

ALASKA LEGISLATURE

2563

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

129

Footnotes

1 Act of June 8, 1906, ch. 3060, 34 Stat. 225, codified at 16 U.S.C. §§431 et seq. For a discussion of monument issues, see Carol Hardy Vincent and Pamela Baldwin, National Monuments and the Antiquities Act, CRS Report PL30528, updated regularly.

2 Pub. L. No. 96-487, 94 Stat. 2374, codified in part at 16 U.S.C. §§ 3101 et seq. Section 1002 of the Act (16 U.S.C. §3142) directed studies of the coastal plain, and §1003 (16 U.S.C. §3143) precluded oil development in the Refuge unless authorized by Congress.

3 For a more complete discussion of the resources and policy considerations related to ANWR, see Lynne Corn and Pamela Baldwin, The Arctic National Wildlife Refuge: The Next Chapter, IB 10055, updated regularly.

4 The District Court for Alaska granted partial summary judgment for the United States on the issue of construction of the 1906 Act. The court concluded that, although the Act limited the authority of the President as to size and subject matter of withdrawals, the outermost parameters of that authority had not yet been articulated and the withdrawals before the court did not exceed the authority of the President. Unreported bench opinion, *Anaconda Copper Company v. Andrus*, A79-161 Civ., (D.Al. July 1, 1980).

5 Proc. 6920, September 18, 1996; 61 Fed. Reg. 50,223 (September 24, 1996).

6 Proc. 7265, January 11, 2000; 65 Fed. Reg. 2825 (January 18, 2000).

7 *Cameron v. United States*, 252 U.S. 450 (1919).

8 *Wyoming v. Franke*, 58 F. Supp. 890, 895 (D. Wyo. 1945).

9 *Cameron v. United States*, 252 U.S. 450 (1919), upheld the Grand Canyon National Monument and noted that the Grand Canyon was an object of unusual scientific interest; *Cappaert v. United States*, 426 U.S. 128, 142 (1975), upheld the Devil's Hole National Monument which protected a cave, pool and type of fish; and *United States v. California*, 436 U.S. 32 (1978), upheld Presidential action to protect fossils and examples of volcanism. See also *Wyoming v. Franke*, 58 F. Supp. 890 (D. WY. 1945), which dismissed for lack of a reviewable question (on whether the discretion given the President had been improperly exercised with regard to the size of the Jackson Hole National Monument and its protection of natural phenomena), and *Anaconda Copper*, supra.

10 16 U.S.C. § 3213. Note that the section applies to withdrawals of "public lands" in Alaska. That term can have diverse meanings and inquiry must always be made as to its meaning in any particular instance. At times, "public lands" is interpreted as meaning unreserved federal public domain lands, and hence would not include ANWR lands as subject to §1326. However, ANILCA defines public lands as federal lands (title in the U.S.) situated in Alaska, except for certain Native lands and lands subject to selections by natives or the State. Therefore, arguably even reserved lands are subject to §1326.

11 This provision seems to be a grant of temporary withdrawal authority, with the power reserved to Congress to extend or make permanent any such withdrawal through an act of Congress. (Joint resolutions are acted upon by both chambers and presented to the President and hence are laws.) As such, this does not appear to present the same constitutional issues as did the partial congressional action ("legislative veto") that was the subject of *INS v. Chadha*, 462 U.S. 919 (1983).

12 Congress has sometimes converted a national monument into a national park, but also terminated some of the Carter monuments in ANILCA and replaced them with enacted conservation units.

13 Section 102 of ANILCA defines "national conservation unit" in a manner that does not include national monuments.

Sec. 3213. - Future executive branch actions

(a)

No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b)

No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress

Representative
HUGH "BUD" FATE
Finance Committee
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Alaska State Legislature



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House District 7

House of Representatives

Memorandum

To: House Finance Committee
Fm: Representative Hugh Fate *for JP*
Cc:
Date: ~~March 31, 2004~~
Re: Questions and answers

This is a response to the questions asked on HB 319 in the opinion of the drafting attorney.

"Filing of a claim" is a cause of action (lawsuit) with jurisdiction based on the size of the claim.

Water Rights- If the project destroyed/polluted sub surface water it could be considered as physical damage.

HB

319

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/8/04

FURTHER:

REPORTED OUT
MAY 10 2004
SENATE FINANCE
COMMITTEE

DATE TURNED
IN TO OFFICE: 10 May 2004

Finance Committee considered CS FOR HOUSE BILL NO. 319(FIN) am

HB 319 REC.CABIN SITES/ LOTTERY SALE/RTS. RESERV

"An Act relating to the disposal of state land by lottery; relating to the reservation of rights by the state in land contracts and deeds; relating to the disposal, including sale or lease, of remote recreational cabin sites; and providing for an effective date."

and recommends:

- be replaced with 5 CS CS HB 319 (FIN)
- adopt previous _____ CS CS forthcoming . (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DNR Oil & Gas	5/8/04			✓	#4
DNR Land Sales	5/8/04	69.0			#5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			

MAY 10 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

Fiscal Note Number: 4

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS (SHB 319) (RES)
(S) Publish Date: 5/8/04
() Publish Date: _____

Revision Date/Time (Note if correction): 5/8/04 Dept. Affected: Natural Resources
Title: Remote Rec. Cabin Site Sales/Lottery Sale RDU: Resource Development
Component: Oil and Gas Development
Sponsor: Rep. Fate, Wolf
Requester: Senate Finance Component No.: 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Mark D. Myers Phone 269-8800
Division: Oil and Gas Date/Time 5/7/04
Approved by: Thomas Irwin, Commissioner Date 5/8/04
Agency: Natural Resources

REPORTED OUT
MAY 10 2004
SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: SBCHB319(RES)
(S) Publish Date: 5/8/04

Revision Date/Time (Note if correction): 5/8/2004 Dept. Affected: Natural Resources
Title: Remote Rec Cabin Site Sales/ RDU Resource Development
Lottery Sale Component Land Sales/Municipal Entitlements
Sponsor Rep. Fate
Requester (S) FIN Component No. 2456

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	59.0	179.5	241.0	241.0	241.0	241.0
Travel	2.0	6.0	8.0	8.0	8.0	8.0
Contractual	8.0	28.0	28.0	28.0	28.0	28.0
Supplies		8.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	69.0	221.5	279.0	279.0	279.0	279.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1153)			82.5	82.5	247.5	346.3
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	69.0	221.5	196.5	196.5	31.5	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1153 Land Disp Income Fund)			82.5	82.5	247.5	279.0
TOTAL	69.0	221.5	279.0	279.0	279.0	279.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	2	4	4	4	4
Part-time		2				
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill establishes a public nomination process for the Remote Recreational Cabin Program under AS 38.05.600. It leaves the existing Remote Recreational Cabin Program under that statute in place, although it modifies some of the requirements of the existing program (such as parcel size, river frontage, etc.). This fiscal note analyzes the impacts of these changes. The new program adds a maximum size restriction of 10 acres.

DETAILS ON FOLLOWING PAGES

Prepared by: Nancy Welch, Special Assistant to the Commissioner Phone 907-269-8431
Division: Commissioner's Office Date/Time 5/7/04
Approved by: Tom Irwin, Commissioner Date 5/8/04
Agency: Natural Resources

COMMITTEE COPY

STATE OF ALASKA
2004 LEGISLATIVE SESSION

SCS CSHB 319(RES)

ANALYSIS CONTINUATION

Assumptions.

The bill modifies the existing Remote Recreational Cabin Program. Thus, the fiscal note assumes that the existing program continues but at an expanded level and with some revision to comply with changes to this statute.

As a result of this legislation, DNR will undertake the following tasks:

- 1) prepare an annual schedule of remote recreation cabin offerings;
- 2) prior to preparation of the schedule, solicit public nominations of areas to offer for sale under this program;
- 3) assess proposed land offerings to ensure they were not selected for mineral potential or do not contain high value mineral lands. This will involve research into state land selection history for sale areas; review of published reports, geophysical surveys and geological evaluations for sale areas; and Division of Mining, Land and Water (DMLW) will coordinate a review of proposed sale areas by the DNR Division of Geological and Geophysical Surveys, DNR Division of Oil and Gas, and the Minerals Section of the DMLW; and
- 4) require that new purchasers of parcels under this program and any DNR lottery sale programs increase their deposits from 5% to 10% of the appraised value.

In FY05, DNR will also need to revise its regulation for this program to conform to certain changes proposed in HB319.

Program Impact: In response to the nominations process, DNR will offer additional areas and will offer up to 100 additional parcels under the Remote Recreation Cabin Program. Because some of these areas will be driven by public recommendations, we are assuming higher public interest and a higher response rate. This expansion of the program will result in increased survey and appraisal work starting in FY 06. Surveys will continue to be done by private sector surveyors, and applicants will pay for costs of survey and appraisal.

Expenditures

Personal Services. FY 05 - DNR estimates that to perform the tasks described above will require one (1) Natural Resource Specialist II (range 16) at a cost of \$59.0, for a total FY 05 personal services cost of \$59.0.

FY 06 - DNR will require funding for an additional NRS II to prepare additional areas nominated for sale, with the intention of offering 100 additional parcels; and 1/2 of an additional land survey position and 1/2 of an additional appraisal position to assist in this effort. An Appraiser II is \$65.0/year, or \$32.5 for 1/2 year. A Land Survey Assistant II is \$58.0 per year, or \$29.0 for 1/2 year.

Contractual Costs:

	FY 05	FY 06-FY 10
Phones, computer hook-ups, etc. @\$1000 ea	\$ 1.0	4.0
Office space rental	\$ 5.0	20.0
public notices, etc.	<u>\$ 2.0</u>	<u>4.0</u>
TOTAL	\$ 8.0	28.0

Forecast of Increases in Sales and Revenues

Assumptions - Number of parcels offered and sold : In response to the nominations process, DNR will offer 100 additional parcels each year starting in FY 07. Because some of these areas will be driven by public recommendations, we assume a high percentage, 75%, or 75 parcels, will actually be staked and eventually sold.

Timing of Sales. In FY 05, DNR will identify these new sale areas based upon public nominations. In FY 05-06, DNR will research land status, identify and reserve access, prepare best interest findings, conduct public notice and review, develop sale brochures, and other tasks to prepare areas to offer for staking. The areas will be offered for staking in FY 07. Parcels will be surveyed and appraised during FY 07-08. Final sales of parcels staked in FY 07 would occur in FY 09. These time frames are based upon an optimistic assessment of actual time required to implement the existing program.

FISCAL NOTE #5

STATE OF ALASKA
2004 LEGISLATIVE SESSION

SCS CSHB 319 (RES)

Revenues from additional Offerings under HB 319. The following represents forecasted revenues based upon the assumption of 100 new parcels offered each year starting in FY 07, with 75% being sold (75 parcels). In addition, revenues under the existing program, which offers 250 parcels per year, will increase as the required down payment for parcels staked starting in FY 05 will increase from 5% to 10% of appraised value. Increased revenue comes from three sources as follows:

Increased Revenue from Increased Down Payments: FY 07 and following years, revenue will increase as a result of increasing the deposit for all remote recreation cabin parcels from 5% to 10%. This increased down payment will apply to parcels staked after the effective date of this act. Increasing the deposits from 5% to 10% will result in an estimated \$70,000 (the average of 5% of the FMV of the 2002 and 2003 parcels) starting in FY 07.

Revenue From Fees. DNR anticipates that offering more areas and parcels will increase the number of applications and revenue from associated fees. The fiscal note assumes DNR will collect the following additional fees at the time of applications, stakings, or processing of sale contracts/deeds:

Application fee: \$25/application - assume an additional 400 applications/year = \$10,000

Staking authorization fee: \$25 at time applicant submits staking diagram: \$25 x 100 parcels = \$2,500

Document processing fee: \$100 at time applicant requests contract or patent - assume 75 additional parcels go to purchase = \$7,500 starting in FY 08.

Total Increased Fee Revenue - FY 07: \$12,500

FY 08 and following years: \$20,000

Increased Revenue from Increased Sales. Starting in FY 09, DNR forecasts an increase of 100 parcels or stakings being offered with a much higher (75%) staking rate resulting from the combination of increased interest in offerings (because of nominations), increased number of stakings authorized, or increased areas. Assumptions used to estimate increased revenue follows:

Number of Additional Parcels Sold: 75

Parcel Size - assumed to be 10 acres, which is the maximum allowed by the program, but less than what most people have staked under the existing program (average 13.6 acres). Many municipalities have a 10 acre minimum parcel size.

Parcel Price - the selling price for parcels staked in FY 01 and 02 has averaged \$620/acre with an average size of 13.6 acres. Smaller parcels generally receive a higher per acre value, DNR has adjusted the per acre price for this FN analysis to \$750/acre.

Financing - The bill assumes the current practice for financing: approximately 20% of applicants purchase outright, and 80% finance their purchase over 5 years. The current interest rate is 7%.

Summary.

FY 07 and 08: Revenue will increase as a result of increased downpayments from parcels acquired under the existing program (\$70,000) and additional application fees (\$12,500), for a total of \$82,500.

FY 09: Revenue (\$247,500) will include:

- increased downpayments from the existing program sales (\$70,000/year)
- increased fees (now \$20,000)
- cash sales of 20% of the 75 additional parcels - 15 parcels/year (\$112,500)
- the 10% down payments from the 60 parcels financed (\$45,000) and an assumed increase in rate of sales.

