that [WHICH] is acquired under this section must be used for  
6 agricultural purposes as required by law.

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

19 (c) Under this section

20 (1) the commissioner [DIRECTOR] may convey or lease an  
21 interest in the land only for agricultural purposes, and all other  
22 interests in the land remain in the state;

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

24 (3) [(2)] the remaining interests may subsequently be  
25 conveyed or leased by the commissioner [DIRECTOR] only upon the  
26 request of the grantee or lessee or the [HIS] assigns of the grantee  
27 or lessee and the determination of [THE DIRECTOR, WITH THE WRITTEN  
28 CONCURRENCE OF] the commissioner [,] that the conveyance or lease is  
29 in the public interest;

1           (4) [(3)] the conveyance or lease of the remaining  
2 interests shall be at public auction;

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

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

10           (7) [(4)] by requesting the conveyance or lease of the  
11 remaining interest, the original grantee or lessee or the [HIS]  
12 assigns of the grantee or lessee

13                   (A) consents to the sale or lease, and

14                   (B) if the preference right provided by (5) [(3)] of  
15 this subsection is not exercised, consents to sell at fair market  
16 value the improvements related to the remaining interest, as  
17 appraised by the commissioner [DIRECTOR];

18           (8) [(5)] the remaining interests in the land may not be  
19 conveyed or leased for less than their appraised value together with  
20 improvements except for the deduction allowed by (6) [(3)] of this  
21 subsection.

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

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

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

28                   (2) "approximate vicinity" includes an area in which the  
29 land does not have a common boundary to presently held land or in

1       which the land is physically separated from presently held land by any  
2       type of barrier.

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

5       \* Sec. 49. AS 38.05.070(b) is amended to read:

6       (b) The [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,]  
7       shall determine the land to be leased and the limitations, conditions  
8       and terms of the lease. If the appraised value of the transaction is  
9       \$250 a year or less the commissioner [DIRECTOR] may negotiate a lease  
10      without advertisement for a period not to exceed five years, and on  
11      the limitations, conditions and terms that the commissioner [WHICH HE]  
12      considers are in the best interests of the state. A lease negotiated  
13      under this subsection is not eligible for a preference under  
14      AS 38.05.102.

15      \* Sec. 50. AS 38.05.070(c) is amended to read:

16      (c) A lease may be issued for a period up to 55 years, if it  
17      appears to be in the best interests of the state [AND IF THE COMMIS-  
18      SIONER APPROVES]. If the commissioner determines that the land or a  
19      part of it which is the subject of a grazing lease is not being used  
20      for the purpose issued, the lease may be declared void. [HOWEVER, A  
21      NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO  
22      EXCEED 99 YEARS.]

23      \* Sec. 51. AS 38.05.075 is amended to read:

24      Sec. 38.05.075. LEASING PROCEDURES. The leasing shall be made  
25      at public auction to the highest qualified bidder as determined by the  
26      commissioner [DIRECTOR]. An aggrieved bidder may appeal to the com-  
27      missioner within five days for a review of the [DIRECTOR'S] determina-  
28      tion. When a valid existing federal grazing lease is cancelled to  
29      allow state selection of the area under lease, the lessee of the land

1 [LANDS] has the preference right to lease the land [LANDS] without  
2 competitive bidding for a term equal to that originally granted in the  
3 cancelled federal lease and upon terms as favorable to the lessee as  
4 those contained in the cancelled federal lease. The leasing shall be  
5 conducted by the commissioner [DIRECTOR, OR HIS REPRESENTATIVE,] and  
6 the successful bidder shall deposit the first year's rental, or that  
7 portion of it which the commissioner requires, in accordance with the  
8 [HIS] bid. The commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall  
9 immediately issue a receipt containing a description of the land or  
10 interest leased, the price bid, and terms of the lease. The receipt  
11 shall be acknowledged in writing by the bidder. A lease, on a form  
12 approved by the attorney general, shall be signed by the lessee and [,  
13 UPON APPROVAL BY] the commissioner [, SHALL BE SIGNED BY THE DIREC-  
14 TOR].

15 \* Sec. 52. AS 38.05.080 is amended to read:

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

19 \* Sec. 53. AS 38.05.082 is amended to read:

20 Sec. 38.05.082. LEASES FOR SHORE FISHERIES DEVELOPMENT. (a)  
21 The [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,] may lease  
22 tide and submerged land [LANDS] for fisheries development. Fisheries  
23 development includes the utilization of shore gill nets or set nets  
24 for the taking of fish. Every lease issued under this section shall  
25 reserve to the public a right-of-way for access to navigable waters  
26 and other tide and submerged land [LANDS].

27 (b) The commissioner [DIRECTOR] may classify land [LANDS] as  
28 subject to leases for fisheries development, and publicly invite  
29 applications for lease of the selected areas. Each application shall

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1 be accompanied by an affidavit to the effect that the applicant  
2 presently intends to personally utilize the leased area for fishing  
3 purposes the following season. If two or more applications are  
4 received for the same shore area, the commissioner [DIRECTOR] shall  
5 award the lease to the most qualified applicant. In determining the  
6 qualifications of applicants, the commissioner [DIRECTOR] shall  
7 consider the length of time during which the applicant has been  
8 engaged in set netting, the proximity of the [HIS] past fishing sites  
9 of the applicant to the land to be leased, the [HIS] present ability  
10 of the applicant to utilize the location to its maximum potential, and  
11 other factors relevant to the equitable assignment of the disputed  
12 area. If the commissioner [DIRECTOR] cannot determine a preference  
13 between conflicting applicants for the same lease site on the basis of  
14 qualifications, the commissioner [HE] shall select between the appli-  
15 cants by lot. An aggrieved applicant may appeal to the commissioner  
16 within five days for a review of the [DIRECTOR'S] determination.

17 (c) A lease for set net fishing may be issued for any period not  
18 exceeding 10 years. If the commissioner determines that the land is  
19 not being utilized for the purpose for which the lease is issued, the  
20 lease may be declared void. The commissioner [DIRECTOR] shall estab-  
21 lish a reasonable rental for the lease, equal to the administrative  
22 costs involved in processing the leasehold applications.

23 (d) Subleasing and renewals of leases are governed by AS 38.05.-  
24 095 and AS 38.05.102.

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

27 \* Sec. 54. AS 38.05.085(b) is amended to read:

28 (b) When it becomes necessary to determine the fair market value  
29 of property as required by (a) of this section, the commissioner

1 [DIRECTOR] shall have the property appraised by a qualified appraiser.  
2 If the lessee disagrees with the appraisal obtained by the commis-  
3 sioner, the lessee [DIRECTOR, HE] may appoint a qualified appraiser to  
4 make an appraisal of the property in question. If the two appraisers  
5 agree upon the fair market value, the determination is binding on the  
6 parties. In the event the two appraisers are unable to agree, they  
7 shall appoint a third qualified appraiser who shall then make an [HIS]  
8 appraisal of the property in question. When the third appraisal is  
9 completed, the two of the three appraisals which are nearest each  
10 other in their determination of the fair market value shall be av-  
11 eraged and the resultant sum shall be the fair market value of the  
12 property in question and absolutely binding on the parties. All costs  
13 incurred in making the appraisals provided for in this subsection  
14 shall be borne by the state and the lessee equally.

15 \* Sec. 55. AS 38.05.085(c) is amended to read:

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

19 \* Sec. 56. AS 38.05.087(a) is amended to read:

20 (a) Before offering to the public any land for lease which is  
21 subject to a valid existing United States Forest Service permit in  
22 effect in a state-selected area on the day before the area was tenta-  
23 tively approved for patent to the state, the commissioner [DIRECTOR]  
24 shall offer the land for leasing to the permittee at not less than its  
25 fair appraised market value before offering it to the general public.

26 \* Sec. 57. AS 38.05.090 is amended to read:

27 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON TER-  
28 MINATION OF LEASES. (a) Improvements owned by a lessee on state land  
29 shall, within 60 days after the termination of the lease, be removed

1 by the lessee [HIM] if removal will not cause injury or damage to the  
2 land. The commissioner [DIRECTOR] may extend the time for removing  
3 improvements in cases where hardship is proven. The retiring lessee  
4 or permittee may, with the consent of the commissioner [DIRECTOR],  
5 sell [HIS] improvements to the succeeding lessee or permittee.

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

20 (c) If improvements or chattels, or both, having an appraised  
21 value of \$10,000 or less, as determined by the commissioner [DIREC-  
22 TOR], are not removed within the time allowed, they revert to the  
23 state and absolute title vests in the state. The preference right  
24 lessees of grazing or forest land [LANDS] may follow the provisions  
25 for removal of improvements upon termination of the lease as autho-  
26 rized in the cancelled federal lease or permit.

27 (d) Improvements of the lessee which have become fixtures of the  
28 land shall be purchased by the subsequent purchaser or lessee of the  
29 land if the improvements were authorized in the former lease or by

1 permit from the commissioner [DIRECTOR]. Upon the termination of a  
2 lease, and at additional times which may be necessary, the value of  
3 the authorized fixtures remaining on the land shall be set by agree-  
4 ment between the former lessee and the commissioner [DIRECTOR] or, if  
5 agreement cannot be reached, by an independent appraisal made at cost  
6 to the former lessee.

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

9 (1) the value of the authorized fixtures remaining on the  
10 land;

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

14 \* Sec. 58. AS 38.05.095(a) is amended to read:

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

21 \* Sec. 59. AS 38.05.097(c) is amended to read:

22 (c) A nonprofit organization which satisfies the requirements of  
23 this section that is using land under a lease in effect before July 1,  
24 1978 may convert its lease to a new lease with terms exempting it from  
25 the payment of rent by submitting a written request to the commis-  
26 sioner [DIRECTOR].

27 \* Sec. 60. AS 38.05.102 is amended to read:

28 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold  
29 created under AS 38.05.070 - 38.05.105 is offered for sale or

1 long-term lease at the termination of the existing leasehold, the  
2 commissioner [DIRECTOR] may, upon a finding that it is in the best  
3 interest of the state, allow the holder in good standing of that  
4 leasehold to purchase or lease the land for its appraised fair market  
5 value at the time of the sale or long-term lease.

6 \* Sec. 61. AS 38.05.103 is amended to read:

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

20 (b) If a lessee fails to cure or remedy a breach or default  
21 within the time allowed in (a) of this section, a holder of a security  
22 interest who has received notice under (a) of this section may cure or  
23 remedy the breach or default if the breach or default can be cured by  
24 the payment of money or, if this cannot be done, by performing or  
25 undertaking in writing to perform the terms, covenants, restrictions  
26 and conditions of the lease capable of performance by the holder. The  
27 holder shall act within 60 days from the date of receipt of notice  
28 under (a) of this section, or within an additional period as the  
29 commissioner [DIRECTOR] may allow for good cause.

1 \* Sec. 62. AS 38.05.105(a) is amended to read:

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

15 \* Sec. 63. AS 38.05.110 is amended to read:

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

22 \* Sec. 64. AS 38.05.115(a) is amended to read:

23 (a) The commissioner [, UPON RECOMMENDATION OF THE DIRECTOR,]  
24 shall determine the timber and other materials to be sold, and the  
25 limitations, conditions and terms of sale. The limitations, condi-  
26 tions and terms shall include the utilization, development and mainte-  
27 nance of the sustained yield principle, subject to preference among  
28 other beneficial uses. The commissioner [DIRECTOR] may negotiate  
29 sales of timber or materials without advertisement and on the limita-

1 tions, conditions, and terms that are considered to be [WHICH HE  
2 CONSIDERS ARE] in the best interests of the state [, SUBJECT TO THE  
3 APPROVAL OF THE COMMISSIONER]. However, not more than 500 M.B.M. or  
4 equivalent other measure of timber or more than 25,000 cubic yards of  
5 materials may be sold by nonadvertised, negotiated sale to the same  
6 purchaser within a one-year period.

7 \* Sec. 65. AS 38.05.118 is amended to read:

8 Sec. 38.05.118. NEGOTIATED TIMBER SALES IN AREAS OF HIGH UNEM-  
9 PLOYMENT. (a) Notwithstanding any other provision of AS 38.05.110 -  
10 38.05.120, the [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,]  
11 may negotiate a sale of timber to a local manufacturer at appraised  
12 value. The period of a contract for a sale of timber negotiated under  
13 this section may not exceed 25 years. The contract shall provide that  
14 the appraised value of timber remaining to be harvested under the  
15 provisions of the contract shall be redetermined at least once every  
16 five years.

17 (b) Notice of intent to negotiate a contract authorized by (a)  
18 of this section shall be given in accordance with AS 38.05.345.

19 (c) No sale of timber may be negotiated by the commissioner  
20 [DIRECTOR] under this section except on a finding [UNLESS HE FIRST  
21 FINDS] that, within an area proximate to the business site which the  
22 manufacturer may economically serve, there exists

- 23 (1) a high level of local unemployment;  
24 (2) an underutilized timber manufacturing capacity; and  
25 (3) an underutilized allowable cut of state timber.

