

LEG. FINANCE - BILLS 1983 - 1984 2105

CSSB 375 cont.

2105

1 (6) "industrial and commercial land [LANDS]" means land
2 [LANDS] chiefly valuable for industrial trade, manufacturing or busi-
3 ness use;

4 (7) "lieu and indemnity land [LANDS]" means land [LANDS]
5 which the state is entitled to select under the provisions of 38 Stat.
6 1214, as amended (48 USC 353) or a similar statute to compensate for
7 land [LANDS] in place of surveyed rectangulars, which have been lost
8 to the state by reason of deficient sections, prior rights, claims,
9 withdrawals, reservations and other appropriations;

10 [(8) Repealed]

11 (8) (9)] "mineral land [LANDS]" means land [LANDS] pro-
12 spectively valuable for mineral deposits;

13 (9) "multiple use" has the meaning given in AS 38.04.910;

14 (10) "park and recreation land [LANDS]" means land [LANDS]
15 chiefly valuable for public park and recreation use;

16 (11) "preference right forest lease" means a lease granted
17 to a lessee whose United States Forest Service term special use permit
18 was cancelled to allow the land under permit to be selected by the
19 state;

20 (12) "preference right grazing lease" means a grazing lease
21 granted to a lessee whose federal grazing lease was cancelled to allow
22 the land under lease to be selected by the state;

23 (13) "rule of approximation" is the rule which is applied in
24 determining whether or not a lease complies with the area limits set
25 forth in this chapter and regulations adopted under it and in keeping
26 the boundaries of leased land [LANDS] coincidental with legal subdivi-
27 sions; under the rule, if the area covered by a lease in excess of the
28 permitted maximum is smaller than the area of any deficiency that
29 would result by eliminating from the lease the smallest legal

1 subdivision covered by the lease or application for lease, the excess
2 area will be permitted to remain in the lease; if the excess area is
3 greater than the deficient area would be, then the smallest legal
4 subdivision will be eliminated from the lease;

5 [(14) Repealed]

6 (14) "shoreland" [(15) "SHORELANDS"] means land [LANDS]
7 belonging to the state which is [ARE] covered by nontidal water
8 [WATERS] that is [ARE] navigable under the laws of the United States
9 up to ordinary high water mark as modified by accretion, erosion, or
10 reliction;

11 (15) [(16)] "state land [LANDS]" or "land" ["LANDS"] means
12 all land [LANDS], including shore, tide and submerged land [LANDS], or
13 resources belonging to or acquired by the state;

14 (16) [(17)] "submerged land [LANDS]" means land [LANDS]
15 covered by tidal water [WATERS] between the line of mean low water and
16 seaward to a distance of three geographical miles or further as may
17 hereafter be properly claimed by the state;

18 (17) "tideland" [(18) "TIDELANDS"] means land [THOSE LANDS]
19 which is [ARE] periodically covered by tidal water [WATERS] between
20 the elevation of mean high and mean low tides;

21 (18) [(19)] "timber land [LANDS]" and "material land
22 [LANDS]" mean state land [LANDS] chiefly valuable for materials,
23 including, but not limited to, sand, stone, gravel, pumice, common
24 clay, or timber and other forest products;

25 (19) [(20)] "university land [LANDS]"

26 (A) means

27 (i) all sections 33 reserved to the university
28 under 38 Stat. 1214, as amended; [(48 USC 353) AND]

29 (ii) all land [LANDS] granted to or reserved for

1 the benefit of the university that retains its designation as
2 university land;

3 (iii) all other land owned in fee by the University
4 of Alaska including land transferred in fee to the Board of
5 Regents of the University of Alaska to replace land formerly
6 designated as university land;

7 (B) does not include former university land that has
8 been conveyed to the Department of Natural Resources under the
9 settlement approved by the legislature in ch. 41, SLA 1983;

10 (20) [(21)] "grazing land [LANDS]" means land [LANDS] chief-
11 ly valuable for grazing purposes; [.]

12 (21) [(22)] "navigable water [WATERS]" means any water of
13 the state forming a river, stream, lake, pond, slough, creek, bay,
14 sound, estuary, inlet, strait, passage, canal, sea or ocean, or any
15 other body of water or waterway within the territorial limits of the
16 state or subject to its jurisdiction, that is navigable in fact for
17 any useful public purpose, including but not limited to water suitable
18 for commercial navigation, floating of logs, landing and takeoff of
19 aircraft, and public boating, trapping, hunting waterfowl and aquatic
20 animals, fishing, or other public recreational purposes;

21 (22) [(23)] "public water [WATERS]" means navigable water
22 and all other water, whether inland or coastal, fresh or salt, that is
23 reasonably suitable for public use and utility, habitat for fish and
24 wildlife in which there is a public interest, or migration and spawn-
25 ing of fish in which there is a public interest; [.]

26 (23) [(24)] "geotherma' resources" means the natural heat of
27 the earth at temperatures greater than 120 degrees Celsius, measured
28 at the point where the highest-temperature resources encountered enter
29 or contact a well or other resource extraction device, and includes

1 (A) the energy, including pressure, in whatever form
2 present in, resulting from, created by, or that may be extracted
3 from that natural heat;

4 (B) the material medium, including the geothermal
5 fluid naturally present, as well as substances artificially
6 introduced to serve as a heat transfer medium; and

7 (C) all dissolved or entrained minerals and gases that
8 may be obtained from the material medium, but excluding hydrocar-
9 bon substances and helium.

10 * Sec 49. AS 38.05 is amended by adding a new section to read:

11 Sec. 38.05.940. VETERANS' LAND DISCOUNT. (-) An eligible
12 veteran is entitled to a discount of 25 percent on the purchase price
13 of state land sold under this title and classified under AS 38.05.-
14 005 - 38.05.270 for a use other than commercial or industrial use.

15 (b) To be eligible for a discount under this section, a veteran
16 shall submit proof, as required by regulation, that the veteran

17 (1) is 18 years of age or older on the date of sale;

18 (2) has been a state resident for a period of not less than
19 one year immediately preceding the date of sale;

20 (3) has served on active duty in the U.S. Armed Forces at
21 least two years, unless tenure was shortened due to a service connect-
22 ed disability or due to receiving an early separation upon return from
23 a tour of duty overseas; and

24 (4) has received an honorable discharge or a general dis-
25 charge under honorable conditions.

26 (c) A veteran is entitled to only one discount under this sec-
27 tion during the veteran's lifetime.

28 (d) A discount under this section may be applied only to the
29 acquisition of surface rights to state land. A discount under this

1 section may not be applied to survey costs, road development costs,
2 utility assessments, or other costs that the commissioner determines
3 are reimbursable to the state.

4 (e) A discount under this section may not be used toward the
5 purchase of land offered at a restricted sale under AS 38.05.067.

6 * Sec. 50. AS 38.07.030(c) is amended to read:

7 (c) The cost of clearing land leased from the state, including
8 but not limited to school [, UNIVERSITY,] and mental health land,
9 shall be borne by the state. The lessee shall repay the cost over a
10 10-year period at five percent interest.

11 * Sec. 51. AS 38.08.040(c) is repealed and reenacted to read:

12 (c) The permit may not be assigned, conveyed, or in any manner
13 transferred except by testate or intestate succession, to a spouse
14 during marriage, by order of a court as part of a divorce settlement,
15 or to either a member of the immediate family or a grantee of the
16 applicant in the case of an extreme emergency or illness that disables
17 the applicant. An attempt to assign, convey, or in any manner trans-
18 fer the permit except as permitted by this subsection is void and
19 constitutes a substantial breach of the permit.

20 * Sec. 52. AS 38.08.060 is amended by adding a new subsection to read:

21 (e) A permit holder who meets each of the provisions of (a) of
22 this section except for (a)(1) and who tenders the commissioner an
23 amount equal to five percent of the purchase price of the land within
24 seven years of the issuance of the permit may purchase the land under
25 AS 38.05.065. The purchase price of the land is the fair market value
26 of the land at the time of purchase.

27 * Sec. 53. AS 38.09.010(b) is amended to read:

28 (b) The commissioner shall complete a cadastral survey of home-
29 stead entry state land under AS 38.04.045 before disposing of

1 [DESIGNATING THE] state land for homestead entry but the commissioner
2 may waive the cadastral survey on a determination that topographic
3 features, diffuse settlement, or the public interest do not justify or
4 require the cadastral survey. [NO PORTION OF LAND MADE AVAILABLE FOR
5 HOMESTEAD ENTRY MAY BE LOCATED MORE THAN A MILE FROM A SURVEY CONTROL
6 MONUMENT.]

7 * Sec. 54. AS 38.09.050(a) is amended to read:

8 (a) The commissioner shall issue a patent to homestead entry
9 land if the permit holder

10 (1) resides and lives on the homestead entry land for not
11 less than 25 months within five years after the issuance of the home-
12 stead entry permit;

13 (2) completes an approved survey of the land within two
14 years after the issuance of the permit or under AS 38.09.040(b);

15 (3) erects a habitable, permanent dwelling on the homestead
16 within three years after the issuance of the homestead entry permit;

17 (4) brushes the boundaries of the land within 90 days after
18 the issuance of the permit;

19 (5) clears and either puts into production or prepares for
20 cultivation either 25 percent of the land classified for agricultural
21 use or 50 percent of the land having class II or III soils, whichever
22 is less, within five years after issuance of the permit.

23 * Sec. 55. AS 38.09.090 is amended by adding a new subsection to read:

24 (b) An applicant who complies with AS 38.09.050(a)(2) - (5) and
25 who tenders the commissioner an amount equal to five percent of the
26 present fair market value of the land within five years of the issu-
27 ance of the permit may purchase the land under AS 38.05.065. The
28 purchase price is the fair market value of the land at the time of the
29 purchase.

1 * Sec. 56. AS 38.20.010 is amended to read:

2 Sec. 38.20.010. ADOPTION. The systems [SYSTEM] of rectangular
3 plane coordinates established by the National Geodetic Survey, Nation-
4 al Ocean Service [UNITED STATES COAST AND GEODETIC SURVEY] for defin-
5 ing and stating the positions or locations of points on the surface of
6 the earth in this state are [IS] adopted. The systems are [IT IS] to
7 be known as the "Alaska Coordinate System of 1927" and the "Alaska
8 Coordinate System of 1983."

9 * Sec. 57. AS 38.20.030 is amended to read:

10 Sec. 38.20.030. DESIGNATION OF ZONES. In any land description
11 in which a coordinate system [IT] is used a zone of the coordinate
12 system is designated the "Alaska Coordinate System of 1927, Zone
13 " or the "Alaska Coordinate System of 1983, Zone"

14 * Sec. 58. AS 38.20.040 is amended to read:

15 Sec. 38.20.040. USE OF COORDINATE SYSTEM. The plane coordinates
16 of a point on the earth's surface, to be used in expressing the posi-
17 tion or location of the point in the appropriate zone of this system,
18 consist of two distances, expressed in feet and decimals of a foot
19 when using the Alaska Coordinate System of 1927 and expressed in
20 meters and decimals of a meter when using the Alaska Coordinate System
21 of 1983. One of these distances, known as the "x-coordinate," gives
22 the position in an east-and-west direction; the other known as the
23 "y-coordinate" gives the position in a north-and-south direction.
24 These coordinates shall be made to depend upon and conform to the
25 coordinates of the North American Horizontal Geodetic Control Network
26 as determined by the National Geodetic Survey, National Ocean Service
27 [, ON THE ALASKA COORDINATE SYSTEM, OF THE TRIANGULATION AND TRAVERSE
28 STATIONS OF THE UNITED STATES COAST AND GEODETIC SURVEY IN THE STATE,
29 AS THOSE COORDINATES HAVE BEEN DETERMINED BY THE SURVEY].

1 * Sec. 59. AS 38.20.060 is amended to read:

2 Sec. 38.20.060. CHARACTERISTICS OF ZONES. The zones of the
3 Alaska Coordinate System of 1927 have the following characteristics:

4 (1) Zone 1 is an oblique Mercator projection of the Clarke
5 spheroid of 1866, having an origin at the intersection of parallel 57°
6 00 minutes [MINUTE] north latitude and meridian 133° 40 minutes [MI-
7 NUTE] west of Greenwich, at which the scale is set one part in 10,000
8 too small, and through which the axis of symmetry is in geodetic
9 azimuth arc tangent-3/4, reckoned clockwise from south. The origin is
10 assigned values such that all final coordinates will be positive.

11 (2) Zone 2 is a transverse Mercator projection of the
12 Clarke spheroid of 1866, having a central meridian 142° 00 minutes
13 [MINUTE] west of Greenwich, on which meridian the scale is set one
14 part in 10,000 too small. The origin of coordinates is at the inter-
15 section of the meridian 142° 00 minutes [MINUTE] west of Greenwich and
16 the parallel of 54° 00 minutes [MINUTE] north latitude. This origin
17 is given the coordinates: x = 500,000 feet and y = 0 feet.

18 (3) Zone 3 is a transverse Mercator projection of the
19 Clarke spheroid of 1866, having a central meridian 146° 00 minutes
20 [MINUTE] west of Greenwich, on which meridian the scale is set at one
21 part in 10,000 too small. The origin of coordinates is at the inter-
22 section of the meridian 146° 00 minutes [MINUTE] west of Greenwich and
23 the parallel 54° 00 minutes [MINUTE] north latitude. This origin is
24 given the coordinates: x = 500,000 feet and y = 0 feet.

25 (4) Zone 4 is a transverse Mercator projection of the
26 Clarke spheroid of 1866, having a central meridian 150° 00 minutes
27 [MINUTE] west of Greenwich, on which meridian the scale is set at one
28 part in 10,000 too small. The origin of coordinates is at the inter-
29 section of the meridian 150° 00 minutes [MINUTE] west of Greenwich and

1 the parallel $54^{\circ} 00$ minutes [MINUTE] north latitude. This origin is
2 given the coordinates: $x = 500,000$ feet and $y = 0$ feet.

3 (5) Zone 5 is a transverse Mercator projection of the
4 Clarke spheroid of 1866, having a central meridian $154^{\circ} 00$ minutes
5 [MINUTE] west of Greenwich, on which meridian the scale is set at one
6 part in 10,000 too small. The origin of coordinates is at the inter-
7 section of the meridian $154^{\circ} 00$ minutes [MINUTE] west of Greenwich and
8 the parallel $54^{\circ} 00$ minutes [MINUTE] north latitude. This origin is
9 given the coordinates: $x = 500,000$ feet and $y = 0$ feet.

10 (6) Zone 6 is a transverse Mercator projection of the
11 Clarke spheroid of 1866, having a central meridian $158^{\circ} 00$ minutes
12 [MINUTE] west of Greenwich, on which meridian the scale is set at one
13 part in 10,000 too small. The origin of coordinates is at the inter-
14 section of the meridian $158^{\circ} 00$ minutes [MINUTE] west of Greenwich and
15 the parallel $54^{\circ} 00$ minutes [MINUTE] north latitude. This origin is
16 given the coordinates: $x = 500,000$ feet and $y = 0$ feet.

17 (7) Zone 7 is a transverse Mercator projection of the
18 Clarke spheroid of 1866, having a central meridian $162^{\circ} 00$ minutes
19 [MINUTE] west of Greenwich, on which meridian the scale is set at one
20 part in 10,000 too small. The origin of coordinates is at the inter-
21 section of the meridian $162^{\circ} 00$ minutes [MINUTE] west of Greenwich and
22 the parallel $54^{\circ} 00$ minutes [MINUTE] north latitude. This origin is
23 given the coordinates: $x = 700,000$ feet and $y = 0$ feet.

24 (8) Zone 8 is a transverse Mercator projection of the
25 Clarke spheroid of 1866, having a central meridian $166^{\circ} 00$ minutes
26 [MINUTE] west of Greenwich, on which meridian the scale is set at one
27 part in 10,000 too small. The origin of coordinates is at the inter-
28 section of the meridian 166° west of Greenwich and the parallel $54^{\circ} 00$
29 minutes [MINUTE] north latitude. This origin is given the

1 coordinates: $x = 500,000$ feet and $y = 0$ feet.

2 (9) Zone 9 is a transverse Mercator projection of the
3 Clarke spheroid of 1866, having a central meridian $170^{\circ} 00$ minutes
4 [MINUTE] west of Greenwich, on which meridian the scale is set at one
5 part in 10,000 too small. The origin of coordinates is at the inter-
6 section of the meridian $170^{\circ} 00$ minutes [MINUTE] west of Greenwich and
7 the parallel $54^{\circ} 00$ minutes [MINUTE] north latitude. This origin is
8 given the coordinates: $x = 600,000$ feet and $y = 0$ feet.

9 (10) Zone 10 is a Lambert conformal conic projection of the
10 Clarke spheroid of 1866, having standard parallels at north latitude
11 $51^{\circ} 50$ minutes [MINUTE] and $53^{\circ} 50$ minutes, along which parallels
12 the scale shall be exact. The origin of coordinates is at the inter-
13 section of the meridian $176^{\circ} 00$ minutes [MINUTE] west of Greenwich and
14 the parallel $51^{\circ} 00$ minutes [MINUTE] north latitude. This origin is
15 given the coordinates: $x = 3,000,000$ feet and $y = 0$ feet.

