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SCRA

SB

159

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SUBJECT	PRESENT LAW	HB 383	HB 387	REMARKS
Trust lands payment for management	None	Pay negotiated amount (Sec. 1)	No change	Recommend deletion of Sec.
Sale term maximum	Max. 10 years	Max. 20 years (Sec. 2 & 3)	No change	
Interest rate on sales	Not less than 5%	Not less than 5% or above usury rate	No change	
Default of Contract	Legal action	Legal and administrative remedies	No change	
Uniform definition of market value	Varies by Section	Renders uniform Sec. 4, 5, 10 & 13	No change	
Option to extend	None	Three 5-year extensions at lessee option	No change	
School land max. lease period	99 yr.	55 yrs. and options	No change	
Initial level term period	5 years	5 years	25 years	
Reappraisal period	5 years	5 years	10 years	
Rental rate	Appraisal	Appraisal	10% max.	New lease form provides firm rate for life of lease

CSSB 159

SUBJECT	PRESENT LAW	HB 383	HB 387	REMARKS
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Appeal process	Administrative Procedures Act	Appeals Board for lease disputes	Appraisal by MAI by each party and 3rd to settle (Not appeal process-required on each lease)	Recommend of board a vision of ers (not M in case of over appra of land.
Duration of appraisal	90 days	120 days	No change	
Price over the counter	No appraisal unless director considers change may have occurred.	Quarterly review to determine change	No change	
Public Notice	Action not sooner than 30 days nor more than 8 weeks from notice	Except for auction sales, no deadline for final action after notice	No change	
Default notice	Silent	No change	Written notice by registered mail to lessee and security holder	New lease provides
Remedy of default by security holder	Silent	No change	Holder of security interest may remedy default by payment or performance	New lease provides by securi holder

SUBJECT	PRESENT LAW	HB 383	HB 387	REMARKS
Maximum increase @ reappraisal	None	100%	50% but not to exceed 10% of appraised value	
Conversion of existing leases	Not possible	Convert to new form @ most recent appraisal if within 2 years. Subject to trustee approval. Director may reduce rate to not less than 6% in case of hardship	Reduce to rental based on last reappraisal prior to Jan. 1, 1975. Extend lease by amount equal to amount expired.	Amend 38.05.1 (c) to read: Leases may be converted at rental established by their most recent reappraisal provided that such reappraisal was not more than 2 years before the effective date of this Act. In all other cases, leases may be converted at the rate established by appraisal at their next regularly scheduled reappraisals.
Other lessee benefits	None	All provided by Act	Rate only	New form provide (1) Fixed rate (2) Permitted use defined (3) Elimination of floating easement (4) Specific condemnation provision (5) Notification of Mortgagor and remedy there

1. In 1976 the Division of Lands raised rentals to what was considered an onerous level. This level is such that there is serious doubt of the practicability of continuing the present use of the land.
2. Because of the uncertainty occasioned by the actions of the Division of Lands, both commercial and residential development of the leases became "non-bankable" in terms of loans because of no feasible upper limit of rent could be determined.
3. The proposed bill corrects this situation by:
 - a. Extending the initial period to 25 years to provide stability in the development stage, and providing for three additional reappraisals instead of about eight.
 - b. Allows the mortgagor to assume the payments in the event of a late payment or default by the lessee.
 - c. Protects the state's interest by increasing the percent of the rental fee to 10%. The original appraisal will have to be correctly done.
 - d. Results in a definable upper limit of the sum of the rental payments over the life of the lessee. This amount is 9 1/2 times the original appraisal. For example, for each \$1,000 of the original appraisal value, the lessee will pay \$9,500 in rent over a 55 year period.
4. A word on the fiscal note prepared by the Division of Lands and which states that passage of the Bill will result in a "substantial less in revenue". At best, this is half truth, since the result is subject to manipulation. Under the argument given, if the Division should decide to raise the rentals to an even higher rate, the "substantial less" would be higher. Accumulation of revenue is not the chief function of a state agency. Balanced development is a valid function. To follow the unmodified policy of the Division of Lands in this matter is to be counter productive.

The major changes which the committee recommends, insofar as your legislation is concerned, is the establishment of fixed rent readjustment percentages in the lease document, and limitations on rent increases. Looking at the first issue, the committee found that leases in the private market use the figure of eight percent for properties leased recently. But the leases

do not say eight percent today and whatever the going rate is in five years. In other words, although eight may be the market today, and ten could be the market tomorrow, the lease would still charge only eight percent for the entire term of the lease. This is an important difference from the state lease form, which allows the percentage to be varied at each reappraisal period. The committee could find no examples of leases in the private market which used the states system. Hence, the committee recommendation is for a fixed percent in the lease document itself.

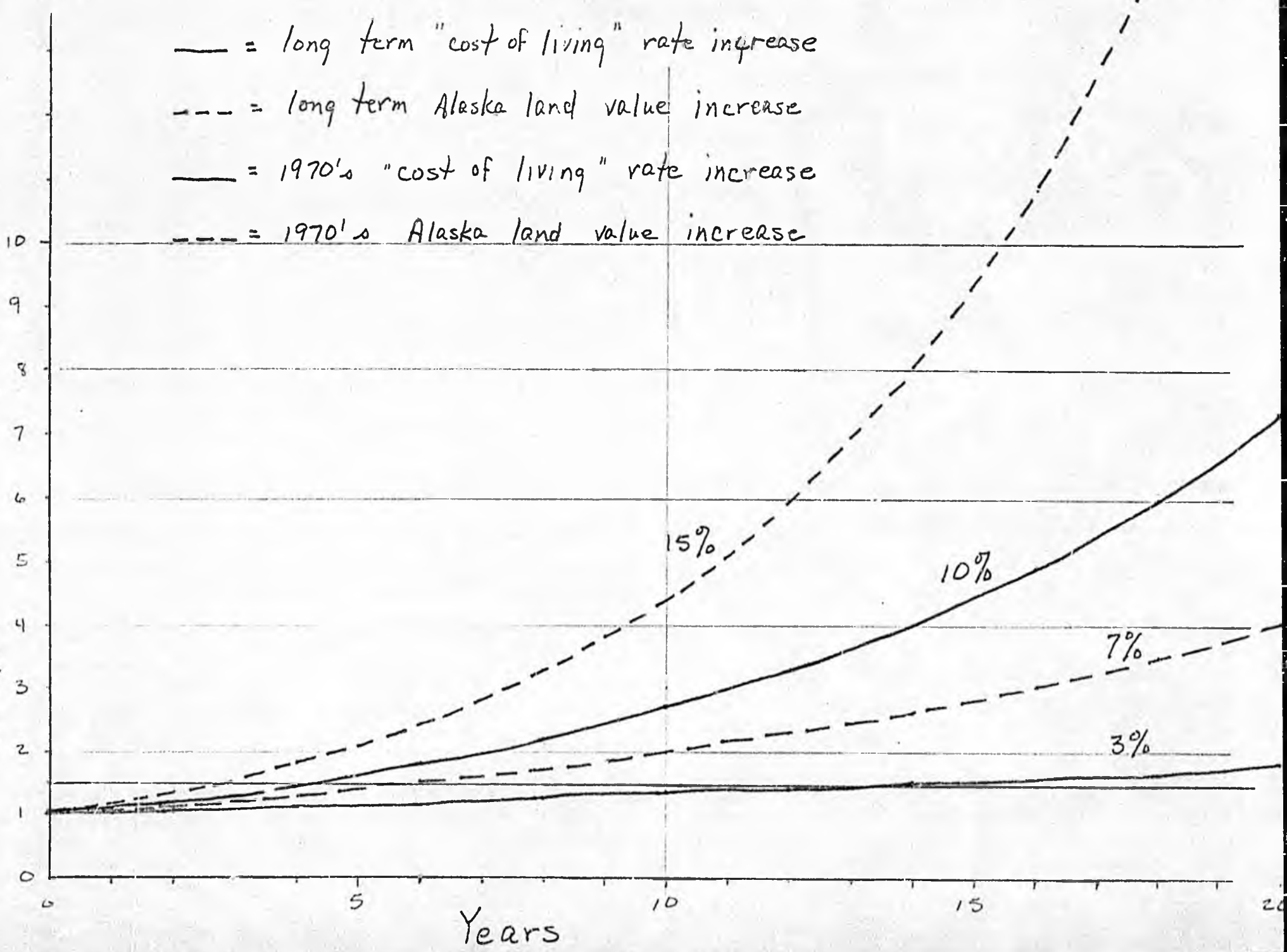
To put it simply, the committee will recommend this: All current leaseholders will be give a period of time to swap their old leases for the new ones. As a condition of the exchange, the leaseholders would have their properties reappraised, except for leases which had been reappraised within the last two years. The percentage of the appraised value of the lease would be the percent which represented the market at the time the lease was entered into. For example, a lease entered into around 1965 might have the rent readjusted to six percent of the appraised value of the land, while a lease entered into in 1974 might use the eight percent figure. Whichever figure was used would then be written into the lease. As mentioned earlier, leases would have ceilings on prospective rent increases of no more than 100 percent every five years during the lease term.