FY 10 (Revenue of \$279,000) and following years - FY 09 revenue plus \$98,776 from previous year's contracts (60 parcels, interest rate of 7%, financed 5 years).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Fiscal Note Number: SCS CSHB 319 (RES)
 Bill Version: (S) Publish Date: 5/8/04
 () Publish Date:

Revision Date/Time (Note if correction): 5/8/04 Dept. Affected: Natural Resources
 Title: Remote Rec. Cabin Site Sales/Lottery Sale RDU: Resource Development
 Component: Oil and Gas Development
 Sponsor: Rep. Fate, Wolf
 Requester: Senate Finance Component No.: 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Mark D. Myers Phone: 269-8800
 Division: Oil and Gas Date/Time: 5/7/04
 Approved by: Thomas Irwin, Commissioner Date: 5/8/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB319SCS(RES)-DNR-LSM
 () Publish Date: _____

Revision Date/Time (Note if correction): 5/10/2004 Dept. Affected: Natural Resources
 Title Remote Rec Cabin Site Sales/ RDU Resource Development
Lottery Sale Component Land Sales/Municipal Entitlements
 Sponsor Rep. Fate
 Requester (S) FIN Component No. 2456

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	59.0	179.5	241.0	241.0	241.0	241.0
Travel	2.0	6.0	8.0	8.0	8.0	8.0
Contractual	8.0	28.0	28.0	28.0	28.0	28.0
Supplies		8.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	69.0	221.5	279.0	279.0	279.0	279.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1153)		70.0	97.5	97.5	262.5	361.3
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	69.0	151.5	181.5	181.5	16.5	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1153 Land Disp Income Fund)		70.0	97.5	97.5	262.5	279.0
TOTAL	69.0	221.5	273.0	279.0	279.0	279.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	2	4	4	4	4
Part-time		2				
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a public nomination process for the Remote Recreational Cabin Program under AS 38.05.600. It leaves the existing Remote Recreational Cabin Program under that statute in place, although it modifies some of the requirements of the existing program (such as parcel size, river frontage, etc.). This fiscal note analyzes the impacts of these changes. The new program adds a maximum size restriction of 10 acres.

DETAILS ON FOLLOWING PAGES

Prepared by: Nancy Welch, Special Assistant to the Commissioner Phone 907-269-8431
 Division Commissioner's Office Date/Time 5/7/04
 Approved by: Tom Irwin, Commissioner Date 5/8/04
 Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB319SCS(RES)-DNR-LSM

ANALYSIS CONTINUATION

Assumptions.

The bill modifies the existing Remote Recreational Cabin Program. Thus, the fiscal note assumes that the existing program continues but at an expanded level and with some revision to comply with changes to this statute.

As a result of this legislation, DNR will undertake the following tasks:

- 1) prepare an annual schedule of remote recreation cabin offerings;
- 2) prior to preparation of the schedule, solicit public nominations of areas to offer for sale under this program;
- 3) assess proposed land offerings to ensure they were not selected for mineral potential or do not contain high value mineral lands. This will involve research into state land selection history for sale areas; review of published reports, geophysical surveys and geological evaluations for sale areas; and Division of Mining, Land and Water (DMLW) will coordinate a review of proposed sale areas by the DNR Division of Geological and Geophysical Surveys, DNR Division of Oil and Gas, and the Minerals Section of the DMLW; and
- 4) require that new purchasers of parcels under this program and any DNR lottery sale programs increase their deposits from 5% to 10% of the appraised value.

In FY05, DNR will also need to revise its regulation for this program to conform to certain changes proposed in HB319.

Program Impact: In response to the nominations process, DNR will offer additional areas and will offer up to 100 additional parcels under the Remote Recreation Cabin Program. Because some of these areas will be driven by public recommendations, we are assuming higher public interest and a higher response rate. This expansion of the program will result in increased survey and appraisal work starting in FY 06. Surveys will continue to be done by private sector surveyors, and applicants will pay for costs of survey and appraisal.

Forecast of Increases in Sales and Revenues

Assumptions - Number of parcels offered and sold: The bill sponsor assumes DNR will receive 1000 new lottery application. The existing program offers 250 authorizations to stake land. This FN will increase the number by 100 authorizations. From the previous FN, DNR assumes that 100 parcels can be grouped and processed and has based the expenditure estimates in this fiscal note on that number. The previous FN also required individual processing of an additional 150 parcels; the Senate Resources committee substitute deleted this requirement. Thus, this FN is reduced to reflect only the more cost-effective batch processing addressed in previous FN's. Further, the costs reflect testimony given in the hearing of this bill.

In response to the nominations process, DNR will offer 100 additional parcels each year starting in FY 07. Because some of these areas will be driven by public recommendations, we assume a high percentage, 75%, or 75 parcels, will actually be staked and eventually sold.

Timing of Sales. In FY 05, DNR will solicit nominations from the public for areas of interest. In FY 06, DNR will research land status, identify and reserve access, prepare best interest findings, conduct public notice and review, develop sale brochures, and other tasks to prepare areas to offer for staking. The areas will be offered for staking in FY 07. Leases will be issued in FY07, which begins the two-year clock in Section 3 of the bill for survey and appraisal to be completed within 24 months. Parcels will be surveyed and appraised during FY 08-09. Final sales of parcels staked in FY 07 would occur in FY 09. These time frames are based upon an optimistic assessment of actual time required to implement the existing program.

Revenues from additional Offerings under HB 319. The following represents forecasted revenues based upon the assumption of 100 new parcels offered each year starting in FY 07, with 75% being sold (75 parcels). In addition, revenues under the existing program, which offers 250 parcels per year, will increase as the required down payment for parcels staked starting in FY 05 will increase from 5% to 10% of appraised value. Increased revenue comes from three sources as follows:

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 319SCS(RES)-DNR-LSM

Increased Revenue from Increased Down Payments: FY 07 and following years, revenue will increase as a result of increasing the deposit for all remote recreation cabin parcels from 5% to 10%. This increased down payment will apply to parcels staked after the effective date of this act. Increasing the deposits from 5% to 10% will result in an estimated \$70,000 (the average of 5% of the FMV of the 2002 and 2003 parcels) starting in FY 07.

Revenue From Fees. DNR anticipates that offering more areas and parcels will increase the number of applications and revenue from associated fees. The fiscal note assumes DNR will collect the following additional fees at the time of lottery applications, stakings, or processing of sale contracts/deeds. There is no fee for the public to nominate an area for consideration.

Lottery Application fee: \$25/application - assume an additional 1000 applications per year per sponsor = \$25,000
Staking authorization fee: \$25 at time applicant submits staking diagram: \$25 x 100 parcels = \$2,500
Document processing fee: \$100 at time applicant requests contract or patent - assume 75 additional parcels go to purchase = \$7,500 starting in FY 08.

Total Increased Fee Revenue - FY 07: \$27,500
FY 08 and following years: \$35,000

Increased Revenue from Increased Sales. Starting in FY 09, DNR forecasts an increase of 100 parcels or stakings being offered with a much higher (75%) staking rate resulting from the combination of increased interest in offerings (because of nominations), increased number of stakings authorized, or increased number of areas. Assumptions used to estimate increased revenue follows:

Number of Additional Parcels Sold: 75

Parcel Size - assumed to be 10 acres, which is the maximum allowed by the program, but less than what most people have staked under the existing program (average 13.6 acres). Many municipalities have a 10 acre minimum parcel size.

Parcel Price - the selling price for parcels staked in FY 01 and 02 has averaged \$620/acre with an average size of 13.6 acres. Smaller parcels generally receive a higher per acre value; therefore, DNR has adjusted the per acre price for this FN analysis to \$750/acre.

Financing - The bill assumes the current practice for financing: approximately 20% of applicants purchase outright, and 80% finance their purchase over 5 years. The current interest rate is 7%.

Revenue Summary.

FY06: Revenue will increase as a result of increased downpayments from parcels acquired under the existing program (\$70,000).

FY 07 and 08: Increase downpayments from parcels acquired under the existing program (\$70,000) and additional application fees (\$27,500), for a total of \$97,500.

FY 09: Revenue (\$262,500) will include:

- increased downpayments from the existing program sales (\$70,000/year)
- increased fees (now \$35,000)
- cash sales of 20% of the 75 additional parcels - 15 parcels/year (\$112,500)
- the 10% down payments from the 60 parcels financed (\$45,000) and an assumed increase in rate of sales

FY 10 (Revenue of \$361,300) and following years - FY 09 revenue plus \$98,776 from previous year's contracts (60 parcels, interest rate of 7%, financed 5 years).

Expenditures

Personal Services. FY 05 - DNR estimates that to perform the tasks described above will require one (1) Natural Resource Specialist II (range 16) at a cost of \$59.0, for a total FY 05 personal services cost of \$59.0.

Analysis Continued

FY 06 - DNR will require funding for an additional NRS II to prepare additional areas nominated for sale, with the intention of offering 100 additional parcels; and 1/2 of an additional land survey position and 1/2 of an additional appraisal position to assist in this effort. An Appraiser II is \$65.0/year, or \$32.5 for 1/2 year. A Land Survey Assistant II is \$58.0 per year, or \$29.0 for 1/2 year.

FY - In addition to the FY 06 costs, DNR will require the remaining 1/2 of the Appraiser and Land Survey Assis funding to bring these two full-time employees.

Contractual Costs:

	FY 05	FY 06-FY 10
Phones, computer hook-ups, etc. @\$1000 ea	\$ 1.0	4.0
Office space rental	\$ 5.0	20.0
public notices, etc.	\$ 2.0	4.0
TOTAL	\$ 8.0	28.0

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 319(FIN)
 (H) Publish Date: 4/21/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Remote Rec. Cabin Site Sales/Lottery Sale RDU: Resource Development
 Component: Oil and Gas Development
 Sponsor: Rep. Fate, Wolf
 Requester: House Finance Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	22.5	22.5	22.5	22.5	22.5	22.5
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	22.5	22.5	22.5	22.5	22.5	22.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	22.5	22.5	22.5	22.5	22.5	22.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	22.5	22.5	22.5	22.5	22.5	22.5

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 319 establishes a new land disposal program under AS 38.05.600. Section 5 of the bill specifies that land offerings may not include mineral land selected by the state or lands identified by DNR as having high mineral potential. A petroleum geologist in the Division of Oil & Gas would need to review the proposed land disposals to ensure that high potential oil and gas were excluded from land offerings.

Prepared by: Mark D. Myers Phone 269-8800
 Division: Oil and Gas Date/Time: 3/15/04
 Approved by: Thomas Irwin, Commissioner Date: 3/15/04
 Agency: Natural Resources

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

Fiscal Note Number: 3
 Bill Version: CSHB 319(FIN)
 (H) Publish Date: 4/21/04

Revision Date/Time (Note if correction): 4/19/2004 Dept. Affected: Natural Resources
 Title Remote Rec Cabin Site Sales/ RDU Resource Development
Lottery Sale Component Land Sales/Municipal Entitlements
 Sponsor Rep. Fate
 Requester (H) FIN Component No. 2456

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	277.5	433.0	433.0	433.0	433.0	433.0
Travel	10.0	20.0	20.0	20.0	20.0	20.0
Contractual	88.0	95.0	79.0	79.0	79.0	79.0
Supplies	5.0	10.0	10.0	10.0	10.0	10.0
Equipment	10.0	10.0		5.0	5.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	390.5	568.0	542.0	547.0	547.0	542.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1153)		467.5	708.2	948.7	1,189.3	1,432.9
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	390.5	100.5	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1153 Land Disp Income Fund)		467.5	542.0	547.0	547.0	542.0
TOTAL	390.5	568.0	542.0	547.0	547.0	542.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	5	7	7	7	7	7
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a new land disposal program within AS 38.05.600. It leaves the existing Remote Recreational Cabin Program under that statute in place, although it modifies some of the requirements of the existing program (such as parcel size, river frontage, etc.). This fiscal note analyzes the impacts of the proposed program. The new program adds a maximum size restriction of 10 acres and establishes other guidelines regarding parcel locations.

The schedule for the number of parcels that DNR can process and resultant revenues in this fiscal note are very optimistic in that they assume that survey, appraisal, platting board review, and approval occurs within one year. That process currently takes 3 years. DNR believes that it will be difficult to fulfill the revenue projections, particularly in FY 06 and 07.

Prepared by: Nancy Welch, Special Assistant to the Commissioner
 Division: Commissioner's Office
 Approved by: Tom Irwin, Commissioner
 Agency: Natural Resources

Phone 907-269-8431
 Date/Time 4/19/04
 Date 4/19/04

FISCAL NOTE #3

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 319(FIN)

ANALYSIS CONTINUATION

Assumptions. The fiscal note assumes that DNR would be able to process 250 applications per year under the new program which is established in Section 4(e) and 4(f) of the bill whereby DNR would accept and process parcels nominated by individuals. This assumption is on the high side, particularly for FY 06. It assumes none of DNR's best interest findings are appealed and there are no delays, including appeals, in surveying, borough approval of surveys, or appraisals. If more than 250 individuals apply, a backlog would be established or more staff would be needed.

The bill does not eliminate the existing program. Thus, the fiscal note also assumes that the existing program continues at its current level, although that program will require revision to comply with changes to this statute.

The New Program. Section 4(e) of the bill would result in individual processing for 10-acre parcels in locations throughout the state chosen by the applicants. This bill proposes that a member of the public can nominate a specific site and, if DNR determines through the best interest finding and public notice process that the land should be sold, it will be offered for sale. DNR would complete the processing: title search, survey review, appraisal review, best interest finding, public notice, easement decisions, etc. for that individual parcel.

In this fiscal note, DNR assumes that we could process some of the applications in batches. Exactly how many parcels or areas nominated that could be processed together would depend on two factors; 1) how many nominated parcels are in the same geographic area so that we could combine the parcels into one best interest finding and public notice; and 2) how many additional parcels DNR could identify for sale within the areas nominated by the individual. For this analysis, DNR assumes that we could batch process 100 applications, that is, 100 applications would be processed in batches of 10-20 parcels. We will assume that 150 parcels are processed separately, where each has a separate BIF and the applicants pay for individual survey and appraisal.

Cost for Section 4(e). Section 4(e) would result in a combination of individual and batch processing of nominations. Under the existing program, DNR identifies geographic areas open to staking, hence parcels are always processed in groups. For example, under the existing program, 250 parcels can be reviewed in six batches, combining survey reviews, appraisal reviews, best interest findings, and title searches. This fiscal note is based on an additional 250 parcels being processed, 100 in groups and 150 separately, with *separate* survey reviews, appraisal reviews, best interest findings, etc.