16 * Sec. 60. AS 38.20.060 is amended by adding a new subsection to read:

17 (b) The zones of the Alaska Coordinate System of 1983 have the
18 following characteristics:

19 (1) Zone 1 is an oblique Mercator projection of the World
20 Reference Ellipsoid, having an origin at the intersection of parallel
21 $57^{\circ} 00$ minutes north latitude and meridian $133^{\circ} 40$ minutes west of
22 Greenwich, at which the scale is set one part in 10,000 too small, and
23 through which the axis of symmetry is in geodetic azimuth arc tan-
24 gent- $3/4$, reckoned clockwise from south. The origin is assigned
25 values such that all final coordinates will be positive.

26 (2) Zone 2 is a transverse Mercator projection of the World
27 Reference Ellipsoid, having a central meridian $142^{\circ} 00$ minutes west of
28 Greenwich, on which meridian the scale is set one part in 10,000 too
29 small. The origin of coordinates is at the intersection of the

1 meridian 142° 00 minutes west of Greenwich and the parallel of 54° 00
2 minutes north latitude. This origin is given the coordinates: x =
3 500,000 meters and y = 0 meters.

4 (3) Zone 3 is a transverse Mercator projection of the World
5 Reference Ellipsoid, having a central meridian 146° 00 minutes west of
6 Greenwich, on which meridian the scale is set at one part in 10,000
7 too small. The origin of coordinates is at the intersection of the
8 meridian 146° 00 minutes west of Greenwich and the parallel 54° 00
9 minutes north latitude. This origin is given the coordinates: x =
10 500,000 meters and y = 0 meters.

11 (4) Zone 4 is a transverse Mercator projection of the World
12 Reference Ellipsoid, having a central meridian 150° 00 minutes west of
13 Greenwich, on which meridian the scale is set at one part in 10,000
14 too small. The origin of coordinates is at the intersection of the
15 meridian 150° 00 minutes west of Greenwich and the parallel 54° 00
16 minutes north latitude. This origin is given the coordinates: x =
17 500,000 meters and y = 0 meters.

18 (5) Zone 5 is a transverse Mercator projection of the World
19 Reference Ellipsoid, having a central meridian 154° 00 minutes west of
20 Greenwich, on which meridian the scale is set at one part in 10,000
21 too small. The origin of coordinates is at the intersection of the
22 meridian 154° 00 minutes west of Greenwich and the parallel 54° 00
23 minutes north latitude. This origin is given the coordinates: x =
24 500,000 meters and y = 0 meters.

25 (6) Zone 6 is a transverse Mercator projection of the World
26 Reference Ellipsoid, having a central meridian 158° 00 minutes west of
27 Greenwich, on which meridian the scale is set at one part in 10,000
28 too small. The origin of coordinates is at the intersection of the
29 meridian 158° 00 minutes west of Greenwich and the parallel 54° 00

1 minutes north latitude. This origin is given the coordinates: $x =$
2 500,000 meters and $y = 0$ meters.

3 (7) Zone 7 is a transverse Mercator projection of the World
4 Reference Ellipsoid, having a central meridian $162^{\circ} 00$ minutes west of
5 Greenwich, on which meridian the scale is set at one part in 10,000
6 too small. The origin of coordinates is at the intersection of the
7 meridian $162^{\circ} 00$ minutes west of Greenwich and the parallel $54^{\circ} 00$
8 minutes north latitude. This origin is given the coordinates: $x =$
9 500,000 meters and $y = 0$ meters.

10 (8) Zone 8 is a transverse Mercator projection of the World
11 Reference Ellipsoid, having a central meridian $166^{\circ} 00$ minutes west of
12 Greenwich, on which meridian the scale is set at one part in 10,000
13 too small. The origin of coordinates is at the intersection of the
14 meridian 166° west of Greenwich and the parallel $54^{\circ} 00$ minutes north
15 latitude. This origin is given the coordinates: $x = 500,000$ meters
16 and $y = 0$ meters.

17 (9) Zone 9 is a transverse Mercator projection of the World
18 Reference Ellipsoid, having a central meridian $170^{\circ} 00$ minutes west of
19 Greenwich, on which meridian the scale is set at one part in 10,000
20 too small. The origin of coordinates is at the intersection of the
21 meridian $170^{\circ} 00$ minutes west of Greenwich and the parallel $54^{\circ} 00$
22 minutes north latitude. This origin is given the coordinates: $x =$
23 500,000 meters and $y = 0$ meters.

24 (10) Zone 10 is a Lambert conformal conic projection of the
25 World Reference Ellipsoid, having standard parallels at north latitude
26 $51^{\circ} 50$ minutes as and $53^{\circ} 50$ minutes, along which parallels the scale
27 shall be exact. The origin of coordinates is at the intersection of
28 the meridian $176^{\circ} 00$ minutes west of Greenwich and the parallel $51^{\circ} 00$
29 minutes north latitude. This origin is given the coordinates: $x =$

1 1,000,000 meters and $y = 0$ meters.

2 * Sec. 61. AS 38.20.070 is amended to read:

3 Sec. 38.20.070. POSITION OF SYSTEM. The position of the Alaska
4 Coordinate System of 1927 shall be as marked on the ground by triangu-
5 lation or traverse stations established in conformity with the stan-
6 dards adopted by the National Geodetic Survey, National Ocean Service
7 [UNITED STATES COAST AND GEODETIC SURVEY FOR FIRST-ORDER, SECOND
8 -ORDER, AND THIRD-ORDER WORK,] whose geodetic positions have been
9 rigidly adjusted on the North American datum of 1927 and whose coordi-
10 nates have been computed on the system defined in this chapter. [ANY
11 SUCH STATION MAY BE USED FOR ESTABLISHING A SURVEY CONNECTION WITH THE
12 ALASKA COORDINATE SYSTEM.]

13 * Sec. 62. AS 38.20 070 is amended by adding a new subsection to read:

14 (b) The position of the Alaska Coordinate System of 1983 shall
15 be as marked on the ground by triangulation or traverse stations
16 established in conformity with the standards adopted by the National
17 Geodetic Survey, National Ocean Service whose geodetic positions have
18 been rigidly adjusted on the North American datum of 1983 and whose
19 plane coordinates have been computed on the system defined in this
20 chapter.

21 * Sec. 63. AS 38.20.080 is amended to read:

22 Sec. 38.20.080. LIMITATION. Coordinates [NO COORDINATES] based
23 on the Alaska Coordinate System, purporting to define the position of
24 a point on a land boundary, may not [SHALL] be presented to be record-
25 ed in any public land records or deed records unless the point is
26 within two miles of a horizontal control [TRIANGULATION OR TRAVERSE]
27 station established in conformity with National Geodetic Survey,
28 National Ocean Service standards and specifications for first-order,
29 second-order, or third-order work [THE STANDARDS PRESCRIBED IN

1 AS 38.20.070]. The two-mile limitation may be modified by a state
2 agency to meet local conditions.

3 * Sec. 64. AS 38.20.090 is amended to read:

4 Sec. 38.20.090. USE OF SYSTEM NAME. The use of the term "Alaska
5 Coordinate System of 1927" on a map, report of survey, or other docu-
6 ment is limited to coordinates based on the Alaska Coordinate System
7 of 1927 as defined in this chapter.

8 * Sec. 65. AS 38.20.090 is amended by adding a new subsection to read:

9 (b) The use of the term "Alaska Coordinate System of 1983" on a
10 map, report of survey, or other document is limited to coordinates
11 based on the Alaska Coordinate System of 1983 as defined in this
12 chapter.

13 * Sec. 66. AS 38.20.100 is amended to read:

14 Sec. 38.20.100. USE OF PUBLIC LAND SURVEY DESCRIPTIONS. When
15 coordinates based on the Alaska Coordinate System of 1927 or the
16 Alaska Coordinate System of 1983 are used to describe a tract of land
17 which in the same document is also described by reference to a sub-
18 division, line, or corner of the United States public land surveys,
19 the description by coordinates shall be construed as supplemental to
20 the basic description of the subdivisions, line, or corner contained
21 in the official plats and field notes filed of record, and in the
22 event of a conflict the description by reference to the subdivision,
23 line, or corner of the United States public land surveys prevails over
24 the description by coordinates.

25 * Sec. 67. AS 38.20.110 is amended to read:

26 Sec. 38.20.110. USE OF SYSTEM NOT REQUIRED. Nothing in this
27 chapter requires a purchaser or mortgagee to rely on a description,
28 any part of which depends exclusively upon the Alaska Coordinate
29 System of 1927 or the Alaska Coordinate System of 1983.

1 * Sec. 68. AS 38.35.140(b) is amended to read:

2 (b) The lessee shall reimburse the state for all reasonable
3 costs incurred in processing an application filed under AS 38.35.050
4 and in monitoring the construction, operation, maintenance, and re-
5 moval of the pipeline on the right-of-way.

6 * Sec. 69. AS 38.50.020(a) is amended to read:

7 (a) The land, interest in land, and other consideration which
8 the state receives in an exchange made under this chapter shall be
9 equal to or exceed the appraised fair market value of the land, inter-
10 est in land or property exchanged by the state; however, the director
11 may accept cash from, or pay cash to, any other party to an exchange
12 in order to equalize the value of the property or other consideration
13 conveyed and received by the state. If the director determines that
14 the property to be exchanged is not equal in appraised fair market
15 value or if the value cannot be ascertained with reasonable certainty,
16 the director may enter into an exchange on a finding [IF HE FINDS]
17 that the appraised fair market value of the property to be received,
18 together with the value of other public benefits, equals or exceeds
19 the value of the property which the state will relinquish. An ex-
20 change or agreement to exchange more than 500 acres of state land or
21 state land having an appraised or estimated fair market value of more
22 than \$1,000,000 is not binding on the state until approved by the
23 legislature [FOR OTHER THAN EQUAL APPRAISED FAIR MARKET VALUE IS
24 SUBJECT TO LEGISLATIVE REVIEW AS PROVIDED IN AS 38.50.140].

25 * Sec. 70. AS 38.50.020(b) is amended to read:

26 (b) An appraisal required by this section is presumed accurate
27 and valid for a period of one year [SIX MONTHS] from the time the
28 appraisal is completed. After that time, or if the director has
29 reason to believe that the value of the appraised property has changed

1 significantly during the original one year [SIX-MONTH] period, a
2 reappraisal of the property is required.

3 * Sec. 71. AS 38.50.040 is amended to read:

4 Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise
5 provided in this chapter, the director is authorized to convey for
6 purposes of exchange any state land or interest in land regardless of
7 the authority under which the land or interest was obtained by the
8 state. [THE CONVEYANCE OF UNIVERSITY LAND SHALL BE APPROVED IN THE
9 MANNER PRESCRIBED IN AS 38.05.030.]

10 * Sec. 72. AS 38.50.090(b) is amended to read:

11 (b) The director shall be afforded an opportunity to review and
12 comment on any land exchange proposed by a state agency other than the
13 Department of Natural Resources and the University of Alaska.

14 * Sec. 73. AS 38.50.110(a) is amended to read:

15 (a) Not more than 60 days nor less than 30 days before a public
16 hearing is scheduled under AS 38.50.120 the director shall circulate a
17 notice containing the information specified in (b) of this section
18 except as provided in (c) of this section. The director shall

19 (1) publish or post the notice as provided in AS 38.05.345,
20 except as otherwise specified in this section; the [. THE] director
21 shall publish the notice in a newspaper of general circulation in the
22 vicinity of the land which the state will receive and in the three
23 most populated cities of the state;

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

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

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

1 (5) circulate the notice to the Office of the Governor and
2 to all state departments;

3 [(6) Repealed]

4 (6) [(7)] mail the notice to any corporation organized
5 under the Alaska Native Claims Settlement Act, which corporation owns
6 or has selected land located within a radius of 15 linear miles from
7 land or property involved in the proposed exchange; and

8 (7) [(8)] mail the notice to any other party, including an
9 organization of land users, that the director [HE] considers appropri-
10 ate.

11 * Sec. 74. AS 38.50.110 is amended by adding a new subsection to read:

12 (c) The director shall provide the information required under
13 (b) of this section in the notice required under AS 38.05.345(b) for
14 exchanges of

- 15 (1) less than 500 acres of state land; or
- 16 (2) state land having an appraised or estimated fair market
17 value of less than \$100,000.

18 * Sec. 75. AS 38.50.120(a) is amended to read:

19 (a) The commissioner [DIRECTOR] may hold as many public hearings
20 as is considered appropriate. For an exchange of more than 500 acres
21 of state land or state land having an appraised or estimated fair
22 market value of more than \$1,000,000, there [THERE] shall be at least
23 three [ONE] public hearings in one or more municipalities close to the
24 state land proposed for exchange before it is submitted to the legis-
25 lature for approval [HEARING].

26 * Sec. 76. AS 38.50.140 is amended to read:

27 Sec. 38.50.140. LEGISLATIVE REVIEW. Within 10 days of the
28 convening of a regular legislative session, the governor shall trans-
29 mit to the president of the senate and the speaker of the house of

1 representatives any proposal for a land exchange required to be sub-
2 mitted to the legislature for approval under AS 38.50.020(a) that [FOR
3 OTHER THAN EQUAL APPRAISED FAIR MARKET VALUE WHICH] is scheduled to
4 occur before the next legislative session. If [, IN HIS VIEW,] exi-
5 gent circumstances seriously affecting state interests so require, the
6 governor may submit the proposed exchange to the legislature at some
7 other time. A finding of exigent circumstances shall be carefully
8 documented in the letter of transmittal. The director is authorized
9 to conclude a proposed exchange agreement upon approval by the legis-
10 lature of the proposed exchange agreement [UNLESS EITHER HOUSE OF THE
11 LEGISLATURE BY SIMPLE RESOLUTION DISAPPROVES OF THE EXCHANGE WITHIN 60
12 LEGISLATIVE DAYS OF TRANSMITTAL BY THE GOVERNOR]. A decision by the
13 legislature to disapprove a proposed exchange shall be accompanied by
14 a recommendation to the governor with respect to future actions which
15 the director should take concerning the exchange.

16 * Sec. 77. AS 38.95.160(b) is amended to read:

17 (b) In this section

18 (1) "publicly financed improvement" means an improvement
19 financed with state or federal money that is constructed by the state
20 or an instrumentality of the state and includes but is not limited
21 to, onshore or offshore oil drilling or pumpi..E operations, roads,
22 bridges, pipelines, seismic lines, logging and mining operations,
23 dams, buildings and electric power transmission lines;

24 (2) "state land" does not include land owned by the Board
25 of Regents of the University of Alaska.

26 * Sec. 78. AS 29.18.206(a) is amended to read:

27 Sec. 29.18.206. SCHOOL [, UNIVERSITY] AND MENTAL HEALTH LAND.
28 (a) If an entitlement determined under [IN] AS 29.18.201 or 29.18.202
29 results in a per capita entitlement for the municipality of less than

1 one and one-half acre, the municipality may select vacant school [,
2 [UNIVERSITY] or mental health land within the municipality in partial
3 fulfillment of its land entitlement under AS 29.18. School [, UNIVER-
4 SITY] or mental health land may be selected notwithstanding the fact
5 that this land is [THESE LANDS ARE] not unappropriated and unreserved
6 within the meaning of this chapter and former AS 29.18.190 and 29.18.-
7 200 [, REPEALED BY THIS ACT,] but each selection of school [, UNIVER-
8 SITY] or mental health land by a municipality must be vacant, unappro-
9 priated, or unreserved land as defined in AS 29.18, except that it
10 need not be general grant land.

11 * Sec. 79. AS 29.18.206(d) is amended to read:

12 (d) Within six months after approval of a municipal selection of
13 school [, UNIVERSITY,] or mental health land, the director shall
14 identify state general grant land of approximately equal value to the
15 land requested by the municipality, and shall propose the replacement
16 land for the concurrence of the appropriate board. If a proposal by
17 the director is rejected by the board, the director shall meet with
18 the board as often as necessary to determine the type and amount of
19 equal value replacement land that would be required to obtain the
20 board's concurrence, and shall propose the replacement land for con-
21 sideration by the board. The replacement land shall thereafter be
22 managed for the purposes for which the land selected by the municipal-
23 ity was acquired by the Territory and State of Alaska.

24 * Sec. 80. AS 29.18.206(e) is amended to read:

25 (e) The notice [AND REVIEW] provisions of AS [38.05.305 AND]
26 38.05.345 are applicable to the designation of other general grant
27 land as school, university or mental health land in replacement of
28 land selected under this section. The provisions of AS 38.50 [AND
29 38.05.032] do not apply to such designations under this section. [THE

1 PROVISIONS OF AS 38.05.030(a), 38.05.030(e), AND 38.05.035(a)(13)
2 WHICH REQUIRE THE APPROVAL OF THE RESPECTIVE TRUST BOARD BEFORE DIS-
3 POSAL OF LANDS BY THE DIRECTOR DO NOT APPLY TO SELECTIONS OF SCHOOL,
4 UNIVERSITY OR MENTAL HEALTH LAND BY A MUNICIPALITY UNDER THIS SEC-
5 TION.]