A suggestion was made to go back to the original beginning of each lease and apply the limits forward to current rents, but this was rejected by the committee. First of all, there was no evidence that current appraised values would create unfair hardships, if the fixed percentages and ceilings were applied as explained above. Second, and more important, the committee found persuasive evidence that it would be grossly unfair to the state's taxpayers if the ceilings were applied retroactively.

SB 159 is similar to the Ad Hoc Committee's approach in many ways, but there are a few areas that should be examined. The bill establishes a figure of 8 per cent, as the maximum rate for readjusting rents. First of all, as previously stated, the terms of commercial and industrial leases might be substantially different than the terms of residential or agricultural leases. But more important, by using a figure which represents today's market of 8 per cent for most commercial leases, the act would lock the state into an inflexible system. 8 per cent may be alright today, but it might be considerably out of touch with market values in the future. Likewise, although 8 per cent may represent a market figure for Anchorage or Fairbanks, or other areas of long term sustained growth, the state might be better off using a figure of 10 to 14 per cent for leases in some area undergoing a short term boom. The higher rate might represent the market in an area that offers a short term economic life for the lease. Under the Committee's proposal, the rate would be fixed in the lease form itself, at the rate the market would bear at the time the lease was entered into.

Multiply of Value of Initial Worth @ Various Interest

- = long term "cost of living" rate increase
- - - = long term Alaska land value increase
- = 1970's "cost of living" rate increase
- - - = 1970's Alaska land value increase



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STATEWIDE SERVICE

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EXECUTIVE VICE-PRESIDENT

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ANCHORAGE, ALASKA 99503
(907) 274-7636

GARRETT W. WALDNER, R.M., S.R.A.
SECRETARY-TREASURER

April 8, 1977

Senator Joseph Orsini
Alaska State Senate
Pouch V
Juneau, Alaska 99811

RE: Committee Substitute for Senate Bill #159

Dear Senator Orsini:

I have reviewed a copy of the above-referenced bill which you sent to me. Basically, I consider it an improvement over the present leasing policy. It would appear that it will be easier to finance improvements on leases due to the fact that rents will be fixed with 10-year periods and that there will be less likelihood for small businessmen and homeowners leasing State land to be forced to abandon or sell their leases because of the ravages of inflation. Likewise, during periods in which cumulative inflation is less than 70% during any 10-year period, the State will be able to adjust the rents to Fair Market Values at the end of each lease period.

However, because of the longer periods between rental adjustments and the fact that maximum rental adjustments are provided for, in periods in which there is rapid inflation or rapid increases in land value, a Lessee could accumulate a sizeable leasehold interest which could be sold at a substantial profit. Since I am certain that it is your desire to make State land readily available to the citizens of the State of Alaska, but not allow them to speculate at the expense of other taxpayers, I would suggest that the following change be made to the bill: "In the event that a leaseholder sells or assigns his lease to another party, a re-determination of the annual rental shall be made pursuant to Paragraph 4E and the purchaser or assignee shall be obligated to pay that rental until the next rental adjustment period." I feel this amendment will allow the Lessee to have the advantages and protection provided for in this bill without allowing him to receive a windfall profit at the expense of the State and its other taxpayers.

In sub-paragraph J, where the term MAI Appraiser is used, a more proper definition would be "an appraiser who is a member of the American Institute of Real Estate Appraisers holding the MAI designation". Since there are now a number of Alaskan appraisers who have the MAI designation, it might be advisable to require that, in addition to holding the MAI designation, the appraiser also be a resident of and doing business in the State of Alaska.

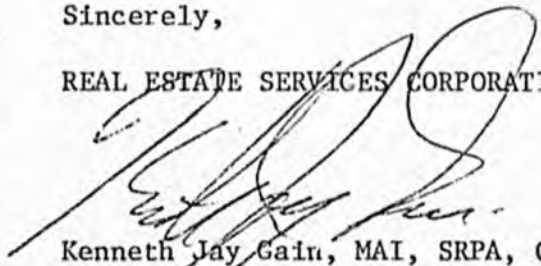
April 8, 1977
Senator Joseph Orsini
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It is my opinion that resident appraisers will be able to do a better appraisal at less cost. If this provision is not included in the bill, in some cases, Lessees may bring in non-resident appraisers (I am assuming that the State will uphold it's philosophy of local hire) who, because of their lack of familiarity with Alaskan conditions, will require a greater time to complete an accurate appraisal. Since the State will be paying half of the cost of such appraisals, I see no justification for the taxpayers of Alaska to pay the cost of travel and lodging for non-residents, plus the additional fee that will be required for a non-resident to familiarize himself with Alaskan conditions.

While I am sure that no bill can be written that will be 100% satisfactory to everyone, I feel that with the above-referenced changes, this bill will be a marked improvement over the present law. If I can provide you with any additional information, please feel free to call on me.

Sincerely,

REAL ESTATE SERVICES CORPORATION



Kenneth Jay Cair, MAI, SRPA, CRSS, CREC
President

KJG/kaj

In corresponding with Mr. Dixsen,
Rep. Cowper said that he has brought
this letter to your attention, as the
bill was referred to you by the
Senate Finance.

Mary Simmons for
Rep. Cowper

DIRKSEN APPRAISAL COMPANY

PAUL P. DIRKSEN, S.R.P.A.

531 West Third Avenue, Anchorage, Alaska 99501

(907) 277-8675

February 23, 1977

State of Alaska
State Legislature
Juneau, AK 99801

Attention: Finance Committee

Re: Senate Bill No. 159

Gentlemen:

Why does the legislature want to make State leaseholders a favored class of citizens? State lands should be managed for the benefit of all taxpayers.

If you adopt a ten year initial period and limit rent increases to 50 percent, you are locking the State into a disadvantageous position.

Assume that land values go up only ten percent per year. This is much less than values have typically increased during the last ten years in all areas of Alaska.

Assuming the value at the beginning is \$1.00 per square foot, then increases are compounded as follows:

Year 1	-	\$1.00	per square foot	
" 2	-	1.00 x 1.10	=	\$1.10
" 3	-	1.10 x 1.10	=	1.21
" 4	-	1.21 x 1.10	=	1.33
" 5	-	1.33 x 1.10	=	1.46
" 6	-	1.46 x 1.10	=	1.61
" 7	-	1.61 x 1.10	=	1.77
" 8	-	1.77 x 1.10	=	1.95
" 9	-	1.95 x 1.10	=	2.14
" 10	-	2.14 x 1.10	=	2.36
Review Yr.11	-	2.36 x 1.10	=	2.59

However, rent could only be increased to \$1.50 per square foot. The lessee has a leasehold interest of \$1.09 per square foot. Assuming land values continue to increase at ten percent per year, the value at year 16, when the next review takes place, is as follows.