26 \* Sec. 66. AS 38.05.120 is amended to read:

27 Sec. 38.05.120. DISPOSAL PROCEDURE. Timber and other materials  
28 shall be sold either by sealed bids or public auction, depending on  
29 which method is determined by the commissioner to be in the best

1 interests of the state, to the highest qualified bidder as determined  
2 by the commissioner [DIRECTOR]. An aggrieved bidder may appeal to the  
3 commissioner within five days after the sale for a review of the  
4 [DIRECTOR'S] determination. The sale shall be conducted by the com-  
5 missioner [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale  
6 the successful bidder shall deposit the amount specified in the terms  
7 of sale. The means by which the amount of deposit is determined shall  
8 be prescribed by appropriate regulation. The commissioner [DIRECTOR  
9 OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a  
10 description of the timber or materials purchased, the price bid, and  
11 the terms of sale. The receipt shall be acknowledged in writing by  
12 the bidder. A contract of sale, on a form approved by the attorney  
13 general, shall be signed by the purchaser and [, FOLLOWING THE AP-  
14 PROVAL OF THE COMMISSIONER,] the contract shall be signed by the  
15 commissioner [DIRECTOR] on behalf of the state. The [DIRECTOR, WITH  
16 THE APPROVAL OF THE] commissioner [,] may impose conditions, limita-  
17 tions, and terms considered [WHICH HE CONSIDERS] necessary and proper  
18 to protect the interests of the state. Violation of any provision of  
19 this chapter or the terms of the contract of sale subjects the pur-  
20 chaser to appropriate legal action.

21 \* Sec. 67. AS 38.05.130 is amended to read:

22 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. No rights shall be  
23 exercised by the state, its lessees, successors or assigns under the  
24 reservation as set out in AS 38.05.125 until the state, its lessees,  
25 successors, or assigns make provision to pay the owner of the land  
26 full payment for all damages sustained by the owner, by reason of  
27 entering upon the land. If the owner for any cause refuses or ne-  
28 glects to settle the damages, the state, its lessees, successors,  
29 assigns, or an applicant for a lease or contract from the state for

1 the purpose of prospecting for valuable minerals, or option, contract  
2 or lease for mining coal or lease for extracting geothermal resources,  
3 petroleum or natural gas, may enter upon the land in the exercise of  
4 the reserved rights after posting a surety bond determined by the  
5 commissioner [DIRECTOR], after notice and an opportunity to be heard,  
6 to be sufficient as to form, amount, and security to secure to the  
7 owner payment for damages, and may institute legal proceedings in a  
8 court where the land is located, as may be necessary to determine the  
9 damages which the owner may suffer.

10 \* Sec. 68. AS 38.05.140(e) is amended to read:

11 (e) The provisions of (d) of this section that apply to waiver,  
12 suspension, refund or reduction of rental of minimum royalty apply to  
13 rental or minimum royalty paid before or after June 19, 1970 on any  
14 lease covering land beneath navigable waters which, according to the  
15 records of the department [DIVISION OF LANDS], is in effect on  
16 June 19, 1970.

17 \* Sec. 69. AS 38.05.145(a) is amended to read:

18 (a) Deposits of coal, phosphates, oil shale, sodium, potassium,  
19 oil, gas, geothermal resources and state land [LANDS] containing these  
20 deposits are subject to disposition under [RULES AND] regulations [,  
21 RECOMMENDED BY THE DIRECTOR AND] adopted by the commissioner, and the  
22 provision of AS 38.05.145 - 38.05.181. In applying the acreage limi-  
23 tations the commissioner may apply the rule of approximation. The  
24 uses of the rule of approximation made before March 31, 1960, by the  
25 commissioner are ratified.

26 \* Sec. 70. AS 38.05.185(a) is amended to read:

27 (a) The acquisition and continuance of rights in and to deposits  
28 on state land [LANDS] of minerals which on January 3, 1959, were  
29 subject to location under the mining laws of the United States shall

1 be governed by AS 38.05.185 - 38.05.280. Nothing in AS 38.05.185 -  
2 38.05.280 affects the law pertaining to the acquisition of rights to  
3 mineral deposits owned by any other person or government. The [DIREC-  
4 TOR, WITH THE APPROVAL OF THE] commissioner [,] shall determine that  
5 land [THOSE LANDS] from which mineral deposits may be mined only under  
6 lease, and, subject to the limitations of AS 38.05.300, that land  
7 [THOSE LANDS] which shall be closed to mining. State land may not be  
8 closed to mining or mineral location unless the commissioner makes a  
9 finding that mining would be incompatible with significant surface  
10 uses on the state land. State land may not be restricted to mining  
11 under lease unless the commissioner determines that potential use  
12 conflicts on the state land require that mining be allowed only under  
13 written leases issued under AS 38.05.205 or the commissioner has  
14 determined that the land was mineral in character at the time of state  
15 selection. The determinations required under this subsection shall be  
16 made in compliance with land classification orders and land use plans  
17 developed under AS 38.05.300.

18 \* Sec. 71. AS 38.05.205(a) is amended to read:

19 (a) Prior discovery, location and filing shall initiate prior  
20 rights to mineral deposits subject to AS 38.05.185 - 38.05.280 in or  
21 on state land [LANDS], other than submerged land [LANDS], which is  
22 [ARE] open to mining leasing. Locations shall be made and certifi-  
23 cates of location recorded in accordance with AS 38.05.195. If the  
24 located land is [LANDS ARE] available only for leasing, the commis-  
25 sioner [DIRECTOR] shall publish in a paper of general circulation in  
26 the area of the location, notice of the filing of the location and  
27 notice that a mineral lease will be issued. The notice may be com-  
28 bined with notices of locations either in the same general area or  
29 statewide. Unless a conflicting location exists, no later than two

1 weeks after publication of the notice, an application form for a  
2 mining lease shall be mailed to the locator by the commissioner [DI-  
3 RECTOR]. A lease application shall be filed with the commissioner  
4 [DIRECTOR] by the locator within 90 days after receipt of the form.  
5 If the located land is [LANDS ARE] not available for leasing, notice  
6 shall be given the locator by the commissioner [DIRECTOR] and the  
7 locator's prior rights shall terminate. A mining lessee has the  
8 exclusive rights of possession and extraction of all minerals subject  
9 to AS 38.05.185 - 38.05.280 lying within the boundaries of the [HIS]  
10 lease or location. Mining leases may be issued for one location or  
11 for a group of contiguous locations held in common. Minerals may not  
12 be mined and marketed or used until a lease is issued, except for  
13 limited amounts necessary for sampling or testing.

14 \* Sec. 72. AS 38.05.205(c) is amended to read:

15 (c) A mining lease shall be for any period up to 55 years, and  
16 the lessee has a right to a new lease at the end of each lease period.  
17 The commissioner may make reasonable adjustments of the rental rate at  
18 the end of each 20 year period, based upon changed conditions in  
19 production costs and markets. A valid mining claim located and held  
20 under AS 38.05.195 may be converted to a lease at any time upon appli-  
21 cation by the owner, and issuance by the commissioner [DIRECTOR]. No  
22 rights granted by a mining lease may be exercised until the lease has  
23 been filed for record in the recording district where the land is  
24 located.

25 \* Sec. 73. AS 38.05.245(a) is amended to read:

26 (a) Before the discovery of valuable minerals, an exclusive  
27 right to prospect by geophysical, geochemical and similar methods may  
28 be acquired by marking boundaries and posting a notice of location of  
29 a prospecting site in a manner and containing such information as the

1 commissioner requires. A prospecting site may not exceed 2,640 feet  
2 in its longest dimension and its boundaries shall run in the four  
3 cardinal directions. A certificate of location shall be filed for  
4 record in the recording district where the prospecting site is located  
5 within 90 days after posting the notice of location, and a copy of the  
6 certificate shall also be mailed to the commissioner [DIRECTOR] within  
7 the 90 day period. The locator of a prospecting site has the exclu-  
8 sive right to stake mining claims or leasehold locations within the  
9 boundaries of the prospecting [HIS] site.

10 \* Sec. 74. AS 38.05.245(c) is amended to read:

11 (c) No person may locate more than six prospecting sites in one  
12 calendar year in one recording district. A prospecting site remains  
13 in effect for one year after the notice of location is posted and may,  
14 at the discretion of the commissioner [DIRECTOR], be extended for one  
15 year periods. During each year, work of a type compatible with the  
16 purpose of this section and acceptable to the commissioner [DIRECTOR]  
17 shall be done. The minimum expenditure for the work shall be estab-  
18 lished by the commissioner uniformly for all prospecting sites. Where  
19 adjacent prospecting sites are held in common the expenditure may be  
20 made on any one or more locations. If a prospecting site expires,  
21 neither the locator nor a [HIS] successor in interest of the locator  
22 may again locate the same prospecting site or any portion of it, as a  
23 prospecting site, for a period of two years following the date of  
24 expiration or abandonment; nor may the locator [HE], during the two  
25 years, either directly or indirectly, obtain a beneficial interest in  
26 the same prospecting site or a portion of it.

27 \* Sec. 75. AS 38.05.250(a) is amended to read:

28 (a) The exclusive right to prospect for deposits of minerals  
29 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state

1 land [LANDS] may be granted by a permit issued by the commissioner  
2 [DIRECTOR]. Permits shall be granted to the first qualified appli-  
3 cant. No permit may include an area larger than 2,560 acres, subject  
4 to the rule of approximation. Land [LANDS] subject to a prospecting  
5 permit shall be as compact in form as possible taking into considera-  
6 tion the area involved. The term of the permit shall be seven years.  
7 Prospecting permits shall be conditioned upon payment of rental  
8 against which credit shall be given for useful expenditures on land  
9 covered by the permit or group of contiguous permits under common  
10 ownership or assignment. Excess expenditures may be applied against  
11 rentals due for the following two years. The rental shall be \$3 per  
12 acre for each year, payable at the end of each year. No minerals from  
13 land [LANDS] under a prospecting permit may be mined and marketed or  
14 used, except for limited amounts necessary for sampling or testing.  
15 No person may take or hold prospecting permits for minerals on state  
16 land under this section exceeding in the aggregate 100,000 acres. No  
17 person may take or hold leases for minerals on state land under this  
18 section exceeding in the aggregate 46,080 acres.

19 \* Sec. 76. AS 38.05.250(b) is amended to read:

20 (b) Upon discovery, the right to possess and extract the min-  
21 erals may be acquired by noncompetitive lease. A noncompetitive lease  
22 shall be granted to a holder of a prospecting permit for so much of  
23 the land subject to the permit as is shown to the satisfaction of the  
24 commissioner [DIRECTOR] to contain workable mineral deposits. Sub-  
25 merged land [LANDS] containing known deposits of minerals subject to  
26 AS 38.05.185 - 38.05.275 may, in the discretion of the commissioner  
27 [DIRECTOR], be offered by competitive bid. The land [THESE LANDS]  
28 shall be leased to the responsible qualified person offering the  
29 highest amount of cash bonus.

1 \* Sec. 77. AS 38.05.255 is amended to read:

2           Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of  
3 land or water included within mining properties by owners of those  
4 properties shall be limited to those necessary for the prospecting  
5 for, extraction of, or basic processing of mineral deposits and shall  
6 be subject to reasonable concurrent uses. Permits for millsites and  
7 tailings disposal may be granted by the commissioner [DIRECTOR]. The  
8 permits shall be conditioned upon payment of a reasonable charge for  
9 the use and continuance of the limited use. Timber from land open to  
10 mining without lease, except timberland, may be used by a mining  
11 claimant or prospecting site locator for the mining or development of  
12 the location or adjacent claims under common ownership. On other  
13 land, timber may be acquired as provided in this chapter. Use of  
14 water shall be made in accordance with AS 46.15.

15 \* Sec. 78. AS 38.05.265 is amended to read:

16           Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for  
17 record a certificate of location or a statement of annual labor, or  
18 (2) file with the commissioner [DIRECTOR] within the time prescribed a  
19 lease application or a copy of a prospecting site location certifi-  
20 cate, or (3) pay rental or receive credit for rental, or (4) keep  
21 location boundaries clearly marked, all as required by AS 38.05.185 -  
22 38.05.280 [SECS. 185 - 280 OF THIS CHAPTER] and by regulations adopted  
23 under these sections, constitutes abandonment of all rights acquired  
24 under the mining lease, location, or site involved, and it is subject  
25 to relocation by others. If a location is not relocated by another  
26 person with one year after such failure, or, in the case of a pros-  
27 pecting site, two years, the locator or claimant of the abandoned  
28 location, or the [HIS] successor in interest of the locator or claim-  
29 ant, may return to relocate it as though it had never been located. A

1 statement of annual labor which does not accurately set out the  
2 essential facts is void and of no effect.

3 \* Sec. 79. AS 38.05.270 is amended to read:

4 Sec. 38.05.270. TRANSFERS. The sale, lease or other transfer of  
5 mining property or interest in mining property shall be recorded or  
6 shall be approved by the commissioner under adopted regulations [DI-  
7 RECTOR IN COMPLIANCE WITH SUCH REGULATIONS AS THE COMMISSIONER MAY  
8 ADOPT]. The heirs and assigns of mining property or interest in  
9 mining property have the same rights and duties as their predecessors.

10 \* Sec. 80. AS 38.05.275 is amended to read:

11 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations made  
12 on state land [LANDS], including shoreland, tideland [SHORELANDS,  
13 TIDELANDS], or submerged land [LANDS], or state selected land [LANDS],  
14 under AS 38.05.185 - 38.05.280 [SECS. 185 - 280 OF THIS CHAPTER], or  
15 in the manner described in AS 27.10.010 - 27.10.240 acquire for the  
16 locator mining rights under AS 38.05.185 - 38.05.280 [SECS. 185 - 280  
17 OF THIS CHAPTER], subject to existing claims and to any denial of or  
18 restriction in the tentative approval of state selection of the patent  
19 of the land [LANDS] to the state. If shoreland, tideland [SHORELANDS,  
20 TIDELANDS] or submerged land is [LANDS ARE] included in a mining  
21 location or within the projected boundaries of a mining location made  
22 in accordance with this section, the locator is required to file a  
23 certificate of location with the department [DIVISION OF LANDS] within  
24 90 days following the date of posting the notice of location, in  
25 addition to filing a certificate of location as required by AS 38.-  
26 05.195 [SEC. 195 OF THIS CHAPTER]. The certificate of location must  
27 identify the position of the mining location in the system of rec-  
28 tangular or protracted surveys.