6 * Sec. 81. AS 29.18.210(b) is amended to read:

7 (b) [WHERE STATE LAND IS THE MOST LOGICAL LOCATION FOR DEMON-
8 STRATED MUNICIPAL EXPANSION FOR NONPUBLIC SETTLEMENT AND DEVELOPMENT
9 PURPOSES, AND WHEN AN EXCHANGE OF LAND UNDER AS 29.18.209 IS NOT
10 POSSIBLE OR IS NOT IN THE PUBLIC INTEREST, IT IS THE POLICY OF THE
11 STATE TO SELL OR LEASE THE LAND AT PUBLIC AUCTION.] The state may
12 contract with a municipality to act as its agent in an auction of
13 state land under applicable statutes. When a municipality acts as the
14 agent of the state in an auction, the municipality may retain from the
15 proceeds of the auction the capital and other expenses that [WHICH]
16 the director determines to be necessary and reasonable.

17 * Sec. 82. AS 29.18.213 is repealed and reenacted to read:

18 Sec. 29.18.213. DEFINITIONS. In AS 29.18.201 - 29.18.213

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

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

24 (3) "exchange" includes an agreement to exchange and an
25 out-of-court settlement that may convey land in an amount greater than
26 is permitted under AS 38.50.120(a);

27 (4) "general grant land"

28 (A) means land patented or tentatively approved to the
29 state from the United States under sec. 6(a) or (b) of the Alaska

1 Statehood Act;

2 (B) does not include university land;

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

5 (6) "municipal land selection" means a request by a munic-
6 ipality, filed in writing with the director under authority of former
7 AS 29.18.190 and 29.18.200 or under AS 29.18.201 - 29.18.213 for
8 vacant, unappropriated, unreserved general grant land within its
9 municipal boundaries in partial fulfillment of its municipal entitle-
10 ment;

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

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

18 (9) "remaining entitlement" means the general grant land
19 entitlement determined in accordance with AS 29.18.201 - 29.18.213,
20 reduced by the total acreage of approved selections, including both
21 patented and unpatented parcels;

22 (10) "school land" means those rectangular sections 16 and
23 36 within each township surveyed on or before January 3, 1959, and
24 confirmed and transferred to the State of Alaska upon its admission
25 under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other
26 land designated solely for school revenues;

27 (11) "university land" has the meaning given that term in
28 AS 38.05.365;

29 (12) "vacant, unappropriated, unreserved land" means general

1 grant land as defined in (4) of this section, excluding minerals as
2 required by sec. 6(i) of the Alaska Statehood Act, that

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

5 (B) has not been approved for patent to a municipality
6 under AS 29.18.201 - 29.18.213 or former AS 29.18.190 and 29.18.-
7 200; or

8 (C) is unclassified or, if classified under AS 38.-
9 05.300, is classified for agricultural, grazing, commercial,
10 industrial, private recreational, residential, utility or open-
11 to-entry purposes, or where classified in accordance with an
12 agreement between a municipality and the state providing for
13 state management of land of the municipality.

14 * Sec. 83. AS 29.33.150(b) is amended to read:

15 (b) The regulations adopted under (a) of this section apply to
16 subdivision plats of undeveloped state land for disposal under AS 38.-
17 05 or AS 38.08 filed with the platting board. [THE PLATTING BOARD MAY
18 NOT DISAPPROVE THE SUBDIVISION PLAT ON THE BASIS OF REGULATIONS WHICH
19 REQUIRE CAPITAL IMPROVEMENTS ON OR TO STATE LAND INCLUDED IN THE
20 SUBDIVISION PLAT.] Regulations adopted after the platting board is
21 notified by the commissioner of natural resources of a proposed sale
22 of subdivided state land under AS 38.05 or AS 38.08 do not apply to
23 the state land in the proposed sale.

24 * Sec. 84. AS 29.33.150(c) is amended to read:

25 (c) The platting board shall [MUST] approve and sign the subdivi-
26 sion plat within 60 days of its receipt from the commissioner of
27 natural resources unless the platting board

28 (1) determines that the plat does not comply with subdivi-
29 sion regulations [OTHER THAN THOSE REQUIRING CAPITAL IMPROVEMENTS TO

1 STATE LAND]; and

2 (2) notifies the commissioner of each determination of
3 noncompliance within the 60-day period established in this subsection.

4 * Sec. 85. The provisions of AS 38.05.065(d) - (f) as added in sec. 22 25
5 of this Act apply to contracts entered into by the commissioner of natural
6 resources after the effective date of this Act.

7 * Sec. 86. The provisions of AS 29.33.150(c) as amended in sec. 84 of
8 this Act do not apply to plats submitted to a platting board before the
9 effective date of sec. 84.

10 * Sec. 87. AS 29.33.150(e); AS 38.04.025, 38.04.040, 38.04.045(a);
11 AS 38.05.030(a), 38.05.035(a)(14), 38.05.069(b), 38.05.321(a), 38.05.362
12 and 38.05.365(20) are repealed.

13 * Sec. 88. Section 49 of this Act is retroactive to March 31, 1983.
14 The commissioner of natural resources shall extend the benefits granted by
15 sec. 49 of this Act to each eligible veteran who purchased land on or after
16 March 31, 1983, according to the terms of sec. 49 of this Act.

17 * Sec. 89. Sections 19, 37, and 44 ^{and 49} of this Act take effect immediately
18 in accordance with AS 01.10.070(c).

19 * Sec. 90. Sections 1 - 18, 20 - 36, 38 - 43, and 45 - 88 take effect
20 July 1, 1984.

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY: ADAMS

TO: HCS CS HOUSEXXXXXXXXXXXX

SENATE BILL NO. 375 (RESOURCES)

PAGE: 44 LINE: 19-24

DELETE EXISTING LANGUAGE, AND REPLACE WITH THE FOLLOWING:

"An exchange for state land having an appraised or estimated fair market value of more than \$5,000,000 is not binding on the state until approved by the legislature [FOR OTHER THAN EQUAL APPRAISED FAIR MARKET VALUE IS SUBJECT TO LEGISLATIVE REVIEW AS PROVIDED IN AS 38.50.140]."

RATIONALE: The House Resources version provides for legislative oversight on land exchanges of more than 500 acres or land exchanges on land worth more than \$1 million. Additionally, Senator Fahrenkamp would like to amend this section to also require legislative oversight for an exchange for other than equal appraised fair market value. My amendment proposes that legislative oversight only be required if the land exchange concerns land worth more than \$5 million.

I believe that there should only be one standard that triggers legislative oversight: the value of the land. Further, I believe that legislative oversight should only be required if the land is very valuable, i.e. worth more than \$5 million. I do not think that it is a good idea to tie up all land deals while waiting for the legislature to act. The possibility for political concerns to overpower more rational concerns is too great if the legislature is involved in all exchanges. Instead, I believe that the legislature should only be involved in large transactions. Otherwise, the possibility exists for land deals to be tied up and hampered while awaiting legislative action. I recognize and respect the role of the legislature to approve land exchanges; I do not think, however that it is necessary for prudent management of state lands that it occur more often than necessary. Land trades will become more important to optimal development of the state's resources, and I believe we should facilitate this process.

1 (f) The director shall grant a preference right to the purchase
 2 or lease without competitive bid of up to five acres of state land to
 3 an individual who has erected a building on the land and used the land
 4 for bona fide business purposes for five or more years under a federal
 5 permit or without the need for a permit and, after selection by the
 6 state, under a state use permit or lease, if the business produced no
 7 less than 25 percent of the total income of the applicant for the five
 8 years preceding the application to purchase or lease the land. The
 9 director shall sell or lease the land at a price determined by the
 10 director to represent the current fair market value of the unimproved
 11 land but in no event less than the cost of administration including
 12 survey if required. If the director determines in a written finding
 13 that the purchase or lease of the land would interfere with public use
 14 by residents of the area, the director may condition the purchase or
 15 lease to mitigate the adverse effects on the public use, or may reject
 16 the application for the preference right. A lease granted under this
 17 subsection ^{shall} ~~may~~ be for a period ~~not~~ of 50 years. In this
 18 subsection, "business purposes" means a purpose permitted under the
 19 classification of the land at the time the land was entered.

→ while
under
federal
ownership

20 * Sec. 21. AS 38.05.050 is amended to read:

21 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
 22 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-
 23 mine the land to be disposed of for private use. The commissioner
 24 [DIRECTOR] shall determine the time and place of disposal. An auction
 25 sale, a lottery sale, or a disposal of land for homesites shall [UNDER
 26 AS 38.04.020(g)(2)(C) MUST] be held in a community [THE MUNICIPALITY]
 27 that is near [CLOSEST TO] the land to be sold or disposed of [AND IN
 28 WHICH REGULAR SESSIONS OF A COURT OF THE STATE ARE HELD].

29 * Sec. 22. AS 38.05.055 is amended to read:

Brussell amendment

1 section may not be applied to survey costs, road development costs,
2 utility assessments, or other costs that the commissioner determines
3 are reimbursable to the state.

4 (e) A discount under this section may not be used toward the
5 purchase of land offered at a restricted sale under AS 38.05.067.

6 * Sec. 50. AS 38.07.030(c) is amended to read:

7 (c) The cost of clearing land leased from the state, including
8 but not limited to school [, UNIVERSITY,] and mental health land,
9 shall be borne by the state. The lessee shall repay the cost over a
10 10-year period at five percent interest.

11 * Sec. 51. AS 38.08.040(c) is repealed and reenacted to read:

12 (c) The permit may not be assigned, conveyed, or in any manner
13 transferred except by testate or intestate succession, to a spouse
14 during marriage, by order of a court as part of a divorce settlement,
15 or to either a member of the immediate family or a grantee of the
16 applicant in the case of an extreme emergency or illness that disables
17 the applicant. An attempt to assign, convey, or in any manner trans-
18 fer the permit except as permitted by this subsection is void and
19 constitutes a substantial breach of the permit.

20 * Sec. 52. AS 38.08.060 is amended by adding a new subsection to read:

21 (e) A permit holder who meets each of the provisions of (a) of
22 this section except for (a)(1) and who tenders the commissioner an
23 amount equal to five percent of the purchase price of the land within
24 seven years of the issuance of the permit may purchase the land under
25 AS 38.05.065. The purchase price of the land is the fair market value
26 of the land at the time of purchase.

27 * Sec. 53. AS 38.09.010(b) is amended to read:

28 (b) The commissioner shall complete a cadastral survey of home-
29 stead entry state land under AS 38.04.045 before disposing of

1 [DESIGNATING THE state land for homestead entry but the commissioner
2 may waive the cadastral survey on a determination that topographic
3 features, diffuse settlement, or the public interest do not justify or
4 require the cadastral survey. [NO PORTION OF LAND MADE AVAILABLE FOR

5 HOMESTEAD ENTRY MAY BE LOCATED MORE THAN A MILE FROM A SURVEY CONTROL
6 [MONUMENT.] *If the Commissioner waives the cadastral survey the parcels ~~to~~ be conveyed shall be described*

7 * Sec. 54. AS 38.09.050(a) is amended to read: *by aliquot parts.*

8 (a) The commissioner shall issue a patent to homestead entry
9 land if the permit holder

10 (1) resides and lives on the homestead entry land for not
11 less than 25 months within five years after the issuance of the home-
12 stead entry permit;

13 (2) completes an approved survey of the land within two
14 years after the issuance of the permit or under AS 38.09.040(b);

15 (3) erects a habitable, permanent dwelling on the homestead
16 within three years after the issuance of the homestead entry permit;

17 (4) brushes the boundaries of the land within 90 days after
18 the issuance of the permit;

19 (5) clears and either puts into production or prepares for
20 cultivation either 25 percent of the land classified for agricultural
21 use or 50 percent of the land having class II or III soils, whichever
22 is less, within five years after issuance of the permit.

23 * Sec. 55. AS 38.09.090 is amended by adding a new subsection to read:

24 (b) An applicant who complies with AS 38.09.050(a)(2) - (5) and
25 who tenders the commissioner an amount equal to five percent of the
26 present fair market value of the land within five years of the issu-
27 ance of the permit may purchase the land under AS 38.05.065. The
28 purchase price is the fair market value of the land at the time of the
29 purchase.

*Bussell
amendment*

PROPOSED AMENDMENT TO SB 375
FAHRENKAMP

page 8, line 22. Amend to read:

(7) waive, postpone, or otherwise modify the development requirements of a contract for the sale of agricultural land if the land is inaccessible by road and or transportation, marketing, and development costs render the required development uneconomic.

RATIONALE:

AS 38.05.020(b)(6) authorizes the Commissioner to require a development plan for sales of state agricultural land. Page 8, line 22 would allow the Commissioner to modify agricultural development requirements under specified conditions. This language is intended to address the recipients of agricultural land in Gustavus who because of their isolated location and lack of transportation to markets are unable to economically develop their farms. As drafted, however, this language could apply to any state agricultural project in its developmental stages.

The proposed amendment is intended to clarify those conditions under which the development plan may be modified.

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COMMENTS OF THE
DEPARTMENT OF NATURAL RESOURCES
on HCS CSSB 375 (Res)
May 11, 1984

The following comments address the House Resources Committee (HRC) substitute of 5/5/84. Amendments are also shown in the attached mark-up copy. Fiscal impacts are indicated in the revised fiscal note. Recommendation shows a proposed amendment to the bill.

Sec. 4 (p. 2, line 15) - HRC added fisheries to the list of resources that must be considered in determining separation among residences. However, unlike the other resources on the list (timber, firewood, and water), fisheries are not under DNR management and are not domestic materials.

Recommendation (DNR #1): delete "fishery" on p. 2, line 15.

Sec. 6 (p. 3, line 17) - HRC made a beneficial change that requires an assessment of market demand for land, rather than an affirmative determination.

Sec. 8 (p. 4, line 28) - HRC changed "local" to "municipal," which clarifies which types of ordinances will require department compliance.

Sec. 10 (p. 5, line 23) - There appears to be a drafting error in the text.

Recommendation (DNR #2): delete "require additional conditions" on p. 5, line 23.

Sec. 11 (p. 6, lines 10-12) - HRC added language that will allow the waiver of control survey monumentation requirements under some conditions. This change will permit some land disposals without survey, which will save the State survey expenses.

Sec. 15 (p. 8, lines 22-25) - Although the department supports the effort to clarify agricultural land title issues, we believe that the House Bill (HB 458) on ag rights and title is the better vehicle for these changes.

Recommendation (DNR #3): delete subsection (7), at p. 8, lines 22-25.

Sec. 19 (p. 10, line 2) - HRC made useful changes defining the conditions for (b)(2) preference rights, but extended the deadline for application from three to five years. This will increase the number of preference right applications and will allow two more years of potentially clouded land ownership by the State after it acquires land from the federal government.

Recommendation (DNR #4): change "five" to "three" at p. 10, line 2.

Sec. 19 (p. 11, lines 27-29; p. 12, line 1) - This authority to quitclaim erroneously conveyed land back to the federal government is critical to the timely and smooth reconveyance of validly claimed lands such as Native allotments and mining claims by the State.

Sec. 20 (p. 12, lines 3-29) - This section provides important clarification of the department's written finding process.

Sec. 20 (p. 13, lines 1-19) - The new preference right mechanism created in subparagraph (f) is intended to meet a valid demand for land by sport hunters and guides. However, the authority should be discretionary, not mandatory. The Department has a large backlog of preference right applications and all should be given equal consideration.

Recommendation (DNR #5): Change "shall" to "may" at p. 13, line 1.

Sec. 21 (p. 13, lines 21-28) - The changes to existing statute will help assure broad public access to the department's land offerings near rural communities.

Sec. 22 (p. 14, line 6) - HRC changed the minimum acceptable bid from 85% of appraised market value to 70%. This will allow the department discretion to accept a lower bid if conditions warrant.

Sec. 23 (p. 14, lines 24-29; p. 15, lines 1-27) - See comments for Sec. 15.

Recommendation (DNR #6): delete all of Sec. 23; p. 14, lines 24-29; p. 15, lines 1-27.

Sec. 24 (p. 16, lines 9-11) - The mechanisms that would be deleted by this HRC change are sometimes needed and should be mentioned in statute. This is particularly so because we see problems with Sec. 25, which Sec. 24 cross-references.

Recommendations (DNR #7a & 7b):

a) delete "the provision of (d)-(f) of this section" at p. 16, line 9, and b) restore the language that would have been deleted in the HRC version, p. 16, lines 9-11.

Sec. 25 (p. 16, lines 13-29; p. 17, lines 1-13) - The foreclosure mechanism produced by HRC is taken generally from Title 34 but does not apply well to State lands. State contracts do not confer an interest in land unless and until the terms and conditions are met. The HRC language needs amendment to be acceptable, to protect 1) the public interest in public lands, 2) the discretion of the commissioner not to foreclose, and 3) public notice as required by the Constitution.

Recommendation (DNR #8): Adopt CSSB 375 (Res) version of foreclosure mechanism.

Sec. 27 (p. 18, lines 5-29; p. 19, lines 1-3) - See comments for Sec. 15.

Recommendation (DNR #9): Adopt CSSB 375 (Res) amendments to 38.05.069(c).

Sec. 31 (p. 21, lines 11-27) - The department endorses this mechanism for preferential, non-exclusive tidelands leasing.

Sec. 31 (p. 21, lines 28-29; p. 22, lines 1-27) - The department endorses this mechanism for prequalification of bidders.

Sec. 46 (p. 28, lines 25-29; p. 29, lines 1-8) - HRC made beneficial changes to the department's notice procedures, requiring newspaper advertisements.

Sec. 69 (p. 44, lines 20-24) - The department strongly opposes the changes embodied in this section. Legislative approval is not necessary for equal value land exchanges, because the Legislature (including each individual legislator) already receives prior notice of any exchange and has ample opportunity to prohibit an exchange it deems wrong. All unequal value exchanges currently must receive legislative approval.