3159

February 23, 1977

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	Year 11	-	\$2.59		
	" 12	-	2.59 x 1.10	=	\$2.85
	" 13	-	2.85 x 1.10	=	3.14
	" 14	-	3.14 x 1.10	=	3.45
	" 15	-	3.45 x 1.10	=	3.80
Review	" 16	-	3.80 x 1.10	=	4.18

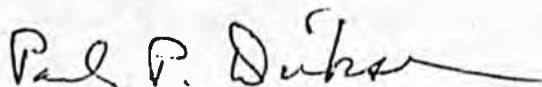
However, the rent can only be raised to \$2.25 per square foot (\$1.50 + .75). The leasehold interest has increased to \$1.93 per square foot.

For succeeding years, the leasehold interest increase is as follows:

<u>Year</u>	<u>Value</u>	<u>Rent</u>	<u>Leasehold Interest</u>
21	\$ 6.73	\$ 3.38	\$ 3.35
26	10.83	5.06	5.77
31	17.45	7.59	9.86
36	28.10	11.39	16.71
41	45.26	17.09	28.17
46	72.89	25.63	47.26
51	117.39	38.44	78.95
55 Lease Ends			

The only way that the taxpayer will get a fair return on his lands is if the rent reviews are based on Fair Market Value or Fair Market Rental without a limitation on rent increase.

Sincerely,



Paul P. Dirksen, S.R.P.A., R.M.

PPD/sm

25 March 1977

TO: Sen. Orsini

FROM: Mary Slemmons for
Rep. Cowper
House Finance

This is the back-up material on SB 159 that I referred to on the phone. I have given you the originals and hope that you will return it or a copy of it in the event that it passes the Senate.

TESTIMONY ON SENATE BILL #159

By Joe Wilhour

Ladies and Gentlemen:

First, I would like to thank you for your time and efforts in consideration of our "headache"; and second, I would like to request you "hang in there" -- we're improved, but not cured.

On my lot 7-A, Block 3, Alaska Industrial Subdivision, the proposed lease payments of Bill 159 would total over three million dollars. That's 45 times the 1975 valuation, or approximately 600 times the appraised value when first leased in 1958.

I contend that this is not a fair lease. Not to me, not to future leaseholders, and not to the State of Alaska. It will not encourage development; in all probability it will force the leaseholders to do unto others as the State of Alaska has done unto them; increase our tenants' rent, increase the price of our products and services to the extent they are not competitive, thereby forcing us out of business and to abandon our State leases. Within 10 to 15 years, Section 16 could easily be mistaken for a slum area.

I built a 12,500 foot warehouse for over \$200,000.00, and have it leased to Mammoth Trucking for 35 cents per foot, which is a fair market value for the location. This is a gross annual income of \$52,500.00. With annual expenses as follows:

Bank payments	\$21,000.00
Utilities	4,274.59
Taxes, Insurance	6,311.14
Maintenance, Misc.	5,400.64
Land Lease	3,940.00
Total:	<u>\$40,926.37</u>

This produces a net profit, before taxes, depreciation, inflation, vacancies, etc. of \$11,573.63. Senate Bill #159 would allow me to hold the property for approximately 10 years, which would relieve my present situation and allow the leaseholders time to seek additional corrective legislation, but both my inability to obtain bank financing and my common sense would prohibit improvements or further development. Look at the statistics:

ALASKA INDUSTRIAL SUBDIVISION LEASEHOLDERS ASSOCIATION

EFFECT OF SENATE BILL #159 ON MY PROPERTY LOCATED BLOCK 3, LOT 7A, ALASKA INDUSTRIAL SUBDIVISION. LOT SIZE APPROXIMATELY 64,000 SQ. FT. APPRAISED AT \$65,640.00 TO BE REAPPRAISED 1978.

<u>TERM</u>	<u>% INC TERM</u>	<u>% ORIG VALUE</u>	<u>NEW APPRAISED VALUE</u>	<u>LEASE PAYMENTS</u>	<u>ACCUMULATED COST TO LEASFE</u>
1-10	0%	100%	\$ 65,640.00	\$ 52,512.00	\$ 52,512.00
10-15	50%	150%	98,460.00	39,384.00	91,896.00
15-20	50%	225%	147,690.00	59,076.00	150,972.00
20-25	50%	337.5%	221,535.00	88,614.00	239,586.00
25-30	50%	506.25%	332,302.00	132,920.80	372,506.80
30-35	50%	759.38%	498,454.00	199,381.60	571,888.40
35-40	50%	1,139.07%	747,686.00	299,074.40	870,962.80
40-45	50%	1,708.61%	1,121,531.00	448,612.64	1,319,575.44
45-50	50%	2,562.92%	1,682,301.00	672,920.28	1,992,495.72
50-55	50%	3,844.38%	2,523,451.00	1,009,380.40	3,001,876.12

1. Above is MINIMUM

2. Rates are compounded

3. When lease finished, leasee will have paid 45.73 times value
 (3,001,876 ÷ 65,640)

What amount would I, or anyone, have to invest to make this land support a State lease under SB#159? And where and how could it be financed?

Regardless of the formula used, as I said before, whether it be a percentage of the reappraised value every five years, a comparison to private leases, the number of quills on a porcupine divided by pi, or the number of moose in the Mat-Su Valley times the square root, if the total monetary figure exceeds six times the appraised value of the land at the time of lease, it will not be a fair rental that will enhance development and be acceptable to future leasees.

This is but one example of many, so again I request your cooperation. Put your feet in my boots and walk a mile, and I'm confident we can pass a better law that will be fair to present leaseholders, more desirable to all future leaseholders and non-leaseholders, and beneficial to our State Government both now, and in the future.



THE FIRST NATIONAL BANK OF ANCHORAGE

February 22, 1977

Mrs. Kay Poland
Resource & Finance
Legislature of Alaska
Juneau, Alaska

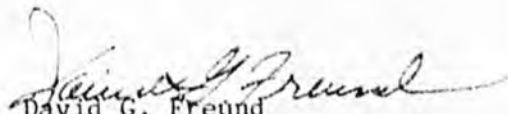
Dear Mrs. Poland:

This concerns our bank's attitude in providing funds for the purpose of financing leasehold improvements on land leased from the State of Alaska.

Our loans on improved real estate are governed by certain regulations made by the Comptroller of the Currency, United States Treasury Department. Any leasehold, against which we are lending money, must have a firm lease extending at least ten (10) years beyond the term of our loan. In calculating the amount of the loan against a leasehold, we must project the expenses incident to the operation of the property. This includes lease payments that are subject to increases of an unknown amount. We are understandably reluctant to make such loans.

Our bank's policy is to loan against leaseholds for a term in which we are assured of a reasonable fixed payment. We will not make loans when we are not able to accurately forecast the lease payments during the term of our loan.

Sincerely,


David G. Freund
Vice President

DGF/er

IN SUPPORT OF THE LEASEHOLDERS BILL

In support of the 6% annual rental rate, I would like to request you re-read the Hearing Panel Proposed Decision and Recommendations, page 12, ¶4, which quite clearly defines our position.

The total lease rental for the 55 year period proposed in our bill would amount to \$379,411.00. This is 5.78 times the 1975 appraised value, or 75.88 times the 1958 appraised value. Under SB#159, the total lease rental for the 55 yr. period would amount to over three million dollars. This is 45 times the 1975 appraised value, or approximately 600 times the 1958 appraised value.