29 \* Sec. 81. AS 38.05.310(a) is amended to read:

1 (a) No land may be sold or leased, or a renewal lease issued,  
2 except in the case of an oil or gas or mineral lease, unless it has  
3 been appraised within 120 days before the date fixed for the sale or  
4 lease. When land is offered at public sale but is not sold and is  
5 available at private sale, no reappraisal is required unless the  
6 commissioner [DIRECTOR] considers that a change in value of the land  
7 [LANDS] may have occurred. A grazing lease may be granted to a lessee  
8 of federal grazing land [LANDS] without prior appraisal, if the [HIS]  
9 federal lease was cancelled to allow the state to select the land  
10 [LANDS] under lease. No land may be sold or leased for less than the  
11 approved, appraised market value, except as provided in AS 38.05.315,  
12 38.05.320, 38.05.057, 38.05.075 - 38.05.085 and 38.05.097.

13 \* Sec. 82. AS 38.05.315 is amended to read:

14 Sec. 38.05.315. PUBLIC AND CHARITABLE USE. (a) The lease,  
15 sale, or other disposal of state land or resources may be made to a  
16 state or federal agency or political subdivision, or the lease, sale,  
17 or disposal of coal deposits suitable for mining may be made to a  
18 utility owned and operated by a government agency or nonprofit cooper-  
19 ative association organized to participate under the Federal Rural  
20 Electrification Act for the purpose of generating electric power and  
21 energy or the production of process steam, or both, for less than the  
22 appraised value as determined by [THE DIRECTOR AND APPROVED BY] the  
23 commissioner to be fair and proper and in the best interests of the  
24 public, with due consideration given to the nature of the public  
25 services or function rendered by the agency, subdivision, or utility  
26 making application, and of the terms of the grant under which the land  
27 was acquired by the state.

28 (b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the  
29 commi::sioner [DIRECTOR], upon application filed by an applicant eli-

1 gible under (b) - (d) of this section, may, by negotiation and without  
2 public auction in the manner prescribed in (b) - (d) of this section,  
3 lease state land for a term of not more than 55 years. Before leas-  
4 ing, the commissioner [DIRECTOR] shall prepare a land use plan and a  
5 land classification to insure that the proposed use is compatible with  
6 area utilization. Before the land may be leased under (b) - (d) of  
7 this section, it must be shown to the satisfaction of the commissioner  
8 [DIRECTOR] that the land is to be used for an established or def-  
9 inately proposed project, and that the eligible applicant has the  
10 financial ability to carry out the project. The commissioner may  
11 establish limitations on the acreage which may be leased under (b) -  
12 (d) of this section to an applicant.

13 (c) Eligible applicants under (b) - (d) of this section are  
14 limited to nonprofit corporations, associations, clubs, or societies  
15 organized and operated exclusively for charitable, religious, scien-  
16 tific, or educational purposes, or for the promotion of social wel-  
17 fare, if the project for which the land is desired conforms to those  
18 objectives and not commercial development. No lease of land may be  
19 granted under this section for a project closed to the use and enjoy-  
20 ment of the general public. In every case the applicant shall submit  
21 evidence that it is exempt from payment of federal income tax. As a  
22 condition of and in consideration of the rights acquired under a lease  
23 granted under (b) - (d) of this section, each eligible organization  
24 and its parent or subsidiary organizations shall (1) maintain and  
25 preserve books, accounts, and records that the commissioner [DIRECTOR]  
26 prescribes by regulation as necessary and appropriate; and (2) accord  
27 at all reasonable times to the state and its authorized agents and  
28 auditors the right of access to those books, accounts and records for  
29 the purpose of inspecting, examining and copying them. Any informa-

1           tion provided the state in the course of an audit becomes a matter of  
2 public record.

3           (d) The commissioner [DIRECTOR] may lease the land to an eli-  
4 gible applicant at a reasonable annual rental, taking into considera-  
5 tion the purposes for which the land is to be used and the financial  
6 resources of the applicant. The rental may not be less than one  
7 percent of the fair market value on land [LANDS] acquired primarily  
8 for development, or less than five percent of the fair market value on  
9 university or acquired land [LANDS]. Rent may not be charged for  
10 state land leased for a youth encampment. For the purposes of this  
11 subsection, "youth encampment" shall be defined by the commissioner by  
12 regulation. Renewal leases may be issued at the discretion of the  
13 commissioner [DIRECTOR] upon the expiration of a primary or renewal  
14 term. Each lease shall contain a provision for its termination as to  
15 all or part of the land [LANDS] upon a finding by the commissioner  
16 [DIRECTOR] that the land or a part of it has not been used by the  
17 lessee for the purpose specified in the lease for a period of two  
18 years. No lease may be assigned or subleased except with the consent  
19 of the commissioner [DIRECTOR], and in any case may only be trans-  
20 ferred to an applicant eligible under (b) - (d) of this section. A  
21 lessee may not change the use specified in the lease to another or  
22 additional use except with the consent of the commissioner [DIRECTOR].  
23 If, at any time after the land is leased, the lessee attempts to  
24 assign the lease or transfer control over the land to another, or if  
25 the land is devoted to a use other than that for which the land was  
26 leased without the consent of the commissioner [DIRECTOR], the lease  
27 automatically terminates.

28           (e) The lease, sale, or other disposal of state land at ap-  
29 praised fair market value may be negotiated with a licensed public

1 utility or a licensed common carrier by [THE DIRECTOR WITH THE  
2 APPROVAL OF] the commissioner if the utility or carrier reasonably  
3 requires the land for the conduct of its business under its license.

4 (f) The commissioner shall lease state land for telephone or  
5 electric transmission and distribution lines for less than the ap-  
6 praised value of the land if the lessee is a nonprofit cooperative  
7 association organized under AS 10.25.010 - 10.25.650. Before deter-  
8 mining [HE DETERMINES] the annual rental, the commissioner shall  
9 consider the nature of the public service rendered by the nonprofit  
10 cooperative association and the terms of the grant under which the  
11 land was acquired by the state. A nonprofit cooperative association  
12 may not construct improvements other than transmission or distribution  
13 lines and substations on land leased under this subsection.

14 \* Sec. 13. AS 38.05.320(b) is amended to read:

15 (b) Home rule cities and cities of the first class incorporated  
16 on or before April 1, 1964, may apply, in the manner prescribed by the  
17 commissioner [DIRECTOR], and in accordance with [SUCH] regulations  
18 [AS] the commissioner [DIRECTOR] may adopt, for a conveyance to them  
19 of all land [LANDS] seaward of the home rule cities and cities of the  
20 first class which is [ARE] between the mean high tide line in, or  
21 forming the boundary of, the home rule cities and cities of the first  
22 class, and a line to be shown on a plat made a part of the application  
23 which shall be the pierhead line established under the Act of Septem-  
24 ber 7, 1957, or the harbor line established under the Act of March 3,  
25 1899, or if no pierhead line or harbor line is established then a line  
26 subject to approval by [THE DIRECTOR, WITH THE CONCURRENCE OF] the  
27 commissioner [,] which shall be seaward of all tideland [TIDELANDS]  
28 and submerged land [LANDS] occupied or suitable for occupation and  
29 development without unreasonable interference with navigation. Th

1 commissioner [DIRECTOR] shall convey that [THESE] tide and submerged  
2 land [LANDS] to home rule cities and cities of the first class.  
3 Applications by preference right claimants filed with the commissioner  
4 [DIRECTOR] before June 30, 1964, shall continue to be processed to a  
5 final determination and conveyance, if any by the commissioner [DIREC-  
6 TOR], if such preference right claimants are entitled to a conveyance  
7 from the commissioner [DIRECTOR] under the existing previous to  
8 July 22, 1964.

9 (1) Each home rule city and city of the first class granted  
10 a conveyance shall prepare an official subdivision plat of the area  
11 conveyed showing all structures and improvements and the boundaries of  
12 each tract occupied or developed, together with the name of the owner  
13 or claimant. The subdivisional plat shall include within the bound-  
14 aries of each tract occupied or developed such surrounding tide and  
15 submerged land as is [LANDS AS ARE] reasonably necessary in the opin-  
16 ion of the governing body of the home rule cities and cities of the  
17 first class for the use and enjoyment of the structures and improve-  
18 ments by the owner or claimant, but shall not include tide or sub-  
19 merged land [LANDS] which if granted to the occupant would unjustly  
20 deprive an occupant of adjoining land [LANDS] from [HIS] reasonable  
21 use and enjoyment of it [THEM].

22 (2) An occupant of land included in the conveyance to home  
23 rule cities and cities of the first class, who occupied or developed  
24 the land on and before September 7, 1957, has a class I preference  
25 right to the land [LANDS] from the home rule cities and cities of the  
26 first class upon the execution of a waiver to the state and the home  
27 rule cities and cities of the first class of all rights the occupant  
28 may have acquired under Public Law 85-303 (71 Stat. 623).

29 (3) An occupant of land included in the conveyance to home

1 rule cities and cities of the first class, who has a class II  
2 preference right by reason of the conveyance to home rule cities and  
3 cities of the first class, and is unwilling to waive the right has a  
4 preference right to the land [LANDS] which it is mandatory for the  
5 home rule cities and cities of the first class to expeditiously honor  
6 upon application from the occupant after the Secretary of the Army has  
7 submitted to the Secretary of the Interior and the governor [OF THE  
8 STATE] maps showing the pierhead line established by the corps of  
9 engineers with respect to the tract so granted.

10 (4) An occupant of land included in the conveyance to home  
11 rule cities and cities of the first class, who occupied or developed  
12 the land after September 7, 1957, and before January 3, 1959, and who  
13 continued to occupy it on January 3, 1959, has a class III preference  
14 right to the land [LANDS] from the home rule cities and cities of the  
15 first class.

16 (5) In making a conveyance to an occupant, the home rule  
17 cities and cities of the first class shall include as a part of the  
18 tract conveyed and in addition to the occupied or developed land  
19 [LANDS], such additional tide and submerged land as is [LANDS AS ARE]  
20 reasonably necessary in the opinion of the governing body of the home  
21 rule cities and cities of the first class for the occupant's use and  
22 enjoyment of the occupied or developed land, but the conveyance shall  
23 not include any area which would unjustly deprive an occupant of  
24 adjoining land [LANDS] from reasonable use and enjoyment of it [THOSE  
25 LANDS] or which, if developed, will interfere with navigation.

26 (6) Each home rule city and city of the first class receiv-  
27 ing conveyances shall by ordinance provide for reasonable regulations  
28 governing the filing and processing of applications, publication of  
29 notices, and the adjudication of disputes between claimants by the

1 governing body of the home rule cities and cities of the first class.  
2 A party aggrieved by its determination may appeal to the superior  
3 court.

4 (7) When no preference right has been granted to purchase  
5 or lease tideland [TIDELANDS], the home rule cities and cities of the  
6 first class may sell or lease the tideland [TIDELANDS] conveyed to  
7 them, and may impose terms or conditions for the sale or lease. The  
8 [SUCH] terms and conditions shall include such reservation of rights-  
9 of-way as are necessary to provide reasonable access to public waters.

10 \* Sec. 84. AS 38.05.320(c) is amended to read:

11 (c) An occupant of tide or submerged land which is not seaward  
12 of a municipal corporation, who occupied or developed it on and before  
13 [PRIOR TO] September 7, 1957, has a class I preference right to the  
14 land [LANDS] from the state. However, if the land is seaward of a  
15 surveyed townsite, the occupant shall execute a waiver to the state of  
16 all rights which the occupant [HE] may have acquired under Public Law  
17 85-303 (71 Stat. 623), before the preference right may be exercised.

18 (1) A person who has a class II preference right in the  
19 disposition of land by the state not provided for under paragraph  
20 (b)(3), and who is unwilling to waive that right, has a preference  
21 right to the land [LANDS] which it is mandatory for the commissioner  
22 [DIRECTOR] to expeditiously honor upon application from the occupant  
23 after the Secretary of the Army has submitted to the Secretary of the  
24 Interior and the governor [OF THE STATE] maps showing the pierhead  
25 line established by the corps of engineers with respect to the tract  
26 so granted.

27 (2) An occupant of tide or submerged land which is not  
28 seaward of a municipal corporation, who occupied or developed it after  
29 September 7, 1957, and before January 3, 1959, and who continued to

1 occupy it on January 3, 1959, has a class III preference right to the  
2 land [LANDS] from the state.

3 (3) The preference right: [RIGHTS HEREINABOVE] granted any  
4 occupant in (c) of this section is lost unless the occupant of tide or  
5 submerged land not seaward of a home rule or first class city makes  
6 application to the commissioner [DIRECTOR] to exercise the preference  
7 right by July 1, 1967.