Personal Services. DNR estimates that this portion of the program will require the following staff:

FY 05 - Program start-up. The first year will entail drafting new regulations, preparing maps of areas open to staking, developing program guidelines and application forms, and accepting and initial processing of the first round of applications. Personal Services Cost will be \$277.5, for the following positions:

- 1 NRM I (6 months) = @\$32.5
- 1 NRS II - @\$59.0 = \$59.0
- 2 NRS I - @\$52.0/each = \$104.0
- 1 NRS I (part-time) - @\$26.0 = \$26.0
- 1 Cartographer II - @\$56.0 = \$56.0

FY 06 and following years - Subsequent years will entail processing of individual and batched applications, including: land title research for each site; drafting best interest findings and public notice for each parcel; issuing survey and appraisal instructions; review and approval of individual surveys and appraisals; preparing additional maps for the public depicting staking areas; updating maps and plats to show sites applied for and approved; issuing sale contracts and deeds; answering public questions about the program; and other tasks. Personal services cost increase to \$433.0, as a surveyor and appraiser will be added to the staffing levels identified for FY 05, and the NRM I becomes a full time position (additional 6 months @ \$32.5). These positions are needed to issue instructions for and review surveys and appraisals.

- 1 Appraiser II - @\$65.0 = \$65.0
- 1 Land Survey Assistant II - @\$58.0 = \$58.0

FISCAL NOTE #3

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 319(FIN)

ANALYSIS CONTINUATION

Contractual Costs:

ITEM	FY 05	FY 06	FY 07 and following
Public Notices - 150 notices x \$250	\$0	\$37.5	\$37.5
Printing - brochures and maps	\$10.0	\$10.0	\$10.0
Phones, computer hook-ups, etc. @\$800 ea	\$ 5.0	\$ 6.5	\$ 6.5
Office space rental	\$25.0	\$25.0	\$25.0
New office construction/furniture @\$8.0 ea	\$48.0	\$16.0	\$ 0.0
TOTAL	\$88.0	\$95.0	\$79.0

Revenues. Revenue generated under this bill would be a function of parcel size, per-acre price, number of parcels sold, and scheduling assumptions as outlined below.

Parcel Size. This bill proposes to decrease the maximum size to 10 acres. Under the current program, applicants choose the size of their parcel, up to the 20 acre maximum currently in statute. The average size chosen under the current program is approximately 13.6 acres. The minimum size is 5 to 10 acres depending on the area. Minimum size is established to comply with local platting board or waste disposal requirements.

Parcel Price. Remote land in Alaska is inexpensive. The selling price for remote recreation cabin parcels staked in FY 01 and FY 02 is estimated to average \$620/acre. Small parcels sell for less than larger parcels, though the per-acre price is higher. Currently, the average size Alaskans chose to stake is 13.6 acres. Department appraisers estimate that all else being equal the per-acre price ratio between a 13-acre parcel and a 10 acre parcel is 1.2. Therefore, this fiscal note assumes that a 10-acre parcel will bring in \$750 per acre (= \$620/acre x 1.2). That is, each parcel brings in \$7,500 to the department (= \$750/acre x 10 acres).

Purchase Rate. In the current program, only 43% of the people issued staking authorizations go on to purchase their parcels. The remainder decide not to continue somewhere during the process. The Department is working to bring up the purchase rate. However, this rate is actually greater than similar historical programs. The Department's homestead/homesite programs allowed people to gain ownership through either purchase or prove-up. Only 33% of the people who initially sought parcels followed through to ownership: two-thirds dropped out. It is possible that those who apply in the program proposed by this bill will have a higher purchase rate than past programs. However, individuals do not understand the major cost in time and money until they try to hire a surveyor and appraiser, and so the purchase rate may actually be lower. This fiscal note assumes an optimistic 75% purchase rate or 188 parcels per year.

Financing. The bill assumes current practice for financing: approximately 20% of applicants purchase outright and 80% finance their purchase over 5 years. The current interest rate is 7%.

Schedule. Section 3 of the bill does not change DNR's existing survey and appraisal practice but requires that both be completed within two years. Currently, the Department contracts with private surveyors on behalf of the individuals and is able to complete the survey and appraisal process within two years after the lease is issued. Our experience is that individuals who are unfamiliar with surveyors and appraisers take far longer. Thus, the Department believes that the minimum time for the process is two years. During the first year, the parcels are staked, applications received, DNR issues the best interest finding and public review, and the parcel is surveyed in the summer (survey instructions from DNR, survey by a private contractor). During the second year, the survey is reviewed and approved by DNR and local platting authority (borough or city), the parcel is appraised (instructions from DNR, appraisal by a private contractor, then review by DNR), and then the applicant can purchase the parcel. Therefore, the minimum schedule is as follows: FY 05 to prepare the regulations for this new program, information for the public, and receive initial applications in the second half

(Continued)

Analysis Continued:

of FY 05. DNR processing of applications (title search, best interest finding, public notice, etc.) would occur in FY 05-06, the first land surveys would occur primarily in FY 06. DNR and Borough approval of surveys would occur in FY 06, and appraisals would be completed in late FY 06. Some parcels may be purchased or will enter into sale contracts by late FY 06, but for most parcels, sale will not occur until FY 07. Based on experience with past programs where applicants were required to get their own parcel surveyed and appraised, this is a very optimistic schedule.

Revenue From Fees. The fiscal note assumes DNR will collect the following additional fees at the time of applications or processing of applications or contracts:

Application fee: \$100/application - assume 500 applications/year = \$50,000

Staking authorization fee: \$25 at time applicant submits staking diagram: $\$25 \times 188 \text{ parcels} = \$4,700$

Document processing fee: \$100 at time applicant requests contract or patent - assume 188 parcels go to purchase = \$18,000

Total Fee Revenue - assuming 500 applications and 188 parcels purchased = \$73,500

Additional Fee Revenue - \$100 document processing fee paid at time when contracts are paid off and request patent, assume starting in FY 07, 20% of all existing purchasers payoff contracts and request patent (30x\$100 in FY 07.)

Summary. In summary, total value sold per year will be \$1,410,000 (188 parcels x \$7,500 per parcel).

FY 06: At best, some parcels may be ready to purchase late in FY 06. This fiscal note assumes that all parcels would be ready for purchase (cash sale or sale contract) in FY 06. If all 188 parcels were purchased by the end of FY 06, the revenues received in FY 06 will be \$394,800 ($\$394,800 = \$282,000$ through full purchase plus \$112,800 downpayment on the remainder). Fees collected in FY 06 total \$73,500. Total Revenue for FY 06 = \$467,500.

FY 07 and following: An additional \$240,588 will be paid each year through the following 5 years as individuals pay off the parcels assuming 7% interest. In FY 07, revenue is estimated to be \$768,188 ($=\$467,500 + \$240,588$). Revenue would level off in FY 10.

Technical Issues. This bill does not repeal the current program: Section 4(e) appears to provide that it continues. Therefore, this fiscal analysis assumes the existing program continues at its present level. However, the bill would put the current program out of compliance with the law. To maintain the current program, Section 4(g) should apply only to the new program: that outlined in Section 4(e).

If the new program does replace the existing program, the required additional cost would be somewhat less than outlined in this fiscal note as current staff could implement the new program (with some additions). However, total revenue to the state would be much less than indicated in the fiscal note, as the existing program is a much more cost-efficient and revenue-efficient method to offer lands to Alaska.

OK'd by
Sheila +
Jim Pound
11:59 pm
5/10/04

Master Proof

23-LS0477C

SENATE CS FOR CS FOR HOUSE BILL NO. 319(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FATE, Wolf, Foster, Ogg, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disposal of state land by lottery; relating to the reservation of
2 rights by the state in land contracts and deeds; relating to the disposal, including sale or
3 lease, of remote recreational cabin sites; and providing for an effective date."

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

5 * Section 1. AS 38.05.057(a) is amended to read:

6 (a) The commissioner may dispose of land, including land limited to use for
7 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
8 the fair market value of the land as determined by the commissioner. The
9 commissioner may sell land by lottery for less than the fair market value of the land on
10 a determination that scarcity of land for private use in the area of the land to be sold
11 has resulted in unrealistic land values. The lottery shall be conducted in public by the
12 commissioner. A purchaser selected by lot shall deposit an amount equal to 10 [FIVE]
13 percent of the purchase price within 30 days after receiving notification of the
14 selection.

1 * Sec. 2. AS 38.05.057(a) is amended to read:

2 (a) The commissioner may dispose of land, including land limited to use for
3 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
4 the fair market value of the land as determined by the commissioner. The
5 commissioner may sell land by lottery for less than the fair market value of the land on
6 a determination that scarcity of land for private use in the area of the land to be sold
7 has resulted in unrealistic land values. The lottery shall be conducted in public by the
8 commissioner. A purchaser selected by lot shall deposit an amount equal to five [10]
9 percent of the purchase price within 30 days after receiving notification of the
10 selection.

11 * Sec. 3. AS 38.05.125(a) is amended to read:

12 (a) Each contract for the sale, lease, or grant of state land, and each deed to
13 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
14 38.05.321, 38.05.600, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
15 provided in AS 38.50.050, is subject to the following reservations: "The party of the
16 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
17 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
18 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
19 or description, and which may be in or upon said land above described, or any part
20 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
21 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
22 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
23 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
24 servants upon said land, or any part or parts thereof, at any and all times for the
25 purpose of opening, developing, drilling, and working mines or wells on these or other
26 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
27 fissionable materials, geothermal resources, and fossils, and to that end it further
28 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
29 assigns forever, the right by its or their agents, servants, and attorneys at any and all
30 times to erect, construct, maintain, and use all such buildings, machinery, roads,
31 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such

1 soil, and to remain on said land or any part thereof for the foregoing purposes and to
2 occupy as much of said land as may be necessary or convenient for such purposes
3 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
4 generally all rights and power in, to, and over said land, whether herein expressed or
5 not, reasonably necessary or convenient to render beneficial and efficient the complete
6 enjoyment of the property and rights hereby expressly reserved."

7 * Sec. 4. AS 38.05.125(a) is amended to read:

8 (a) Each contract for the sale, lease, or grant of state land, and each deed to
9 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
10 38.05.321, [38.05.600,] 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
11 provided in AS 38.50.050, is subject to the following reservations: "The party of the
12 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
13 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
14 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
15 or description, and which may be in or upon said land above described, or any part
16 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
17 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
18 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
19 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
20 servants upon said land, or any part or parts thereof, at any and all times for the
21 purpose of opening, developing, drilling, and working mines or wells on these or other
22 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
23 fissionable materials, geothermal resources, and fossils, and to that end it further
24 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
25 assigns forever, the right by its or their agents, servants, and attorneys at any and all
26 times to erect, construct, maintain, and use all such buildings, machinery, roads,
27 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
28 soil, and to remain on said land or any part thereof for the foregoing purposes and to
29 occupy as much of said land as may be necessary or convenient for such purposes
30 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
31 generally all rights and power in, to, and over said land, whether herein expressed or

1 not, reasonably necessary or convenient to render beneficial and efficient the complete
2 enjoyment of the property and rights hereby expressly reserved.

3 * Sec. 5. AS 38.05.600(a) is amended to read:

4 (a) The commissioner may provide for the sale or lease of state land for
5 remote recreational cabin sites. Sales under this section shall be at fair market value
6 determined as of the time of entry by the department or by an appraiser from the
7 list of appraisers approved by the department. Land to be sold under this section
8 shall be surveyed before sale by the department or by a surveyor registered
9 under AS 08.48. The appraisal and survey shall be completed within 24 months
10 of lease issuance, unless an extension is found necessary by the commissioner.
11 The [, AND THE] purchaser shall pay for the appraisal and survey or reimburse the
12 state for the appraisal, survey, and platting costs for the recreational cabin site.

13 * Sec. 6. AS 38.05.600(a) is amended to read:

14 (a) The commissioner may provide for the sale or lease of state land for
15 remote recreational cabin sites. Sales under this section shall be at fair market value
16 determined as of the time of entry, and the [BY THE DEPARTMENT OR BY AN
17 APPRAISER FROM THE LIST OF APPRAISERS APPROVED BY THE
18 DEPARTMENT. LAND TO BE SOLD UNDER THIS SECTION SHALL BE
19 SURVEYED BEFORE SALE BY THE DEPARTMENT OR BY A SURVEYOR
20 REGISTERED UNDER AS 08.48. THE APPRAISAL AND SURVEY SHALL BE
21 COMPLETED WITHIN 24 MONTHS OF LEASE ISSUANCE, UNLESS AN
22 EXTENSION IS FOUND NECESSARY BY THE COMMISSIONER. THE]
23 purchaser shall [PAY FOR THE APPRAISAL AND SURVEY OR] reimburse the
24 state for the appraisal, survey, and platting costs for the recreational cabin site.

25 * Sec. 7. AS 38.05.600 is amended by adding new subsections to read:

26 (d) Each year, subject to appropriation from the state land disposal income
27 fund under AS 38.04.022, to implement this section, the commissioner shall

28 (1) prepare a schedule of land offerings under this section and identify
29 the parcels for disposal each year; the land offerings may not include mineral land
30 selected by the state or lands identified by the department as having a high mineral
31 potential; the department's identification of land having a high mineral potential shall

1 be based on standards adopted by the department and shall include consideration of a
 2 geophysical survey or geological evaluation, if any, that was conducted within 15
 3 calendar years before the year for which the schedule is prepared;

4 (2) provide public notice of the proposed land offerings; and

5 (3) disclose all land offerings with mineral potential.

6 (e) The commissioner may solicit nominations each year from the residents of
 7 the state for areas to be offered for disposal under this program. The commissioner
 8 may add areas nominated by a resident to the schedule prepared under (d) of this
 9 section if the land is classified for disposal or the disposal is consistent with other
 10 requirements of AS 38.04 and this chapter.