In my opinion, our bill provides the maximum rental to be beneficial to all concerned; an excellent return to the State, a fair settlement to the existing State leaseholders, a fair opportunity for future leaseholders, as well as the maximum rental allowable to encourage development and bank financing. Whereas SB#159 is not beneficial to all concerned. It is a maximum return to the State from current leaseholders with existing improvements, from 10 to maybe 15 years when they will be forced to give up their leases, it is not a fair settlement to the existing leaseholders, it is not a fair opportunity to future leaseholders, it will not encourage development, and it is not acceptable to the banks for financing.

I would also suggest the elimination of the floating easement be added to SB#159, as recommended by the Hearing Panel on page 19, ¶5 of their report.

Joe Wilhour

ALASKA INDUSTRIAL SUBDIVISION LEASEHOLDERS ASSOCIATION

EFFECT OF ALASKA LEASEHOLDERS ASSOCIATION PROPOSED BILL ON MY PROPERTY LOCATED BLOCK 3, LOT 7A, ALASKA INDUSTRIAL SUBDIVISION. LOT SIZE APPROXIMATELY 64,000 S. FT. APPRAISED AT \$65,640.00 TO BE REAPPRAISED 1978.

<u>TERM</u>	<u>% INC TERM</u>	<u>% ORIG VALUE</u>	<u>NEW APPRAISED VALUE</u>	<u>LEASE PAYMENTS</u>	<u>ACCUMULATED COST TO LEASEE</u>
1-25	0%	100%	\$ 65,640.00	\$ 19,700.	\$ 98,500.00
25-35	50%	150%	98,660.00	59,196.	157,696.00
35-45	50%	225%	147,990.00	88,794.	246,490.00
45-55	50%	337.5%	221,535.00	132,921.	379,411.00

1. Above is MAXIMUM
2. Rates are compounded
3. When lease finished, leasee will have paid 5.78 times value
(379,411 ÷ 65,640)

Subject: State land Leases

The following comments, ipinions, and recommendations regarding State land leasing are offered to further acquaint you with the bill we are submitting this session.

I first leased property in Section 16 in 1958 in an advertised competitive bid sale. Mr. Chipperfield, Territorial Director of Lands at the time, told the group that we would pay no taxes on the land because we didn't own it. This is not true - the city of Anchorage came up with what they call lease-hold-interest, and we have paid taxes every year. Also, we were told that over the 55 year period we would be paying more than the land could sell for, but not having to pay taxes, it would be very little more. Many of the present leaseholders acquired their land at the original sale and were told that the State wanted to develop a tax base, and develop the land.

I was in my thirties in 1958, so a 55 year lease represented my life span. Either through stupidity or unwarranted faith in the integrity of the State, I have spent most of my, and my wifes, available time and money that was not absolutely necessary for a growing family, on the development of these leases. A lot of this time and money was spent improving the land itself; stripping the trees and tip soil, filling a large gully which ran from the road through the property and along the south side and adding gravel. I now lease these improvements back from the State.

Until recently the State has adjusted our rent every five years from approximately 40 to 100 percent, which is high, but workable. Now that the land has been developed and put to good use, forming a tax base by the investment of millions of dollars, and creating employment for over a thousand people, the State has adjusted our rent 850 percent to over 1000 percent.

Are we reverting back to a feudal system? Or State Land Baron vs sharecropper leasees? Or a con-game? One wonders, but with lease payments so high it's the equivalent of the State condemning the land! Through their reappraisal, the State has, in effect, condemed the leases.

Under the current policy the State has turned a 55 year lease into a 5 year lease. This year there has been less development in Section 16 than in any other part of town. It is impossible for the leaseholders to get financing, which has stopped development. See paper from the First National Bank of Anchorage attached. One questions whether it is advisable to repair a leaky roof.

My position is impossible. My annual rent increased from \$3,940.00 to \$32,800.00. I cannot increase my investment because the financing has been made impossible. I cannot raise my tenants rent and compete with fee-simple land rents. To raise my rents accordingly will only create vacancies and undermine my chances of making lease payments if and when the State does come up with a fair rental. And I cannot afford to just walk away from my 20 years investment of time and money, with only part of the money repaid to the bank.

At the 1975 rate of \$3940.00 per year, I would pay the State, for my less than 2 acres, a lease rental for my remaining 37 years, \$145,780.00 - nearly 15 times the original appraised value, plus what's already been paid the past 18 years.

At the current rate of \$2,800.00 per year, and with no additional reappraisals but precariously assuming I could hold onto the property, I would pay the State for my less than 2 acres, a lease rental for my remaining 37 years, \$1,213,600.00, plus what's already been paid the past 18 years.

If the State raises my rent the same 850 percent every 5 years, I would pay the State a lease rental of my less than 2 acres, for my remaining 37 years, \$272,151,090,464.00, plus what's already been paid the past 18 years. Fantastic!

It appears the State not only wants their land back, but also my improvements! Who pays the bank? What amount would I have to invest to make it support a State lease? Few, if any of us, would not give up our leases if we could recover our investments.

In comparison to the Fishing land leases, the lease for set-net fishing, not to exceed 10 years, quote, "The Director shall establish a reasonable rental for the lease, equal to the Administration costs involved in processing the leasehold application." These leases, however, may produce large profits for the lessee with small, comparable investment, and cost less than \$50.00 a year.

In comparison of individual tracts of land, Bob Penney and the Teamsters Union are leasing larger tracts, of greater value, for pennies where many are paying dollars. Mr. Penney averages about \$750.00 per acre. The Teamsters Union averages about \$3,500.00 per acre - with no reappraisal. My lease averages of \$19,000.00 per acre! If I, and my banker, had chosen to be dishonest we could have arranged a similar situation, but that is not justification for bias on the States behalf.

In comparison to housing, the State has passed a law of rent control whereby the lessor must justify any housing rent increase. No law exists for State leaseholders and rents may be unjustly raised. No law states we cannot just pass this increase on to our tenants, but there is no way we could still compete with fee-simple land rents so we will only create vacant land and buildings. Because, however, additional expenses must be commensurate with additional income if we are to survive financially, a large measure, or all, of such additional expense must be passed on to our tenants, or added to the cost of our product or services. The State should not be the leader increasing such inflation, but should take every action possible to hold it down.

In comparison to other land lease policies, the Mat-Su Borough pamphlet of June 26th states the lease amount is not subject to reappraisal. The highest bid establishes the annual rental for the 55 year term of the lease. With the capital move to Willow, how will the State lease land in the Willow area?

Some possible recommendations:

1. Level payments, similar to the recent Mat-Su Borough auction, not changed every time the administration is changed. Eliminate the State "open-end" policy. A stable lease enables the leasee to plan ahead and this ridiculous predicament won't happen again in the future.
2. Some arrangement should be made whereby a lease is bankable. A long term lease should be comparable and competitive in price at time of lease, with fee-simple sales.
3. Taxes, if any, on the land itself, should be at a percentage rate, on all state-owned lease land.
4. Consideration and lowering lease rate scale for value of improvements made, due to additional taxes incurred and as incentive to develop industry, and protect human rights.
5. Some method to renew a lease 15 to 20 years prior to its current expiration date, in order to secure financing and continue to develop the property.
6. Maximum return for State leased land should be a fair rental encouraging leasing and development of additional State land, and not exorbitant returns and the eventual forced voidance of the approximately one percent of state land now leased. Forced voidance of the present land leases, and continuance of the existing policy so no one will be dumb enough to lease additional lands, will surely not benefit the State, and just as surely will not benefit her residents.
7. The present blanket easement should be eliminated from the leases not only because it is not bankable, but also because if exercised, it would take all value out of the leasehold interest, and could ruin the leasee business without any compensation.