8 (4) Each occupant shall [AT HIS COST] furnish at the cost  
9 of the occupant a plat showing the exterior boundaries of the tideland  
10 [TIDELANDS] and submerged land [LANDS] covered by the application, in  
11 form and with proof of accuracy as set out in regulations of the  
12 commissioner [DIRECTOR], and shall show the location and nature of all  
13 fill material, buildings, structures and improvements, which form the  
14 basis of the application and which are situated upon the tract applied  
15 for. The applicant may include within the boundaries of the tract  
16 applied for the [SUCH] surrounding tide and submerged land as is  
17 [LANDS AS ARE] reasonably necessary in the opinion of the applicant  
18 for the use and enjoyment of the structures and improvements by the  
19 occupant, but may not include any tide or submerged land [LANDS] which  
20 if granted to the occupant would unjustly deprive an occupant of  
21 adjoining land [LANDS] from [HIS] reasonable use and enjoyment of it  
22 [THEM].

23 (5) In making a conveyance to an occupant, the commissioner  
24 [DIRECTOR] shall include as a part of the tract conveyed, and in  
25 addition to the occupied or developed land [LANDS], such additional  
26 tide and submerged land as is [LANDS AS ARE] reasonably necessary in  
27 the opinion of the commissioner [DIRECTOR] for the occupant's use and  
28 enjoyment of the occupied or developed land, but the conveyance shall  
29 not include any area which would unjustly deprive an occupant of

1 adjoining land [LANDS] from reasonable use and enjoyment of it [THEM]  
2 or which, if developed will interfere with navigation.

3 (6) The commissioner [DIRECTOR] shall by regulation provide  
4 for reasonable procedures [REGULATIONS] governing the filing and  
5 processing of applications, the publication of notices and the adju-  
6 dication of disputes between claimants. A party aggrieved by an  
7 adjudication may appeal to the superior court.

8 (7) The holder of a valid corps of engineers permit issued  
9 before November 15, 1951, may be given a preference to a lease or  
10 permit by the state if justified in accordance with the policy of this  
11 chapter and if in the best interests of the state. This preference is  
12 subordinate to all other preferences recognized under this chapter.

13 \* Sec. 85. AS 38.05.321(b) is amended to read:

14 (b) State land classified as agricultural land which has been  
15 selected by a municipality under former AS 29.18.190 - 29.18.200 or  
16 29.18.205(e) may be approved by the commissioner [DIRECTOR] for patent  
17 under AS 29.18.205(f); however, only rights in the land for  
18 agricultural purposes may be transferred and all other interests in  
19 the land will remain with the state. Agricultural land approved for  
20 patent to a municipality under AS 29.18.205(f) shall be credited, acre  
21 for acre, toward fulfillment of that municipality's entitlement under  
22 AS 29.18.201 - 29.18.203. If the commissioner [DIRECTOR] later deter-  
23 mines it to be in the best interests of the state to transfer some or  
24 all of the additional rights in that approved or patented agricultural  
25 land, those rights shall pass without consideration to the municipal-  
26 ity in which the land is located. The notice and review provisions of  
27 AS [38.05.305 AND] 38.05.345 are applicable to conveyance of rights  
28 under this section.

29 \* Sec. 86. AS 38.05.323(a) is amended to read:

1 (a) Notwithstanding any other provision of law, a home rule or  
2 general law municipality which accepts by conveyance or other disposi-  
3 tion from the state a public recreation area facility developed under  
4 the terms of P.L. 507 (70 Stat. 130), upon application, shall receive  
5 by conveyance from the commissioner [DIRECTOR] all land owned by the  
6 state seaward of the public recreation area facility which is between  
7 the mean high tide line and the mean low tide line. The commissioner  
8 may adopt [DIRECTOR MAY PROMULGATE] necessary regulations providing  
9 for the conveyance of land under this section.

10 \* Sec. 87. AS 38.05.330(a) is amended to read:

11 (a) The [DIRECTOR, WITHOUT THE PRIOR APPROVAL OF THE] commis-  
12 sioner [,] may issue permits, rights-of-way or easements on state land  
13 for roads, trails, ditches, field gathering lines or transmission and  
14 distribution pipelines not subject to AS 38.35.010 - 38.35.260, tele-  
15 phone or electric transmission and distribution lines, log storage,  
16 oil well drilling sites and production facilities for the purposes of  
17 recovering minerals from adjacent land [LANDS] under valid lease, and  
18 other similar uses or improvements, or for the limited personal use of  
19 timber or materials. The commissioner [, UPON RECOMMENDATION OF THE  
20 DIRECTOR.] shall establish a reasonable rate or fee schedule to be  
21 charged for these uses, subject to the exception for nonprofit cooper-  
22 ative associations specified in (b) of this section. In the granting,  
23 suspension or revocation of a permit or easement of land [LANDS], the  
24 commissioner [DIRECTOR] shall give preference to that use of the land  
25 which will be of greatest economic benefit to the state and the devel-  
26 opment of its resources. However, first preference shall be granted  
27 to the upland owner for the use of a tract of tideland, or tideland  
28 and contiguous submerged land, which is seaward of the upland property  
29 of the upland owner and which is needed by the upland owner for any of

1 the purposes for which the use may be granted.

2 \* Sec. 88. AS 38.05.335 is amended to read:

3 Sec. 38.05.335. DEPOSITS. (a) The commissioner [DIRECTOR] may  
4 require an applicant seeking the sale, lease or other disposal of land  
5 [LANDS], other than under an oil and gas or mineral lease, to deposit  
6 an amount covering the estimated cost of an appraisal, survey and  
7 necessary advertising. All deposited funds not expended shall be  
8 refunded to the applicant. If land is [LANDS ARE] sold or leased to  
9 other than the applicant making the deposit, the party awarded the  
10 land [LANDS] shall pay the total actual cost of appraising and survey-  
11 ing the land [LANDS], together with the total actual cost of advertis-  
12 ing, and the deposit shall be returned to the original applicant.

13 (b) Except as provided in (c) of this section, if a competitive  
14 sale or lease of state land, minerals, timber or materials is to be  
15 made by sealed bid, the commissioner [DIRECTOR] may require each  
16 bidder to submit an earnest money deposit with each [HIS] bid. If the  
17 sale or lease is by public auction, the commissioner [DIRECTOR] may  
18 require each person desiring to bid to make an earnest money deposit  
19 before bidding. The earnest money deposit of the highest qualified  
20 bidder shall be applied toward the sale or lease price. If the suc-  
21 cessful bidder defaults in the payment of the amount [HIS] bid, the  
22 [HIS] deposit shall be forfeited to the state. All other earnest  
23 money deposits shall be returned unless the commissioner decides to  
24 award the contract to the second highest qualified bidder upon default  
25 by the highest bidder rather than call for new bids, in which case the  
26 commissioner may retain the deposit of the second highest qualified  
27 bidder until final disposition of the land is made. A successful  
28 bidder for a mineral lease who can prove to the satisfaction of the  
29 commissioner within 45 days after notification of the lease award that

1 there is a reasonable doubt as to the ability of the state to grant a  
2 valid lease to the land may withdraw the amount bid and have the  
3 earnest money deposit returned [MAY WITHDRAW HIS BID AND HAVE HIS  
4 EARNEST MONEY DEPOSIT RETURNED IF, WITHIN 45 DAYS AFTER NOTIFICATION  
5 OF THE LEASE AWARD, HE CAN PROVE TO THE SATISFACTION OF THE COMMIS-  
6 SIONER THAT THERE IS A REASONABLE DOUBT AS TO THE STATE'S ABILITY TO  
7 GRANT A VALID LEASE TO THE LAND].

8 (c) The commissioner shall require each bidder for the competi-  
9 tive leasing of oil and gas land [LANDS] to submit with each [HIS] bid  
10 a deposit of money equal to 20 percent of the bonus.

11 \* Sec. 89. AS 38.05.340(a) is amended to read:

12 (a) Except as provided in (b) of this section, all contracts of  
13 purchase or lease of land [LANDS] or interest in land [LANDS] may be,  
14 on the affirmative approval of the commissioner [DIRECTOR], assigned  
15 or subleased in whole or in part in writing by the contract holder or  
16 lessee, and the assignee or sublessee is subject to the provisions of  
17 laws and regulations applicable to the contract or lease.

18 \* Sec. 90. AS 38.05.348(a) is amended to read:

19 (a) The commissioner [DIRECTOR OF THE DIVISION OF LANDS] may  
20 make grants of state land to persons and municipal corporations to  
21 replace land which is rendered unusable by a natural disaster for the  
22 purposes for which it was used before the natural disaster. The  
23 commissioner [DIRECTOR] shall designate state land which is available  
24 to replace land rendered unusable.

25 \* Sec. 91. AS 38.05.348 c) is amended to read:

26 (c) An application for a grant of state land shall be filed with  
27 the commissioner [DIRECTOR], and shall contain

- 28 (1) the name and address of the applicant;  
29 (2) a legal description of the land rendered unusable;

- 1 (3) proof of ownership of the land; and  
2 (4) a statement of the purpose for which the land was used  
3 before the natural disaster rendered it unusable.

4 \* Sec. 92. AS 38.05.348(d) is amended to read:

5 (d) The commissioner [DIRECTOR] shall, within 30 days of receipt  
6 of the application, approve or disapprove the application. The com-  
7 missioner's [DIRECTOR'S] determination of eligibility for a grant of  
8 state land is final. Upon approval of [AT THE TIME HE APPROVES] the  
9 application or as soon thereafter as possible, the commissioner [DI-  
10 RECTOR] shall specify the land which shall be granted to an eligible  
11 applicant. In making the [HIS] designation the commissioner [HE]  
12 shall consider the value, size and use of the land rendered unusable  
13 as a result of the natural disaster, and shall as nearly as possible  
14 grant land of equal size or value or of equal utility.

15 \* Sec. 93. AS 38.05.349 is amended to read:

16 Sec. 38.05.349. DISPOSITION OF STATE LAND FOR FLOOD CONTROL  
17 PROJECTS. The department [DIVISION OF LANDS] may make conveyances of  
18 title or other interests in state land, provide for exchange of land,  
19 or make other arrangements with respect to state land, as necessary to  
20 meet federally established requirements of flood control projects  
21 authorized inside the state by the United States before or after  
22 June 6, 1971.

23 \* Sec. 94. AS 38.05.351 is amended to read:

24 Sec. 38.05.351. BONA FIDE PURCHASERS. No right, title, or  
25 interest of a bona fide purchaser of any lease, interest in a lease,  
26 option to acquire a lease or an interest in it, acquired after the  
27 effective date of issuance of the lease and held by a qualified per-  
28 son, association, or corporation in conformity with this chapter shall  
29 be canceled or forfeited or otherwise adversely affected by reason of

1 the fact that the holding of the person, association, or corporation  
2 from which the lease, interest, or option was acquired, or of a [HIS]  
3 predecessor in title (including the original lessee of the state) may  
4 have been canceled or forfeited, or may be or have been subject to  
5 cancellation or forfeiture. If, in any proceeding for cancellation or  
6 forfeiture, an underlying lease, interest, or option is canceled or  
7 forfeited to the state and there are valid interests therein or valid  
8 options to acquire the lease or an interest therein which are not  
9 subject to cancellation or forfeiture, the underlying lease, interest,  
10 or option shall be sold by the commissioner [DIRECTOR] to the highest  
11 responsible qualified bidder by competitive bidding under general  
12 competitive leasing regulations subject to all outstanding valid  
13 interests therein and valid options pertaining thereto. Likewise if,  
14 in any such proceeding, less than the whole interest in a lease,  
15 interest, or option is canceled or forfeited to the state, the partial  
16 interests so canceled or forfeited shall be sold by the commissioner  
17 [DIRECTOR] to the highest responsible qualified bidder under general  
18 competitive leasing regulations.

19 \* Sec. 95. AS 38.05.362(a) is amended to read:

20 (a) Notwithstanding any other provision of law, [THE DIRECTOR,  
21 WITH THE APPROVAL OF] the commissioner, in consultation with other  
22 appropriate agencies and entities, shall classify for agricultural  
23 purposes

24 (1) no less than 650,000 acres of state patented or tenta-  
25 tively approved land which is appropriate for agricultural purposes  
26 but in no event less than 50 percent of the state patented or tenta-  
27 tively approved land which on September 22, 1976 [THE EFFECTIVE DATE  
28 OF THIS ACT] has been classified as Class II or Class III in detailed  
29 soil surveys of the National Cooperative Soil Survey;

1                   (2) classification under (1) shall be completed within  
2 three years of September 22, 1976.

3 \* Sec. 96. AS 38.07.030(a) is amended to read:

4                   (a) An owner of agricultural land, or a lessee from the state of  
5 agricultural land, in the general vicinity of the land to be cleared  
6 or drained under AS 38.07.010(a) may apply to the commissioner to have  
7 the [HIS] land cleared or drained or both along with the state land.  
8 The applicant's land shall be included in the contract of land to be  
9 cleared or drained if, in the discretion of the commissioner, the  
10 inclusion is feasible and furthers the agricultural policies of the  
11 Department of Natural Resources [DIVISION].

12 \* Sec. 97. AS 38.08.010 is amended to read:

13                   Sec. 38.08.010. CLASSIFICATION OF LAND FOR HOMESITE ENTRY. (a)  
14 The commissioner [DIRECTOR] shall designate, classify and make avail-  
15 able for homesite entry state land in amounts and at times as required  
16 in AS 38.04.020 or as may otherwise be required by law.

17                   (b) Land classified as homesite entry land shall be divided into  
18 parcels not exceeding five acres in reasonably compact form, with  
19 boundaries conforming as nearly as practicable to natural geologic and  
20 topographic features. However a parcel may exceed five acres if the  
21 commissioner [DIRECTOR] determines that the larger parcel is necessary  
22 to

23                   (1) comply with local zoning ordinances; or

24                   (2) permit the design of a subdivision because of topo-  
25 graphical features, soil conditions, on-site sewage disposal require-  
26 ments, or water drainage or supply considerations unique to the sub-  
27 division.