11 (f) A resident may nominate a parcel for disposal under this section and, if the
 12 resident has not leased or purchased land under this section during the three-year
 13 period before the date of nomination, may apply for a right to stake the nominated
 14 parcel with the intent to lease under (b) of this section. The commissioner shall
 15 review the nomination and may

16 (1) offer the right to stake a parcel for lease through a sealed-bid or
 17 outcry auction and subsequently purchase the parcel for fair market value;

18 (2) offer the parcel and additional parcels within the surrounding area
 19 for sale in a simultaneous filing period in the manner provided for lottery parcels by
 20 AS 38.05.057;

21 (3) offer already surveyed and platted parcels for sale at a sealed-bid or
 22 outcry auction as provided under AS 38.05.055; or

23 (4) find that the parcel or area is not appropriate for disposal.

24 (g) A parcel sold under this section may not exceed 10 acres unless the
 25 commissioner determines that a larger site is necessary to comply with municipal
 26 ordinances, because of the unique physical and natural characteristics of the area, or to
 27 increase the return to the state from the sale of the parcel. A parcel sold under this
 28 section may include lake, river, or other navigable water frontage, subject to the
 29 following limitations:

30 (1) the lake, river, or other navigable water frontage must be at least
 31 300 feet and may not exceed 700 feet;

#3

1 (2) only one parcel with frontage on a lake may be sold under this
 2 section for each five acres of water of that lake unless the commissioner finds that a
 3 different ratio of water to each parcel with frontage is in the public interest; and

4 (3) a parcel sold under this section is subject to 16 U.S.C. 3101(d) and
 5 16 U.S.C. 3213 (Alaska National Interest Lands Conservation Act).

6 (h) In this section, "resident" means a person who

7 (1) is physically present in the state with the intent to remain in the
 8 state indefinitely and to make a home in the state;

9 (2) has maintained the person's domicile in the state for the 12
 10 consecutive months immediately preceding the nomination of a parcel or area for
 11 disposal;

12 (3) is not claiming residency in another state, territory, or country; and

13 (4) is not obtaining benefits under a claim of residency in another state,
 14 territory, or country.

15 (i) Nothing in this section shall impede the state's authorizing law
 16 to reserve a public easement allowing public access to, or along, a lake, or other
 17 water described in this section.

18 * **Sec. 8.** AS 38.05.600(d), 38.05.600(e), 38.05.600(f), 38.05.600(g), 38.05.600(h), and
 19 38.05.600(i) are repealed January 1, 2015.

20 * **Sec. 9.** Sections 2, 4, 6, and 8 of this Act take effect January 1, 2015.

21 * **Sec. 10.** AS 38.05.600(g), as enacted in sec. 7 of this Act, takes effect January 1, 2005.

#4

SENATE FINANCE COMMITTEE
5/10/2004 COMMITTEE ACTION

Amendment
 #4

Bill Number	HB 319		
Amendment	#4		
Motion	adpt		
<u>Motion by</u>			
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		



add a new Section to the bill
 to stipulate the provisions of
 this Act sunset in ten years

SENATE FINANCE
COMMITTEE #1
Amendment Number: #1
Bill Number: HB 319
Sponsor: Wilken Date: 5/10/04
Logged In By: Mindy

23-LS0477XA.1
Bullock
5/5/04

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 319(FIN) am

Sponsored by
Sen. Wilken by request

- 1 Page 3, line 14:
- 2 Delete "in regulations"
- 3
- 4 Page 3, lines 24 - 27:
- 5 Delete all material and insert:
- 6 "(f) A resident may nominate a parcel for disposal under this section. The
- 7 commissioner shall review the nomination and, if the nomination is accepted, will
- 8 advertise the parcel for sale or lease. The commissioner shall accept bids for the
- 9 parcel during a period not to exceed 45 days. At the end of the period for accepting
- 10 bids, the resident nominating the parcel shall have the first right of refusal to purchase
- 11 the land or apply for a lease under (b) of this section. After receiving a nomination
- 12 under this subsection, the commissioner may provide for the sale or lease of additional
- 13 parcels within the surrounding area or may find that the nominated parcel or area is
- 14 not appropriate for disposal."

SENATE FINANCE COMMITTEE
5 / 10 / 2004 COMMITTEE ACTION

Bill Number	HB 319		
Amendment	#1		
Motion	to Adopt		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Wilken		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stever			
Senator Bunde			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	WITHDRAWN		

SENATE FINANCE
COMMITTEE #2
Amendment Number: #2
Bill Number: HB 319
Sponsor: Wilken Date: 5/10/04
Logged In By: Mindy

23 LS0477\B.1

5/10/04

AMENDMENT

OFFERED IN THE SENATE
TO: SCSCS FOR HB 319 (RES)

BY SENATOR Wilken
by request

- 1 Page 3 line 24-28 delete all language and insert
- 2 (f) A resident may nominate a parcel for disposal under this section and, if the
- 3 resident has not leased or purchased land under this section during the three-year
- 4 period preceding the date of nomination, may apply for a lease for the nominated
- 5 parcel under (b) of this section.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE FINANCE
COMMITTEE

Amendment Number: # 3

Bill Number: HB 319

Sponsor: Wilkey Date: 5/10/04 23 LS0477B.1

Logged In By: Robin

Filed
Amendment
to Amendment
3

5/10/04

AMENDMENT

OFFERED IN THE SENATE
TO: SCSCS FOR HB 319(RES)

BY SENATOR WILKEY

1 Page 3, Lines 24-28 Amend section to read:

2 (f) a resident may nominate a parcel or area for disposal under this
3 section and, if the resident has not leased or purchased land under this
4 section during the ~~three~~-year period preceding the date of nomination,
5 may apply for a right to stake the nominated parcel with the intent to
6 lease under (b) of this section. The commissioner shall review the
7 nomination and may

five

8 (1) offer [THE NOMINATED] the right to stake a
9 parcel for ^{lease} ~~sale~~ through a sealed-bid or outcry auction and subsequently
10 purchase the parcel for fair market value;

11 (2) offer the parcel and additional parcels within the
12 surrounding area for sale in a simultaneous filing period in the manner
13 provided for lottery parcels by AS 38.05.057; [OR]

14 (3) offer already surveyed and platted parcels for
15 sale at a sealed-bid or outcry auction as provided under
16 AS 38.05.057 or

17 (4) find that the parcel or area is not appropriate for
18 disposal.

SENATE FINANCE COMMITTEE
5 / 10 / 2004 COMMITTEE ACTION

Bill Number	HB 319	
Amendment	Am	
Motion	to Amend #3	
<u>Motion by</u>	Bisardo	
<u>Objection by</u>	Wilken	
<u>Removed</u>	✓	
<u>Second Objection by</u>	Dyson	
<u>Committee Member</u>	Y	Vote N
Senator Dyson		✓
Senator Hoffman	—	—
Senator Olson	✓	—
Senator Stevens		✓
Senator Bunde	✓	
Co-Chair Green		✓
Co-Chair Wilken	✓	
<u>Tally</u>		
Yea	3	
Nay	3	
Absent		
<u>MOTION</u>	FAILED	

ADOPTED

SENATE FINANCE
COMMITTEE

Amendment Number: # 3
Bill Number: HB 319
Sponsor: Wilken Date: 5/10/04 23 LS0477B.1
Logged In By: Robin

5/10/04

AMENDMENT

OFFERED IN THE SENATE
TO: SCSCS FOR HB 319(RES)

BY SENATOR WILKEN

1 Page 3, Lines 24-28 Amend section to read:

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3 section and, if the resident has not leased or purchased land under this
4 section during the three-year period preceding the date of nomination,
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6 lease under (b) of this section. The commissioner shall review the
7 nomination and may

8 (1) offer [THE NOMINATED] the right to stake a
9 parcel for ^{lease} ~~sale~~ through a sealed-bid or outcry auction and subsequently
10 purchase the parcel for fair market value;

11 (2) offer the parcel and additional parcels within the
12 surrounding area for sale in a simultaneous filing period in the manner
13 provided for lottery parcels by AS 38.05.057; [OR]

14 (3) offer already surveyed and platted parcels for
15 sale at a sealed-bid or outcry auction as provided under
16 AS 38.05.055; or

17 (4) find that the parcel or area is not appropriate for
18 disposal.

SENATE FINANCE COMMITTEE
5/10/2004 COMMITTEE ACTION

Bill Number	HB 319		
Amendment	#3		
Motion	to adopt		
<u>Motion by</u>	W. Wilken		
<u>Objection by</u>	W. Wilken		
Removed	✓		
<u>Second Objection by</u>	.		
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Hoffman			
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOPTED		

Representative
HUGH "BUD" FATE
Finance Committee
Energy Council- Executive Committee
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Alaska State Legislature



While in Session
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House District 7

House of Representatives Sponsor Statement

SCS for CS for HB 319 (RES)

"An Act relating to the disposal of state land by lottery; relating to the reservation of rights by the state in land contracts and deeds; relating to the disposal, including sale or lease, of remote recreation cabin sites; and providing for an effective date."

SCSCSHB 319 is legislation to help move Alaska State land into the hands of private individuals. Presently, Alaska holds millions of acres of remote area land that is generating no revenue for the state, or local nearby governments.

By leasing or selling remote cabin sites, individuals will hold the surface rights to those lands. The initial cost will be minimal to residents through public sale or lease agreements. They will incur the costs of a survey and appraisal.

Since the majority of the sites are remote, the means of access could result in the purchase of off road vehicles, and in some cases boats and motors. Once improvements begin, the new landowner will be purchasing building materials, fuel, and other necessities to make the cabin as comfortable as possible. The economic trickle down effect could be huge, as it will also be felt in the real estate market.

SCSCSHB 319 makes good economic sense for state government, local government, Alaska businesses and Alaskans. It will generate a source of revenue, and fulfill a promise to those Alaskans who want that remote cabin, a place to escape, to hunt and fish, or simply enjoy a mini-vacation. Passage will expand the opportunity to satisfy the dream of Alaskans by allowing them to secure in fee simple, a favored piece of property in a setting that epitomizes the reason we live in Alaska; to enjoy its wildlife, its beauty and its solitude

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House District 7

House of Representatives Changes between FIN am & SCSCSHB 319 (RES)

The Changes between the two versions begins on page 3 and adds language that permits the Commissioner to extend the time for survey and appraisal if it is not completed within the deadline. It is a concern since without the extension the agreement could be determined void.

The other changes are in Section 4 Same page.

Because of a delay that would be created in promulgating regulations for high mineral potential lands it was determined that the Department of Natural Resources could establish that by policy.

There are also changes to the nomination process, which allows the Commissioner to offer a nominated parcel for sale, offer surrounding parcels or determine the nominated parcel is not appropriate for disposal.

There is also a concern that when surveying a selected parcel that in some cases the actual survey may end up being slightly larger than 10 acres which would disqualify it from this program. The new language gives the Commission to opportunity to waive that limit.

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House of Representatives Sectional Analysis SCSCSHB 319 (RES)

It should be noted that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1.

Existing statutory language is changed in reference to the amount of deposit required by a purchaser from five to ten-percent.

Section 2.

Adds AS 38.05.600 to the list of lands contract language that the state currently uses as part of the purchase agreement. The remainder of the section is devoted to correcting changes in legal grammar.

Section 3.

Allows the Commissioner to sell state land for remote cabins at fair market value based on a survey and appraisal done by either the department or an approved surveyor and appraiser. The purchaser is assessed these costs. The language gives the Department a maximum of 24 months to accomplish these tasks.

Section 4.

Directs the Commissioner to implement the Remote Cabin Language each year by preparing land offerings that are not considered high mineral potential lands based on scientific and technical data. The language further establishes guidelines for the Remote Cabin sites including maximum parcel sizes and, waterfront requirements on both lakes and rivers and that land purchased under this bill is subject to the "no more clause" of ANILCA. It also includes language to assure the state's right of way for access along navigable waters.

Section 5.

Applies language to parcels staked after January 1, 2005 so the law does not change existing parcels staking agreements.

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House District 7

House of Representatives

Changes in CSHB 319 (FIN) am From RESOURCES Version

Section 1

Is unchanged

Section 2 & 3

Is contract language between the buyer and the State. The Resources version had penalty language for filing a suit, which was supported by Section 3 of the bill. That language, and its supporting legislation have been deleted.

After renumbering section 4 to Section 3.

Language that allowed for public and private sales in another section of the bill has been deleted.

Section 4

Language was changed to limit nominations to residents rather than the general public. The first right of refusal clause in section (g) was eliminated in favor of a lease application under existing statute. The buffer zones between parcels, was eliminated making it easier for surveyors, similar buffer language relating to rivers was also eliminated. Because of platting restrictions in some organized boroughs the size of a parcel may be up to 10 rather than five acres. Likewise, because of the potential increase in parcel size the amount of waterfront footage was increased from a maximum of 400 feet to 700 feet. It also includes language to assure the public right of way access to navigable water.

Section 5

The effective date of 01/01/05 was added to allow the department to continue with remote parcels already being staked that might be in excess of 10 acres.

HB 319

Ron Swanson wrote:

Dear Senator Ogan:

We were recently reviewing this bill and want to express our concern on the impact it will have on local government daily operations.

This bill will allow individuals to locate remote cabin sites and eventually obtain title to the property that they have identified. While we are not opposed to the concept of placing additional public land into private hands, we are concerned that the process of the private individual obtaining title is placing an onerous burden on local platting authorities.

Our current workload is at an all time high with a backlog of between 8 - 12 months. We have a citizen volunteer platting board that meets at least twice a month and it is not unusual that each meeting lasts all day. To add a workload of each individual parcel coming before our staff and the platting board to resolve property conflicts, access issues and approve plats is more than we can currently handle and places un-real expectations on the applicant being able to see quick and timely action.

While we have some concerns about the current process that DNR uses for remote parcels, particularly concerning access, it is a much more manageable system in that areas are consolidated, property conflicts are for the most part resolved before they reach us and the surveys are in large tracts which eliminates the need to review countless individual surveys.

We would request that this issue be addressed in a way favorable to local municipalities before it is considered for adoption.