The Legislature should not approve "agreements to exchange" because under the proposal this would require two legislative approvals for each exchange. Preliminary agreements to exchange do not bind the State, but instead outline timeframes, appraisal responsibilities, etc.

If legislative approval is necessary for "megatrades," the threshold for approval should be changed. First, only value should be considered (rather than acreage or value). Second, the amount should be changed from \$1,000,000 to \$5,000,000.

Recommendation (DNR #10): delete Sec. 69 of the bill, p. 44, lines 6-24,

(or)

delete all new language on p. 44, lines 20-24; insert instead "or State land with an appraised fair market value of more than \$5,000,000 or an exchange for other than equal appraised fair market value is not binding on the State until approved by the Legislature."

Sec. 75 (p. 46, line 23) - The department holds as many hearings on land exchanges as are warranted by public interest. A requirement to hold three hearings, particularly in nearest municipality (as opposed to nearest community), will be expensive and unnecessary.

Recommendation (DNR #11): Change three back to one at p. 46, line 23. End the sentence after "exchange," line 24.

Sec. 76 (p. 47, lines 9-10) - Legislative approval for exchange agreements will make the exchange process unworkable. Each exchange will require two to three years.

Recommendation (DNR #12): delete language added on lines 9-10.

Sec. 82 (p. 49, lines 24-26) - Exchanges are land trades, and should not be defined to include exchange agreements or out-of-court settlements.

Recommendation (DNR #13): delete lines 24-26, p. 49 and renumber.

Sec. 88 (p. 52, lines 13-16) - The decision to make the veterans' discount provision retroactive will be expensive, in administrative costs and lost revenue. It was clear to all land applicants that no discount would be provided, so the land contracts entered into since April 1983 have not been unfair.

The administrative costs of implementing this provision will be \$150 each for about 880 contracts, plus manual handling costs for future years. The displaced revenue will be approximately \$1.66 million; with interest this will amount to \$4.15 million over future years.

Recommendation (DNR #14): delete Sec. 88 (p. 52, lines 13-16).

Offered: 5/5/84
Referred: Finance

DNR MARK-UP 5/11/84
**Shows only pages w/
recommended DNR
amendments.**

Original sponsors: Fahrenkamp and Ziegler

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 375 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to land disposal and management; and
7 providing for an effective date."

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

9 * Section 1. AS 38.04.005(b) is amended to read:

10 (b) In classifying and making state land available for private
11 use and settlement purposes, the director shall consider the natural
12 resources and conditions present on the land and shall seek to mini-
13 mize the adverse effect of private settlement on wildlife, fishery,
14 mineral, timber, and other significant resources of the land; the
15 director shall also make adequate provision for public open space
16 which is accessible to communities so that natural areas are easily
17 reached from all communities and settled areas. The amount of that
18 land shall be sufficient to meet existing and projected needs for
19 accessible public recreation land. Special care shall be taken to
20 preserve public access to public water and to retain state ownership
21 of sufficient land which combine high value for recreation and other
22 public purposes with accessibility to settled areas. This classifica-
23 tion for public purposes does not constitute dedication to open space,
24 but the division's management of land so classified shall be in a
25 manner to preserve the identified values.

26 * Sec. 2. AS 38.04.005(e) is repealed and reenacted to read:

27 (e) The involvement of a proximately located municipality and of
28 local residents is essential in classifying and making state land
29 available for private use and settlement. The director shall, when

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Inventory of DRP
ANNEX 2

1 appropriate, hold public meetings in the communities most affected by
2 the disposal to solicit the views of the residents of the communities
3 affected.

4 * Sec. 3. AS 38.04.005 is amended by adding a new subsection to read:

5 (f) Land owned by the Board of Regents of the University of
6 Alaska is not subject to the provisions of this chapter.

7 * Sec. 4. AS 38.04.010(b) is amended to read:

8 (b) State land which is located beyond the range of existing
9 schools and other necessary public services, or which is located where
10 development of sources of employment is improbable, may be made avail-
11 able for seasonal recreational purposes or for low density settlement.
12 The seasonal recreation use or low density settlement shall have [,
13 WITH] sufficient separation between residences so that public services
14 will not be necessary or expected. The availability of timber, fire-
15 wood, [fishery] and water resources shall be considered in determining
16 separation between residences.

#1

17 * Sec. 5. AS 38.04.020(e) as amended by sec. 3, ch. 103, SLA 1983 is
18 amended to read:

19 (e) The commissioner shall annually submit to the governor an
20 appropriation request for funding estimated to be necessary for the
21 next two years to allow [NECESSARY FOR THE DISPOSAL OF STATE LAND IN
22 THE LAND DISPOSAL BANK THAT SHALL BE INCLUDED IN THE BUDGET SUBMITTED
23 TO THE LEGISLATURE BY THE GOVERNOR. FOR EACH FISCAL YEAR, THE REQUEST
24 SHALL INCLUDE AN ESTIMATE OF THE AMOUNT NECESSARY]

25 (1) [FOR] survey and disposal of land proposed to be made
26 available for homestead staking, with the general location of the
27 land;

28 (2) [FOR] survey and disposal of land to be offered as
29 agricultural, commercial, industrial, or other uses under AS 38.05.055

1 features, soil conditions, on-site sewage disposal requirements, or
2 water drainage or supply considerations that are unique to the sub-
3 division, to minimize adverse effect on wildlife, fishery, public
4 recreation, timber, or other significant resources in the area, or to
5 minimize adverse effect on other residential uses in the area.

6 * Sec. 9. AS 38.04 is amended by adding a new section to read:

7 Sec. 38.04.022. FUNDS FOR LAND DISPOSAL. (a) The revenue from
8 the sale of state land shall be deposited in a special state land
9 disposal income account in the state general fund. The legislature
10 may appropriate money from the special state land disposal income
11 account for expenditure by the Department of Natural Resources for
12 necessary costs incurred by the commissioner in the implementation of
13 state land disposal programs authorized under this title and for
14 implementation of AS 38.04.021.

15 (b) Within 30 days after the legislature convenes in regular
16 session the Department of Natural Resources shall submit a report
17 reflecting all money deposited in the fund established under (a) of
18 this section during the prior fiscal year.

19 * Sec. 10. AS 38.04.035(4) is amended to read:

20 (4) For enabling isolated cabin development in remote
21 locations where survey and conveyance is impractical, or where dis-
22 posal of land would cause potential conflicts with other resources and
23 uses [require additional conditions] or where a long-range interest in
24 public ownership and use exist, a system for cabin permits on public
25 land may be used.

26 * Sec. 11. AS 38.04.045(b) is amended to read:

27 (b) Before the conveyance of surface rights to state land, an
28 official cadastral survey shall be accomplished, unless a comparable,
29 acceptable survey exists that has been conducted by the federal Bureau

#29

1 adopted by the commissioner shall be adopted under the Administrative
2 Procedure Act (AS 44.62); orders by the commissioner classifying land,
3 [LANDS] issued after January 3, 1959, are not required to be adopted
4 under the Administrative Procedure Act (AS 44.62);

5 (2) enter into agreements considered [WHICH HE CONSIDERS]
6 necessary to carry out the purposes of this chapter, including agree-
7 ments with federal and state agencies;

8 (3) review any order or action of the director;

9 (4) exercise the powers and do the acts necessary to carry
10 out the provisions and objectives of this chapter;

11 (5) notwithstanding the provisions of any other section of
12 this chapter, grant an extension of the time within which payments due
13 on any lease or sale of state land, minerals, or materials may be
14 made, including payment of rental and royalties, on a finding [IF HE
15 FINDS] that compliance with the requirements is or was prevented by
16 reason of war, riots, or acts of God; [.]

17 (6) classify tracts for agricultural uses and require the
18 prequalification, including the submission of conservation plans,
19 development plans, or other plans, schedules, or programs, of persons
20 who apply to participate in an agricultural development project under
21 AS 44.33.47 [

22 waive, postpone, or otherwise modify the development
23 requirements of a contract for the sale of agricultural land if the
24 land is inaccessible by road or transportation, marketing, and devel-
25 opment costs render the required development uneconomic]

26 * Sec. 16. 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

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(B) if the application for the preference right is filed with the director within ~~five~~ ^{three} years from

(i) the occurrence of the error or omission;

(ii) the date of acquisition by the state of the land; or

(iii) the date of a court decision or settlement nullifying a disposal of state land;

(3) grant a preference right to a claimant who shows bona fide improvement of state land [,] or of federal land subsequently acquired by the state [,] and who has in good faith sought to obtain title to the land but who, through error or omission of others occurring within the three years before the application for the preference right, has been denied title to it; upon a showing satisfactory to the commissioner, the claimant may lease or purchase the land at the price set on the date of original entry on the land or, if a price was not set at that time at a price determined by the director [DIVISION] to fairly represent the value of unimproved land at the time the claim was established, but in no event less than the cost of administration including survey; the error or omission of a predecessor in interest or an agent, administrator, or executor which has clearly prejudiced the claimant may be the basis for granting a preference right;

(4) sell land [LANDS] by lottery for less than the [THEIR] appraised value when, in the [HIS] judgment of the director, past scarcity of land suitable for private ownership in any particular area has resulted in unrealistic land values;

(5) when the director [HE] determines it is in the best interest of the state and will avoid injustice to a person or the [HIS] heirs or devisees of a person, dispose of land, by direct negotiation to that person who presently uses and who used and made

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(f) The director ^{may} ~~shall~~ grant a preference right to the purchase or lease without competitive bid of up to five acres of state land to an individual who has erected a building on the land and used the land for bona fide business purposes for five or more years under a federal permit or without the need for a permit and, after selection by the state, under a state use permit or lease, if the business produced no less than 25 percent of the total income of the applicant for the five years preceding the application to purchase or lease the land. The director shall sell or lease the land at a price determined by the director to represent the current fair market value of the unimproved land but in no event less than the cost of administration including survey if required. If the director determines in a written finding that the purchase or lease of the land would interfere with public use by residents of the area, the director may condition the purchase or lease to mitigate the adverse effects on the public use or may reject the application for the preference right. A lease granted under this subsection may not be for a period in excess of 50 years. In this subsection, "business purposes" means a purpose permitted under the classification of the land at the time the land was entered.

* Sec. 21. AS 38.05.050 is amended to read:

21 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
22 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-
23 mine the land to be disposed of for private use. The commissioner
24 [DIRECTOR] shall determine the time and place of disposal. An auction
25 sale, a lottery sale, or a disposal of land for homesites shall [UNDER
26 AS 38.04.020(g)(2)(C) MUST] be held in a community [THE MUNICIPALITY]
27 that is near [CLOSEST TO] the land to be sold or disposed of [AND IN
28 WHICH REGULAR SESSIONS OF A COURT OF THE STATE ARE HELD].

29 * Sec. 22. AS 38.05.055 is amended to read:

1 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method
2 of sale is required under this chapter, [UNDER] AS 38.07, or [UNDER]
3 AS 38.08, the sale of state land shall be made at public auction to
4 the highest qualified bidder as determined by the director. The dir-
5 ector may accept bids and sell state land under this section at no
6 less than 70 percent of the appraised fair market value of the land.
7 A bidder must appear in person at the auction unless medical reasons,
8 attendance at school, or military service outside the state prevent
9 attendance. A bidder may be represented by an attorney or agent at
10 the auction if the land offered for disposal is commercial, industri-
11 al, or agricultural land. An aggrieved bidder may appeal to the com-
12 missioner within five days after the sale for a review of the direc-
13 tor's determination. The sale shall be conducted by the director [OR
14 HIS REPRESENTATIVE,] and at the time of sale the successful bidder
15 shall deposit an amount equal to five percent of the purchase price [,
16 OR IF THE PURCHASER ELECTS TO USE LAND DISCOUNTS GRANTED UNDER AS 38.-
17 65.058, FIVE PERCENT OF THE AMOUNT BID AFTER DEDUCTION OF THE DIS-
18 COUNT]. The director [OR HIS REPRESENTATIVE] shall immediately issue
19 a receipt containing a description of the land or property purchased,
20 the price bid, and the amount deposited [, AND THE AMOUNT OF ANY DIS-
21 COUNT ALLOWED]. The receipt shall be acknowledged in writing by the
22 bidder.

23 * Sec. 23. AS 38.05.059 is repealed and reenacted to read:

24 Sec. 38.05.059. LIMITATIONS AND CONDITIONS ON SALE OR LEASE OF
25 AGRICULTURAL LAND. (a) During any eight-year period, a person may
26 purchase from the state not more than one parcel of land that is part
27 of an agricultural development project under AS 44.33.475.

28 (b) In a sale or other disposal of state land classified as
29 agricultural land, the use of the land shall be restricted. The

1 commissioner shall convey a fee simple conditional title to the sur-
2 face estate subject to a condition subsequent that the land be used
3 only for agricultural purposes. The commissioner shall reserve a
4 right of reentry after notice and an opportunity for a hearing if the
5 land is used for other than agricultural purposes. A reversion of
6 title upon reentry does not affect the validity of a prior lien or
7 security interest on the land.

8 (c) The lessee of state agricultural land shall receive a lease-
9 hold interest in the surface estate subject to the condition that the
10 land leased be used only for agricultural purposes?

11 (d) As a condition to the issuance of a lease or a contract of
12 sale of state land classified as agricultural land, the commissioner
13 may require a farm development agreement and the submission of a
14 conservation plan that establish reasonable requirements based on the
15 economic feasibility of development and sound agricultural principles.

16 (e) The commissioner may not convey title under (b) of this
17 section to a person who

18 (1) is in arrears on the purchase or lease of agricultural
19 land; or

20 (2) has not complied with a farm development agreement or
21 conservation plan required by the commissioner.

22 (f) In this section, "agricultural purposes" includes farming,
23 ranching, grazing, and storage or control of agricultural crops or
24 livestock, and the construction of the farm residence of the grantee
25 or lessee and other buildings commonly needed for agricultural pur-
26 poses on not more than 20 acres of the land transferred under this
27 section.

28 * Sec. 24. AS 38.05.065(c) is amended to read:

29 (c) The director shall, for contracts under (a) or (b) of this

1 section, set out in the contract for each sale the period for the
2 payment of installments and the total purchase price plus interest.
3 The director, with the consent of the commissioner, may also include
4 in contracts under this section conditions, limitations and terms
5 considered [WHICH HE CONSIDERS] necessary and proper to protect the
6 interest of the state. Violations of any provision of AS 38.05.005 -
7 38.05.370 or the terms of the contract of sale subject the purchaser
8 to appropriate administrative and legal action, including but not
9 limited to ~~[the provisions of (d) - (f) of this section]~~ **SPECIFIC**
10 PERFORMANCE, FORECLOSURE, EJECTION, OR OTHER LEGAL REMEDIES IN ACCOR-
11 DANCE WITH APPLICABLE STATE LAW] **de**

#7 ab

#8

* Sec. 25. AS 38.05.065 is amended by adding new subsections to read:

13 (d) If a contract for a sale of state land has been breached,
14 the director may exercise a right retained in the contract to fore-
15 close the contract on terms stated in the contract if the director has
16 complied with the notice requirements of (e) of this section.

17 (e) Not less than 30 days after the breach and not less than
18 three months before a sale the director shall record in the office of
19 the recorder of the recording district in which the state land is
20 located a notice of breach setting out (1) the book and page where the
21 contract of sale is recorded, (2) a description of the state land, (3)
22 a statement that a breach of the contract of sale has occurred, (4)
23 the nature of the breach, (5) the sum owing on the contract, (6) the
24 election of the director to sell the property to satisfy the contract,
25 (7) and the date, time and place of the sale. At any time before the
26 sale, if the breach has arisen by failure to make payments required by
27 the contract, the breach may be cured by payment of the sum in default
28 other than the principal that would not then be due if no breach had
29 occurred, plus costs actually incurred by the director due to the

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Cont.

1 breach. If under the same contract notice of breach under this sub-
2 section has been recorded two or more times previously and the breach
3 has been cured under this subsection, the director may elect to refuse
4 payment.

5 (f) Within 10 days after recording the notice of breach, the
6 director shall mail a copy of the notice by certified mail to the last
7 known address of each of the following persons or their legal repre-
8 sentatives (1) the purchaser under the contract of sale; (2) any
9 person in possession of or occupying the property; (3) any person
10 having a lien or interest subsequent to the interest of the state in
11 the state land, where the lien or interest appears of record or where
12 the state has actual notice of the lien or interest. The notice may
13 be delivered personally instead of by mail.]