28                   (c) Repealed.

29                   (d) The commissioner [DIRECTOR] shall, to as great an extent as

1 possible, classify land for homesite entry based upon the distribution  
2 of population in the state.

3 \* Sec. 98. AS 38.08.020 is amended to read:

4 Sec. 38.08.020. PUBLIC NOTICE. The commissioner [DIRECTOR]  
5 shall publish notice of the availability of the land in the same  
6 manner as provided in AS 38.05.345.

7 \* Sec. 99. AS 38.08.060(a) is amended to read:

8 (a) A person who enters upon homesite entry land under a permit  
9 issued by the commissioner [DIRECTOR] shall be issued a patent to the  
10 land conveying an unencumbered title if that person

11 (1) occupies the land for a cumulative total of 35 months  
12 within the seven-year period following issuance of the homesite entry  
13 permit;

14 (2) erects a habitable, permanent, single-family dwelling  
15 on the homesite, which meets all applicable state and local regula-  
16 tions, within five years of the date of issuance of the homesite entry  
17 permit; for the purposes of this paragraph, mobile homes are not  
18 considered to be permanent dwellings unless they are placed on a  
19 permanent foundation;

20 (3) reimburses the state for the survey and platting under-  
21 taken in accordance with this chapter; the commissioner [DIRECTOR]  
22 shall provide by regulation for installment payments of this  
23 requirement.

24 \* Sec. 100. AS 38.08.100 is amended to read:

25 Sec. 38.08.100. SUBSTANTIAL COMPLETION OF DWELLING. An entry  
26 permit may not be revoked for failure to erect a dwelling in the time  
27 required under AS 38.08.060(a)(2) if the commissioner [DIRECTOR] finds  
28 that erection of the dwelling has been substantially completed and  
29 progress toward completion is being made at the expiration of the time

1 required.

2 \* Sec. 101. AS 38.10.010 is amended to read:

3 Sec. 38.10.010. APPLICATION FOR TRANSFER. Upon application by a  
4 municipal corporation with a population of less than 5,000 persons  
5 according to the latest United States census entitled to a conveyance  
6 of tide and submerged land [LANDS] under AS 38.05.320(b), the commis-  
7 sioner of natural resources [DIRECTOR OF THE DIVISION OF LANDS OF THE  
8 DEPARTMENT OF NATURAL RESOURCES] may make or provide for the making of  
9 surveys that may be required for the transfer of tide and submerged  
10 land [LANDS] to the municipal corporation, and as may be required for  
11 subsequent conveyance of the tide and submerged land [LANDS] by the  
12 municipal corporations to occupants of the land [THOSE LANDS who hold  
13 preference rights When the application by the municipal corporation  
14 is accepted, the governing body of the municipal corporation shall  
15 execute a contract on a form approved by the attorney general provid-  
16 ing for the survey under the sole management and supervision of the  
17 commissioner [DIRECTOR] and for repayment according to the provisions  
18 of this chapter.

19 \* Sec. 102. AS 38.10.020 is amended to read:

20 Sec. 38.10.020. SURVEYS. The survey provided for in AS 38.10.-  
21 010 shall define the outside boundary of the land [LANDS] to be  
22 conveyed to the municipal corporation and shall, on the same or  
23 separate plats, show all structures and improvements and the  
24 boundaries of each tract occupied or developed, together with the name  
25 of the owner or claimant, and shall contain sufficient data to permit  
26 preparation of adequate legal descriptions of the tracts to be  
27 conveyed. The plats shall provide the same information as to all  
28 tracts adjoining the outside boundary of the land [LANDS] to be con-  
29 veyed to the municipal corporation. A sketch plat, sufficient for its

1 purpose in the opinion of the commissioner of natural resources  
2 [DIRECTOR], shall indicate the boundaries of each occupied or devel-  
3 oped tract as determined by the governing body of the municipal corpo-  
4 ration and the sketch plat shall be prepared and submitted to the  
5 commissioner [DIRECTOR] before actual surveying shall begin. Nothing  
6 in this chapter and nothing in a plat or sketch showing interior  
7 subdivision of the land [LANDS] to be conveyed to the municipal corpo-  
8 ration shall be construed as a determination of any preference right,  
9 nor shall it prohibit adjustment and resurvey [RE-SURVEY] of the  
10 interior subdivision.

11 \* Sec. 103. AS 38.10.030 is amended to read:

12 Sec. 38.10.030. COSTS AND EXPENSES OF SURVEYS. Money shall be  
13 appropriated from the general fund in an amount to be determined from  
14 time to time by the legislature to facilitate the [SUCH] work. Ac-  
15 counting of all costs and expenses of the surveys shall be made to the  
16 municipal corporation by the commissioner of natural resources [DIREC-  
17 TOR] periodically and a final accounting shall be made upon patent of  
18 the land [LANDS] to the municipal corporation. Costs and expenses  
19 chargeable to the city shall include the actual amount expended for  
20 the survey and a reasonable allocation of overhead, travel and equip-  
21 ment expense. The total amount of costs and expenses shall be repaid  
22 to the fund through the commissioner [DIRECTOR] by the municipal  
23 corporation for whom the survey was made, with interest at six percent  
24 a year from the date of patent. The actual cost of survey of each  
25 interior subdivision shall be determined by the commissioner [DIREC-  
26 TOR]. For tracts conveyed to a preference right holder, the state  
27 shall be reimbursed by the municipal corporation in the amount of the  
28 survey costs of that tract as determined by the commissioner [DIREC-  
29 TOR] within 30 days after the transfer of each tract. For tracts

1 conveyed, leased or otherwise disposed of by the municipal  
2 corporation, the fund shall be reimbursed by the municipal corporation  
3 in an amount equal to 90 percent of the gross proceeds of the sale,  
4 lease or other disposal of each tract until the total amount of the  
5 costs and expenses of the survey, with interest, due the state is  
6 paid. The total amount, with interest, shall be reimbursed to the  
7 state within five years from the date of patent.

8 \* Sec. 104. AS 38.10.050 is amended to read:

9       Sec. 38.10.050. REGULATIONS [RULES, REGULATIONS] AND PROCEDURES.  
10 The commissioner of natural resources [, UPON RECOMMENDATION OF THE  
11 DIRECTOR,] may establish reasonable procedures and adopt reasonable  
12 [RULES AND] regulations necessary to carry out this chapter.

13 \* Sec. 105. AS 38.35.220(c) is amended to read:

14       (c) Applications for pipeline permits which have been filed with  
15 the Department of Natural Resources [DIVISION OF LANDS] before May 20,  
16 1972 shall be considered as filed under this chapter but this does not  
17 otherwise restrict the authority of the commissioner in acting on  
18 these applications under this chapter; however, if the department  
19 [DIVISION OF LANDS] has, before May 20, 1972, granted right-of-entry  
20 to an applicant or issued a letter of no-objection to an applicant,  
21 and the applicant thereafter fully complies with all of the terms and  
22 conditions originally specified by the department [DIVISION OF LANDS]  
23 or other agency, these applications are existing valid permits or  
24 easements on May 20, 1972.

25 \* Sec. 106. AS 38.50.010 is amended to read:

26       Sec. 38.50.010. AUTHORIZATION. Subject to the requirements of  
27 this chapter, [THE DIRECTOR, WITH THE CONCURRENCE OF] the commissioner  
28 [.] is authorized to dispose of state land or interest in land by  
29 exchanging it for land, interest in land, or other consideration.

1 Exchanges shall be for the purpose of consolidating state land  
2 holdings, creating land ownership and use patterns which will permit  
3 more effective administration of the state public domain, facilitating  
4 the objectives of state programs, or other public purposes.

5 \* Sec. 107. AS 38.50.020 is amended to read:

6 Sec. 38.50.020. VALUE OF PROPERTIES EXCHANGED. (a) The land,  
7 interest in land, and other consideration which the state receives in  
8 an exchange made under this chapter shall be equal to or exceed the  
9 appraised fair market value of the land, interest in land or property  
10 exchanged by the state; however, the commissioner [DIRECTOR] may  
11 accept cash from, or pay cash to, any other party to an exchange in  
12 order to equalize the value of the property or other consideration  
13 conveyed and received by the state. If the commissioner [DIRECTOR]  
14 determines that the property to be exchanged is not equal in appraised  
15 fair market value or if the value cannot be ascertained with reason-  
16 able certainty, the commissioner [DIRECTOR] may enter into an exchange  
17 upon a finding [IF HE FINDS] that the appraised fair market value of  
18 the property to be received, together with the value of other public  
19 benefits, equals or exceeds the value of the property which the state  
20 will relinquish. An exchange for other than equal appraised fair  
21 market value is subject to legislative review as provided in AS 38.-  
22 50.140.

23 (b) An appraisal required by this section is presumed accurate  
24 and valid for a period of six months from the time the appraisal is  
25 completed. After that time, or if the commissioner [DIRECTOR] has  
26 reason to believe that the value of the appraised property has changed  
27 significantly during the original six-month period, a reappraisal of  
28 the property is required.

29 \* Sec. 108. AS 38.50.030 is amended to read:

1           Sec. 38.50.030. PARTIES. (a) The commissioner [DIRECTOR] may  
2 exchange land and interests [INTEREST] in land with a government  
3 agency, organization, corporation, individual, or other person. At  
4 the beginning of discussions concerning a proposed exchange, the  
5 commissioner [DIRECTOR] shall require proof that each party to the  
6 negotiations is the owner of, or is legally entitled to, the property  
7 which the party desires to exchange and proof that a person acting as  
8 an agent for a principal [THE PARTY] has the authority to negotiate an  
9 exchange in behalf of the [HIS] principal.

10           (b) The commissioner [DIRECTOR] may negotiate an exchange in-  
11 volving more than one party; however, in order to ascertain whether  
12 the equal value requirements of this chapter have been met, the com-  
13 missioner [DIRECTOR] shall consider only the land and other considera-  
14 tion which the state would convey and receive if the exchange were  
15 executed.

16 \* Sec. 109. AS 38.50.040 is amended to read:

17           Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise  
18 provided in this chapter, the commissioner [DIRECTOR] is authorized to  
19 convey for purposes of exchange any state land or interest in land  
20 regardless of the authority under which the land or interest was  
21 obtained by the state. The conveyance of university land shall be  
22 approved in the manner prescribed in AS 38.05.030.

23 \* Sec. 110. AS 38.50.050 is amended to read:

24           Sec. 38.50.050. CONVEYANCE OF MINERAL RIGHTS. Subject to the  
25 requirements of this chapter, the commissioner [DIRECTOR] is autho-  
26 rized to exchange mineral rights in state land to the extent that the  
27 conveyance is authorized by the state constitution and applicable  
28 federal law. The commissioner [DIRECTOR] may not exchange or receive  
29 the surface estate of land or the mineral rights in it, one without

1 the other, unless the separation of estate is necessitated by a prior  
2 separation of ownership or by restrictions in applicable law, or the  
3 commissioner [DIRECTOR] otherwise finds that the conveyance or receipt  
4 of the surface or mineral estates, one without the other, is necessary  
5 to achieve a significant public purpose.

6 \* Sec. 111. AS 38.50.060 is amended to read:

7 Sec. 38.50.060. RESERVATIONS AND COVENANTS. The commissioner  
8 [DIRECTOR] may include in any patent or other instrument issued under  
9 this chapter any reservations and covenants relating to the land which  
10 the commissioner [HE] considers necessary to protect or promote the  
11 public interest. Reservations and covenants may include, but are not  
12 limited to, those relating to access, environmental protection, and  
13 use or development rights. The commissioner [DIRECTOR] may receive  
14 land which is subject to reservations and covenants if the commis-  
15 sioner [HE] finds that the reservations and covenants are consistent  
16 with the public interest.

17 \* Sec. 112. AS 38.50.080 is amended to read:

18 Sec. 38.50.080. PROHIBITION AGAINST FUTURE CONSIDERATIONS AND  
19 ALIENATION OF SELECTION RIGHTS. (a) The commissioner [DIRECTOR] may  
20 not negotiate or enter into a land exchange agreement which requires  
21 the identification of land, interest in land, or other consideration,  
22 except for the performance of necessary survey work, at any time after  
23 the agreement is initially executed.

24 (b) The commissioner [DIRECTOR], in implementing the provisions  
25 of this chapter, may not alienate or agree not to exercise selection  
26 rights granted to the state in the Alaska Statehood Act or other  
27 applicable law authorizing the state to select land or interest in  
28 land.

29 \* Sec. 113. AS 38.50.090 is amended to read:

1           Sec. 38.50.090. COORDINATION WITH OTHER STATE AGENCIES. (a)  
2           During the negotiation of a land exchange, the commissioner [DIRECTOR]  
3           shall consult with other departments [AND OTHER DIVISIONS OF THE  
4           DEPARTMENT OF NATURAL RESOURCES] relative to matters which are within  
5           their jurisdiction. If land under the jurisdiction of a state agency  
6           other than the Department of Natural Resources may be involved in a  
7           proposed exchange, the commissioner [DIRECTOR] shall afford the head  
8           of that agency an opportunity to participate in the discussions re-  
9           specting the land.

10           (b) The commissioner [DIRECTOR] shall be afforded an opportunity  
11           to review and comment on any land exchange proposed by a state agency  
12           other than the Department of Natural Resources.