Ron Swanson, Director
Community Development

Linda Hay <linda hay@legis.state.ak.us>



Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

www.co.fairbanks.ak.us

May 6, 2004

Senator Seekins
State Capital, Room 125
Juneau, AK 99801

Dear Senator Seekins:

The Fairbanks North Star Borough, Department of Community Planning has reservations regarding HB 319. Our department is concerned that this bill will allow individual parcel nomination and processing requirements. If this bill allows individual lot subdivisions it will severely affect our platting operations. Presently our staff is already overloaded with subdivision requests. Promoting single lot subdivisions would severely encumber and slow down our ability to process subdivision applications throughout our Borough. Moreover, this procedure will hamper our ability to ensure that adequate access is provided to parcels created through this new procedure.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Bernardo Hernandez".

Bernardo Hernandez
Director of Community Planning

Cc: Senator Ogan
Senator Wagner
Jim Holt, FNSB, Chief of Staff
Lori Backus, FNSB Special Assistant to the Mayor

HB 319 Revenue Assumptions

I. FINANCIAL ASSUMPTIONS

- | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|
| 1) Ready Applicants/year | <u>YR1</u> | <u>YR2</u> | <u>YR3</u> | <u>YR4</u> | <u>YR5</u> |
| | 375 | 450 | 450 | 375 | 300 |
-
- | | | | | | |
|--|-----|-----|-----|-----|-----|
| 2) Ready Willing Buyers
(66% Purchase Rate) | 250 | 300 | 300 | 250 | 200 |
|--|-----|-----|-----|-----|-----|
- A) Two (2) Categories of Buyers:
- o 20 % 100% Cash Purchase/ 0 Financed
 - o 80 % 10% Down/90 % Financed
-
- 3) Average Minimum Price/Acre: \$ 750/acre
(Up to 10.0 Acres)
- 4) Investments:
A) 5% Annual Yield
-
- 5) Financing
A) 7% Annual Percentage Rate (Prime +3% on loans)
B) 10% Down Payment/90% Financed
C) 60 Month Term (10 years, loans 10,000 +)
-

II. PARCEL ASSUMPTIONS

1) Desirable Remote Parcels:

- a. River Frontage
- b. Ocean Frontage
- c. Lakeshore Frontage
- d. Highway Frontage
- e. View Properties

2) Land Characteristics

- a. Fee Simple Ownership
- b. 10.0 acres Parcels/Subdividable
- c. Some Ground Trans Access (snowmobile, 4-wheeler, boat, vehicle)
- d. Contracts for Sale/Lease option to purchase
- e. No State of Alaska Fire Protection
- f. No State of Alaska "Trail construction or maintenance.

3) Purchasers bears ALL cost of acquiring Fee Simple Title

- o Appraisals
- o Surveys
- o Title Insurance
- o Recording Costs
- o Legal Expenses (documentation)

4) Purchaser will pay for all Site Improvements:

- a. Roads and trail access construction/maintenance
- b. Structures/Buildings
- c. Materials/Supplies
- d. Real Estate Improvements (wells, septic, power, etc.)

5) The land purchase has Value Added Benefits:

- a. Labor/Construction
- b. Materials purchase
- c. Fuel/energy consumption
- d. Future Real estate transactions(Resale/subdivision)

III. NARRATIVE DESCRIPTION

Applicants submit to DNR for selection of up to a **10.0** acre parcel and may apply for a lease. After a best interest finding and public notice, the applicant pays for staking, surveying, and appraisal of the parcel. This data is then submitted to DNR for review. Because HB 319 opens such large areas, there will be considerable public interest regarding what land is available.

Access concerns will be borne by the purchaser. DNR, or local governance authorities will not be expected to develop or maintain access routes or utilities. This new program will place considerable demands on DNR to provide information, particularly through the DNR public information offices in Anchorage, Fairbanks, and Juneau. At least one Natural Resource Tech II will be placed at each location to handle applications.

DNR will need to provide the public with accurate land status information for millions of acres of state land so the public knows what land is available, including the location of existing third-party interests, mining locations, Mental Health Trust Land, Native allotment locations, and trail and access information.

Specific tasks include:

- 1) DNR develops regulations to implement this disposal of land, establish qualifications, methods for resolving conflicting claims, etc.
- 2) DNR identifies land available for entry under this program-from state and federal status plats based upon state ownership, land classifications, municipal entitlements, existing private lands, Native allotments, etc. They would need to make available existing maps of several million acres available for selection.
 - a. Produce additional maps from existing supply.
 - b. Print and distribute maps
- 3) After the Notice period and once accepted by DNR, the purchaser orders and pays for: survey, appraisal, recordation and documentation.
- 4) DNR approves a list of qualified appraisers and surveyors acceptable to the State of Alaska. That list will be provided to the purchasers to choose these services. These individuals are already approved by DNR, therefore, a comprehensive review of their work will not be necessary. Appraisals and surveys will not be accepted by the State of Alaska from any individual who has not been qualified and accepted by the State of Alaska. The higher the designation of the contractor, the lower the amount of review time will be required by the State of Alaska to verify validity and accuracy.

~~FY04 and following years-~~ The filing period starts in October of 2004 and continues indefinitely. In the first (12) months, funding for (4) Natural Resource Tech II's will be required to begin implementation of the new land disposal program. Beginning January 1, 2005 a Cartographer III and Natural Resource Manager I will be hired. On April 1, 2005, an Appraiser II and a Land Survey Assistant II will be added to staffing. When applications begin 10/1/04, DNR will be fully staffed with (5) Full-time employees. By the end of FY05, (3) more Full-time employees will be added to implement the program. DNR will perform the following functions:

- 1) DNR Public Information Office staff to field program inquires.
- 2) DNR accepts applications, certifies they qualify.
- 3) DNR reviews and approves applications and land available for selection.
- 4) DNR performs a Best Interest finding and provide Public Notice.
- 5) DNR reviews appraisal and survey
- 6) DNR issues title documents and closes the land sales transaction.

The purchaser performs the remaining functions and pays for the cost of implementation and acquisition of fee simple title.

DNR Analysis Continuation

I. Assumptions

A. Applications

The fiscal note assumes that DNR would process 1000 applications in the first year under the new program. DNR must approve parcels nominated by individuals. (If more than 1000 individuals apply, a backlog could be established and more staff might be needed.) Application volume is anticipated to diminish in the ensuing years.

- ❖ In 2001-2002 Lottery Sales recorded 587 - 776 Applications ("Remote parcels")
- ❖ In 2002-2003, Subdivision and OTC Sales recorded 894 - 1928 Applications ("Comparable parcels")

This New Land Disposal Program will undoubtedly be more popular than either the lottery or subdivision offerings. Regardless, it seems that DNR estimates 150 applications is extremely low and 1000 applications, is more realistic, based on historical participation regarding land disposal sales. A comprise of 300-450 Applications per year is being utilized in this fiscal projection.

We anticipated the following application volume:

<u>Region</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>
South-Central Applications	175	200	200	175	150
Interior Applications	100	125	125	100	75
Southeast Applications	50	75	75	50	50
Other Applications	50	50	50	50	25
Total Applications	375	450	450	375	300

This program does not replace the existing program and costs. Especially in platting and mapping, these costs have already been experienced in previous years.

B. Staffing

Based on current staffing levels, it is felt volume can be handled as follows:

A. Anchorage (South-Central)

250 work days x 2 Tech Staff = 500 work days

175 Applications/500 work days = **1.0 Application/2.9 days**

B. Fairbanks (Interior)

250 work days x 1 Tech Staff = 250 work days

100 Applications/250 work days = **1.0 Application/2.5 days**

C. Southeast and Other

125 work days x 1 Tech Staff = 125 work days

100 Applications/250 work days = **1.0 Applications/2.5 days**

Our assumptions provide (4) Tech Staff positions and (1) Manager I position. Under these proposed staffing levels, DNR would be expected to process and approve (1.0) Applications/every 2.5 days. That seems feasible and realistic.

The bill does not eliminate the existing program. Thus, the fiscal note also assumes that the existing program continues at its current level.

II. The New Program

The bill would require individual processing for up to **10.0** acres parcels in locations throughout the state chosen by the applicant. This bill proposes that a member of the public can nominate a specific site. DNR would process the title, conduct a best interest finding, and easement decisions, etc. for that individual. The process would be repeated for each individual parcel, with the exception of the best interest findings, which could be used for large areas containing many remote parcels.

III. Cost for HB 319

The new aspect of the program, the bill requires individual processing. For example, under the existing program, parcels can be reviewed in batches, combining survey reviews, appraisal reviews, best interest findings, and title searches. The bill would require prior separate survey reviews and appraisal reviews as state approved private individuals will be utilized.

DNR estimates that this portion of the program will require the following staff:

1 NRMI @ 65.0 FY06

1 Appraiser II - @ \$66.0 FY06

1 NRS II - @ \$58.0

2 NRS I - @ \$52.0/each

1 NRS I (part time) - @ \$26.0

1 Land Survey Assistant - @ \$58.0 FY06

1 Cartographer II - @ \$56.0 FY06

Total Personal Services 433.0

DNR anticipates needing 4 positions in FY05 to begin implementation of this program. The Natural Resource Manager I, Cartographer II, Appraiser II, and Land Survey Assistant II will be added in FY06 to consummate closings of 250-300 applications/year in process for FY06 and FY07.

We anticipate staff levels to be as follows:

PROJECTED DNR EXPENDITURES

A. STAFFING (7.5)

IV. Anchorage

		<u>Salary</u>	<u>Benefits</u>	<u>Totals</u>
1) Appraiser II	16c	48,000	18,000	66,000
2) Land Survey Asst II	15a	40,000	18,000	58,000
3) Nat. Resources Spec. I	14a	36,000	16,000	52,000
4) Nat. Resources Spec. I	14a	36,000	16,000	52,000
5) Cartographer III	15a	40,000	16,000	56,000

V. Fairbanks

1) Nat. Resource Manager I	18a	47,000	18,000	65,000
2) Nat. Resource Spec. II	16a	40,000	18,000	58,000

VI. Juneau

1) Nat. Resource Spec. I (part-time)	14a	18,000	8,000	26,000
---	-----	--------	-------	--------

TOTAL		\$305,000	\$128,000	\$433,000
--------------	--	------------------	------------------	------------------

B. EQUIPMENT

Computers, Printers, Copiers, Fax
Office Furniture
TOTAL

10,000

C. CONTRACTUAL

Map Services
Documentation Preparation/Recording
Printing Expenses
TOTAL

30,000

D. TRAVEL

10,000

E. SUPPLIES

5,000

TOTAL EXPENDITURES

(\$488,000)

DNR assumes survey and appraisal reviews must be conducted "in-house." This is not necessary, but the private parties chosen are subject to review by the State of Alaska. Those on the approved list with high designations will require less "review" scrutiny.

This is the bottleneck now in Land Disposal Sales. Private industry is quick and more efficient, thus allowing closings and revenue to be realized within 18-24 months as opposed to 24-36 months as currently is the case with the department.

A Natural Resource Manager I position is needed to make decisions in Anchorage and Fairbanks on pending applications. A review surveyor and appraiser are needed and would allow the timing of the sales process to improve, as these people would be specifically assigned to this program, and would work **only** on those applications. Funding for a Cartographer, specific to this program will also be appropriated.

VII. ~~Revenues~~ Leave in

~~Revenue generated under this bill would be a function of parcel size, per-acre price, number of parcels sold and scheduling assumptions as outlined below. (See Revenue Projections)~~

FY06 REVENUE PROJECTIONS

(July 1, 2005 – June 30, 2006)

I. SALES REVENUE

A. CASH SALES (10/31/05 – 12/31/05) 150 Applications	
@ 66% Purchase Rate = 100 Closings	
@ 20% [20 Parcels x 10.0 acres/parcel x \$750/acre] =	\$ 150,000
10% DOWN SALES (\$750/parcel)	
@ 80% [80 Parcels x \$750/parcel] =	\$ 60,000
B. CASH SALES (12/1/05 – 2/28/06) 75 Applications	
@ 66% Purchase Rate = 50 Closings	
@ 20% [10 Parcels x 10.0 acres/parcel x \$750/acre] =	\$ 75,000
10% DOWN SALES (\$750/parcel)	
@ 80% [40 Parcels x \$750/parcel] =	\$ 30,000
C. CASH SALES (3/1/06 – 6/30/06) 150 Applications	
@ 66% Purchase Rate = 100 Closings	
@ 20% [20 Parcels x 10.0 acres/parcel x \$750/acre] =	\$ 150,000
10% DOWN SALES (\$750/parcel)	
@ 80% [80 parcels x \$750/parcel] =	<u>\$ 60,000</u>
TOTAL FY06 CASH SALES REVENUE	\$ 525,000

II. INTEREST INCOME (5% return)

CASH DEPOSITS	
(10/1/05 – 12/31/05) [\$210,000; 6mo. @ 5% monthly] =	\$ 5,294
(12/1/05 – 2/28/06) [\$105,000; 4mo. @ 5% monthly] =	<u>\$ 1,766</u>
TOTAL FY06 INTEREST INCOME =	\$ 7,060

III. FINANCE REVENUES (1/01/06 – 6/30/06)

A. 10% DOWN SALES/90% FINANCED (1/1/06 – 6/30/06)	
[80 Parcels; \$6,750 @ 7%, 60 mo.]	
(\$133.66/mo. x 6 months) =	\$ 64,156
B. 10% DOWN SALES/90% FINANCED (3/1/06 – 6/30/06)	
[40 Parcels; \$6,750 @ 7%, 60mo.]	
(\$133.66/mo. x 4 months) =	<u>\$ 21,385</u>
TOTAL OF PAYMENTS =	\$ 85,541

TOTAL FY06 PROJECTED REVENUES = \$617,601

FY07 REVENUE PROJECTIONS

(July 1, 2006 – June 30, 2007)