14 * Sec. 26. AS 38.05.069(a) is amended to read:

15 (a) On a determination [IF THE DIRECTOR DETERMINES] that the
16 highest and best use of unoccupied land is for agricultural purposes
17 [,] and [IF HE DETERMINES] that it is in the best interests of the
18 state to sell or lease the land, the commissioner [HE] shall grant to
19 an Alaskan resident owning and using or leasing and using land for
20 agricultural purposes a [60-DAY] first option at [AFTER THE DATE OF]
21 the auction to purchase or lease the unoccupied land situated adjacent
22 to land presently held by the Alaskan resident [OR IN THE APPROXIMATE
23 VICINITY OF HIS PRESENTLY HELD LAND] for the amount of the high bid
24 received at public auction. If more than one Alaskan resident qual-
25 ifies for a first option under this section, eligibility for the first
26 option shall be determined by lot and the option must be exercised on
27 the conclusion of the public auction. A parcel of agricultural land
28 sold under this section may not be less than 20 acres and a parcel of
29 agricultural land that [WHICH] is acquired by exercise of the option

DNR AMENDMENT # 8
Substitute language for
Sec 25 HCS CSSB 375 (Res)

This section is still under
legal review. 5/11

- 23 * Sec. ~~25~~ AS 38.05.065 is amended by adding new subsections to read:
- 24 (d) If a contract for a sale of state land has been breached,
- 25 the director may issue a decision to foreclose the contract at any
- 26 time 31 days after delivering by certified mail a written notice of
- 27 the breach to the address of record of the purchaser. A breach caused
- 28 by the failure to make payments required by the contract may be cured
- 29 within 30 days after the notice of the breach has been received by the
- 1 purchaser by payment of the sum in default together with the larger of
- 2 a fee of \$50 or five percent of the sum in default. If there are
- 3 material facts in dispute between the state and the purchaser, the
- 4 purchaser may submit a written request for a public hearing for the
- 5 review of the facts within 30 days after the notice of the breach has
- 6 been received.
- 7 (e) On a determination that there has been a breach of the
- 8 contract based on the administrative record and the evidence presented
- 9 at a hearing, the director shall issue a decision foreclosing the
- 10 interest of the purchaser. The obligation to make payments under the
- 11 contract continues through the date of the decision to foreclose by
- 12 the director.
- 13 (f) The decision to foreclose by the director under this subsec-
- 14 tion terminates the legal and equitable rights of the purchaser in the
- 15 land and all payments made under the contract are forfeited to the
- 16 state.

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1 granted in this subsection may not exceed 320 acres. Agricultural
2 land that [WHICH] is acquired under this section must be used for
3 agricultural purposes as required by law.

4 * Sec. 27. AS 38.05.069(c) is amended to read:

5 (c) Under this section

6 (1) the director may transfer state land classified for
7 agriculture [CONVEY OR LEASE AN INTEREST IN THE LAND] only for agri-
8 cultural purposes [, AND ALL OTHER INTERESTS IN THE LAND REMAIN IN THE
9 STATE];

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

11 (2) THE REMAINING INTERESTS MAY SUBSEQUENTLY BE CONVEYED OR
12 LEASED BY THE DIRECTOR ONLY UPON THE REQUEST OF THE GRANTEE OR LESSEE
13 OR HIS ASSIGNS AND THE DETERMINATION OF THE DIRECTOR, WITH THE WRITTEN
14 CONCURRENCE OF THE COMMISSIONER, THAT THE CONVEYANCE OR LEASE IS IN
15 THE PUBLIC INTEREST;

16 (3) THE CONVEYANCE OR LEASE OF THE REMAINING INTERESTS
17 SHALL BE AT PUBLIC AUCTION; THE ORIGINAL GRANTEE OR LESSEE OR HIS
18 ASSIGNS HAVE A PREFERENCE RIGHT TO MEET THE HIGH BID WITHIN 30 DAYS
19 AFTER THE DAY OF THE AUCTION; IF THE RIGHT IS EXERCISED, THE VALUE OF
20 IMPROVEMENTS OWNED BY THE HOLDER OF THE PREFERENCE RIGHT, INCLUDED
21 WITH THE REMAINING INTERESTS SOLD, SHALL BE DEDUCTED FROM THE PURCHASE
22 PRICE;

23 (4) BY REQUESTING THE CONVEYANCE OR LEASE OF THE REMAINING
24 INTEREST, THE ORIGINAL GRANTEE OR LESSEE OR HIS ASSIGNS

25 (A) CONSENTS TO THE SALE OR LEASE, AND

26 (B) IF THE PREFERENCE RIGHT PROVIDED BY (3) OF THIS
27 SUBSECTION IS NOT EXERCISED, CONSENTS TO SELL AT FAIR MARKET
28 VALUE THE IMPROVEMENTS RELATED TO THE REMAINING INTEREST, AS
29 APPRAISED BY THE DIRECTOR;

DNR AMENDMENT # 9
Substitute language for Sec. 27
HLS CSSB 375 (Res)

8 (c) Under this section

9 (1) the director may convey or lease an interest in the
10 land only for agricultural purposes, and all other interests in the
11 land remain in the state;

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

13 (3) [(2)] the remaining interests may subsequently be
14 conveyed or leased by the director only upon the request of the gran-
15 tee or lessee or the [HIS] assigns of the grantee or lessee and the
16 determination of the director, with the written concurrence of the
17 commissioner, that the conveyance or lease is in the public interest;

18 (4) [(3)] the conveyance or lease of the remaining inter-
19 ests shall be at public auction;

20 (5) the original grantee or lessee or the [HIS] assigns of
21 the grantee or lessee have a preference right to meet the high bid at
22 the time of [WITHIN 30 DAYS AFTER THE DAY OF] the auction;

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

27 (7) [(4)] by requesting the conveyance or lease of the
28 remaining interest, the original grantee or lessee or the [HIS] as-
29 signs of the grantee or lessee

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

2 (B) if the preference right provided by (5) [(3)] of
3 this subsection is not exercised, consents to sell at fair
4 market value the improvements related to the remaining
5 interest, as appraised by the director;

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

1 * Sec. 68. AS 38.35.140(b) is amended to read:

2 (b) The lessee shall reimburse the state for all reasonable
3 costs incurred in processing an application filed under AS 38.35.050
4 and in monitoring the construction, operation, maintenance, and re-
5 moval of the pipeline on the right-of-way.

6 * Sec. 69. AS 38.50.020(a) is amended to read:

#10 [(a) The land, interest in land, and other consideration which
7 the state receives in an exchange made under this chapter shall be
8 equal to or exceed the appraised fair market value of the land, inter-
9 est in land or property exchanged by the state; however, the director
10 may accept cash from, or pay cash to, any other party to an exchange
11 in order to equalize the value of the property or other consideration
12 conveyed and received by the state. If the director determines that
13 the property to be exchanged is not equal in appraised fair market
14 value or if the value cannot be ascertained with reasonable certainty,
15 the director may enter into an exchange on a finding [IF HE FINDS]
16 that the appraised fair market value of the property to be received,
17 together with the value of other public benefits, equals or exceeds
18 the value of the property which the state will relinquish. An ex-
19 change or agreement to exchange more than 500 acres of state land or
20 state land having an appraised or estimated fair market value of more
21 than \$1,000,000 is not binding on the state until approved by the
22 legislature [FOR OTHER THAN EQUAL APPRAISED FAIR MARKET VALUE IS
23 SUBJECT TO LEGISLATIVE REVIEW AS PROVIDED IN AS 38.50.140].]

24 * Sec. 70. AS 38.50.020(b) is amended to read:

25 (b) An appraisal required by this section is presumed accurate
26 and valid for a period of one year [SIX MONTHS] from the time the
27 appraisal is completed. After that time, or if the director has
28 reason to believe that the value of the appraised property has changed
29

ALT V TO DNR AMENDMENT 10

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27 and valid for a period of one year [SIX MONTHS] from the time the
28 appraisal is completed. After that time, or if the director has
29 reason to believe that the value of the appraised property has changed

1 (5) circulate the notice to the Office of the Governor and
2 to all state departments;

3 [(6) Repealed]

4 (6) [(7)] mail the notice to any corporation organized
5 under the Alaska Native Claims Settlement Act, which corporation owns
6 or has selected land located within a radius of 15 linear miles from
7 land or property involved in the proposed exchange; and

8 (7) [(8)] mail the notice to any other party, including an
9 organization of land users, that the director [HE] considers appropri-
10 ate.

11 * Sec. 74. AS 38.50.110 is amended by adding a new subsection to read:

12 (c) The director shall provide the information required under
13 (b) of this section in the notice required under AS 38.05.345(b) for
14 exchanges of

15 (1) less than 500 acres of state land; or

16 (2) state land having an appraised or estimated fair market
17 value of less than \$100,000.

18 * Sec. 75. AS 38.50.120(a) is amended to read:

19 (a) The commissioner [DIRECTOR] may hold as many public hearings
20 as is considered appropriate. For an exchange of more than 500 acres
21 of state land or state land having an appraised or estimated fair
22 market value of more than \$1,000,000, there [THERE] shall be at least
23 three [ONE] public hearings in one or more municipalities close to the
24 state land proposed for exchange before it is submitted to the legis-
25 lature for approval [HEARING].

26 * Sec. 76. AS 38.50.140 is amended to read:

27 Sec. 38.50.140. LEGISLATIVE REVIEW. Within 10 days of the
28 convening of a regular legislative session, the governor shall trans-
29 mit to the president of the senate and the speaker of the house of

1 representatives any proposal for a land exchange required to be sub-
2 mitted to the legislature for approval under AS 38.50.020(a) that [FOR
3 OTHER THAN EQUAL APPRAISED FAIR MARKET VALUE WHICH] is scheduled to
4 occur before the next legislative session. If [, IN HIS VIEW,] exi-
5 gent circumstances seriously affecting state interests so require, the
6 governor may submit the proposed exchange to the legislature at some
7 other time. A finding of exigent circumstances shall be carefully
8 documented in the letter of transmittal. The director is authorized
9 to conclude a proposed exchange agreement upon approval by the legis-
10 lature of the proposed exchange agreement UNLESS EITHER HOUSE OF THE
11 LEGISLATURE BY SIMPLE RESOLUTION DISAPPROVES OF THE EXCHANGE WITHIN 60
12 LEGISLATIVE DAYS OF TRANSMITTAL BY THE GOVERNOR]. A decision by the
13 legislature to disapprove a proposed exchange shall be accompanied by
14 a recommendation to the governor with respect to future actions which
15 the director should take concerning the exchange.

16 * Sec. 77. AS 38.95.160(b) is amended to read:

17 (b) In this section

18 (1) "publicly financed improvement" means an improvement
19 financed with state or federal money that is constructed by the state
20 or an instrumentality of the state and includes, but is not limited
21 to, onshore or offshore oil drilling or pumping operations, roads,
22 bridges, pipelines, seismic lines, logging and mining operations,
23 dams, buildings and electric power transmission lines;

24 (2) "state land" does not include land owned by the Board
25 of Regents of the University of Alaska.

26 * Sec. 78. AS 29.18.206(a) is amended to read:

27 Sec. 29.18.206. SCHOOL [, UNIVERSITY] AND MENTAL HEALTH LAND.

28 (a) If an entitlement determined under [IN] AS 29.18.201 or 29.18.202
29 results in a per capita entitlement for the municipality of less than

1 PROVISIONS OF AS 38.05.030(a), 38.05.030(e), AND 38.05.035(a)(13)
2 WHICH REQUIRE THE APPROVAL OF THE RESPECTIVE TRUST BOARD BEFORE DIS-
3 POSAL OF LANDS BY THE DIRECTOR DO NOT APPLY TO SELECTIONS OF SCHOOL,
4 UNIVERSITY OR MENTAL HEALTH LAND BY A MUNICIPALITY UNDER THIS SEC-
5 TION.]

6 * Sec. 81. AS 29.18.210(b) is amended to read:

7 (b) [WHERE STATE LAND IS THE MOST LOGICAL LOCATION FOR DEMON-
8 STRATED MUNICIPAL EXPANSION FOR NONPUBLIC SETTLEMENT AND DEVELOPMENT
9 PURPOSES, AND WHEN AN EXCHANGE OF LAND UNDER AS 29.18.209 IS NOT
10 POSSIBLE OR IS NOT IN THE PUBLIC INTEREST, IT IS THE POLICY OF THE
11 STATE TO SELL OR LEASE THE LAND AT PUBLIC AUCTION.] The state may
12 contract with a municipality to act as its agent in an auction of
13 state land under applicable statutes. When a municipality acts as the
14 agent of the state in an auction, the municipality may retain from the
15 proceeds of the auction the capital and other expenses that [WHICH]
16 the director determines to be necessary and reasonable.

17 * Sec. 82. AS 29.18.213 is repealed and reenacted to read:

18 Sec. 29.18.213. DEFINITIONS. In AS 29.18.201 - 29.18.213

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

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

24 (3) "exchange" includes an agreement to exchange and an
25 out-of-court settlement that may convey land in an amount greater than
26 is permitted under AS 38.50.120(a);

27 (4) "general grant land"

28 (A) means land patented or tentatively approved to the
29 state from the United States under sec. 6(a) or (b) of the Alaska

#13

1 STATE LAND]; and

2 (2) notifies the commissioner of each determination of
3 noncompliance within the 60-day period established in this subsection.

4 * Sec. 85. The provisions of AS 38.05.065(d) - (f) as added in sec. 22
5 of this Act apply to contracts entered into by the commissioner of natural
6 resources after the effective date of this Act.

7 * Sec. 86. The provisions of AS 29.33.150(c) as amended in sec. 84 of
8 this Act do not apply to plats submitted to a platting board before the
9 effective date of sec. 84.

10 * Sec. 87. AS 29.33.150(e); AS 38.04.025, 38.04.040, 38.04.045(a);
11 AS 38.05.030(a), 38.05.035(a)(14), 38.05.069(h), 38.05.321(a), 38.05.362
12 and 38.05.365(20) are repealed.

13 [* Sec. 88. Section 49 of this Act is retroactive to March 31, 1983.
14 The commissioner of natural resources shall extend the benefits granted by
15 sec. 49 of this Act to each eligible veteran who purchased land on or after
16 March 31, 1983, according to the terms of sec. 49 of this Act.]

17 * Sec. 89. Sections 19, 37, and 44 of this Act take effect immediately
18 in accordance with AS 01.10.070(c).

19 * Sec. 90. Sections 1 - 18, 20 - 36, 38 - 43 and 45

#14

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 1100

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 14, 1984

SUBJECT: A comparison of the versions of SB 375

TO: Representative Al Adams
Chairman, House Finance Committee

FROM: Richard A. Bradley *RB*
Legislative Counsel

Louann Cutler asked that I compare the three versions of SB 375: (1) SB 375; (2) CSSB 375(Resources); and (3) HCS CSSB 375(Resources). This memorandum will analyze the differences between the three bills.

Section 1 of each bill amends AS 38.04.005(b). The first change occurs in HCS CSSB 375(Resources) where, at line 13, page 1, the word "adverse" is added in the phrase ". . . seek to minimize the adverse effect of private use and settlement" A stylistic change in CSSB 375(Resources) and HCS CSSB 375(Resources) occurs where the phrase "on the land" (on line 14, page 1 of SB 375) becomes "of the land".

Section 2 of each bill amends AS 38.04.005(e). The provisions of CSSB 375(Resources) and HCS CSSB 375(Resources) are identical to each other but different from SB 375. The change is essentially one of style with the two committee substitutes adding a new first sentence which approximates a statement of purpose or emphasis.

Sections 3 of CSSB 375(Resources) and HCS CSSB 375(Resources) add a section not found in SB 375; the provision states that "land owned by the Board of Regents of the University of Alaska" is not subject to AS 38.04. The section, together with the clarifications made in the two committee substitutes to the definitions of "state land" and "university land" at the provisions amending AS 38.05.365, clarifies the result achieved in the settlement with the University last year in ch. 41, SLA 1983.

Section 3 of SB 375 and the sections 4 of CSSB 375(Re-sources) and HCS CSSB 375(Resources) each amends AS 38.04.010(b) and each does it differently. The differences among the versions are minimal and mostly ones of style though HCS CSSB 375(Resources) adds the availability of fisheries (in addition to "timber, firewood, and water") as one of the criteria used by DNR is determining how closely together residences may be located.

Section 4 of SB 375 and the sections 5 of CSSB 375(Re-sources) and HCS CSSB 375(Resources) each amends AS 38.04.020(a). In SB 375, the only change to the section is the deletion of the material after the semicolon in (a)(4). The two committee substitutes (which are themselves identical) provide that the appropriation request for the disposal of state land in the land disposal bank will be for the next two fiscal years rather than just for the next fiscal year. The two committee substitutes also amend (e)(4) to permit "right-of-way acquisition".

Section 5 of SB 375 and the sections 6 of CSSB 375(Re-sources) and HCS CSSB 375(Resources) each amends AS 38.04.020(f). The amendment in SB 375 adds a last sentence to the section requiring that the assessment of the commissioner of natural resources of the market for state land also "identify the demand for public services and capital improvements, including roads, associated with the market for state land." The amendments to the two committee substitutes each amends the first sentence of the section and repeal the remainder of the section. The amendment to CSSB 375(Resources) provides that the request of the commissioner "include an analysis and a determination that there is a market demand for the land proposed for disposal." The amendment to HCS CSSB 375(Resources) provides that the request of the commissioner "include an analysis and an assessment of the market demand for the land proposed for disposal."

Section 6 of SB 375 and the sections 7 of CSSB 375(Re-sources) and HCS CSSB 375(Resources) each amends AS 38.04.020(g)(2). Each provision is identical.

Section 7 of SB 375 and the sections 8 of CSSB 375(Re-sources) and HCS CSSB 375(Resources) each amends AS 38.04.020(h). Each provision is identical except that in CSSB 375(Resources), at page 4, line 28, the following change is made: ". . . comply with local [ZONING]

ordinances, . . ." and in HCS CSSB 375(Resources) the following change is made: ". . . comply with municipal [ZON-INC] ordinances, . . ."