13           \* Sec. 114. AS 38.50.100 is amended to read:

14           Sec. 38.50.100. FINDING REQUIREMENT AS TO ALTERNATIVES. Before  
15           circulating notice under AS 38.50.110, the commissioner [DIRECTOR]  
16           shall consider other alternatives to achieve the objectives of the  
17           proposed exchange in an effort to determine whether the proposed  
18           exchange will best serve the public interest. In making this  
19           determination, the commissioner [DIRECTOR] shall consider, among other  
20           things, the advantages and disadvantages of acquiring the land or  
21           interest in land for the state by means of purchase, lease, or  
22           selection under the Alaska Statehood Act, or condemnation. In addi-  
23           tion, the commissioner [HE] shall consider alternatives to the dis-  
24           posal through exchange of the state land or interest in land, includ-  
25           ing, but not limited to, lease or sale.

26           \* Sec. 115. AS 38.50.110(a) is amended to read:

27           (a) Not more than 60 days nor less than 30 days before a public  
28           hearing is scheduled under AS 38.50.120 the commissioner [DIRECTOR]  
29           shall circulate a notice containing the information specified in (b)

1 of this section. The commissioner [DIRECTOR] shall

2 (1) publish or post the notice as provided in AS 38.05.345,  
3 except as otherwise specified in this section; the commissioner [  
4 THE DIRECTOR] shall publish the notice in a newspaper of general  
5 circulation in the vicinity of the land which the state will receive  
6 and in the three most populated cities of the state;

7 (2) mail the notice to any person who has filed a request  
8 for notice of proposed exchanges;

9 (3) mail the notice to each member of the legislature;

10 (4) mail the notice to each municipality the boundaries of  
11 which encompass or are located within six linear miles of land in-  
12 volved in the proposed exchange;

13 (5) circulate the notice to the Office of the Governor and  
14 to all state departments;

15 [(6) Repealed]

16 (6) [(7)] mail the notice to any corporation organized  
17 under the Alaska Native Claims Settlement Act, which corporation owns  
18 or has selected land located within a radius of 15 linear miles from  
19 land or property involved in the proposed exchange; and

20 (7) [(8)] mail the notice to any other party, including an  
21 organization of land users, that the commissioner [HE] considers  
22 appropriate.

23 \* Sec. 116. AS 38.50.120 is amended to read:

24 Sec. 38.50.120. PUBLIC HEARINGS. (a) The commissioner [DIREC-  
25 TOR] may hold as many public hearings as is considered appropriate.  
26 There shall be at least one public hearing.

27 (b) A person who desires to testify at a hearing shall be pro-  
28 vided an opportunity to do so, subject to reasonable time limits. In  
29 addition, the commissioner [DIRECTOR] shall hold the hearing record

1 open for at least two weeks following the conclusion of a hearing in  
2 order to receive supplemental or additional statements.

3 \* Sec. 117. AS 38.50.130 is amended to read:

4 Sec. 38.50.130. REPORT ON PROPOSED EXCHANGE. (a) In conjunc-  
5 tion with the public notice required by AS 38.50.110, the commissioner  
6 [DIRECTOR] shall prepare and distribute the report required by this  
7 section to the parties listed in AS 38.50.110(a)(2) - (8) and to any  
8 other party who requests it. The report shall contain, among other  
9 things, a copy of the notice required by AS 38.50.110 and a discussion  
10 in a concise format designed to facilitate public understanding of the  
11 issues of

12 (1) the physical characteristics of the land involved,  
13 including the surface and mineral resources associated with the land;

14 (2) the appraised fair market value of each tract involved  
15 in the exchange or, if the exchange is for other than equal appraised  
16 fair market value, the nonmonetary values which are involved;

17 (3) the benefits and detriments which can be expected to  
18 accrue, including possible social, economic, and environmental im-  
19 pacts; and

20 (4) alternatives to the proposed exchange.

21 (b) Upon termination of the period provided for agency and  
22 public comment, the report and the proposed land exchange may be  
23 revised, if appropriate, to reflect comments or other information  
24 which has come to the commissioner's [DIRECTOR'S] attention. A brief  
25 summary of all comments and information received shall be appended to  
26 the report.

27 \* Sec. 118. AS 38.50.140 is amended to read:

28 Sec. 38.50.140. LEGISLATIVE REVIEW. Within 10 days of the  
29 convening of a regular legislative session, the governor shall trans-

1 mit to the president of the senate and the speaker of the house of  
2 representatives any proposal for a land exchange for other than equal  
3 appraised fair market value which is scheduled to occur before the  
4 next legislative session. If [, IN HIS VIEW,] exigent circumstances  
5 seriously affecting state interests so require, the governor may  
6 submit the proposed exchange to the legislature at some other time. A  
7 finding of exigent circumstances shall be carefully documented in the  
8 letter of transmittal. The commissioner [DIRECTOR] is authorized to  
9 conclude a proposed exchange agreement unless either house of the  
10 legislature by simple resolution disapproves of the exchange within 60  
11 legislative days of transmittal by the governor. A decision by the  
12 legislature to disapprove a proposed exchange shall be accompanied by  
13 a recommendation to the governor with respect to future actions which  
14 the commissioner [DIRECTOR] should take concerning the exchange.

15 \* Sec. 119. AS 38.50.150 is amended to read:

16 Sec. 38.50.150. EXECUTION OF EXCHANGE. If a deed, contract of  
17 exchange, or other instrument of conveyance which the commissioner  
18 [DIRECTOR] receives to effectuate an exchange is properly executed,  
19 acknowledged, and authorized by the appropriate party, the commis-  
20 sioner [DIRECTOR] shall accept conveyance of title to the land and  
21 other property which the state is to receive as consideration, and  
22 [HE] shall issue a patent, contract of exchange or other instrument of  
23 conveyance to the appropriate party for the property which the commis-  
24 sioner [HE] is then obligated to convey. Before acceptance by the  
25 commissioner [DIRECTOR] of a deed, contract of exchange or other  
26 instrument, no action taken by the commissioner [HIM] or by any other  
27 state official creates a right against the state with respect to state  
28 land.

29 \* Sec. 120. AS 38.95.080(a) is amended to read:

1           (a) The commissioner of natural resources [DIRECTOR OF THE  
2 DIVISION OF LANDS] shall issue a nontransferable permit for the con-  
3 struction of a trapping cabin on state land to a person who meets the  
4 following qualifications:

5           (1) the person must have an established trapline with proof  
6 of regular use;

7           (2) the person must have a trapline of sufficient length to  
8 justify the need for cabin construction.

9 \* Sec. 121. AS 38.95.080(b) is amended to read:

10           (b) Nothing in (a) of this section prevents the commissioner  
11 [DIRECTOR] from issuing a permit to more than one qualified person for  
12 the construction and use of the same trapping cabin.

13 \* Sec. 122. AS 38.95.080(c) is amended to read:

14           (c) The commissioner [DIRECTOR] shall establish, by regulation,  
15 conditions attaching to the permit issued under (a) and (b) of this  
16 section. These conditions shall include the following:

17           (1) permits shall be issued for a period of not more than  
18 10 years, with succeeding 10-year renewal options, if periodic use and  
19 occupancy is established, and the qualifications of (a) of this sec-  
20 tion continue to be met;

21           (2) a cabin shall be constructed and maintained according  
22 to reasonable specifications established by the commissioner [DIREC-  
23 TOR]; one cabin constructed under a permit may contain not more than  
24 400 square feet; however, in no case may another cabin constructed  
25 under the same permit exceed 192 square feet;

26           (3) a permit shall specify the number of cabins allowed to  
27 be constructed and indicate their specific geographical location; the  
28 commissioner [DIRECTOR] may establish a maximum number of cabins per  
29 person or otherwise limit their number because of the probability of

1 adverse consequences;

2 (4) adequate provision must be made for waste and garbage  
3 disposal, as determined by the commissioner [DIRECTOR];

4 (5) the payment of a trapping cabin permit fee of \$10.

5 \* Sec. 123. AS 40.15.070 is amended to read:

6 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be  
7 subdivided or dedicated is situated within a first or second class  
8 borough the proposed subdivision or dedication shall be submitted to  
9 the borough planning commission for approval. If the land is situated  
10 within a city in the unorganized borough or the third class borough  
11 the proposed subdivision or dedication shall be submitted to the city  
12 planning commission for approval. The borough planning commission is  
13 the platting authority for the first or second class borough, the city  
14 planning commission is the platting authority for the city, and the  
15 Department of Natural Resources [DIVISION OF LANDS] is the platting  
16 authority in the remaining areas of the state and third class borough  
17 for the change or vacation of existing plats or a portion of such  
18 plats, as provided in AS 40.15.075. If the borough or the city does  
19 not have a planning commission, the borough assembly or the city  
20 governing body, respectively, is the platting authority and the  
21 proposed subdivision or dedication shall be submitted to it. No  
22 subdivision may be filed for record until it is approved by the  
23 platting authority.

24 \* Sec. 124. AS 40.15.075 is amended to read:

25 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGHS AND THIRD  
26 CLASS BOROUGHS. The Department of Natural Resources [DIVISION OF  
27 LANDS] is the platting authority in the area outside organized bor-  
28 oughs and outside cities in the unorganized borough and in the third  
29 class borough for only the purposes of hearing and acting on petitions

1 for the change or vacation of plats and shall execute this function  
2 substantially in conformity with the provisions of AS 29.33.210 -  
3 29.33.240. Costs of publication and mailing as well as other costs  
4 authorized in AS 29.33.210 shall be paid to the department [DIVISION]  
5 by the petitioner. The commissioner of natural resources [DEPARTMENT  
6 OF NATURAL RESOURCES] shall adopt reasonable regulations governing the  
7 exercise of the authority conferred by this section upon the depart-  
8 ment [DIVISION OF LANDS].

9 \* Sec. 125. AS 41.15.040 is amended to read:

10 Sec. 41.15.040. RIGHT OF ENTRY TO CONTROL AND SUPPRESS FIRES.  
11 Upon approval by the commissioner or an authorized agent, employees of  
12 the Department of Natural Resources [DIVISION OF LANDS], or of any  
13 organization authorized to prevent, control or suppress fires or  
14 destructive agents, and others assisting in the control or suppression  
15 of fires upon request of an officer or employee of the United States  
16 or the state may at any time enter upon any land, whether publicly or  
17 privately owned, for the purpose of preventing, suppressing or  
18 controlling forest fires and destructive agents.

19 \* Sec. 126. AS 41.17.030(a) is amended to read:

20 (a) The division shall manage state forests and, as directed by  
21 the commissioner, provide technical advice to the department [DIVISION  
22 OF LANDS] on sound forest practices necessary to ensure the continuous  
23 growing and harvesting of commercial forest species on other state  
24 land.

25 \* Sec. 127. AS 44.19.056 is amended to read:

26 Sec. 44.19.056. COMPOSITION. The State Geographic Board con-  
27 sists of the commissioner of the Department of Community and Regional  
28 Affairs, the curator of the state museum, the state historical  
29 librarian, the commissioner of the Department of Transportation and

1 Public Facilities, the commissioner of the Department of Natural  
2 Resources, the commissioner of the Department of Education, [THE  
3 DIRECTOR OF THE DIVISION OF LANDS,] and two [ONE] other persons  
4 PERSON] appointed by the governor.

5 \* Sec. 128. AS 44.62.330(a)(9) is amended to read:

6 (9) Department of Natural Resources [DIVISION OF LANDS]  
7 under the Alaska Land Act where applicable

8 \* Sec. 129. AS 45.50.235(b) is amended to read:

9 (b) Timber property which becomes state property under the  
10 provisions of this section may be sold under terms and conditions  
11 established by the commissioner [DIRECTOR OF THE DIVISION OF LANDS].

12 \* Sec. 130. AS 46.15.133(a) is amended to read:

13 (a) Upon receipt of an application, the commissioner shall  
14 prepare a notice containing the location and extent of the proposed  
15 appropriation, the name and address of the applicant and other infor-  
16 mation the commissioner [HF] considers pertinent. The notice shall  
17 state that within 15 days of publication or service of notice, persons  
18 may file with the commissioner [DIRECTOR] written objections, stating  
19 the name and address of the objector, and any facts tending to show  
20 that rights of the objector or the public interest would be adversely  
21 affected by the proposed appropriation.

22 \* Sec. 131. AS 46.15.133(b) is amended to read:

23 (b) The commissioner shall publish the notice at the applicant's  
24 expense in one issue of a newspaper of general distribution in the  
25 area of the state in which the water is to be appropriated. The  
26 commissioner shall also have notice served personally or by certified  
27 mail upon an appropriator of water or applicant for or holder of a  
28 permit who, according to the records of the Department of Natural  
29 Resources [DIVISION OF LANDS], may be affected by the proposed appro-

1        priation and may serve notice upon any governmental agency, political  
2        subdivision or person; notice shall also be served upon the Department  
3        of Fish and Game and the Department of Environmental Conservation.

4        \* Sec. 132.    AS 38.05.005 - 38.05.015; 38.05.020(a); 38.05.365(5);  
5 AS 38.50.170(2); and AS 46.15.260(7) are repealed.

6        \* Sec. 133.    This Act takes effect July 1, 1984.

COMMITTEE REPORT

SENATE

*Finance returned 1/10*

FURTHER: FINANCE

1/10/84

Date: 3-9-84

Mr. President:

The Committee on RESOURCES has had SB 222

Organization of the Department of Natural Resources, substituting references in the Alaska Statutes to the department and the commissioner for references to the division of lands; efd.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SB 222 (2d Res)  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*[Signature]*  
 \_\_\_\_\_  
*[Signature]*  
 \_\_\_\_\_  
*[Signature]*  
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*[Signature]*  
 \_\_\_\_\_  
 CHAIRMAN *[Signature]*

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-465-2400

### OFFICE OF THE COMMISSIONER

April 4, 1984

The Honorable Bob Mulcahy  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Mulcahy:

Per your request I am providing a summary position statement from the Department of Natural Resources on CSSB 375 (Res) and CSSB 222 (2nd Res), which are now before the Senate Finance Committee.