IV. SALES REVENUE

D. CASH SALES (7/1/06 – 9/30/06) 150 Applications
@ 66% Purchase Rate = 100 Closings
@ 20% [20 Parcels x 10.0 acres/ parcel x \$750/acre] = \$ 150,000

10% DOWN SALES (\$750/parcel)
@ 80% [80 Parcels x \$750/parcel] = \$ 60,000

E. CASH SALES (10/1/06 – 12/31/06) 75 Applications
@ 66% Purchase Rate = 50 Closings
@ 20% [10 Parcels x 10.0 acres/parcel x \$750/acre] = \$ 75,000

10% DOWN SALES (\$750/parcel)
@ 80% [40 Parcels x \$750/parcel] = \$ 30,000

F. CASH SALES (1/1/07 – 4/30/07) 150 Applications
@ 66% Purchase Rate = 100 Closings
@ 20% [20 Parcels x 10.0 acres/parcel x \$750/acre] = \$ 150,000

10% DOWN SALES (\$750/parcel)
@ 80% [80 parcels x \$750/parcel] = \$ 60,000

G. CASH SALES (5/1/07 – 6/30/07) 75 Applications
@ 66% Purchase Rate = 50 Closings
@ 20% [10 Parcels x 10.0 acres/parcel x \$750/parcel] = \$ 75,000

10% DOWN SALES (\$750/Parcel)
@ 80% [40 Parcels x \$750/parcel] = \$ 30,000

TOTAL FY07 SALES REVENUE = \$630,000

**II. INTEREST INCOME (5% return)
CASH DEPOSITS**

A & B. (7/1/05 – 6/30/06)	\$315,000, 12 mo. @ 5% monthly]	= \$15,750
C. (3/1/06 - 6/30/06)	\$210,000, 12 mo. @ 5% monthly]	= \$10,500
D. (7/1/06 – 9/30/06)	\$210,000, 9 mo. @ 5% monthly]	= \$ 7,717
E. (10/1/06 – 12/31/06)	\$105,000, 6mo. @ 5% monthly]	= \$ 2,589
F. (1/1/07 – 4/30/07)	\$210,000, 2mo @ 5% monthly]	= \$ 1,726
G. (5/1/07 – 6/30/07)	\$ -0-	= \$ -0-

TOTAL INTEREST INCOME FY07 = \$38,282

III. FY06 FINANCE REVENUES (7/01/06 – 6/30/07)

a. 10% DOWN SALES/90% FINANCED (10/31/05 – 12/31/05)		
[80Parcels; \$6,750 @ 7%, 60 mo.]		
(\$133.66/mo. x 12 months)	=	\$ 128,313
b. 10% DOWN SALES/90% FINANCED (12/1/05 – 2/28/06)		
[40 Parcels; \$6,750 @ 7%, 60mo.]		
(\$133.66/mo. x 12 months)	=	\$ 64,156
c. 10% DOWN SALES/90% FINANCED (3/1/06 – 6/30/06)		
[80 Parcels; \$6,750 @ 7%, 60mo.]		
(\$133.66/mo. x 12 months)	=	\$128,313

IV. FY07 FINANCE REVENUES (7/01/06 – 6/30/07)

d. 10% DOWN SALES/90% FINANCED (7/1/06 – 9/30/06)		
[80 Parcels; \$6,750 @ 7%, 60 mo.]		
(\$133.66mo. x 9 months)	=	\$ 96,235
e. 10% DOWN SALES/90% FINANCED (10/1/06 – 12/31/06)		
[40 Parcels; \$6,750 @ 7%, 60mo.]		
(\$133.66/mo. x 6 months)	=	\$ 32,078
f. 10% DOWN SALES/90% FINANCED (1/1/07 – 4/30/07)		
[80 Parcels; \$6,750 @ 7%, 60mo.]		
(\$133.66/mo. x 2 months)	=	\$ 21,385
G. SALES (5/1/07 – 6/30/07) = No Closings proceeds		\$ -0-

TOTAL OF PAYMENTS \$470,480

TOTAL FY07 PROJECTED REVENUE = \$1,138,762

HB 319 RECREATIONAL CABIN SITES

FY06 REVENUE PROJECTION SUMMARY

A.	CASH SALES	DEPOSIT	=	\$ 150,000
		DEPOSIT	=	\$ 75,000
		DEPOSIT	=	\$ 150,000
B.	10% DOWN SALES	DEPOSIT	=	\$ 60,000
		DEPOSIT	=	\$ 30,000
		DEPOSIT	=	\$ 60,000
		TOTAL DEPOSITS to PRINCIPAL	=	\$ 525,000
C.	INTEREST INCOME OF INVESTMENT (5%) 12 mo.		=	\$ 7,060
E.	FINANCE INCOME ON LOANS (7%)			
	[80 parcels x 6 mos, \$(6,750 loans)		=	\$ 64,156
	[40 parcels x 4 mos, \$(6,750 loans)		=	\$ 21,385
		TOTAL FINANCE INCOME	=	\$ 85,541
		TOTAL PROJECTED REVENUE FOR FY06	=	\$ 617,601

FY07 REVENUE PROJECTION SUMMARY

A.	CASH SALES	DEPOSITS	=	\$ 450,000
B.	10% DOWN SALES	DEPOSITS	=	\$ 180,000
		TOTAL DEPOSIT to PRINCIPAL		\$ 630,000
C.	INTEREST INCOME ON DEPOSITS		=	\$ 38,282
D.	FINANCE INCOME ON LOANS			
	FY06		=	\$128,313
			=	\$ 64,156
			=	\$128,313
	FY07		=	\$ 96,235
			=	\$ 32,078
			=	\$ 21,385
		TOTAL FINANCE INCOME	=	\$470,480
		TOTAL FY07 PROJECTED REVENUE	=	\$1,138,762

A. Parcel Size

This bill proposes the maximum size of **10.0** acres. Under the current program, applicants choose the size of their parcel. The average size chosen under the current program is approximately 13.6 acres. (The minimum size is 5 to 10 acres depending on the area. Minimum size is established to comply with local platting board or waste disposal requirements. Maximum parcel size is 20 acres). **10.0** acres is the size associated with this legislation.

B. Parcel Price

Remote land in Alaska is inexpensive. The selling price for Remote Recreation Cabin Parcels staked in FY01 and FY02, which was the first by lottery offer, averaged **\$621/acre**. Small parcels sell for less than larger parcels, though the per-acre price is higher. Currently, the average size Alaskans chose to stake is 13.6 acres. Department appraisers estimate, that all else being equal, the per-acre price ratio between a 13-acre parcel and a 10.0 acre parcel is **1.10 to 1.20**. The \$621/average price per acre is the lowest ever realized. Current subdivision sales have averaged \$1238 – 1824 per acre.

This fiscal note assumes that a **10.0** acre parcel will bring in \$700 per acre. DNR's Ratio Conversion is: ($\$621/\text{acre} \times 1.10 = 700/\text{acre}$, $\$621 \times 1.20 = \$750/\text{acre}$). That is, each parcel would bring in approximately \$7,500 to the Department ($=\$750/\text{acre} \times 10.0$ acres).

Total Potential Revenues: $\$7500/\text{parcel} \times 250$ Closings = **\$1,875,000/year**

This would assume 100% "cash buyers." With only 20% cash buyers, **\$150,000** would be generated by FY06. From "Financed" buyers, conservatively, **\$500,000** will be generated in revenue the first year that applications are received (with approximately 1,000,000 in the 2nd and 3rd years).

C. Purchase Rate

In the current program, only 43% of people issued staking authorizations go on to purchase their parcels. We assume there is higher demand for these parcels and the Department estimates **66%** will purchase. Willing applicants will result in 250 purchasers (66%). The remainder decide not to continue somewhere during the process. The Department is working to bring up the purchase rate. However, this rate is actually greater than similar historical programs. The Department's homestead/homesite programs allowed people to gain ownership through either purchase or prove-up.

Only 33% of the people who initially sought remote parcels followed through to ownership (two-thirds dropped out). It is possible that those who apply in the program proposed by this bill will have a higher purchase rate than past programs. However, individuals do not understand the major cost in time and money until they try to hire a surveyor and appraiser. This fiscal note assumes a 66% purchase rate or 250 parcels the first year. This is **below** historical trends.

D. Financing

The bill assumes current State practices for financing: Approximately 20% of applicants purchase outright and 80% finance their purchase over 10 years. The current interest rate is 7%. We assumed 5 years due to small loan amounts. DNR's terms would produce higher revenues than we project.

E. Schedule

The bill does modify DNR's existing survey and appraisal practice, but requires that reviews be completed within two years. Currently, the department contracts with private surveyors, on behalf of the individuals, and is able to complete the survey and appraisal process within two years. Individuals who are familiar with surveyors and appraisers take far less time. The Department believes that the minimum time for the process is two years: one summer for survey (survey instruction from DNR, survey by a private contractor, then review by DNR), and a second year for appraisal (instructions from DNR, appraisal by a private contractor, then review by fiscal year end). The schedule is as follows:

FY 05 to prepare regulations for this new program, information for the public, and begin receiving initial applications in the first half of FY05. DNR processing of applications (title search, best interest finding, public notice, etc.) would occur in FY05-06. Land surveys would occur primarily in FY06. DNR and Borough approval of surveys would occur in FY06. Half (50%) of the parcels may be purchased or will enter into sale contracts in FY06. Based on experience with past programs where applicants were required to get their own parcel surveyed and appraised, this is a very optimistic schedule.

This Department's timing is unreasonable as a "review" process is not as extensive through utilization of "qualified, state approved, surveyors and appraisers." Private Sector Contractors, based on market demand and financial ventures will provide faster results. The prime function of state appraisal and survey is not in the field, but to review work in the office, which reduces time and expense within the Department.

Since these parcels are chosen by private individuals, we anticipate a faster schedule (See timeline).

HB 319
“TIME LINE”

- I. **Regulations/Forms/Program Guidelines (90 Days)**
 - a. July 1, 2004 – September 30, 2004

- II. **Applications/Selections/Title Search/Staking Packets (1000 Applications)**
 - a. October 1, 2004 – December 31, 2004
* 150 Applications Received
 - b. January 1 – April 30, 2005
* 75 Applications Received
 - c. May 1 – July 31, 2005
* 150 Applications Received
 - d. August 1 – October 31, 2005
* 100 Applications Received

- III. **Best Interest Finding Period (90 days)**
 - a. January 1 – March 31, 2005- Remote Cabin Best Interest determined - 150
 - b. April 1 – June 30, 2005 – 75
 - c. July 1 – September 30, 2005 – 150
 - d. October 1 – December 31, 2005 – 100

- IV. **Public Notice Period (60 days)**
 - a. April 1 – May 31, 2005- Publish “Draft” of Best Interest Finding.
 - b. June 1 – June 20, 2005 - (20 days) Appeal period - 150
 - c. July 1 – August 31, 2005 – 75
 - d. September 1 – September 20, 2005 – (20 days) Appeal period
 - e. October 1 - November 30, 2005 – 150
 - f. December 1 – December 20, 2005 – (20 days) Appeal period
 - g. January 1, 2006 – February 28, 2006 – 100
 - h. March 1 – March 20, 2006 – (20 days) Appeal period

- V. **Appraisals/Surveys (30 days)**
 - a. April 1 - July 31, 2005 - Applicant orders fee simple appraisal/surveys (150)
 - b. August 1 – October 31, 2005 – Applicant orders fee simple appraisal/surveys – (75)
 - c. November 1, 2005 – February 28, 2006 – Applicants order fee simple appraisals/surveys – (150)
 - d. March 1, 2005 – May 31, 2006 - Applicants order fee simple appraisal/surveys – (100)

- VI. **DNR Review of Appraisal and Surveys (30 days)**
- a. May 1 – September 30, 2005 – DNR accepts Appraisals/Surveys (150)
 - b. September 1 – November 30, 2005 - DNR accepts Appraisals/Surveys (75)
 - c. December 1 – April 30, 2006 - DNR accepts Appraisals/Surveys (150)
 - d. May 1 – September 30, 2006 - DNR accepts Appraisals/Surveys (100)
- VII. **Document Preparation (30 days)**
- a. October 1, 2005- June 30, 2006- DNR performs title search and prepares (250) "contract for sale" documents or issues patent for cash purchasers
 - b. July 1, 2006 – April 30, 2007 – (300)
- VIII. **Closings (60 days)**
- FY06**
- a. October 1 – December 31, 2005 – DNR Closes the sale transaction of 100 Applications
 - b. December 1, 2005 – February 28, 2006 – Close (50) Applications
 - c. March 1, 2006 – June 30, 2006 – Close (100) Applications
- FY07**
- d. July 1, 2006 – September 30, 2006 – Close (100) Applications
 - e. October 1 – December 31, 2006 – Close (50) Applications
 - f. January 1 – April 30, 2007 – Close (100) Applications
 - g. May 1 – June 30, 2007 – Close (50) Applications

DNR collects revenue, with proceeds deposited to the Land Disposal Fund

FY05/FY06

- A. Prepare regulations and information to public **July 1, 2004 – Sept. 30, 2004**
- B. **September 30, 2004 –October 31, 2005** – First 375 applicants with one year for DNR processing (title search, best interest finding, public notice, etc.)
- C. **November 1, 2005 – June 30, 2006** – 250 Cash buyers, in revenue by year end.
- D. **July 1, 2006 – June 30, 2007** – 300 closings to begin January 1, 2006 –April 30, 2007 (estimated revenues by year end FY07).

*Revenues begin in FY06 (18 months from the effective date).

Summary

The total amount of parcels (20%) sold for "cash" will be \$525,000 in FY06 and \$630,000 in FY07. The total of "financed" payments will be 85,541 in FY06 and 470,480 in FY07.