Section 8 of SB 375 and the section 9 of CSSB 375(Resources) and HCS CSSB 375(Resources) each add a new Sec. 38.04.022: "Funds for Land Disposal." The three provisions are identical.

Section 9 of SB 375 and the sections 10 of CSSB 375(Resources) and HCS CSSB 375(Resources) each amends AS 38.04.035(4). The provisions of SB 375 and CSSB 375(Resources) are identical. The provisions of HCS CSSB 375(Resources) are not substantively different but the language is minimally different.

Section 10 of SB 375 and the sections 11 of CSSB 375(Resources) and HCS CSSB 375(Resources) each amends each amends AS 38.04.045(b). Each provision is identical except that in HCS CSSB 375(Resources) the material at page 6, lines 10 - 12 is added.

Section 11 of SB 375 and the sections 12 of CSSB 375(Resources) and HCS CSSB 375(Resources) each amends AS 38.04.050. Each provision is identical.

Section 12 of SB 375 and the sections 13 of CSSB 375(Resources) and HCS CSSB 375(Resources) each amends AS 38.04.055. Each provision is different. The differences seem minimal.

Section 13 of SB 375, section 15 of CSSB 375(Resources), and section 16 of HCS CSSB 375(Resources) each amends AS 38.05.030(c). The provisions are identical except for a drafting error in SB 375 where the section failed to acknowledge that AS 38.05.030(a) is being repealed.

Section 14 of CSSB 375(Resources) and HCS CSSB 375(Resources) each amends AS 38.04 by adding a new Sec.38.04.058 relating to "Restrictions on Easement or Right-of-Way Use." Each provision is identical. A similar provision is not contained in SB 375.

Section 15 of HCS CSSB 375(Resources) amends AS 38.05.020(b); similar provision is not contained in either SB 375 or CSSB 375(Resources). The basic change is the addition of (b)(7).

Section 14 of SB 375, section 16 of CSSB 375(Resources), and section 17 of HCS CSSB 375(Resources) each amends AS 38.05.030(d). Each provision is identical except that in SB 375 the provision again fails to acknowledge the repeal of AS 38.05.030(a).

Section 17 of CSSB 375(Resources) and section 18 of HCS CSSB 375(Resources) each amends AS AS 38.05.030 by adding a new subsection to provide that state land does not include university land. See my comments with regard to AS 38.04.005(f) above.

Section 16 of SB 375, section 18 of CSSB 375(Resources), and section 19 of HCS CSSB 375(Resources) each amends AS 38.05.035(b); similar provision is not contained in SB 375. The changes within the subsection which are not identical but which do seek similar goals occur at (b)(2)(B), at (b)(3), at (b)(6) in HCS CSSB 375(Resources), at (b)(7) of CSSB 375(Resources) and HCS CSSB 375(Resources), and at (b)(9) of CSSB 375(Resources) and HCS CSSB 375(Resources).

Section 15 of SB 375, section 19 of CSSB 375(Resources), and section 20 of HCS CSSB 375(Resources) each add a Sec. 38.05.035(e). Each provision is identical except that in HCS CSSB 375(Resources) a new (f) is also added.

Section 17 of SB 375, section 20 of CSSB 375(Resources), and section 21 of HCS CSSB 375(Resources) each amends AS 38.05.050. The changes occur in the last sentence of the section and the changes in CSSB 375(Resources) and HCS CSSB 375(Resources) are identical.

Section 18 of SB 375, section 21 of CSSB 375(Resources), and section 22 of HCS CSSB 375(Resources) each amends AS 38.05.055. The differences occur in the second sentence added to the section; the provisions in SB 375 and CSSB 375(Resources) are identical and require a bid at not less than "85 percent" of appraised fair market value; the provisions of HCS CSSB 375(Resources) permit a sale at "70 percent."

Section 23 of HCS CSSB 375(Resources) repeals and reenacts AS 38.05.059 relating to the sale or lease of agricultural land. A similar provision is not contained in SB 375 or CSSB 375(Resources).

Section 24 of HCS CSSB 375(Resources) amends AS 38.05.065(c). The other versions of SB 375 contain no similar section. Section 19 of SB 375, section 22 of CSSB 375(Resources), and section 25 of HCS CSSB 375(Resources) each adds a new subsection or subsections to AS 38.05.065. Each provision deals with the remedies of the state for a breach of a contract for the sale of state land. Each provision is different.

Section 20 of SB 375, section 23 of CSSB 375(Resources), and section 26 of HCS CSSB 375(Resources) each amends AS 38.05.069(a). Each provision is identical except that in CSSB 375(Resources) and HCS CSSB 375(Resources) the land held by the Alaska resident is required to be "adjacent", unlike the provisions of SB 375 which permit the land to be in close "proximity".

Section 21 of SB 375, section 24 of CSSB 375(Resources), and section 27 of HCS CSSB 375(Resources) each amends AS 38.05.069(c). The provisions of SB 375 and CSSB 375(Resources) are, notwithstanding the different format, identical; the substantive amendment in each is contained in the change within (c)(3) of SB 375 and (c)(5) of CSSB 375(Resources). The provisions of HCS CSSB 375(Resources) are different and repeal everything except for (c)(1) of existing law.

Section 25 of CSSB 375(Resources) and section 28 of HCS CSSB 375(Resources) amend AS 38.05.070(b). A similar provision is not contained in SB 375. Each provision is identical except that in HCS CSSB 375(Resources) a new second sentence is added: "The director shall preserve reasonable and traditional access to state land and water."

Section 26 of CSSB 375(Resources) and section 29 of HCS CSSB 375(Resources) each amends AS 38.05.070(c). Each provision is identical in effect. A similar provision is not contained in SB 375.

Section 27 of CSSB 375(Resources) and section 30 of HCS CSSB 375(Resources) each amends AS 38.05.075. The two provisions are essentially identical; in the second last sentence of the section, the provisions of CSSB 375(Resources) provides: "If the receipt is not acknowledged" while the provisions of HCS CSSB 375(Resources) provides: "If the receipt is not accepted"

Section 28 of CSSB 375(Resources) and section 31 of HCS CSSB 375(Resources) add new subsections to AS 38.05.075. Each provision is identical except that in HCS CSSB 375(Resources) the phrase "including prequalification requirements" is added to the second sentence of (e).

Section 22 of SB 375, section 29 of CSSB 375(Resources), and section 32 of HCS CSSB 375(Resources) each amends AS 38.05.110. Each provision is identical.

Section 23 of SB 375, section 30 of CSSB 375(Resources), and section 33 of HCS CSSB 375(Resources) each amends AS 38.05.115(a). Each provision is identical.

Section 24 of SB 375, section 31 of CSSB 375(Resources), and section 34 of HCS CSSB 375(Resources) each amends AS 38.05.118(a). Each provision is identical.

Section 25 of SB 375, section 32 of CSSB 375(Resources), and section 35 of HCS CSSB 375(Resources) each amends AS 38.05.118(c). Each provision is identical.

Section 26 of SB 375, section 33 of CSSB 375(Resources), and section 36 of HCS CSSB 375(Resources) each amends AS 38.05.120. Each provision is different. The provisions of SB 375 repeal the second sentence though the other two do not. The difference between the provisions of CSSB 375(Resources) and HCS CSSB 375(Resources) is that in HCS CSSB 375(Resources), at page 24, line 26, an amendment is made that is not contained within CSSB 375(Resources).

Section 34 of CSSB 375(Resources) and section 37 of HCS CSSB 375(Resources) each add new subsections to AS 38.05.125. Each provision is identical. A similar provision is not contained in SB 375.

Section 27 of SB 375, section 35 of CSSB 375(Resources), and section 38 of HCS CSSB 375(Resources) each amends AS 38.05.127(a). Each provision is identical except that in HCS CSSB 375(Resources) the provisions of (a)(2) are somewhat different.

Section 28 of SB 375, section 36 of CSSB 375(Resources), and section 39 of HCS CSSB 375(Resources) are each identical. Each adds a new subsection to AS 38.05.127.

Section 29 of SB 375 amends AS 38.05.205(a). A similar provision is not contained in CSSB 375(Resources) or HCS CSSB 375(Resources).

Section 30 of SB 375, section 37 of CSSB 375(Resources), and section 40 of HCS CSSB 375(Resources) each amends AS 38.05.205(c). Each provision is identical.

Section 31 of SB 375, section 38 of CSSB 375(Resources), and section 41 of HCS CSSB 375(Resources) each amends AS 38.05.300(a). Each provision is identical.

Section 32 of SB 375, section 39 of CSSB 375(Resources), and section 42 of HCS CSSB 375(Resources) each amends AS 38.05.310(a). Each provision is identical.

Section 40 of CSSB 375(Resources) and section 43 of HCS CSSB 375(Resources) each amends AS 38.05.315(d). Each provision is identical.

Section 41 of CSSB 375(Resources) and section 44 of HCS CSSB 375(Resources) each amends AS 38.05.321(c). Each provision is identical.

Section 33 of SB 375, section 42 of CSSB 375(Resources), and section 45 of HCS CSSB 375(Resources) each amends AS 38.05.345(a). The provisions of CSSB 375(Resources) and HCS CSSB 375(Resources) are identical; the difference in SB 375 is that it repeals (a)(3) and (4) while the other two amend (a)(3) and (4).

Section 34 of SB 375, section 43 of CSSB 375(Resources), and section 46 of HCS CSSB 375(Resources) each amends AS 38.05.345(b). Each provision is different. The provisions of CSSB 375(Resources) differ from those of SB 375 in the amendment to the last sentence of the subsection; the provisions of HCS CSSB 375(Resources) delete the first amendment contained in the other versions and make other changes.

Section 35 of SB 375, section 44 of CSSB 375(Resources), and section 47 of HCS CSSB 375(Resources) each amends AS 38.05.345(d). Each provision is substantially different from the others.

Section 36 of SB 375, section 45 of CSSB 375(Resources), and section 48 of HCS CSSB 375(Resources) each amends AS 38.05.365. The provisions of CSSB 375(Resources) and HCS

CSSB 375(Resources) are identical; their difference from SB 375 lies in the definition of "university land."

Section 46 of CSSB 375(Resources) and section 49 of HCS CSSB 375(Resources) each amends AS 38.05.940 and the provision is not contained within SB 375 or CSSB 375(Resources).

Section 47 of CSSB 375(Resources) and section 50 of HCS CSSB 375(Resources) each amends AS 38.07.030(c). The provisions are identical. A similar provision is not contained in SB 375.

Section 51 of HCS CSSB 375(Resources) amends AS 38.08.040(c). A similar provision is not contained in SB 375 or CSSB 375(Resources).

Section 37 of SB 375, section 48 of CSSB 375(Resources), and section 52 of HCS CSSB 375(Resources) each amends AS 38.08.060 by adding a new subsection. The provisions in CSSB 375(Resources) and HCS CSSB 375(Resources) are identical.

Section 38 of SB 375, section 49 of CSSB 375(Resources), and section 53 of HCS CSSB 375(Resources) each amends AS 38.09.010(b). The provisions of CSSB 375(Resources) and HCS CSSB 375(Resources) are similar.

Section 54 of HCS CSSB 375(Resources) amends AS 38.09.050(a). A similar provision is not contained in SB 375 or CSSB 375(Resources).

Section 39 of SB 375, section 50 of CSSB 375(Resources), and section 55 of HCS CSSB 375(Resources) each amends AS 38.09.090 by adding a new subsection. The provisions of CSSB 375(Resources) and HCS CSSB 375(Resources) are identical; the provisions of CSSB 375(Resources) deletes the "if" clause from the end of the first sentence in 375. Note that the material "repealed" in the provision as it appears in CSSB 375(Resources) should simply be omitted.

Sections 40 - 51 of SB 375, sections 51 - 62 of CSSB 375(Resources), and sections 56 - 67 of HCS CSSB 375(Resources) each amends provisions of AS 38.20. The provisions are identical.

Representative Al Adams

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Section 52 of SB 375, section 63 of CSSB 375(Resources), and section 68 of HCS CSSB 375(Resources) each amends AS 38.35.140(b). Each provision is identical.

Section 69 of HCS CSSB 375(Resources) amends AS 38.50.020(a). A similar provision is not contained in SB 375 or CSSB 375(Resources).

Section 53 of SB 375, section 64 of CSSB 375(Resources), and section 70 of HCS CSSB 375(Resources) amends AS 38.50.020(b). Each provision is identical.

Section 54 of SB 375, section 65 of CSSB 375(Resources), and section 71 of HCS CSSB 375(Resources) each amends AS 38.50.040. Each provision is identical.

Section 66 of CSSB 375(Resources) and section 72 of HCS CSSB 375(Resources) each amends AS 38.50.090(b). Each provision is identical. A similar provision is not contained in SB 375.

Section 55 of SB 375, section 67 of CSSB 375(Resources), and section 73 of HCS CSSB 375(Resources) each amends AS 38.50.110(a). Each provision is identical.

Section 56 of SB 375, section 68 of CSSB 375(Resources), and section 74 of HCS CSSB 375(Resources) each amends AS 38.50.110 by adding a new subsection (c). The provisions of SB 375 and CSSB 375 (resources) are identical; the acreage is different in HCS CSSB 375(Resources) in (c)(1). Section 57 of SB 375, section 69 of CSSB 375(Resources), and section 75 of HCS CSSB 375(Resources) each amends AS 38.50.120(a). Each provision is different.

Section 58 of SB 375, section 70 of CSSB 375(Resources), and section 76 of HCS CSSB 375(Resources) each amends AS 38.50.140. The provisions of SB 375 and CSSB 375(Resources) are identical; the provisions of HCS CSSB 375(Resources) are identical except for the material at page 47, lines 9 - 12.

Section 59 of SB 375 and section 71 of CSSB 375(Resources) each amends AS 38.95.080(a). Each provision is identical. A similar provision is not contained within HCS CSSB 375 (Resources).

Section 72 of CSSB 375(Resources) and section 77 of HCS CSSB 375(Resources) each amends AS 38.95.160(b). Each provision

is identical. A similar provision is not contained in SB 375.

Section 73 of CSSB 375(Resources) and section 78 of HCS CSSB 375(Resources) each amends AS 29.18.206(a). Each provision is identical. A similar provision is not contained within SB 375.

Section 74 of CSSB 375(Resources) and section 79 of HCS CSSB 375(Resources) each amends AS 29.18.206(d). Each provision is identical. A similar provision is not contained within SB 375.

Section 61 of SB 375, section 75 of CSSB 375(Resources), and section 80 of HCS CSSB 375(Resources) each amends AS 29.18.206(e). The provisions of CSSB 375(Resources) and HCS CSSB 375(Resources) are identical; the provisions of SB 375 fail to acknowledge the repeal of AS 38.05.032 and are slightly different in the first sentence.

Section 76 of CSSB 375(Resources) and section 81 of HCS CSSB 375(Resources) each amends AS 29.18.210(b). The sections vary in their amendments to the first sentence of the section.

Section 77 of CSSB 375(Resources) and section 82 of HCS CSSB 375(Resources) each amends AS 29.18.213. A similar provision is not contained in SB 375.

The provisions are identical except that HCS CSSB 375(Resources) has an additional term defined: "exchange".

Section 60 of SB 375, section 78 of CSSB 375(Resources), and section 83 of HCS CSSB 375(Resources) each amends AS 29.33.150(b). Each provision is identical.

Section 62 of SB 375, section 79 of CSSB 375(Resources), and section 84 of HCS CSSB 375(Resources) each amends AS 29.33.150(c). The provisions of SB 375 and HCS CSSB 375(Resources) are similar; the provisions of CSSB 375(Resources) contain new material in (c)(1).

Section 80 of CSSB 375(Resources) and section 85 of HCS CSSB 375(Resources) are identical (although there is an error in Sec. 85: "the internal reference should read "sec. 25").

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Section 86 of HCS CSSB 375(Resources) is not contained in any other version of the bill.

Section 63 of SB 375, section 81 of CSSB 375(Resources), and section 87 of HCS CSSB 375(Resources) establish the repealers. Each is different. Apart from common repealers, the provisions of SB 375 also repeal AS 38.05.345(e) and 38.05.350; the provisions of CSSB 375(Resources) repeal AS 38.05.350; and the provisions of HCS CSSB 375(Resources) repeal AS 38.05.321(a).

Section 88 of HCS CSSB 375(Resources) is unique to that bill.

Section 64 of SB 375, sections 82 - 83 of CSSB 375(Resources), and sections 89 - 90 of HCS CSSB 375(Resources) each constitute effective date sections. The provision of SB 375 establish an effective date of July 1, 1984. The provisions of the remaining two bill have some sections effective immediately and some effective July 1, 1984.

If I may be of further assistance, please advise.

RAB:ojb
J7/062

Offered: 3/13/84
Referred: Finance

Original sponsors: Fahrenkamp and Ziegler

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 375 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to land disposal and management; and
7 providing for an effective date."

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

9 * Section 1. AS 38.04.005(b) is amended to read:

10 (b) In classifying and making state land available for private
11 use and settlement purposes, the director shall consider the natural
12 resources and conditions present on the land and shall seek to mini-
13 mize the effect of private settlement on wildlife, fishery, mineral,
14 timber, and other significant resources and scenic quality of the
15 land; the director shall also make adequate provision for public open
16 space which is accessible to communities so that natural areas are
17 easily reached from all communities and settled areas. The amount of
18 that land shall be sufficient to meet existing and projected needs for
19 accessible public recreation land. Special care shall be taken to
20 preserve public access to public water and to retain state ownership
21 of sufficient land which combine high value for recreation and other
22 public purposes with accessibility to settled areas. This classifica-
23 tion for public purposes does not constitute dedication to open space,
24 but the division's management of land so classified shall be in a
25 manner to preserve the identified values.