The Department, as you are aware from your experience with these bills in the Senate Resources Committee during the past two years, has worked closely with the Legislature in the drafting of both bills. We have reviewed both bills and have asked the Attorney General's Office for its review, and have no amendments to put forward.

As I stated in my testimony before the Senate Resources Committee, I support the bills. SB 375 incorporates some desirable changes affecting the Department's land offerings and land management. With these changes, the Department will comply with local and borough ordinances, provide access and improvements for most nonremote disposals, plan for land offerings in a coordinated fashion at the region and sub-region level, and offer high-quality lands with some preserved amenity values. Our ability to accomplish important land exchanges will also be enhanced.

In making these changes, it is incumbent on the Legislature and the Administration to be sure that our land offerings program remains steady and reliable. As Commissioner, I have encouraged the policy changes that are embodied in the bill because I believe that the State should be balanced and fair in its disposals, especially in carrying its own costs. However, I am constantly aware that the disposal program has gone through radical changes in past years that have left many Alaskans dissatisfied. A major objective of my disposal policy implementation has been to encourage constructive change without disrupting the program. I look forward to cooperating with the Legislature in assuring Alaskans of a stable land disposal program for future years.

Thank you for your work on this bill. Please contact me or my staff if we may be of any assistance.

Sincerely,

  
Esther C. Wunnicke  
Commissioner

cc: Senator Bettye Fahrenkamp

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800


MEMORANDUM

May 4, 1983

SUBJECT: CSSB 222 (Resources)

TO: Senator Don Bennett  
Co-Chairman, Senate Finance Committee

Senator John C. Sackett  
Co-Chairman, Senate Finance Committee

FROM: David R. Dierdorff   
Revisor of Statutes

Your committee has received CSSB 222 (Resources), which removes from the Alaska Statutes all references to the division of lands and the director of that division. References to the Department of Natural Resources and the commissioner are substituted. In some instances, sections are repealed, as they relate solely to the organization of the division and its relationship to the departments, or to the director and the director's relationship to the commissioner.

For your information, the Department of Natural Resources eliminated the division of lands through administrative action two or three years ago. Although we believe that this action should have been accomplished through an executive order or legislative enactment, the fact is that there is no longer a division of lands. Consequently, the many references to the division are misleading to the average reader of the law and it would be beneficial to amend the law to reflect reality. On the other hand, if the legislature determines that there should be a division, this bill should not be passed, and the legislature should communicate its concern about the department's action in some other manner.

Title 38, which is the title most affected by this bill, is scheduled for replacement this year. If CSSB 222 (Resources) passes during the first session, it will save

Senator Don Bennett  
Senator John C. Sackett  
Page 2  
May 4, 1983

significant printing costs and inconvenience to users of the statutes.

If you have any questions about the bill, please feel free to call me. Because of our publishing constraints, I would appreciate your prompt scheduling of the bill for hearing if you determine that it is a desirable item of legislation.

DRD:ljb  
17/027

MAR 23 1983

SB 222

STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY


POUCHY STATE CAPITAL  
JUNEAU ALASKA 998  
707 488-1800

MEMORANDUM

March 23, 1983

SUBJECT: Division of lands  
(Work Order No. 13-0968)

TO: Senator Bettye Fahrenkamp  
Chairman, Senate Resources Committee

FROM: David R. Dierdorff   
Revisor of Statutes

Enclosed is a draft bill which eliminates all statutory references to the division of lands and the director of the division, substituting the Department of Natural Resources and the commissioner of natural resources as appropriate. The draft is fairly straightforward, but there are a few items which should be called to your attention.

First, I have made a number of form and style changes to reflect current drafting styles and to insure that any amendments made by this bill are consistent with editorial work done in preparation for the replacement of the Title 38 pamphlet later this year. I have also been mindful of changes which have been proposed in CSSB 133 (Judiciary) (the revisor's bill) which was recently delivered to Senator Ray.

Second, you will note that I had to repeal and reenact AS 35.05.035 in order to end up with a rational statute.

Third, section 140 of the draft contains a policy guess, simply to place the draft before you. Obviously, you might prefer to substitute some other public official for the director on this board. The easiest, relatively neutral solution from a drafting standpoint was to allow the governor to appoint one additional member.

Finally, the repealed sections or parts of sections, which appear in the draft in numerical order rather than in the last section, are all provisions which dealt exclusively with the division or the director and were organizational or technical rather than substantive. In most cases, they

Senator Bettye Fahrenkamp  
Page 2  
March 23, 1983

merely duplicate powers already granted the commissioner or  
represent obsolete definitions.

If I can be of further assistance, please advise.

DRD:ljb

Enclosure  
11/012

Offered: 4/27/83  
Referred: Finance

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE BILL NO. 222 (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 the organization of the Depart-  
7 ment of Natural Resources, substituting references in  
8 the Alaska Statutes to the department and the commis-  
9 sioner for references to the division of lands and  
10 the director of the division of lands."

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

12 \* Section 1. AS 19.30.070 is amended to read:

13 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The com-  
14 missioner of natural resources [DIRECTOR OF THE DIVISION OF LANDS] may  
15 contract with private persons for the construction of roads to and on  
16 state land [LANDS] programmed for surface disposal which are not more  
17 than six miles from existing roads or highways.

18 \* Sec. 2. AS 19.30.080 is amended to read:

19 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTENANCE. An  
20 access road constructed under AS 19.30.060 - 19.30.100 shall be of low  
21 standard, not necessarily suitable for all weather use. The state is  
22 not under obligation to maintain an access road constructed under  
23 AS 19.30.060 - 19.30.100. If an access road is constructed outside a  
24 municipality that has zoning ordinances, the right-of-way width for  
25 the road shall be determined by the Department of Natural Resources  
26 [DIVISION OF LANDS] and the Department of Transportation and Public  
27 Facilities. If an access road is constructed within the boundaries of  
28 a municipality that has zoning ordinances, the right-of-way width  
29 shall conform to the subdivision control ordinances of the

1 municipality. Contracts for the work on an access road shall be  
2 awarded to the lowest responsible bidder qualified to contract with  
3 the state.

4 \* Sec. 3. AS 19 30.090 is amended to read:

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

19 \* Sec. 4. AS 29.18.202 is amended to read:

20 Sec. 29.18.202. DETERMINATION OF ENTITLEMENT FOR CITIES. The  
21 general grant land entitlement of a city formerly eligible to receive  
22 general grant land under the provisions of AS 29.18.190 and AS 29.18.-  
23 200, as repealed by this act, is 10 percent of the maximum total  
24 acreage of vacant, unappropriated, unreserved land within the bound-  
25 aries of each city at any time between the initial date of eligibility  
26 under former AS 29.18.190 and AS 29.18.200 and July 1, 1978. Within  
27 six months of July 1, 1978, the commissioner [DIRECTOR] shall deter-  
28 mine the entitlement for each city eligible to receive general grant  
29 land under this section and certify that entitlement to the city.

1 \* Sec. 5. AS 29.18.203(b) is amended to read:

2 (b) Within six months of the date of incorporation of a munic-  
3 ipality which is incorporated after July 1, 1978, the commissioner  
4 [DIRECTOR] shall determine the entitlement of each municipality eli-  
5 gible to receive general grant land under (a) of this section and  
6 certify the entitlement to the municipality.

7 \* Sec. 6. AS 29.18.204(c) is amended to read:

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

16 \* Sec. 7. AS 29.18.204(d) is amended to read:

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

21 \* Sec. 8. AS 29.18.205(b) is amended to read:

22 (b) All approved selections under former AS 29.18.190 and  
23 AS 29.18.200 for which patent has not been issued to a municipality on  
24 July 1, 1978 shall be reviewed by the commissioner [DIRECTOR] within  
25 nine months of July 1, 1978. Any approved selection of land which was  
26 vacant, unappropriated or unreserved on the date of selection is valid  
27 as of the date of the approval under former AS 29.18.190 and AS 29.-  
28 18.200, and a patent shall be issued to the municipality within three  
29 months after approval by the commissioner [DIRECTOR] of a plat of

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

13 \* Sec. 9. AS 29.18.205(f) is amended to read:

14 (f) The commissioner [DIRECTOR] shall approve each selection for  
15 patent within nine months of its selection by a municipality, and a  
16 patent shall be issued to the municipality for land selected in satis-  
17 faction of a general grant land entitlement vested under AS 29.18.-  
18 201 - 29.18.203 within three months after approval by the commissioner  
19 [DIRECTOR] of a plat of survey.

20 \* Sec. 10. AS 29.18.206(d) is amended to read:

21 (d) Within six months after approval of a municipal selection of  
22 school, university, or mental health land, the commissioner [DI:ECTOR]  
23 shall identify state general grant land of approximately equal value  
24 to the land requested by the municipality, and shall propose the  
25 replacement land for the concurrence of the appropriate board. If a  
26 proposal by the commissioner [DIRECTOR] is rejected by the board, the  
27 commissioner [DIRECTOR] shall meet with the board as often as neces-  
28 sary to determine the type and amount of equal value replacement land  
29 that would be required to obtain the board's concurrence, and shall

1 propose the replacement land for consideration by the board. The  
2 replacement land shall thereafter be managed for the purposes for  
3 which the land selected by the municipality was acquired by the Terri-  
4 tory and State of Alaska.

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

6 (e) The notice and review provisions of AS [38.05.305 AND]  
7 38.05.345 are applicable to the designation of other general grant  
8 land as school, university or mental health land in replacement of  
9 land selected under this section. The provisions of AS 38.50.010 -  
10 38.50.170 [AND 38.05.032] do not apply to such designations under this  
11 section. The provisions of AS 38.05.030(a) [, 38.05.030(e), AND  
12 38.05.035(a)(13)] which require the approval of the Board of Regents  
13 of the University of Alaska [RESPECTIVE TRUST BOARD] before disposal  
14 of land [LANDS] by the commissioner [DIRECTOR] do not apply to selec-  
15 tions of [SCHOOL,] university [OR MENTAL HEALTH] land by a municipal-  
16 ity under this section.

17 \* Sec. 12. AS 9.18.207(c) is amended to read:

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

27 \* Sec. 13. AS 29.18.207(d) is amended to read:

28 (d) The commissioner [DIRECTOR] may approve municipal selections  
29 of land which have been tentatively approved or patented to the state

1 by the federal government, but the commissioner [HE] may not issue  
2 patent to a municipality until the land has first been patented to the  
3 state. After approval of a selection by the commissioner [DIRECTOR],  
4 but before patent to a municipality, the municipality may execute  
5 conditional leases and make conditional sales only with the consent of  
6 the commissioner [DIRECTOR]. Conditional sales and conditional leases  
7 made before July 1, 1978 do not require the consent of the commis-  
8 sioner [DIRECTOR].

9 \* Sec. 14. AS 29.18.209 is amended to read:

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

20 \* Sec. 15. AS 29.18.210(b) is amended to read:

21 (b) Where state land is the most logical location for demon-  
22 strated municipal expansion for nonpublic settlement and development  
23 purposes, and when an exchange of land under AS 29.18.209 is not  
24 possible or is not in the public interest, it is the policy of the  
25 state to sell or lease the land at public auction. The state may  
26 contract with a municipality to act as its agent in an auction of  
27 state land under applicable statutes. When a municipality acts as the  
28 agent of the state in an auction, the municipality may retain from the  
29 proceeds of the auction the expenses which the commissioner [DIRECTOR]

1 determines to be necessary and reasonable.

2 \* Sec. 16. AS 29.18.210(c) is amended to read:

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

9 \* Sec. 17. AS 29.18.211(a) is amended to read:

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

26 \* Sec. 18. AS 29.18.213(2) is amended to read:

27 (2) "approved selection" means a municipal land selection  
28 which has been approved in writing by the commissioner [DIRECTOR] for  
29 transfer by patent to a municipality;

1 \* Sec. 19. AS 29.18.213(3) is amended to read:

2 (3) "commissioner" ["DIRECTOR"] means the commissioner  
3 [DIRECTOR] of the [DIVISION OF LANDS,] Department of Natural Re-  
4 sources, or the commissioner's [HIS] designee;

5 \* Sec. 20. AS 29.18.213(6) is amended to read:

6 (6) "municipal land selection" means a request by a munic-  
7 ipality, filed in writing with the commissioner [DIRECTOR] under  
8 authority of AS 29.18.190 and AS 29.18.200 repealed by this act or  
9 under AS 29.18.201 - 29.18.213 for vacant, unappropriated, unreserved  
10 general grant land within its municipal boundaries in partial fulfill-  
11 ment of its municipal entitlement;

12 \* Sec. 21. AS 29.18.213(8) is amended to read:

13 (8) "patent" means a document, issued by the commissioner  
14 [DIRECTOR] to a municipality for a previously approved selection,  
15 which conveys and quitclaims all the right, title and interest of the  
16 state without reservation or condition except as may be required by  
17 law;

18 \* Sec. 22. AS 30.15.040 is amended to read:

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

26 \* Sec. 23. AS 38.04.005(b) is amended to read:

27 (b) In classifying state land for private use and settlement  
28 purposes, the commissioner [DIRECTOR] shall make adequate provision  
29 for public open space which is accessible to communities so that

1 natural areas are easily reached from all communities and settled  
2 areas. The amount of that land shall be sufficient to meet existing  
3 and projected needs for accessible public recreation land. Special  
4 care shall be taken to preserve public access to public water and to  
5 retain state ownership of sufficient land which combine high value for  
6 recreation and other public purposes with accessibility to settled  
7 areas. This classification for public purposes does not constitute  
8 dedication to open space, but the department's [DIVISION'S] management  
9 of land so classified shall be in a manner to preserve the identified  
10 values.