As I see it, the recommendations should result in a lease policy that make leases desirable to you as individuals, and all residents of the State. They shouldn't change every 5 years. They should be bankable and have a value, especially after payments have been made for some 20 years or more. They should, as the Constitution states, "enhance development". The State will get their maximum return by taxing the development and its income, and by being able to lease their millions of surplus lands. Reappraisal and any adjustment of increased values due to inflation should come at the end of the lease period. If this can't be done, the land should be sold, allowing credits for those who have for a long time paid lease rentals, paid to improve the land itself, and paid to develop the property into taxable use.

The State gets three shots at its leaseholders; (a) land lease rental payments, (b) taxes on improvements and (c) income tax. By taking an unfair advantage of the lease rental payments, the State will, or possibly has already, eliminated all three.

On Thursday morning, Dec. 16th, I attended the Governor's Advisory Committee meeting where two representatives of F.H.A. testified that the appraisal clause and other parts of the State leases would not be acceptable for F.H.A. commercial or residential loans.

Mr. Paul Troch, (344-4665) a constitutional lawyer and teaching professor testified he has clients who are going to bring suit if that is the only way to get the State to comply with the regulations

provided in its charter, which reads the State must provide a way to distribute its lands to the public for development.

Thursday afternoon I saw Mr. Richard Ullrich, Loan Examiner of the State Veterans Affairs. After explaining the terms of our State leases, he said the State Veterans would not, or could not, make a loan under the terms of our leases. Especially the reappraisal clause which the State Division of Lands claims is a fair rental.

Also, Thursday, I visited the Alaska State Bank where I couldn't help but notice the pictures of Anchorage, taken about 1915, on the walls. And compare the Anchorage of today through the windows. I wondered what Anchorage would look like now if the Territory, or Federal Government, had used the present state land policy to develop the area.

There is no way the leaseholders can unreasonably increase the price of their rentals, products, or services, every five years to meet the increased rentals which the State Division of Lands claims are fair. Local competition in the town and the State, as well as State and Federal regulations, such as the trucking industry who must abide by ICC regulations, eliminate the possibility. Other businesses in town, grocery stores, department stores, banks, etc. do not raise the price of their products and services because of the appreciation of the land their businesses are occupying. They must compete too.

It would seem the State is in the same position with their excess lands as the banks are with their money. Both need people to manage it. The banks, thanks to competition and regulations, do not change their interest rates every five years on committed loans. The State should be forced by law to adopt the same policy and not be allowed to take advantage of their monopoly of State land, or the few dumb tenants they have trapped.

I think that six percent annual rental of the original appraised value of the land for 55 years would be a fair rental which would enhance development. This would net the State over three hundred percent more income than could be derived from the sale of the lands, plus considerable savings in State administration and litigation costs, plus the return of the land to lease again or re-evaluation of the leases at their expiration, which would be acceptable to the citizens of the State, be they present or prospective leaseholders, or non-leaseholders who none-the-less derive benefits from the money collected.

The problem as I see it, is not the few leasees who now hold State leases. They are insignificant. It is restoring the credibility of the State as a monopolistic landlord, and creating a workable policy of developing and utilizing a portion of Alaskas millions of acres of land, whether by leasing or selling. The people of this State cannot afford, and will not allow this, or any other administration, to lock up their 100 million acres of land in a non-productive policy. A percentage of it must be made productive to support the parks, animal habitats, scenic lands, wild rivers, and so forth.

Senator Stevens newsletter is attached, informing us of an amendment

signed by President Ford with regard to Federal leasing in Alaska. The law will allow individuals to gain a right to and an interest in federal lands by actively working to develop and use the land productively. I intend to find out what their lease policy is.

The land policy of the State, if not changed or altered, has been and will be, more devastating to the State and its present leasees than the 1964 earthquake. High prices are caused by the scarcity of land, which is caused by the State.

I would like to present the paper I gave to Commissioner Martin showing the effects of a 5% annual increase in appraised value. It shows the State would collect over 13 times the value of the property in 55 years, plus the return of the land. The State would collect \$131,967.00 for property valued at \$10,000.00. Commissioner Martin said this was much too high and overvalued. I then asked him to visualize and calculate raises of 40%, 100%, and 850%, the raises we have been accessed, in lieu of the 25% as shown on the first three re-appraisals.

Th Commissioner said the State did not want our land back, but he did not explain the ridiculour increaae in our rentals.

I saw Mr. Whitehead, one of the Governors Aids, who among others, said there were those who did not believe in individuals owning land, though he didn't name any, and I have not net any who have admitted this belief. He said I was on the defensive- this I will admit. I asked him what other position I could take considering our past experience with the Division of Lands. Except for a few slips in our recent hearing, I have not heard of any evidence from any person in the administration making any effort to resolve some of the deficiencies in their land lease policy. Surely they have had many opportunities.

Possibly if we could have seen the Governor first, about six months ago like we requested, we would have had a solution long ago. I would like to make the sugestion this committee recommend that we see the Governor before he makes his final decision so that he can get our information first hand.

In support of our bill - first the proposed decisions and recommendations of the hearing we had with the Division of Lands. It appears that their decisions were almost entirely in our favor, though I don't feel they addressed the five year reappraisal fully. Many of the Legislators we contacted said the only solution would be for the State to sell the land, giving preference and some credit to the leaseholders who have paid rent, improved the land and developed the land for a long period of time. This would return to the State 100% of its value, but no return of the land.

Others said we should have a lease with level payments of 6% of the value for 55 years, which would return to the State 360% of the value plus return of the land.

Still others said they should use 8% with the above formula, which would return to the State 480% of the value, plus the return of the land.

These proposals were not submitted - not because we thought they were unfair to the State or the leaseholders, but because we did not think they would pass the Legislature and the Governor.

Our bill will return to the State almost 600% of the value, plus the return of the land. In our conference with John Radar, he asked us if we owned the land, would we lease it under the terms of our bill? I answered Definitely Yes! If I could collect about six times the value of the land over a 55 year period and still retain the title with no taxes, or expenses, and then pass it on to my children to release or sell at a new appraised value, it would be an excellent deal!

I also told him that I would have no problem lobbying our bill in the States behalf, except that I am not sure it would be acceptable and marketable to future potential leasees. Certainly it should be more acceptable than the States present lease policy, and return to the State a much greater amount of money.

Mr. Radar said we are dealing in future money with probable less value. The banks are dealing with future money with probable less value, and because of inflation also have a declining principal value. The State should be satisfied with future money in order to get present money. But in addition, they will get an accelerated principal in the return of their land. There is very little business anyone can conduct without committing themselves to accept future money.

Lease value is determined by the terms of the lease. Surely sophisticated bidders will bid up the price to where the State will get their maximum value. The State can set the minimum price, see if the leases will sell and adjust the price in future sales, up or down, according to the response of the buyers. But they should not wait until their leaseholders have devoted 20 years of their lives developing State leases, then raise lease rentals to the extent that they make unsophisticated, negative state leaseholders out of trusting leaseholders. I think our recent hearing proved that we are negative leaseholders. The terms of the lease we now have are negative. Negative to the degree that it has reduced both the value of our leases and improvements to almost zero. Terms of the lease determine the value. Future sales will be to the highest bidder and should assure the State of maximum return for their land.

One State Senator stated he thought the State has destroyed their leasing program and their creditability beyond repair, regardless of their future policy.

The State claims our leases are undervalued. I would say they are wrong. I and others have paid in the past seventeen years several times the value of our leases, and will in the next 38 years pay for it 17 times more if our proposed bill is passed. Is that an undervalued lease?