In total, by FY07 approximately \$1,756,363 revenues can be realized "conservatively" and can justify the \$305,000, and \$488,000 in expenses by FY07 to administer the new program. Revenues will grow substantially after the word is out. Approximately \$1,000,000 in Net Revenues could be realized by year end FY07

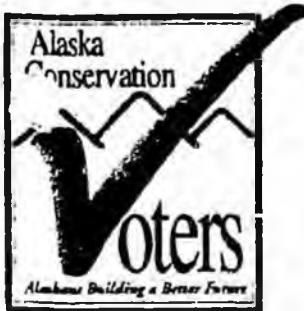
A. Technical Issues

This bill does not repeal the current program and provides that they continue indefinitely. Therefore, this fiscal analysis assumes the existing programs continue at their present level. The existing program is **not** a more cost-effective and revenue-efficient method to offer lands to Alaskans. The new program streamlines costs and passed this function on to private enterprise.

DNR feels it will take 3 years to realize revenue. This is inaccurate. Once the application is approved, a financially secure individual could have an appraisal and a survey within 60 days, 180 days maximum. A title company needs 10-30 days to close. It is not that complicated to sell land in Alaska.

This is a "**fast track**" purchase requiring only oversight by DNR. Participation is limited to selection and specifically NOT in surveying and appraising the selected lands other than to review contractor's work. That is the problem we have today. This bill changes that substantially to generate revenue and give everyone a chance to own "a Piece of Alaska."

Prepared by James F. Dieringer, III



HB 319 House State Affairs

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PO Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

To: Members of the House State Affairs Committee
From: Matt Davidson, Legislative Director for the Alaska Conservation Voters
Date: February 2, 2004
Subject: HB 319

HB 319 establishes a new land disposal program within the Department of Natural Resources (DNR) that allows state residents the exclusive right to purchase state lands which they have three consecutive years of prior recreational use. HB 319 is very similar to HB 233, considered in the 22nd Legislature. During testimony on HB 233 (22nd), the Department of Natural Resources enumerated many concerns with the legislation. Given these and other problems with HB 319, this bill should not move from the House State Affairs Committee.

HB 319 Gives Exclusive Purchase Rights

The proposed program strays from all existing land sale programs by giving individuals the exclusive right to purchase state resources. The vast majority of existing state land sales are currently made through either an auction and/or lottery systems. (Sect 3. (a))

HB 319 Encourages Trespass

The program would encourage people to build illegal cabins and other structures to help demonstrate their use of the land, thereby qualifying for the program. (Sect 4. (g))

HB 319 Allows Misuse of Mining Claims

The existing mining law has a well established criterion for the legitimate granting of title to holders of mining claims. The program described in HB 319 (Sect 4. (g)) undercuts the current program and could make mining claims a backdoor to gain land not available to all Alaskans.

HB 319 Invites Conflict between Potential Owners, Users

HB 319 doesn't contain a mechanism to deal with conflicts between potential owners and other uses of individual recreational lands. Under the bill, DNR will give a preference to the first applicant who establishes recreational use. It is not difficult to imagine a scenario where one user with three annual trips to a prime recreational location would beat out another potential owner with 30 years of use of the same parcel or a business who has a state permit to use the parcel. HB 319 contains no direction of how to settle conflict between potential owners, users.

HB 319 Is Costly/Cumbersome to the State of Alaska

The self selection provision outlined in HB 319 will result in individuals applying for isolated and scattered parcels. Under the current state land sale program, DNR groups parcels and offers them as well planned clusters. The program requires one title check, one best-interest finding and so on, proving to be more efficient than the proposed exclusive-right program.

Alaskans building a better future.

HB 319 Adversely Effects Wildlife

Fish and game resources are easily over harvested following the settlement of formerly wild lands and waters. Wildlife which attracts private development will soon be depleted with more continuous pressure to the detriment of occasional campers and private landowners alike.

HB 319 Fails to Recognize Expense and Threat of Forest Fires

HB 319 furthers the issue of increased and continuing costs of protecting scattered private cabins from forest fires. The bill adds to the burden of firefighting costs where fires are now simply monitored, but not fought.

HB 319 Conflicts with Municipality Acreage Requirements

As stated by DNR, 10 acres is what is generally considered the minimum size for onsite sewage disposal. The proposed program violates municipal platting rules in the Fairbanks North Star Borough and Kodiak Borough.

HB 319 Consents to Selling Land for Less than Market Value

The proposal program does not guarantee the state a good return on the sale of prime state land. In fact, Line 7 of Sec.1 states the commissioner may sell land by lottery for less than fair market value of the land on a determination that scarcity of land available in the area makes the market value unrealistic.

Alaskans building a better future.

Representative
HUGH "BUD" FATE
Finance Committee
Energy Council-Executive Committee
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House District 7

House of Representatives

Memorandum

To: House State Affairs Committee
Fm: Representative Hugh Fate
Cc: Alaska Conservation Voters (via fax)
Date: February 3, 2004
Re: Alaska Conservation Voters Memo on HB 319 & Proven High Mineral

As requested by the Committee I would like to take this opportunity to response to Alaska Conservation Voters Memo on IIB 319, submitted by Matt Davidson, Legislative Director on February 2, 2004.

The H version of HB 319 is language that existed in CS for HB 232 (RES) and served as a starting point based on discussions and amendments from the 22nd Alaska Legislature. I felt that this offered a better starting point for this legislature as some of the concerns had already been answered and resolved.

As the Memo was written prior to the amendments adopted as the CS for State Affairs I believe that the issues of, or at least a definition of, Exclusive Purchase Rights, Trespass, and Misuse of Mining Claims have been addressed.

Under the reference and scenario Invites Conflict: to a certain extent that concern has also been addressed in the amendment "...and request a right of first refusal." Since it is only a request, should the scenario conflict arise, the decision will be up to the Commissioner of DNR for resolution. Business issues are already addressed in statute:

AS 38.05.035 Powers and duties of the director states:

(f) **The director 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. (emphasis added)

Costly and Cumbersome to the State of Alaska

As the Fiscal note indicates, an annual cost of \$433,000. I concur that those numbers are very close to reality. What the fiscal note does not address, in part because it was generated prior to the proposed amendments, are the advantages to, and therefore the increase in interest of these remote cabin sites. Presently, the Department offers land through the lottery, auction or over the counter sale. Much of the land currently being offered is either extremely remote with very limited access, or has inherent problems to topography to include wetlands. HB 319 will change that by allowing the public to identify sites that are preferred, and are of a more practical and economical size. This preference process will assist the Department by letting them know what people want. As indicated in the fiscal note, the price per acre will increase because of a simple supply and demand scenario meaning the land will have a higher value, conservatively between \$1,000 and \$1,500 per acre or \$5,000 to \$7,500 per site. I believe that once this program is in place the annual statewide demand could exceed 1,000 sites with a higher percentage of sites actually staked. Also because of a better quality of land, there will be a decrease in defaults. Essentially, the income for the state will far exceed the costs. I have attached some scenarios for your consideration.

Adversely Effects Wildlife

The wildlife impact is negligible as the five-acre site, combined with buffer zones both in existing statutes and this bill will eliminate an urban type private development situation. Under private ownership, people traditionally treat the wildlife on their property with more, not less respect. In many cases occasional campers are not necessarily the best stewards of the land they use, leaving signs of their visit behind or are there for the specific reason of hunting and fishing.

Expense and Threat of Forest Fires

The current policy of protecting remote cabins from forest fires is to say the least a nice gesture on behalf of firefighters, when in fact there is no requirement to do so.

AS 38.04.010 Public interest in making land available for private use.

(b) State land that is located beyond the range of existing schools and other necessary public services, or that is located where development of sources of employment is improbable, may be made **available for seasonal recreational purposes or for low density settlement**. The seasonal recreation use or low-density settlement shall have sufficient separation between residences so that **public services will not be necessary or expected**. The availability of timber, firewood, and water resources shall be considered in determining separation between residences. By considering the availability of timber, firewood, and water under this subsection or in making any disposal decision, the state does not by virtue of that consideration imply any right of the person receiving the disposal to an exclusive or other right to the timber, firewood, or water, that the state will not make any other disposals in the area, or that any disposals made will be limited in type or any other manner.
(emphasis added)

Again I would suggest that occasional campers with open fires pose a more serious threat of wildfire, as they have no vested interest in the land nor do they have a permanent type structure to protect.

Conflicts with Municipality acreage

Rules and regulations restricting the size of borough land sites within a borough are applicable on borough owned land. The state presently owns millions of acres that are not within an organized borough. Eventual determination of borough issues should be left in the hands of the land experts on both sides. Should a borough chose to lose the potential property tax base, then that decision is and should be up to the local assembly.

Consents to Selling Land for less than market value

This is language already in existing language and is only referenced in this bill to increase the amount of deposit from five to 10 percent. I believe the increased deposit will serve to impede the default rate. I also reference the definition of Fair Market Value

AS 38.04.910. Definitions.

(3) "fair market value" means the price at which a willing seller and a willing buyer will trade;

Finally on what we are referencing as Amendment # 3- Page 3 line 9-12

We propose a simple solution that addresses two issues presented by the committee.

Line 10 on the H version Line 11 on the Amendment H.1 [~~delete bracketed language~~]

...for mineral values[, except for lands having a proven high mineral potential] based on geophysical survey....

Thank you for the opportunity to respond to this memo. I look forward to continuing discussion on HB 319 as I feel this is an important economic bill that will bring the Alaska dream to many of our residents who will become better stewards of the land they own than the state.

Attachments

AS 38.04.010. Public interest in making land available for private use.

(a) The primary public interest in conveying rights to state land surface to private parties is to make them available to individuals and other persons for direct use in areas classified as suitable for these purposes. In making state land available for private use, the director shall seek to guide year-round settlement to areas where public services already exist, or can be extended with reasonable economy, or where development of a viable economic base is probable.

(b) State land that is located beyond the range of existing schools and other necessary public services, or that is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low density settlement shall have sufficient separation between residences so that public services will not be necessary or expected. The availability of timber, firewood, and water resources shall be considered in determining separation between residences. By considering the availability of timber, firewood, and water under this subsection or in making any disposal decision, the state does not by virtue of that consideration imply any right of the person receiving the disposal to an exclusive or other right to the timber, firewood, or water, that the state will not make any other disposals in the area, or that any disposals made will be limited in type or any other manner.

AS 38.04.015. Public interest in retaining state land in public ownership.

The primary public interests in retaining areas of state land surface in public ownership are

(1) to make them available on a sustained-yield basis for a variety of beneficial uses including subsistence, energy development, aquaculture, forestry, grazing, sport hunting and fishing, hiking, snowmobiling, skiing, and other activities of a type which can generally be made available to more people and conducted more successfully if the land is in public rather than private ownership;

(2) to facilitate mining and mineral leasing by managing appropriate public land for surface uses which are compatible with subsurface uses;

(3) to protect critical wildlife habitat and areas of special scenic, recreational, scientific, or other environmental concern;

(4) to restrict development in hazardous locations such as floodplains and avalanche zones; and

(5) to guide the location of settlement and development to minimize public costs and maximize social and economic benefits.

Article 02. LAND AVAILABILITY FOR PRIVATE USE

AS 38.0-.020. Land disposal bank.

(a) The commissioner shall establish a land disposal bank containing state land classified for disposal into private ownership.

(b) The land disposal bank does not include

(1) land nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;

(2) land retained in state ownership for multiple-use management;

(3) land where less than a fee simple title has been conveyed;

(4) land retained in state ownership under an enactment of the legislature or by the governor or a state agency under authority of law.

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.05.300. Land outside a municipality to be retained in state ownership consists of land classified for retention in

state ownership by the commissioner by July 1, 1985. Land conveyed to the state by the federal government that is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by a municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

(d) By January 15 of the first session of each legislature, the commissioner shall notify the legislature that the commissioner has available a report on the status of land in the land disposal bank under the following categories:

- (1) land suitable for homestead disposal;
- (2) land suitable for subdivision disposal;
- (3) land suitable for agricultural, commercial, or industrial disposal; and
- (4) land suitable for other purposes.

(e) The commissioner shall annually submit to the governor an appropriation request for funding estimated to be necessary for the next two years to allow

(1) survey and disposal of land proposed to be made available for homestead staking, with the general location of the land;

(2) survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

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

(4) preliminary feasibility studies, engineering design work, right-of-way acquisition, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting authority;

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

(f) The request of the commissioner under (e) of this section shall include an analysis and an assessment of the market demand for the land proposed for disposal.

(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

(1) land designated as suitable for homestead disposal shall be classified and surveyed under this chapter and AS 38.05 and made available for staking and lease under AS 38.09;

(2) land designated as suitable for subdivision and homesite disposal shall be surveyed, subdivided, classified, and disposed of under this chapter, AS 38.05, and AS 38.08;

(3) land designated commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057;

(4) land designated agricultural shall be disposed of under AS 38.05.055 - 38.05.065, except the Board of Agriculture and Conservation (AS 03.09.010) shall receive notice of each proposed disposal and be given an opportunity to comment before the final disposal decision is made.

(h) Individual parcels disposed of in subdivisions intended for private residential or recreational use may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with municipal ordinances; to permit the design of a

viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision; to increase the return to the state from the sale of the parcels; to minimize adverse effect on wildlife, fishery, public recreation, timber, or other significant resources in the area; or to minimize adverse effect on other residential uses in the area.

(i) Nothing in this section prevents the disposal of other land by the commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of remote recreational cabin site leases or sales under AS 38.05.600, AS 38.08, AS 38.09, or other law.

(j) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and with notice under AS 38.05.945. The commissioner shall make a written determination within six months after receipt of a nomination if the commissioner determines that the land nominated will not be classified or reclassified as requested.

(k) The commissioner may withdraw from the land disposal bank state land that has been offered for disposal but not conveyed within five years after the inclusion in the land disposal bank. State land withdrawn from the land disposal bank under this section must be reclassified under AS 38.04.065.

AS 38.04.030. Land availability programs.

Programs that may be used by the director to make the state's land surface available for private use under AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple estate, including conveyance of agricultural use rights; leasing; open-to-entry; homesiting; homesteading; permitting for construction and occupation of cabins in isolated locations on land retained in state ownership; and other methods as provided by law. However, agricultural use rights may be conveyed only after consulting with the Board of Agriculture and Conservation.