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

12 (a) The primary public interest in conveying rights to state  
13 land surface to private parties is to make them available to individ-  
14 uals and other persons for direct use in areas classified as suitable  
15 for these purposes. In making state land available for private use,  
16 the commissioner [DIRECTOR] shall seek to guide year-round settlement  
17 to areas where public services already exist, or can be extended with  
18 reasonable economy, or where development of a viable economic base is  
19 probable.

20 \* Sec. 25. AS 38.04.025 is amended to read:

21 Sec. 38.04.025. VARIETY OF USES. In making state land available  
22 for private use, the commissioner [DIRECTOR] shall endeavor to accom-  
23 modate persons with a current need and anticipated use for the land  
24 To this end, the commissioner [DIRECTOR] shall assess the nature of  
25 the supply and demand for state land in different regions and loca-  
26 tions of the state, taking into account the supply of available land  
27 under other ownership, and shall make land available in locations and  
28 under programs suited to the differing needs of prospective users  
29 throughout the state.

1 \* Sec. 26. AS 38.04.030 is amended to read:

2       Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs which may  
3 be used by the commissioner [DIRECTOR] to make the state's land sur-  
4 face available for private use under this section include sale of  
5 whole or partial rights to the fee simple estate, including conveyance  
6 of agricultural use rights; leasing; open-to-entry; homesiting; home-  
7 steading; permitting for construction and occupation of cabins in  
8 isolated locations on land retained in state ownership; and other  
9 methods as provided by law.

10 \* Sec. 27. AS 38.04.035 is amended to read:

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

15           (1) To cover public costs associated with private land use  
16 and to provide the public with a fair return for publicly owned prop-  
17 erty, conveyance of state land to private parties should be at fair  
18 market value except where otherwise authorized by statute, or by an  
19 administrative regulation the adoption of which is specifically per-  
20 mitted by statute.

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

25           (3) Sale programs are preferred but lease programs should  
26 be used

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

- 1 (B) when the intended use is a temporary one;
- 2 (C) in commercial or industrial situations when a
- 3 leasehold can provide cash flow advantages to the lessee;
- 4 (D) when a unique location with special public values
- 5 is involved, as in a deep water port, hydroelectric site, or
- 6 aquaculture facility;
- 7 (E) where current demand for private use is high, but
- 8 projections suggest that, in the future, the land may be more
- 9 valuable for public use, as in accessible waterfront recreation
- 10 areas.

11 (4) For enabling isolated cabin development in remote

12 locations where survey and conveyance is impractical, a system for

13 cabin permits on public land may be used.

14 (5) Limited or conditional title may be granted when the

15 state's best interest so dictates. Among other things, title limita-

16 tions may include grants of agricultural interest only, retention of

17 development rights, and retention of scenic or other easements. A

18 conditional title may be tied to a development schedule or other

19 standards of performance.

20 \* Sec. 28. AS 38.04.045(b) is amended to read:

21 (b) Before the conveyance of surface rights to state land, an

22 official cadastral survey shall be accomplished, unless a comparable,

23 acceptable survey exists that has been conducted by the federal Bureau

24 of Land Management. The rectangular survey section corner positions

25 shall be monumented and shown on a cadastral survey plat approved by

26 the state. However, for those areas where the state may wish to

27 convey surface estate outside of an official cadastral survey grid,

28 the commissioner [DIRECTOR] may waive monumentation of all individual

29 section corner positions and substitute an official control survey

1 with control points being monumented at approximately two-mile inter-  
2 vals and shown on control survey plats approved by the state. No  
3 portion of land to be conveyed may be located more than two miles from  
4 such a survey control monument. The lots and tracts in state subdivi-  
5 sions shall be monumented and the cadastral survey and plats for the  
6 subdivision shall be approved by the state. Where land is located  
7 within a municipality with planning, platting, and zoning powers,  
8 plats for state subdivisions shall comply with local ordinances and  
9 regulations in the same manner and to the same extent as plats for  
10 subdivisions by other landowners. State subdivisions shall be filed  
11 in the district recorder's office. The requirements of this section  
12 do not apply to land made available through a cabin permit system,  
13 material sales, or short-term leases; however, for short-term leases  
14 the lessee must comply with local subdivision ordinances unless waived  
15 by the municipality under procedures specified by ordinance.

16 \* Sec. 29. AS 38.04.050 is amended to read:

17 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state  
18 land is surveyed for purposes of private use, adequate rights-of-way  
19 and easements shall be reserved as necessary for access and, where  
20 appropriate, for power and telephone service to each parcel of land.  
21 Where necessary and appropriate for the use intended, the commissioner  
22 [DIRECTOR] shall arrange for the development of surface access as part  
23 of the land availability program. The direct cost of local access  
24 development shall be borne by the recipient of the land unless other-  
25 wise provided by state statutes or regulations.

26 \* Sec. 30. AS 38.04.055 is amended to read:

27 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The commis-  
28 sioner [DIRECTOR] shall reserve easements and rights-of-way on and  
29 across land which is made available for private use as necessary to

1 reach or use public water and public and private land. An easement or  
2 right-of-way reserved under this section may include established  
3 trails traditionally used for commerce, recreation, or transportation.

4 \* Sec. 31. AS 38.04.900(a) is amended to read:

5 (a) The commissioner shall adopt under the Administrative Proce-  
6 dure Act (AS 44.62) regulations believed [HE BELIEVES ARE] necessary  
7 to carry out the purposes of this chapter. [WITHIN 120 DAYS AFTER THE  
8 EFFECTIVE DATE OF THIS ACT, THE DIRECTOR SHALL SUBMIT TO THE COMMIS-  
9 SIONER DRAFT REGULATIONS IMPLEMENTING THIS CHAPTER AND REVISING REGU-  
10 LATIONS IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT PERTAINING TO  
11 PLANNING, CLASSIFICATION, MANAGEMENT, AND DISPOSAL OF THE STATE'S  
12 SURFACE ESTATE IN LAND. NEW AND REVISED REGULATION SHALL BE IN E-  
13 GRATED IN A SINGLE COMPREHENSIVE DRAFT COMPATIBLE WITH THE STRUCTURE  
14 OF THE ALASKA ADMINISTRATIVE CODE. IN PREPARING THIS DRAFT, THE  
15 DIRECTOR SHALL SEEK TO SIMPLIFY AND CLARIFY REGULATIONS GOVERNING LAND  
16 PLANNING, CLASSIFICATION, MANAGEMENT, AND DISPOSAL.]

17 \* Sec. 32. AS 38.04.910(2) is amended to read:

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

20 \* Sec. 33. 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. 34. AS 33. 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. 35. AS 38.05.005 - 38.05.015 and AS 38.05.020(a) are repealed.

5 \* Sec. 36. AS 38.05.020(b)(1) is amended to read:

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 \* Sec. 37. AS 38.05.020(b)(3) is repealed.

15 \* Sec. 38. AS 38.05.030(b) is amended to read:

16 (b) The provisions of this chapter do not apply to any power,  
17 duty or authority now or in the future granted to the Department of  
18 Transportation and Public Facilities [PUBLIC WORKS AND THE DEPARTMENT  
19 OF HIGHWAYS] in the name of the state, to acquire, use, lease, dispose  
20 of, or exchange real property, or any interest in real property.  
21 Lands assigned by the department [DIVISION OF LANDS] to the Department  
22 of Transportation and Public Facilities [PUBLIC WORKS AND THE DEPART-  
23 MENT OF HIGHWAYS] shall be returned to the management of the depart-  
24 ment [DIVISION OF LANDS] when they are no longer needed for the pur-  
25 poses assigned.

26 \* Sec. 39. AS 38.05.030(c) is amended to read:

27 (c) In addition to the requirements specified in AS 38.50.090,  
28 the agencies referred to in (a) and (b) of this section and other  
29 state agencies with authority to acquire or dispose of land shall give

1 written notification of the fact of acquisition, lease or exchange to  
2 the department [DIVISION OF LANDS] within three months after the date  
3 that they make the acquisition, lease or exchange.

4 \* Sec. 40. AS 38.05.030(d) is amended to read:

5 (d) Real property acquired by, and under the management of, the  
6 agencies referred to in (a) and (b) of this section, which is no  
7 longer needed for its intended use, shall be returned to the jurisdic-  
8 tion of the department [DIVISION OF LANDS], except that the Department  
9 of Transportation and Public Facilities [HIGHWAYS] may dispose of real  
10 property acquired by it under AS 19.05.040(2) and AS 19.05.080 -  
11 19.05.120.

12 \* Sec. 41. AS 38.05.035 is repealed and reenacted to read:

13 Sec. 38.05.035. POWERS AND DUTIES OF THE COMMISSIONER. (a) The  
14 commissioner shall

15 (1) manage, inspect and control state land and improvements  
16 on it belonging to the state and under the jurisdiction of the depart-  
17 ment;

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

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

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

26 (5) have jurisdiction over state land, except that land  
27 acquired by the Alaska World War II Veterans Board and the Agricul-  
28 tural Loan Board or the departments or agencies succeeding to their  
29 respective functions through foreclosure or default; to this end the

1 commissioner has the power and shall perform the duties necessary to  
2 protect the state's rights and interest in state land, including the  
3 taking of all necessary action to protect and enforce the state's  
4 contractual or other property rights;

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

9 (A) the name of the person nominating or applying for  
10 the sale, lease, or other disposal of land by competitive bid-  
11 ding;

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

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

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

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

21 (F) requests for information or applications by public  
22 agencies for land which is being considered for use for a public  
23 purpose;

24 (7) account for the fees, licenses, taxes or other money  
25 received in the administration of this chapter including the sale or  
26 leasing of land, identify their source, and promptly transmit them to  
27 the proper fiscal department after crediting them to the proper fund;  
28 receipts from land application filing fees and charges for copies of  
29 maps and records shall be deposited immediately in the general fund of

1 the state;

2 (8) be the certifying agent of the state to select, accept  
3 and secure by whatever action is necessary in the name of the state,  
4 by deed, sale, gift, devise, judgment, operation of law, or other  
5 means any land, of whatever nature or interest, available to the  
6 state; and

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

11

12 (b) The commissioner may

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

20 (2) grant a preference right to a claimant who shows bona  
21 fide improvement of state land, or federal land subsequently acquired  
22 by the state, and who has in good faith sought to obtain title to the  
23 land but who, through error or omission of others, has been denied  
24 title to it; upon a showing satisfactory to the commissioner, the  
25 claimant may lease or purchase the land at the price set on the date  
26 of original entry on the land or, if a price was not set at that time  
27 at a price determined by the department to fairly represent the value  
28 of unimproved land at the time the claim was established, but in no  
29 event less than the cost of administration including survey; the error

1 or omission of a predecessor in interest or an agent, administrator,  
2 or executor which has clearly prejudiced the claimant may be the basis  
3 for granting a preference right;

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

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

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

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

23 (A) the commissioner determines that it is in the best  
24 interests of the state;

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

27 (C) the commissioner and the platting authority having  
28 land use planning jurisdiction agree that conveyance of the  
29 parcel to the adjoining landowner will result in boundaries that

1           are convenient for the use of the land by the landowner and  
2           compatible with municipal land use plans;

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

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

9           (d) A parcel of land described in (b)(6) of this section must be  
10          sold at its fair market value as determined by the commissioner on the  
11          basis of an appraisal completed as provided in AS 38.05.310. Nothing  
12          in this subsection prevents the sale of land under AS 38.05.055 or  
13          38.05.057 to a person not qualifying as an adjoining landowner if the  
14          adjoining landowner declines to purchase the land.

15          (e) Upon a written finding, which shall be available to the  
16          public on request, that the interests of the state will be best  
17          served, the commissioner may approve contracts for the sale, lease, or  
18          other disposal of available land, resources, property or interests in  
19          them, and, in addition to the conditions and limitations imposed by  
20          law, may impose additional conditions or limitations in the contracts  
21          as the commissioner determines will best serve the interests of the  
22          state. Before a public hearing, if held, or in any case no less than  
23          21 days before the sale, lease, or other disposal of available land,  
24          property, resources, or interests in them, the commissioner shall make  
25          available to the public a written finding which sets out the facts and  
26          applicable law upon which the commissioner based the determination  
27          that the sale, lease, or other disposal will best serve the interests  
28          of the state. A written finding is not required before the approval  
29          of

1 (1) a contract for a negotiated sale authorized by AS 38.-  
2 05.115;

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

5 (3) a permit or other authorization revocable by the de-  
6 partment.

7 \* Sec. 42. AS 38.05.037 is amended to read:

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

13 (b) The department [DIVISION OF LANDS] may exercise its zoning  
14 power

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

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

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

25 \* Sec. 43. AS 38.05.040 is amended to read:

26 Sec. 38.05.040. COMMISSIONER [DIRECTOR] SHALL BE BONDED. Before  
27 performing any [HIS] duties, the commissioner [DIRECTOR] shall execute  
28 a corporate surety bond to the state in the sum of \$150,000, condi-  
29 tioned upon the faithful performance of all [HIS] duties under this