In closing, I would like to state that I have been an Alaskan since 1941 with continual residence except for my years in service from 1943 to 1946. The last 20 years I've worked to improve this leased land and now have several substantial buildings, tho I owe the bank over \$400,000.00 in personal guaranteed loans. I've worked hard. I've provided for increases such as inflation and taxes, but who of us can

afford 850 percent increases? We who have paid many times the original value, held it, and improved it, should be entitled to justice. It seems impossible that 20 years of work and investment can be wiped out with one stroke of a pen - in this country! Particularly so, when it does not appear beneficial to the State Government, or her resident Alaskans.

I ask again for you to give our bill your most considered deliberation and wish you well in coming to a fair decision. Thank you for your time.

Joe Wilhour
376-5601
Box 740, Wasilla, Alaska 99687



THE FIRST NATIONAL BANK OF ANCHORAGE

June 18, 1976

Mr. Joe Wilhour
Anchorage, Alaska

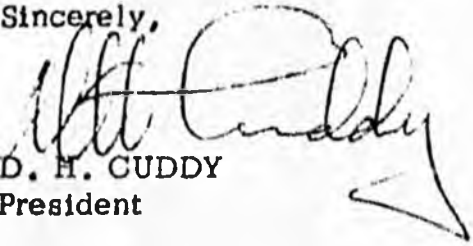
Dear Mr. Wilhour:

We have reviewed your informal request to consider financing a new building on Commercial Row, the loan to be secured by an assignment of the State land lease and the building placed on the lease.

At this time it is impossible for us to give you a commitment for construction until we can confirm what the future rental on the building will be. We have reviewed the other financing that we have done for you on your property and find that the quarterly rent has been raised from \$996.00 to \$8,200.00, an increase of 850%. A further review of the lease indicates that every five years it can be similarly raised.

Under these circumstances, it is impossible for us to guess what the future land rentals will be, and therefore, unless you are able to secure a lease of an equal term to the mortgage wherein the tenant agrees to pay the increased land rental, it will be impossible for us to advance the credit requested.

Sincerely,


D. H. CUDDY
President

DHC:mh

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

ALASKA LAND AND LEASE OWNERS ASSOCIATION

**TRANSMITTAL TO
ALASKA DIVISION OF LAND**

EXAMPLE OF A LONG TERM LEASE APPRAISAL METHOD

**ASSUME ORIGINAL COST OF LEASE \$10,000.00
LEASE PAYMENTS TO EQUAL 75% OF APPRAISED VALUE X 6%/YR.**

TERM	% INC YR	% INC TERM	% ORIG VALUE	NEW APPRAISED VALUE	LEASE PAYMENTS	ACCUMULATED COST TO LEASEE
1-5	5%	25%	100.00%	10,000.00	2,250.00	12,250.00
5-6	5%	25%	125.00%	12,500.00	2,812.50	15,062.50
6-10	5%	25%	156.25%	15,625.00	3,515.63	18,578.13
10-15	5%	25%	195.31%	19,531.25	4,394.53	22,972.66
15-20	5%	25%	244.14%	24,414.06	5,493.16	28,465.82
20-25	5%	25%	305.18%	30,517.58	6,866.44	35,332.28
25-30	5%	25%	381.48%	38,146.98	8,583.05	43,915.35
30-35	5%	25%	476.85%	47,683.73	10,728.81	54,644.16
35-40	5%	25%	596.06%	59,604.66	13,411.02	68,055.18
40-45	5%	25%	745.08%	74,505.83	16,763.77	84,818.95
45-50	5%	25%	931.35%	93,132.29	20,954.71	105,773.66
50-55	5%	25%	1,164.18%	116,415.36	26,193.39	131,967.05

At the end of a typical 55 year lease using a reasonable 5%/year increase in appraised value, the State of Alaska collects \$131,967.05 for a parcel that cost \$10,000.00 originally - still owns the land, and lease holder has no accrued equity. To compare this to fee simple title for appraisal is wrong and not good business on the part of the state.

If the parcel changes hands during a 55 year lease the state could place a reasonable tax on any net lease holder gain, for example 5%. This would leave incentive for investors, developers and not unfairly penalize individual lease holders who want to live on state lease land.

In view of the example above how can reappraisals amounting to increases of from several hundred to over one thousand percent in a 5 year period be justified?

RESPECTFULLY SUBMITTED

BY

ALASKA LAND AND LEASE OWNERS ASSOCIATION

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.



SON
Steve
New
Letter

TIONAL PARK -- Claudia Louis, a member of the Washington, D.C. staff, presents the ceremonial pen used by President Ford to sign S. 98, the Klondike Park bill, into law to Mayor John Edwards (right) of Skagway and Ward A. Hisman (left), Superintendent of the White Pass & Yukon Route Railway.

BLM Bill

President Ford has signed a bill which will allow Alaskans to continue to use public lands to build homes, farms, or trade or manufacturing concerns, under provisions added to the bill in the Senate by Senator Stevens.

The amendment allows the Secretary of the Interior to grant long-term leases for habitation, cultivation, trade or manufacturing on the lands.

The National Resource Lands Management Act, S. 507, also known as the BLM Organic Act, repeals homesteading in 10 years and this amendment was needed to enable individuals to continue to use and develop public lands, despite the repeal of homesteading laws.

The authority of the new law -- designed to provide for the management, protection and development of public domain lands not committed to other uses -- extends to the unreserved federal land in Alaska remaining after Alaska Native Claims Settlement Act and Statehood Act withdrawals are made.

It was pointed out that the passage of this law with this amendment will provide some type of incentive for people to come in and carve a livelihood out of the wilderness. The law will allow individuals to gain a right to and an interest in federal lands by actively working to develop and use the land productively.

The leases could be used to build new communities, farms, small sawmills and small manufacturing plants needed in isolated rural areas.

Mid-Decade Census Law

A bill which could mean substantially increased federal funding for Alaska from programs based on population has been signed into law by President Ford.

The bill, cosponsored by Senator Stevens, authorizes a national census and July 1, 1975, Alaska's population increased by 16.3 percent. An official census every five years would allow this rapid change to be reflected in federal funding and programs.

The Office of Management and Budget estimates that about \$39 billion in federal funds are distributed every year to the states according to formulas based on population.

WONDER what their Lease policy is?

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.



JUNEAU, ALASKA

Alaska State Legislature

Senate

Memorandum

TO: The Honorable Joe Orsini

DATE: March 18, 1977

RE: Senate Bill 159, which would change the State's leasing policies with regard to the methods of determining annual rents.

FROM: Vicki Cunningham

vickie

This memorandum addresses various issues which have been raised in conjunction with recent rent increases on state leased lands and, as you requested, comments on points brought up by leaseholders protesting the readjustment of their rents on a variety of grounds. Only the area of surface leasing of state owned lands has been investigated.

In summary, it was found that the rent increases appear to be in compliance of current, applicable statutes. However, it was discovered that numerous irregularities and inconsistencies in the regulations which govern surface leasing of state lands. The various shortcomings and ambiguities of the regulations have contributed significantly to the leaseholder's perceptions that the increases are illegal or arbitrary.

Various sections of Title 38 direct that state lands shall be selected, sold, or leased to provide the maximum benefits to the people of the state. It's therefore difficult to find fault with the Division of Lands, in the absence of some other statutory definition, for attempting to maximize the monetary returns on state leased lands.

The Division of Lands admits that in the past the Appraising Section in the Division of Lands was viewed as a "poor relation", which accounts for the continuing low rents over the years in violation of the law which provides that "... no land may be sold or leased for less than the approved, appraised market value..." (38.05.310). The Division is now applying the law, thereby correcting past neglect which resulted in low rental rates on state leased lands, benefitting the individual leaseholders, but not necessarily the people of Alaska in general.

The statutes provide that the initial rent shall be determined based on the "approved, appraised market value" (38.05.310), and that subsequent readjustments of the rents be based on a "reappraised annual rental value" (38.05.105)

Much controversy has arisen over the term "annual rental value". Protesting leaseholders claim that rental value cannot be pegged to the market value, that it is something less.