26 * Sec. 2. AS 38.04.005(e) is repealed and reenacted to read:

27 (e) The involvement of a proximately located municipality and of
28 local residents is essential in classifying and making state land
29 available for private use and settlement. The director shall, when

1 appropriate, hold public meetings in the communities affected by the
2 disposal to solicit the views of the residents of the communities
3 affected.

4 * Sec. 3. AS 38.04.005 is amended by adding a new subsection to read:

5 (f) Land owned by the Board of Regents of the University of
6 Alaska is not subject to the provisions of this chapter.

7 * Sec. 4. AS 38.04.010(b) is amended to read:

8 (b) State land which is located beyond the range of existing
9 schools and other necessary public services, or which is located where
10 development of sources of employment is improbable, may be made avail-
11 able for seasonal recreational purposes or for low density settlement.
12 The seasonal recreation use or low density settlement shall have [,
13 WITH] sufficient separation between residences so that public services
14 will not be necessary or expected. The availability of timber, fire-
15 wood, and water resources shall be considered in determining separa-
16 tion between residences.

17 * Sec. 5. AS 38.04.020(e) as amended by sec. 3, ch. 103, SLA 1983 is
18 amended to read:

19 (e) The commissioner shall annually submit to the governor an
20 appropriation request for funding estimated to be necessary for the
21 next two years to allow [NECESSARY FOR THE DISPOSAL OF STATE LAND IN
22 THE LAND DISPOSAL BANK THAT SHALL BE INCLUDED IN THE BUDGET SUBMITTED
23 TO THE LEGISLATURE BY THE GOVERNOR. FOR EACH FISCAL YEAR, THE REQUEST
24 SHALL INCLUDE AN ESTIMATE OF THE AMOUNT NECESSARY]

25 (1) [FOR] survey and disposal of land proposed to be made
26 available for homestead staking, with the general location of the
27 land;

28 (2) [FOR] survey and disposal of land to be offered as
29 agricultural, commercial, industrial, or other uses under AS 38.05.055

1 or 38.05.057, with the general location of the land;

2 (3) [FOR] the survey and disposal of land proposed to be
3 offered as subdivisions, with the general location of the land;

4 (4) [FOR] preliminary feasibility studies, engineering
5 design work, right-of-way acquisition, and construction of access
6 roads and capital improvements required by municipal subdivision
7 ordinance or regulation of the platting board under AS 29.33.150; [IF
8 AN ACCURATE DETERMINATION OF THE AMOUNTS NECESSARY FOR ACCESS ROADS OR
9 CAPITAL IMPROVEMENTS CANNOT BE MADE AT THE TIME THE ESTIMATE IS SUB-
10 MITTED, A SCHEDULE FOR OBTAINING THE ESTIMATES, CONSTRUCTING THE
11 ACCESS ROADS OR CAPITAL IMPROVEMENTS, AND DISPOSING OF THE LAND SHALL
12 BE SUBMITTED;]

13 (5) [FOR] identification of land that will be proposed for
14 disposal under this subsection in future fiscal years.

15 * Sec. 6. AS 38.04.020(f) is amended to read:

16 (f) The request of the commissioner under (e) of this section
17 shall include an analysis and a determination that there is a market
18 demand for the land proposed for disposal [BE BASED ON AN ANNUAL
19 WRITTEN ASSESSMENT BY THE COMMISSIONER OF THE MARKET FOR STATE LAND IN
20 THE DIFFERENT REGIONS OF THE STATE. IF THE STATE LAND IS IN OR ADJA-
21 CENT TO MUNICIPALITIES OR UNINCORPORATED COMMUNITIES, THE ASSESSMENT
22 SHALL BE DEVELOPED IN CONSULTATION WITH THE MUNICIPALITIES OR UNINCOR-
23 PORATED COMMUNITIES. THE ASSESSMENT MUST INCLUDE A SURVEY OF THE
24 SUPPLY OF PRIVATELY OWNED LAND OFFERED FOR SALE, MUNICIPAL LAND FOR
25 WHICH A DISPOSAL PLAN HAS BEEN COMPLETED, AND FEDERAL LAND AVAILABLE
26 FOR SALE, LEASE, OR PERMIT FOR SPECIFIC ACTIVITIES. THE ASSESSMENT OF
27 THE MARKET FOR STATE LAND SHALL BE BASED ON AN ANALYSIS OF THE AMOUNT
28 OF PRIVATE, MUNICIPAL, AND FEDERAL LAND AVAILABLE FOR DISPOSAL ON
29 TERMS EQUIVALENT TO THOSE USED IN COMPARABLE STATE LAND DISPOSAL

1 PROGRAMS AND SHALL INCLUDE THE LENGTH OF TIME LAND REMAINS ON THE
2 MARKET BEFORE IT IS SOLD. THE ASSESSMENT MUST INCLUDE FINDINGS RE-
3 GARDING THE AMOUNT AND GENERAL LOCATION OF STATE LAND, IN ADDITION TO
4 LAND OFFERED BY PRIVATE LANDOWNERS OR AVAILABLE FROM A MUNICIPAL
5 GOVERNMENT OR THE FEDERAL GOVERNMENT, THAT IS NECESSARY TO MEET THE
6 STATEWIDE DEMAND FOR AT LEAST FIVE FISCAL YEARS IMMEDIATELY AFTER THE
7 YEAR IN WHICH THE ASSESSMENT IS MADE. THE ASSESSMENT MUST ALSO STATE
8 THE GENERAL LOCATION OF LAND PROPOSED FOR DISPOSAL IN THE NEXT FISCAL
9 YEAR AND RECOMMENDATIONS FOR THE METHOD OF DISPOSAL UNDER WHICH THE
10 LAND WILL BE OFFERED TO THE PUBLIC].

11 * Sec. 7. AS 38.04.020(g)(2) is amended to read:

12 (2) Land designated as suitable for subdivision and home-
13 site disposal shall be surveyed, subdivided, classified, and disposed
14 of under this chapter, AS 38.05, and AS 38.08 [AS FOLLOWS:

15 (A) UP TO 80 PERCENT OF THE PARCELS SHALL BE SOLD
16 UNDER THE LOTTERY SALE PROCEDURES ESTABLISHED IN AS 38.05.057 AND
17 38.05.065;

18 (B) AT LEAST 10 PERCENT OF THE PARCELS SHALL BE DIS-
19 POSED OF AS HOMESITES UNDER AS 38.08.010 - 38.08.120; AND

20 (C) AT LEAST AN ADDITIONAL 10 PERCENT OF THE PARCELS
21 SHALL BE DISPOSED OF AS HOMESITES UNDER AS 38.08.010 - 38.08.120
22 EXCEPT THAT, NOTWITHSTANDING AS 38.08.040(b), PARCELS OFFERED
23 UNDER THIS SUBPARAGRAPH SHALL BE OFFERED BY LOTTERY UNDER AS 38 -
24 05.057].

25 * Sec. 8. AS 38.04.020(h) is amended to read:

26 (h) Individual parcels disposed of in subdivisions may not
27 exceed five acres unless the commissioner determines that a larger
28 size is necessary to comply with local [ZONING] ordinances, [OR] to
29 permit the design of a viable subdivision because of topographical

1 features, soil conditions, on-site sewage disposal requirements, or
2 water drainage or supply considerations that are unique to the sub-
3 division, to minimize adverse effect on wildlife, fishery, timber, or
4 other significant resources in the area, or to minimize adverse effect
5 on other residential uses in the area.

6 * Sec. 9. AS 38.04 is amended by adding a new section to read:

7 Sec. 38.04.022. FUNDS FOR LAND DISPOSAL. (a) The revenue from
8 the sale of state land shall be deposited in a special state land
9 disposal income account in the state general fund. The legislature
10 may appropriate money from the special state land disposal income
11 account for expenditure by the Department of Natural Resources for
12 necessary costs incurred by the commissioner in the implementation of
13 state land disposal programs authorized under this title and for
14 implementation of AS 38.04.021.

15 (b) Within 30 days after the legislature convenes in regular
16 session the Department of Natural Resources shall submit a report
17 reflecting all money deposited in the fund established under (a) of
18 this section during the prior fiscal year.

19 * Sec. 10. AS 38.04.035(4) is amended to read:

20 (4) For enabling isolated cabin development in remote
21 locations where survey and conveyance is impractical, or where poten-
22 tial conflicts with other resources and uses require additional con-
23 ditions, or where a long-range interest in public ownership and use
24 exist, a system for cabin permits on public land may be used.

25 * Sec. 11. AS 38.04.045(b) is amended to read:

26 (b) Before the conveyance of surface rights to state land, an
27 official cadastral survey shall be accomplished, unless a comparable,
28 acceptable survey exists that has been conducted by the federal Bureau
29 of Land Management. The rectangular survey section corner positions

1 shall be monumented and shown on a cadastral survey plat approved by
2 the state. However, for those areas where the state may wish to
3 convey surface estate outside of an official cadastral survey grid,
4 the director may waive monumentation of all individual section corner
5 positions and substitute an official control survey with control
6 points being monumented [AT APPROXIMATELY TWO-MILE INTERVALS] and
7 shown on control survey plats approved by the state. No portion of
8 land to be conveyed may be located more than two miles from such a
9 survey control monument. The lots and tracts in state subdivisions
10 shall be monumented and the cadastral survey and plats for the sub-
11 division shall be approved by the state. Where land is located within
12 a municipality with planning, platting, and zoning powers, plats for
13 state subdivisions shall comply with local ordinances and regulations
14 in the same manner and to the same extent as plats for subdivisions by
15 other landowners. State subdivisions shall be filed in the district
16 recorder's office. The requirements of this section do not apply to
17 land made available through a cabin permit system, material sales, or
18 short-term leases; however, for short-term leases the lessee must
19 comply with local subdivision ordinances unless waived by the munic-
20 ipality under procedures specified by ordinance.

21 * Sec. 12. AS 38.04.050 is amended to read:

22 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state
23 land is surveyed for purposes of private use, legal [ADEQUATE] rights-
24 of-way and easements shall be reserved [AS NECESSARY] for access and,
25 where appropriate, for utility services [POWER AND TELEPHONE SERVICE]
26 to each parcel of land. A right-of-way or easement shall be located
27 to assure adequate and feasible access for the purposes for which the
28 right-of-way or easement was intended. Where necessary and appropri-
29 ate for the use intended or where required by local subdivision

1 ordinances, the director shall arrange for the development of surface
2 access as part of the land availability program. The direct cost of
3 local access development shall be borne by the recipient of the land
4 unless otherwise provided by state statutes or regulations.

5 * Sec. 13. AS 38.04.055 is amended to read:

6 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director
7 shall reserve easements and rights-of-way on and across land which is
8 made available for private use as necessary to reach or use public
9 water and public and private land. An easement or right-of-way re-
10 served under this section may include established trails traditionally
11 used for commerce, recreation, or transportation. The commissioner
12 may retain state land in public ownership to maintain present and
13 future public access.

14 * Sec. 14. AS 38.04 is amended by adding a new section to Article 2 to
15 read:

16 Sec. 38.04.058. RESTRICTIONS ON EASEMENT OR RIGHT-OF-WAY USE. A
17 grantee, lessee, or interest holder of state land may, under terms
18 agreed to by the director in writing, restrict the use of an easement
19 or right-of-way reserved under AS 38.04.050 - 38.04.055 or other law
20 in order to protect public safety or property.

21 * Sec. 15. AS 38.05.030(c) is amended to read:

22 (c) In addition to the requirements specified in AS 38.50.090,
23 the agencies referred to in [(a) AND] (b) of this section and other
24 state agencies with authority to acquire or dispose of land shall give
25 written notification of the fact of acquisition, lease, disposal, or
26 exchange to the commissioner [DIVISION OF LANDS] within three months
27 after the date that they make the acquisition, lease, disposal, or
28 exchange.

29 * Sec. 16. AS 38.05.030(d) is amended to read:

1 (d) Real property acquired by [,] and under the management of
2 [,] the agencies referred to in [(a) AND] (b) of this section that [,
3 WHICH] is no longer needed for its intended use [,] shall be trans-
4 ferred [RETURNED] to the commissioner [JURISDICTION OF THE DIVISION OF
5 LANDS], except that the Department of Transportation and Public Facil-
6 ities [HIGHWAYS] may dispose of real property acquired by it under
7 AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

8 * Sec. 17. AS 38.05.030 is amended by adding a new subsection to read:

9 (f) Land owned by the Board of Regents of the University of
10 Alaska is not subject to this chapter.

11 * Sec. 18. AS 38.05.035(b) is amended to read:

12 (b) The director may

13 (1) delegate the administrative duties, functions or powers
14 imposed upon the director [HIM] to a responsible employee in the
15 division;

16 (2) grant preference rights for the lease or purchase of
17 state land without competitive bid in order to correct [THE PAST OR
18 FUTURE] errors or omissions of a state or federal administrative
19 agency when inequitable detriment would otherwise result to a diligent
20 claimant or applicant due to situations over which the claimant or
21 applicant had no control; the exercise of this discretionary power
22 operates only to divest the state of its title to or interests in land
23 and may be exercised only

24 (A) with the express approval of the commissioner; and

25 (B) if the application for the preference right is
26 filed with the director within three years from the occurrence of
27 the error or omission;

28 (3) grant a preference right to a claimant who shows bona
29 fide improvement of state land [,] or of federal land subsequently

1 acquired by the state [,] and who has in good faith sought to obtain
2 title to the land but who, through error or omission of others occur-
3 ring within the three years before the application for the preference
4 right, has been denied title to it; upon a showing satisfactory to the
5 commissioner, the claimant may lease or purchase the land at the price
6 set on the date of original entry on the land or, if a price was not
7 set at that time at a price determined by the director [DIVISION] to
8 fairly represent the value of unimproved land at the time the claim
9 was established, but in no event less than the cost of administration
10 including survey; the error or omission of a predecessor in interest
11 or an agent, administrator, or executor which has clearly prejudiced
12 the claimant may be the basis for granting a preference right;

13 (4) sell land [LANDS] by lottery for less than the [THEIR]
14 appraised value when, in the [HIS] judgment of the director, past
15 scarcity of land suitable for private ownership in any particular area
16 has resulted in unrealistic land values;

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

27 (6) dispose of an interest in land limited to use for
28 agricultural purposes by lottery;

29 (7) convey to an adjoining landowner a remnant of land that

1 the director considers unmanageable or a parcel of land created by a
2 highway right-of-way alignment or realignment, or a parcel created by
3 the vacation of a state-owned right-of-way if

4 (A) the director [HE] determines that it is in the
5 best interests of the state;

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

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

13 (8) for good cause extend for up to 90 days the time for
14 rental or installment payments by a lessee or purchaser of state land
15 under this chapter if reasonable penalties and interest set by the
16 director are paid;

17 (9) quitclaim land or an interest in land to the federal
18 government on a determination that the land or the interest in land
19 was wrongfully or erroneously conveyed by the federal government to
20 the state.

21 * Sec. 19. AS 38.05.035 is amended by adding a new subsection to read:

22 (e) Upon a written finding that the interests of the state will
23 be best served, the director may, with the consent of the commis-
24 sioner, approve contracts for the sale, lease, or other disposal of
25 available land, resources, proper 7 or interests in them, and, in
26 addition to the conditions and limitations imposed by law, may impose
27 additional conditions or limitations in the contracts as the director
28 determines, with the consent of the commissioner, will best serve the
29 interests of the state. A contract for the sale, lease, or other

1 disposal of available land or an interest in land is not legally
2 binding on the state until the commissioner approves the contract but
3 if the appraised value is not greater than \$50,000 in the case of the
4 sale of land or an interest in land, or \$5,000 in the case of the
5 annual rental of land or interest in land, the director may execute
6 the contract without the approval of the commissioner. Before a
7 public hearing, if held, or in any case no less than 21 days before
8 the sale, lease, or other disposal of available land, property, re-
9 sources, or interests in them, the director shall make available to
10 the public a written finding that sets out the facts and applicable
11 law upon which the determination that the sale, lease, or other dis-
12 posal will best serve the interests of the state was based. A written
13 finding is not required before the approval of

14 (1) a contract for a negotiated sale authorized under
15 AS 38.05.115;

16 (2) a lease of land for a shore fishery site under AS 38.-
17 05.052; or

18 (3) a permit or other authorization revocable by the com-
19 missioner.

20 * Sec. 20. AS 38.05.050 is amended to read:

21 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
22 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-
23 mine the land to be disposed of for private use. The commissioner
24 [DIRECTOR] shall determine the time and place of disposal. An auction
25 sale, a lottery sale, or a disposal of land for homesites [UNDER
26 AS 38.04.020(g)(2)(C)] must be held in a community [THE MUNICIPALITY]
27 that is near [CLOSEST TO] the land to be sold or disposed of [AND IN
28 WHICH REGULAR SESSIONS OF A COURT OF THE STATE ARE HELD].

29 * Sec. 21. AS 38.05.055 is amended to read:

1 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method
2 of sale is required under this chapter, [UNDER] AS 38.07, or [UNDER]
3 AS 38.08, the sale of state land shall be made at public auction to
4 the highest qualified bidder as determined by the director. The
5 director may accept bids and sell state land under this section at no
6 less than 85 percent of the appraised fair market value of the land.