AS 38.05.035. Powers and duties of the director.

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

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

(B) if the application for the preference right is filed with the director within 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 (A) the application for the preference right, (B) the date of acquisition by the state of the land, or (C) the date of a court decision or settlement nullifying a disposal of state land, 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 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;

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

(10) (e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property, or interests in them. In approving a contract under this subsection, the director need only prepare a single written finding. In addition to the conditions and limitations imposed by law, the director may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. The preparation and issuance of the written finding by the director are subject to the following:

(f) The director 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.

AS 38.05.600. Remote recreational cabin sites.

(a) The commissioner may provide for the sale or lease of state land for remote recreational cabin sites. Sales under this section shall be at fair market value determined as of the time of entry, and the purchaser shall reimburse the state for the appraisal, survey, and platting costs for the recreational cabin site.

(b) The annual fee for a remote recreational cabin site lease shall be set by the commissioner so as to ensure that the state receives a fair return for the use granted by the lease for the term of the lease. The commissioner shall establish regulations that specify the application procedures for and the terms and conditions of a remote recreational cabin site lease. A lease must be for a term of not more than five years, and may be renewed for one additional five-year period. At any time during the lease, the lessee may purchase the remote recreational cabin site by having the site appraised and surveyed in a manner acceptable to the department and by paying to the state the fair market value for the site determined as of the time of entry. The lease may not be assigned by the original lessee during the term of the lease.

(c) A remote recreational cabin site lease may be terminated by the commissioner before the expiration of the term of the lease if a lessee fails to use the land under lease in the manner required by the terms of the lease. After termination of a remote recreational cabin site lease, improvements or personal property on the land subject to the lease shall be managed in the same manner as required by AS 38.05.090 .

AS 38.05.090. Removal or reversion of improvements upon termination of leases.

(a) Unless otherwise agreed to in writing by the commissioner, a lessee shall remove from a former leasehold

(1) all personal property, including above-ground tanks, transportable buildings, equipment, machinery, tools, and other goods, not belonging to the state, within 30 days after termination of the lease; and

(2) all buildings and fixtures, including gravel pads, and below-ground tanks, foundations, and slabs, not belonging to the state, within 60 days after termination of the lease.

(b) Unless otherwise agreed to in writing by the commissioner, the lessee shall restore the leasehold to a good and marketable condition, acceptable to the commissioner, within 120 days after termination of the lease.

(c) If the lessee does not remove personal property, buildings, and fixtures as required within the time specified under (a) of this section, title to the personal property, buildings, and fixtures that remain automatically vests in the state unless the commissioner elects to remove and dispose of the remaining personal property, buildings, and fixtures of the lessee. The commissioner may assess upon the lessee the cost of removing and disposing of personal property, buildings, and fixtures remaining upon the land.

(d) If the lessee does not restore the land within the time period specified under (b) of this section, the commissioner may have the land restored and assess the costs upon the lessee.

(e) As part of a lease agreement, and in order to protect the public interest, the commissioner may require terms for removal or reversion of improvements additional to those specified in (a) - (d) of this section.

(f) Private residential improvements of a lessee that have become fixtures of the land and that are not removed by that lessee upon termination of the lease shall be purchased by the subsequent purchaser of the land if the improvements were authorized in the former lease or by permit from the director and if they have a net value of more than \$10,000. The net value is the value of the improvements as determined by an appraisal approved by the commissioner, less all rents due the department, all costs of restoration under (d) of this section, and all department expenses estimated to be incurred in making the sale. After termination of the former lessee's lease, and at additional times as determined necessary by the commissioner, the value of the authorized residential fixtures shall be determined by an independent appraisal made at the cost of the former lessee. A notice or offer by the state to sell formerly leased land under this subsection must state (1) the appraised value of authorized residential fixtures remaining on the land that must be purchased, and (2) that that cost is included in the purchase price. Out of the proceeds of the sale, the department shall pay to the former lessee the appraised value of the residential improvements, less all rents due the department, all costs of restoration due the department under (d) of this section, and all department expenses incurred in making the sale.

(g) Personal property described in (c) of this section is not subject to AS 34.45 (Uniform Unclaimed Property Act).

Sec. 38.05.945. Notice.

(a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law;

(3) issuance of a

(A) preliminary written finding under AS 38.05.035 (e)(5)(A) regarding the sale, lease, or disposal of an interest in state land or resources for oil and gas subject to AS 38.05.180 (b);

(B) *[Repealed, Sec. 4 ch 118 SLA 2000]*.

(C) written finding for the sale, lease, or disposal of an interest in state land or resources under AS 38.05.035 (e)(6), except an oil or gas lease sale described in AS 38.05.035 (e)(6)(F) for which the director must provide opportunity for public comment under the provisions of that subparagraph;

(4) a competitive disposal of an interest in state land or resources after final decision under AS 38.05.035 (e);

(5) a preliminary finding under AS 38.05.035 (e) concerning sites for aquatic farms and related hatcheries;

(6) a decision under AS 38.05.132 - 38.05.134 regarding the sale, lease, or disposal of an interest in state land or resources.

(b) When notice is required to be given under this section,

(1) the notice must contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on it;

(2) if the notice is of a preliminary written finding described in (a)(3)(A) of this section, the department shall give notice at the beginning of the public comment period for the preliminary written finding, notifying the public of the right to submit comments; the department shall give notice by

(A) publication of a legal notice in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action at least once a week for two consecutive weeks;

(B) publication of a notice in display advertising form in the newspapers described in (A) of this paragraph at least once a week for two consecutive weeks;

(C) public service announcements on the electronic media serving the area to be affected by the proposed action; and

(D) one or more of the following methods:

(i) posting in a conspicuous location in the vicinity of the action;

(ii) notification of parties known or likely to be affected by the action; or

(iii) another method calculated to reach affected parties;

(3) if the notice is of an action described in (a) of this section, other than notice of an action under (a)(3)(A) of this section, the department shall give notice at least 30 days before the action by publication in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action and one or more of the following methods:

(A) publication through public service announcements on the electronic media serving the area affected by the action;

(B) posting in a conspicuous location in the vicinity of the action;

(C) notification of parties known or likely to be affected by the action; or

(D) another method calculated to reach affected persons.

(c) Notice at least 30 days before action under (a) of this section shall also be given to the following:

(1) to a municipality if the land is within the boundaries of the municipality, to a coordinating body established by community councils in a municipality if the coordinating body or a community council within the area served by a coordinating body requests notice in writing; if there is no coordinating body within the municipality, notice shall be provided to each community council established by the charter or ordinance of the municipality if the land is located within the boundaries of the municipality and if the community council requests notice in writing;

(2) to a regional corporation if the boundaries of the corporation as established by 43 U.S.C. 1606(a) (sec. 7(a), Alaska Native Claims Settlement Act) encompass the land and the land is outside a municipality;

(3) to a village corporation organized under 43 U.S.C. 1607(a) (sec. 8(a), Alaska Native Claims Settlement Act) if the land is within 25 miles of the village for which the corporation was established and the land is located outside a municipality;

(4) to the postmaster of a permanent settlement of more than 25 persons located within 25 miles of the land if the land is located outside a municipality, with a request that the notice be posted in a conspicuous location;

(5) to a nonprofit community organization or a governing body that has requested notification in writing and provided a map of its boundaries, if the land is within the boundaries.

(d) Notice at least 30 days before action under (a) (5) of this section shall be given to appropriate

(1) regional fish and game councils established under AS 16.05.260; and

(2) coastal resource service areas organized under AS 46.40.110 - 46.40.210.

(e) Notice is not required under this section for a permit or other authorization revocable by the department.

(f) The provisions of this section do not apply to a lease issued under AS 38.05.205

(g) *[Repealed, Sec. 19 ch 56 SLA 1997].*

(h) Failure to give notice under this section to a community council, a coordinating body established by community council, or an organization listed in (c)(5) of this section does not constitute a legal basis for invalidation or delay of the action.

Sec. 38.05.946. Hearings.

(a) A municipality or a corporation entitled to receive notice under AS 38.05.945 (c) may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the commissioner shall attend the hearing. The commissioner has discretion to hold a public hearing.

ALASKA CONSTITUTION

Section 8.1 - Statement of Policy.

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

Section 8.2 - General Authority.

The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Section 8.9 - Sales and Grants.

Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

Section 8.10 - Public Notice.

No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Section 8.17 - Uniform Application.

Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

ANILCA provisions

However, § 1326 of ANILCA limits the authority of the President or the Secretary of the Interior to create large withdrawals in Alaska. Subsection (a) of that section states that a large withdrawal of public lands in Alaska terminates unless Congress extends the withdrawal by approving it in legislation enacted within one year after the withdrawal is made:

No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress. 10

This provision appears to limit a withdrawal to create a national monument to one year duration unless Congress legislates to "approve" the withdrawal.11 Congress has acted in the past to terminate national monuments, 12 and could terminate a now monument withdrawal in Alaska before the expiration of the one-year period. Various political considerations might affect whether Congress might affirmatively enact approval of an ANWR monument. Absent such approval, it appears the monument designation would terminate and the situation as to the coastal plain would be as it is now - - that oil and gas development in the Refuge is prohibited until Congress acts to approve development.

Another section of ANILCA appears relevant. Section 101(d) of ANILCA stated the sentiment of Congress in 1980 that ANILCA presented a balance between conservation units and development and disposal of lands:

This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its

people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

Technically, this section speaks of types of conservation units other than national monuments, 13 and it is true that one Congress cannot tie the hands of another. It could also be argued that because the fate of the coastal plain was expressly left to be decided in the future after additional studies of the area, the possibility of additional protection for the coastal plain was contemplated as part of ANILCA. Also, it could be noted that the President's 1906 authority was left intact as to Alaska, and §1326 expressly recognizes that additional large withdrawals might be made. Therefore, arguably, designation of the coastal plain might not be subject to the § 101 policy. However, that policy may ensure a lively debate if Congress is faced with considering approval of an ANWR national monument.

Footnotes:

1 Act of June 8, 1906, ch. 3060, 34 Stat. 225, codified at 16 U.S.C. §§431 etseq. For a discussion of monument issues, see Carol Hardy Vincent and Pamela Baldwin, National Monuments and the Antiquities Act, CRS Report RL30528, updated regularly.

2 Pub. L. No. 96-487, 94 Stat. 2374, codified in part at 16 U.S.C. §§ 3101 etseq. Section 1002 of the Act (16 U.S.C. §3142) directed studies of the coastal plain, and §1003 (16 U.S.C. §3143) precluded oil development in the Refuge unless authorized by Congress.

3 For a more complete discussion of the resources and policy considerations related to ANWR, see Lynne Corn and Pamela Baldwin, The Arctic National Wildlife Refuge: The Next Chapter, IB 10055, updated regularly.

4 The District Court for Alaska granted partial summary judgment for the United States on the issue of construction of the 1906 Act. The court concluded that, although the Act limited the authority of the President as to size and subject matter of withdrawals, the outermost parameters of that authority had not yet been articulated and the withdrawals before the court did not exceed the authority of the President. Unreported bench opinion, *Anaconda Copper Company v. Andrus*, A79-161 Civ., (D.Al. July 1, 1980).

5 Proc. 6920, September 18, 1996; 61 Fed. Reg. 50,223 (September 24, 1996).

6 Proc. 7265, January 11, 2000; 65 Fed. Reg. 2825 (January 18, 2000).

7 *Cameron v. United States*, 252 U.S. 450 (1919).

8 ' Wyoming v. Franke, 58 F. Supp. 890, 895 (D. Wyo. 1945).

9 Cameron v. United States, 252 U.S. 450 (1919), upheld the Grand Canyon National Monument and noted that the Grand Canyon was an object of unusual scientific interest; Cappaert v. United States, 426 U.S. 128, 142 (1975), upheld the Devil's Hole National Monument which protected a cave, pool and type of fish; and United States v. California, 436 U.S. 32 (1978), upheld Presidential action to protect fossils and examples of volcanism. See also Wyoming v. Franke, 58 F. Supp. 890 (D. WY. 1945), which dismissed for lack of a review ble question (on whether the discreiiion given the President had been improperly exercised with regard to the size of the Jackson Hole National Monument and its protection of natural phenomena), and Anaconda Copper, supra. 10 16 U.S.C. § 3213. Note that the section applies to withdrawals of "public lands" in Alaska. That term can have diverse meanings and inquiry must always be made as to its meaning in any particular instance. At times, "public lands" is interpreted as meaning unreserved federal public domain lands, and hence would not include ANWR lands as subject to §1326. However, ANILCA defines public lands as federal lands (title in the U.S.) situated in Alaska, except for certain Native lands and lands subject to selections by natives or the State. Therefore, arguably even reserved lancls are subject to §1326.

11 This provision seems to be a grant of temporary withdrawal authority, with the power reserved to Congress to extend or make permanent any such withdrawal through an act of Congress. (Joint resolutions are acted upon by both chambers and presented to the President and hence are laws.) As such, this does not appear to present the same constitutional issues as did the partial congressional action ("legislative veto") that was the subject of INS v. Chadha, 462 U.S. 919 (1983).

12 Congress has sometimes converted a national monument into a national park, but also terminated some of the Carter monuments in ANILCA and replaced them with enacted conservation units.

13 Section 102 of ANILCA defines "national conservation unit" in a manner that does not include national monuments.

SENATE COMMITTEE REPORT

DATE: 04/26/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5-7-04

Resources Committee considered CS FOR HOUSE BILL NO. 319(FIN) am

HB 319 REMOTE REC.CABIN SITE SALES/LOTTERY SALE

"An Act relating to the disposal of state land by lottery; relating to the reservation of rights by the state in land contracts and deeds; relating to the disposal, including sale or lease, of remote recreational cabin sites; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 319 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Fiscal info forthc.					

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Alph Deeb</i>	✓			
<i>Sen Stevens</i>	✓			
<i>Ken ...</i>			✓	
CHAIR: <i>Scott ...</i>			✓	