From the above it appears that rental value is established by market conditions. The problem which has and continues to exist in Alaska, though, is that in most instances the state (Division of Lands) makes its own market. There is no private market to

speak of for agricultural, grazing, recreational and other classified lands. Therefore, the state historically has used a percentage rate of the fair market value instead of rental value to determine rents on leased lands. As mentioned earlier, where a private market exists the Division is charging market rental value.

Until 1968 this rate was five percent. There is nothing in writing which explains why the rate was set at five percent, but the five percent figure was a minimum amount derived from the Public and Charitable Use statute of the Alaska Land Act which stipulates that the rental shall be not less than five percent of the fair market value on school, university and mental health, or acquired lands (38.05.315(d)). Also, the rate of interest on the unpaid balance of contract sales of state lands was five percent at that time, and the reasoning, according to Division personnel, was to standardize the contract sale and contract rent rates. In 1968, then Commissioner of Natural Resources, Tom Kelly, raised the rate to six percent because he felt five percent was too low. Again, there is nothing in writing which would substantiate this. The Division of Lands now charges six percent of the fair market value when there is no private lease market and the lease is of a non-revenue producing nature. The Division charges up to eight and one-half percent (8 1/2%), or the market rental rate, when a private lease market exists and when the land is a potential revenue producer; i.e., land which is classified and/or zoned commercial, industrial, or residential.

The raising of the lease rental percentage rates, in some instances (such as the Alaska Industrial Subdivision), together with reappraising the leases based on fair market value have been responsible for the steep increases. The Division of Lands is quite cognizant of the potential hardships such a policy creates for certain leaseholders, particularly for those individuals who hold non-income producing leases.

Much of the bad feeling that was generated over the rent increases probably could have been avoided if the Division of Lands had been more approachable and open in what it was doing. By not being advised of significant changes in policy, even when they are justifiable and defensible, and by being confused by or ignorant of appraisal terminology as used by the Division of Lands, it is not surprising that leaseholders feel that the Division has been acting arbitrarily and capriciously.

The charge has been made by several leaseholders in the Alaska Industrial Subdivision that their land has been reappraised improperly because improvements to the land have been taken into consideration, even though the lease states quite clearly that the land is to be reappraised in a state of improvement similar to that of the land described in the lease at the time the lease was issued.

("... in a state of improvement similar to that of the land described herein at the time this lease was entered into.")

The Division of Lands maintains that while leaseholders cannot be and, for that matter, have never been penalized for the improvements made to their leased lands, improvements which were made at public expense and which as a consequence raised the value of the area or the lands under lease should be reflected in the reappraisal. We are told that this practice is consistent and standard procedure in the reappraising business.

Investigations indicate that substantive and/or long term relief to the leaseholders regarding that periodic rent adjustment of their leaseholdings is probably not possible under the existing statutes. If it is believed that increases of rents should be limited in some way, or that rents be readjusted on a different basis than percentage of fair market value or fair market rental value as is the practice now, it will be necessary to legislate to that effect.

No new legislation will be necessary to require the Department of Natural Resources (Division of Lands) to bring their regulations into compliance with existing, applicable statutes or to "clean them up" so that the ambiguities regarding meaning and the inconsistencies of the language and definitions used in the regulations are eliminated. While no new legislation is necessary for the revision and up-dating of the regulations, it is recommended that the applicable, authorizing statutes be revised as necessary to be consistent and clear throughout. They are not now, in some instances.

Several possible solutions have been recommended by the Alaska Land and Lease Owners Association. They are as follows:

1. Lands could be sold outright rather than leased.
2. Lands could be leased with an option to purchase at end of five years.
3. Rental could be:
 - a. Fixed for the fifty-five year lease period with leasee charged a percentage of any gain realized.
 - b. Increased annually at a fixed rate such as five percent.
 - c. Increased at the inflation or recession rate reflected in the Consumer Price Index.

Because the rents were so low, potential leaseholders were willing to pay substantial bonuses to take over leases from previous leaseholders.

• use of M.A.I. expensive & not applicable around rest of state \$ 12 in ak.

• Catalis in Arch. going at 7%

• the impressive figure analogy at 9 1/2 times was used for state budget in 55 yrs. and it was \$ 33 trillion

• 2 principles get ~~200~~¹⁷00 acres of land S. of Willow a few months before & after cap. move vote at \$6-14 an acre/yr. (2400 total went at that time for that price)

• different terms in lease document for
" types of lands

grazing
recreational
residential
industrial
commercial

• leases from private sector tailored made

◦ give lessee a credit for his improvements against his lease because ultimately will revert back to state

◦ leases from private sector (downtown auct):
11% max increase annually as fair lease rate
auto 25% increase every 5 yrs.
plus all taxes

◦ National Banking Act states that any leasehold, against which a bank loans money, must have a firm lease extending 10 yrs. beyond the term of the bank loan.
HOWEVER, if the firm lease is for 15 yrs., the bank can and will make a loan for 5 yrs. ∴ 15 is min.

◦ The ~~total~~ appraisals would go back to '70 figures

◦ banks want a ceiling, period.
a col clause that had a 10% max. annual ↑ is still a ceiling & acceptable to banks

Sen. Vay Polanski

RENT ADJUSTMENTS FOR

STATE LEASED LANDS

1975

<u>ADL No.</u>	<u>Old Rental</u>	<u>New Rental</u>	<u>Per cent Increase (Decrease)</u>
01227	112.50	1,575.00	1,300
51107	110.00	1,100.00	900
02534	608.50	25,500.00	4,090
01302	75.00	248.00	230
25068	100.00	380.00	280
38895	180.00	1,404.00	680
25305	1,425.00	2,886.00	103
52370	6,075.00	13,032.00	115
00273	6,780.00	14,400.00	112
52167	970.00	9,600.00	890
52209	195.00	2,040.00	946
52168	830.00	8,500.00	924
50738	1,400.00	5,280.00	277
44569	175.00	350.00	100
49723	150.00	605.00	303
41417	225.00	670.00	198
50598	50.00	630.00	1,160
00775	1,000.00	24,950.00	2,396
17103	1,000.00	18,800.00	1,780
51238	145.00	1,680.00	1,059
51515	160.00	1,680.00	950
51621	180.00	1,410.00	683
51428	220.00	1,770.00	704
50938	190.00	1,940.00	921
51065	210.00	1,700.00	709
46473	60.00	260.00	333
46474	60.00	260.00	333
52177	150.00	180.00	20
52182	250.00	285.00	14
21477	45.00	265.00	489
52185	300.00	320.00	7
51147	40.00	170.00	325
52422	40.00	170.00	325
52421	40.00	170.00	325
52187	75.00	175.00	133
52186	75.00	175.00	133
52190	40.00	100.00	150
52191	100.00	680.00	580
52714	40.00	165.00	312
52208	80.00	100.00	25

Rent Adjustments for
State Leased Lands, 1975

<u>ADL No.</u>	<u>Old Rental</u>	<u>New Rental</u>	<u>Per Cent Increase (Decrease)</u>
52205	50.00	220.00	340
52194	150.00	100.00	(50)
52192	250.00	235.00	(6)
50172	155.00	755.00	387
50688	75.00	175.00	133
52199	55.00	135.00	145
26653	235.00	470.00	100
26654	235.00	470.00	100
52179	235.00	470.00	100
52180	260.00	545.00	110
52170	325.00	575.00	77
52365	125.00	245.00	96
52430	125.00	245.00	96
52213	315.00	325.00	3
52171	150.00	295.00	97
52172	150.00	295.00	97
52213	315.00	295.00	(7)
52174	160.00	325.00	103
50587	150.00	385.00	157
50588	145.00	325.00	124
52703	40.00	100.00	150
45008	65.00	2,400.00	3,592
40014	220.00	2,430.00	1,005
45586	80.00	150.00	88
45585	460.00	675.00	47
26511	1,000.00	5,525.00	452
46628	140.00	1,680.00	1,100
46620	160.00	1,620.00	912
46383	110.00	600.00	445
49755	125.00	390.00	212
25956	125.00	390.00	212
47414	150.00	834.00	456
49060	250.00	702.00	181
22348	260.00	390.00	50
24099	215.00	420.00	95
36015	180.00	250.00	39
21928	1,260.00	10,920.00	767
01380	1,190.00	3,552.00	198
51395	820.00	3,054.00	272
00889	2,600.00	5,976.00	130
01308	7,170.00	10,014.00	40
49685	145.00	1,260.00	769
49795	175.00	1,500.00	757
25988	240.00	275.00	15
26269	165.00	190.00	15