7 A bidder must appear in person at the auction unless medical reasons,
8 attendance at school, or military service outside the state prevent
9 attendance. A bidder may be represented by an attorney or agent at
10 the auction if the land offered for disposal is commercial, indus-
11 trial, or agricultural land. An aggrieved bidder may appeal to the
12 commissioner within five days after the sale for a review of the
13 director's determination. The sale shall be conducted by the director
14 [OR HIS REPRESENTATIVE,] and at the time of sale the successful bidder
15 shall deposit an amount equal to five percent of the purchase price [,
16 OR IF THE PURCHASER ELECTS TO USE LAND DISCOUNTS GRANTED UNDER AS 38.-
17 05.058, FIVE PERCENT OF THE AMOUNT BID AFTER DEDUCTION OF THE DIS-
18 COUNT]. The director [OR HIS REPRESENTATIVE] shall immediately issue
19 a receipt containing a description of the land or property purchased,
20 the price bid, and the amount deposited [, AND THE AMOUNT OF ANY
21 DISCOUNT ALLOWED]. The receipt shall be acknowledged in writing by
22 the bidder.

23 * Sec. 22. AS 38.05.065 is amended by adding new subsections to read:

24 (d) If a contract for a sale of state land has been breached,
25 the director may issue a decision to foreclose the contract at any
26 time 31 days after delivering by certified mail a written notice of
27 the breach to the address of record of the purchaser. A breach caused
28 by the failure to make payments required by the contract may be cured
29 within 30 days after the notice of the breach has been received by the

1 purchaser by payment of the sum in default together with the larger of
2 a fee of \$50 or five percent of the sum in default. If there are
3 material facts in dispute between the state and the purchaser, the
4 purchaser may submit a written request for a public hearing for the
5 review of the facts within 30 days after the notice of the breach has
6 been received.

7 (e) On a determination that there has been a breach of the
8 contract based on the administrative record and the evidence presented
9 at a hearing, the director shall issue a decision foreclosing the
10 interest of the purchaser. The obligation to make payments under the
11 contract continues through the date of the decision to foreclose by
12 the director.

13 (f) The decision to foreclose by the director under this subsection
14 terminates the legal and equitable rights of the purchaser in the
15 land and all payments made under the contract are forfeited to the
16 state.

17 * Sec. 23. AS 38.05.069(a) is amended to read:

18 (a) On a determination [IF THE DIRECTOR DETERMINES] that the
19 highest and best use of unoccupied land is for agricultural purposes
20 [,] and [IF HE DETERMINES] that it is in the best interests of the
21 state to sell or lease the land, the commissioner [HE] shall grant to
22 an Alaskan resident owning and using or leasing and using land for
23 agricultural purposes a [60-DAY] first option at [AFTER THE DATE OF]
24 the auction to purchase or lease the unoccupied land situated adjacent
25 to land presently held by the Alaskan resident [OR IN THE APPROXIMATE
26 VICINITY OF HIS PRESENTLY HELD LAND] for the amount of the high bid
27 received at public auction. If more than one Alaskan resident qual-
28 ifies for a first option under this section, eligibility for the first
29 option shall be determined by lot and the option must be exercised on

1 the conclusion of the public auction. A parcel of agricultural land
2 sold under 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 * Sec. 24. AS 38.05.069(c) is amended to read:

8 (c) Under this section

9 (1) the director may convey or lease an interest in the
10 land only for agricultural purposes, and all other interests in the
11 land remain in the state;

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

13 (3) [(2)] the remaining interests may subsequently be
14 conveyed or leased by the director only upon the request of the gran-
15 tee or lessee or the [HIS] assigns of the grantee or lessee and the
16 determination of the director, with the written concurrence of the
17 commissioner, that the conveyance or lease is in the public interest;

18 (4) [(3)] the conveyance or lease of the remaining inter-
19 ests shall be at public auction;

20 (5) the original grantee or lessee or the [HIS] assigns of
21 the grantee or lessee have a preference right to meet the high bid at
22 the time of [WITHIN 30 DAYS AFTER THE DAY OF] the auction;

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

27 (7) [(4)] by requesting the conveyance or lease of the
28 remaining interest, the original grantee or lessee or the [HIS] as-
29 signs of the grantee or lessee

1 (A) consents to the sale or lease, and
2 (B) if the preference right provided by (5) [(3)] of
3 this subsection is not exercised, consents to sell at fair
4 market value the improvements related to the remaining
5 interest, as appraised by the director;
6 (8) [(5)] the remaining interests in the land may not be
7 conveyed or leased for less than their appraised value together with
8 improvements except for the deduction allowed by (6) [(3)] of this
9 subsection.

10 * Sec. 25. AS 38.05.070(b) is amended to read:

11 (b) The director, with the approval of the commissioner, shall
12 determine the land to be leased and the limitations, conditions and
13 terms of the lease. If the appraised value of the transaction is
14 \$5,000 [\$250] a year or less the director may negotiate a lease with-
15 out advertisement for a period not to exceed 10 [FIVE] years, and on
16 the limitations, conditions and terms that the director [WHICH HE]
17 considers are in the best interests of the state. A lease negotiated
18 under this subsection is not eligible for a preference under AS 38.-
19 05.102.

20 * Sec. 26. AS 38.05.070(c) is amended to read:

21 (c) A lease may be issued for a period up to 55 years, if it
22 appears to be in the best interests of the state. The commissioner
23 shall consider the useful life of any improvements proposed and ap-
24 proved under AS 38.05.075 in determining the term of the lease [AND IF
25 THE COMMISSIONER APPROVES]. If the commissioner determines that the
26 land or a part of it which is the subject of a grazing lease is not
27 being used for the purpose issued, the lease may be declared void.
28 [HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A
29 PERIOD NOT TO EXCEED 99 YEARS.]

1 * Sec. 27. AS 38.05.075 is amended to read:

2 Sec. 38.05.075. LEASING PROCEDURES. Except as provided in
3 AS 38.05.087 and this section, leasing [THE LEASING] shall be made at
4 public auction to the highest qualified bidder as determined by the
5 commissioner [DIRECTOR]. An aggrieved bidder may appeal to the
6 commissioner within five days for a review of the [DIRECTOR'S]
7 determination. [WHEN A VALID EXISTING FEDERAL GRAZING LEASE IS CAN-
8 CALLED TO ALLOW STATE SELECTION OF THE AREA UNDER LEASE, THE LESSEE OF
9 THE LANDS HAS THE PREFERENCE RIGHT TO LEASE THE LANDS WITHOUT COMPETI-
10 TIVE BIDDING FOR A TERM EQUAL TO THAT ORIGINALLY GRANTED IN THE CAN-
11 CALLED FEDERAL LEASE AND UPON TERMS AS FAVORABLE TO THE LESSEE AS
12 THOSE CONTAINED IN THE CANCELLED FEDERAL LEASE.] The leasing shall
13 be conducted by the commissioner [DIRECTOR, OR HIS REPRESENTATIVE,]
14 and the successful bidder shall deposit at the auction the first
15 year's rental [,] or that portion of it that [WHICH] the commissioner
16 requires [,] in accordance with the [HIS] bid. The commissioner shall
17 require qualified bidders to deposit a sum equal to any survey or
18 appraisal costs reasonably incurred by another qualified bidder acting
19 in accordance with the regulations of the commissioner. If a bidder
20 making a deposit of survey or appraisal costs is determined by the
21 commissioner to be the highest qualified bidder under this subsection,
22 the deposit shall be paid to the unsuccessful bidder who incurred
23 those costs. Any survey or appraisal costs reasonably incurred by a
24 qualified bidder under the regulations of the commissioner or de-
25 posited under this subsection must be credited under the first and
26 then subsequent years' rentals. The commissioner [DIRECTOR OR HIS
27 REPRESENTATIVE] shall immediately issue a receipt containing a de-
28 scription of the land or interest leased, the price bid, [AND] terms
29 of the lease, and the amount of any credit for survey and appraisal

1 costs to the successful qualified bidder. If the [THE] receipt is not
2 [SHALL BE] acknowledged in writing by the bidder under this subsec-
3 tion, the commissioner may offer the land for lease again under this
4 subsection. A lease, on a form approved by the attorney general,
5 shall be signed by the successful bidder and [LESSEE AND, UPON AP-
6 PROVAL] by the commissioner within 30 days after the auction [, SHALL
7 BE SIGNED BY THE DIRECTOR].

8 * Sec. 28. AS 38.05.075 is amended by adding new subsections to read:

9 (b) When a valid existing federal grazing lease is cancelled to
10 allow state selection of the area under lease, the lessee of the land
11 has the preference right to lease the land without competitive bidding
12 for a term equal to that originally granted in the cancelled federal
13 lease and upon terms as favorable to the lessee as those contained in
14 the cancelled federal lease.

15 (c) The owner or lessee of land that fronts on tide or submerged
16 land of the state is entitled to acquire a lease for the tide and
17 submerged land without competitive bidding if the director determines
18 that

19 (1) the lease of the tide or submerged land is necessary to
20 facilitate water transportation of goods, services, or resources to or
21 from the owned or leased upland or for another water-dependent pur-
22 pose;

23 (2) the proposed use of the tide or submerged land is
24 compatible with the classification of the land and with any applicable
25 land use plan adopted under AS 38.04.065; and

26 (3) issuance of the lease to the tide or submerged land
27 will not interfere with prior existing rights to the leased land.

28 (d) If the commissioner issues a lease under (c) of this sec-
29 tion, the right of access to the tide and submerged land shall be

1 nonexclusive in the lessee unless the commissioner grants the lessee
2 the exclusive right to use the tide and submerged land.

3 (e) The commissioner may require prequalification of bidders for
4 a lease to be issued under AS 38.05.070. If the commissioner deter-
5 mines to require prequalification, the procedures established by this
6 section and the notice required to be given under AS 38.05.345 shall
7 be completed within 75 days of the receipt of the first lease applica-
8 tion unless the commissioner grants additional time for the completion
9 of the procedures. Within the 75-day period or the additional time
10 granted by the commissioner, the commissioner shall complete

11 (1) classification under AS 38.05.300;

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

13 (3) any other action required by law for the disposal of
14 the lease to a bidder except survey, appraisal, and the auction.

15 (f) The commissioner may issue a lease without competitive
16 bidding at the approved, appraised market value of the land determined
17 under AS 38.05.310 if, after completion of the procedures required by
18 (e) of this section, the commissioner determines that there is only
19 one qualified bidder. The commissioner may establish terms and con-
20 ditions for entry to the land pending survey and appraisal of the
21 land. The commissioner shall issue the lease as soon as is practi-
22 cable following the survey and appraisal of the land subject to the
23 provisions of AS 38.05.035(e).

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

26 (h) A person aggrieved by a decision of the commissioner under
27 this section may appeal to the commissioner within five days of the
28 prequalification decision. The decision of the commissioner under
29 this subsection or under AS 38.05.035(e) may be appealed to the

1 superior court.

2 * Sec. 29. AS 38.05.110 is amended to read:

3 Sec. 38.05.110. SALE OF TIMBER AND MATERIALS. The commissioner
4 [DIRECTOR] shall provide for cruises of timber and appraisals of other
5 materials in or upon state land and shall assess the supply of and
6 current markets for timber on and other materials in privately owned
7 land in close proximity to state land to determine [LANDS AND TRANSMIT
8 THIS DATA TO THE COMMISSIONER, TOGETHER WITH HIS RECOMMENDATIONS WITH
9 RESPECT TO]

10 (1) the timber and other materials that [WHICH] should be
11 offered for sale, and

12 (2) the terms of sale of the timber or other materials.

13 * Sec. 30. AS 38.05.115(a) is amended to read:

14 (a) The commissioner [, UPON RECOMMENDATION OF THE DIRECTOR,]
15 shall determine the timber and other materials to be sold, and the
16 limitations, conditions and terms of sale. The limitations, condi-
17 tions and terms shall include the utilization, development and mainte-
18 nance of the sustained yield principle, subject to preference among
19 other beneficial uses. The commissioner [DIRECTOR] may negotiate
20 sales of timber or materials without advertisement and on the limita-
21 tions, conditions, and terms that are considered to be [WHICH HE
22 CONSIDERS ARE] in the best interests of the state [, SUBJECT TO THE
23 APPROVAL OF THE COMMISSIONER]. However, not more than 500 M.B.M. or
24 equivalent other measure of timber or more than 25,000 cubic yards of
25 materials may be sold by nonadvertised, negotiated sale to the same
26 purchaser within a one-year period.

27 * Sec. 31. AS 38.05.118(a) is amended to read:

28 (a) Notwithstanding any other provision of AS 38.05.110 - 38.-
29 05.120, the commissioner [DIRECTOR, WITH THE APPROVAL OF THE

1 COMMISSIONER,] may negotiate a sale of timber to a local manufacturer
2 at appraised value. The period of a contract for a sale of timber
3 negotiated under this section may not exceed 25 years. The contract
4 shall provide that the appraised value of timber remaining to be
5 harvested under the provisions of the contract shall be redetermined
6 at least once every five years.

7 * Sec. 32. AS 38.05.118(c) is amended to read:

8 (c) A [NO] sale of timber may not be negotiated by the commis-
9 sioner [DIRECTOR] under this section except on a finding [UNLESS HE
10 FIRST FINDS] that, within an area proximate to the business site which
11 the manufacturer may economically serve, there exists

- 12 (1) a high level of local unemployment;
- 13 (2) an underutilized timber manufacturing capacity; and
- 14 (3) an underutilized allowable cut of state timber.

15 * Sec. 33. AS 38.05.120 is amended to read:

16 Sec. 38.05.120. DISPOSAL PROCEDURE. Timber and other materials
17 shall be sold either by sealed bids or public auction, depending on
18 which method is determined by the commissioner to be in the best
19 interests of the state, to the highest qualified bidder as determined
20 by the commissioner [DIRECTOR]. An aggrieved bidder may appeal to the
21 commissioner within five days after the sale for a review of the
22 [DIRECTOR'S] determination. The sale shall be conducted by the com-
23 missioner [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale
24 the successful bidder shall deposit the amount specified in the terms
25 of sale. The means by which the amount of deposit is determined shall
26 be prescribed by appropriate regulation. The commissioner [DIRECTOR
27 OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a
28 description of the timber or materials purchased, the price bid, and
29 the terms of sale. The receipt shall be acknowledged in writing by

1 the bidder. A contract of sale, on a form approved by the attorney
2 general, shall be signed by the purchaser and [, FOLLOWING THE AP-
3 PROVAL OF THE COMMISSIONER,] the contract shall be signed by the
4 commissioner [DIRECTOR] on behalf of the state. The commissioner
5 [DIRECTOR, WITH THE APPROVAL OF THE COMMISSIONER,] may impose condi-
6 tions, limitations, and terms considered [WHICH HE CONSIDERS] neces-
7 sary and proper to protect the interests of the state. Violation of
8 any provision of this chapter or the terms of the contract of sale
9 subjects the purchaser to appropriate legal action.

10 * Sec. 34. AS 38.05.125 is amended by adding new subsections to read:

11 (b) The provisions of (a) of this section do not apply to a
12 quitclaim of land or an interest in land made under AS 38.05.035-
13 (b)(9).

14 (c) Notwithstanding (a) of this section, the transfer of owner-
15 ship and management of University of Alaska trust land from the
16 Department of Natural Resources to the Board of Regents of the
17 University of Alaska under ch. 22, SLA 1983 includes the mineral
18 estate of the state in the land.

19 * Sec. 35. AS 38.05.127(a) is amended to read:

20 (a) Before the sale, lease, grant, or other disposal of any
21 interest in state land adjacent to a body of water or waterway, the
22 commissioner [DEPARTMENT OF NATURAL RESOURCES] shall,

23 (1) under regulations, determine if the body of water or
24 waterway is navigable water, public water, or neither;

25 (2) upon finding that the body of water or waterway is
26 navigable or public water, provide for the specific easements, [OR]
27 rights-of-way, or retention of land in state ownership [BOTH], rea-
28 sonably necessary to ensure [INSURE] free access to and along the body
29 of water, unless the commissioner [DEPARTMENT] finds that regulating

1 or limiting access is necessary for other beneficial uses or public
2 purposes.

3 * Sec. 36. AS 38.05.127 is amended by adding a new subsection to read:

4 (e) The establishment of easements or rights-of-way for oil and
5 gas and mineral leases under (a) of this section need not be made
6 until the leases are ready to be developed.

7 * Sec. 37. AS 38.05.205(c) is amended to read:

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

18 * Sec. 38. AS 38.05.300(a) is amended to read:

19 (a) The commissioner shall classify for surface use land [LANDS]
20 in areas considered [WHERE HE CONSIDERS IT] necessary and proper.
21 This section does not prevent reclassification of land [LANDS] where
22 the public interest warrants reclassification, nor does it preclude
23 multiple purpose use of land [LANDS] whenever different uses are
24 compatible. State [NO STATE] land, water, or land and water area may
25 not, [SHALL] except by act of the state legislature, be closed to
26 multiple purpose use [,] if the area involved contains more than 640
27 acres.

28 * Sec. 39. AS 38.05.310(a) is amended to read:

29 (a) No land may be sold or leased, or a renewal lease issued,