RENT ADJUSTMENTS FOR

STATE LEASED LANDS

1976

<u>ADL No.</u>	<u>Old Rental</u>	<u>New Rental</u>	<u>Per Cent Increase (Decrease)</u>
71326		3,500.00	
22526	360.00	2,150.00	497
22525	175.00	3,360.00	1,820
22654	95.00	1,192.00	1,155
50603	85.00	840.00	888
22652	155.00	4,350.00	2,706
44351	100.00	438.00	338
44350	80.00	744.00	830
46483	110.00	750.00	582
02380	880.00	6,540.00	643
39877	1,000.00	2,280.00	128
30489	240.00	2,350.00	879
26632	1,835.00	6,900.00	276
32919	1,020.00	2,760.00	171
31328	120.00	840.00	600
54326	175.00	910.00	420
54331	165.00	910.00	452
54365	205.00	950.00	363
54332	225.00	950.00	322
40806	355.00	690.00	94
54345	200.00	550.00	175
54346	175.00	550.00	214
54347	210.00	550.00	162
54349	190.00	575.00	203
54333	260.00	665.00	156
54334	250.00	690.00	176
54335	105.00	605.00	476
54336	120.00	605.00	404
54337	110.00	625.00	468
54338	145.00	690.00	376
54339	210.00	690.00	228
54340	200.00	690.00	245
54341	280.00	690.00	146
54342	270.00	690.00	156
32128	115.00	690.00	500
32065	115.00	665.00	478
54344	160.00	635.00	297
54351	430.00	870.00	102
03045	3,985.00	32,800.00	723
03042	2,925.00	22,360.00	664

Rent Adjustments for
State Leased Lands, 1976

<u>ADL No.</u>	<u>Old Rental</u>	<u>New Rental</u>	<u>Per Cent Increase</u>
03050	990.00	7,400.00	647
53595	1,775.00	11,760.00	562
03041	1,340.00	9,360.00	598
03049	700.00	6,160.00	780
51395	820.00	6,160.00	651
03040	820.00	6,160.00	651
03059	820.00	6,160.00	651
03070	950.00	7,000.00	637
47382	680.00	5,000.00	635
03058	1,010.00	6,680.00	561
03067	700.00	5,160.00	637
03044	8,495.00	75,440.00	788
47378	1,720.00	14,400.00	737
47598	3,260.00	27,360.00	739
03051	1,410.00	13,680.00	870
03062	1,635.00	13,680.00	737
03071	1,410.00	13,680.00	870
03069	800.00	6,000.00	650
03066	1,745.00	11,600.00	565
03063	945.00	6,600.00	598
03048	945.00	6,600.00	598
03068	945.00	6,600.00	598
03073	945.00	6,600.00	598
03039	1,425.00	10,280.00	621
03052	2,490.00	18,400.00	639
03102	3,955.00	28,640.00	624
03064	1,305.00	9,120.00	599
03104	930.00	6,520.00	601
49686	1,835.00	13,240.00	622
57237	1,835.00	13,240.00	622
03065	3,670.00	26,480.00	622
03057	3,665.00	27,040.00	638
03053	890.00	6,640.00	646
30746	915.00	6,880.00	652
03043	910.00	6,680.00	634
47983	135.00	1,300.00	863
49430	175.00	1,400.00	700
47809	175.00	1,450.00	728
49172	120.00	1,300.00	983
46499	270.00	1,650.00	511
53444	140.00	1,200.00	757

Rent Adjustments for
State Leased Lands, 1976

<u>ADL No.</u>	<u>Old Rental</u>	<u>New Rental</u>	<u>Per Cent Increase (Decrease)</u>
27894	135.00	155.00	15
27948	200.00	230.00	15
50816	40.00	180.00	350
50669	40.00	120.00	200
47776	42.00	100.00	138
36315	40.00	100.00	150
47777	40.00	100.00	150
47778	40.00	100.00	150
35199	40.00	100.00	150
47775	42.00	100.00	138
41843	40.00	100.00	150
46609	72.00	100.00	39
47151	90.00	100.00	11
00037	700.00	5,250.00	650

MEMORANDUM

State of Alaska

TO: The Honorable Guy R. Martin
Commissioner
Department of Natural Resources

DATE: June 4, 1976

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Waiver of reappraisal and
adjustment of rent

BY: Rodger W. Pegues
Assistant Attorney General

This is further to the opinion of June 1, 1976,
by Assistant Attorney General Reeves on this subject.
In that opinion, we advised that you were without authority
under then existing law to grant a blanket waiver of all
rental increases exceeding 100 percent which was requested
by the Alaska Land & Lease Owner's Association. Since that
opinion was written, new legislation was adopted which further
restricts your authority to grant a waiver. FCCS SCSHB 139.

AS 38.05.105 has been amended to delete the
language authorizing a waiver or extension of reappraisal
"when development of the land is not otherwise possible due
to special conditions" and to provide for an extension or
waiver "only if residential development actually occurs,
and only if it is necessary for obtaining primary long-term
financing." As a result of the amendment, the Director of
the Division of Lands may now grant a waiver or lengthen

SB 159

J. Brecht - Banking + Securities

Alt. Prime rate - varies w/ bank ^{pr. region II}

Fed. Reserve Discount Rate $\approx 5\frac{1}{4}\%$ - managed rate

Usury rate $\approx 5\%$ above Fed. Res Disc Rate

45.4540(b) \rightarrow 25th day of month preceding new quarter

Pete Jones - no good idea

put land ^{50%} leases tied into Arch COL index

renew in 3-5 yrs

Brecht - ~~Arch~~ Arch COL index - land component

Kent Sims - VP econ. w/ Fed Res in SF

*not as
much "relief"
as the leaseholders
wanted.*

Introduced: 3/23/77
Referred: Resources

BY MILES, BEIRNE, BRADLEY,
BROWN, CHATTERTON, COTTEN,
DANKWORTH, FREEMAN, KELLY,
MCKINNON, OSE, PHILLIPS,
SWANSON AND URION

1 IN THE HOUSE

159

2 HOUSE BILL NO. 387

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the leasing of state land other
7 than for the extraction of natural resources; and pro-
8 viding for an effective date."

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

10 * Section 1. AS 38.05.085 is repealed and re-enacted to read:

11 Sec. 38.05.085. TERM OF LEASE. (a) The lease shall provide that

12 (1) for the initial 25-year period of the lease, the lessee

13 shall pay the state a fixed base annual rental to be agreed upon by the
14 *state only* parties in compliance with the provisions of this chapter; however, this

15 *party* annual rental may not exceed 10 per cent of the fair market value of the
16 property as determined in (b) of this section;

17 (2) the fixed base annual rental to be paid by the lessee
18 shall be readjusted when the initial 25-year period of the lease has
19 expired and, thereafter, every 10 years; and

20 (3) the readjusted annual rental shall not exceed 10 per
21 cent of the fair market value of the property as determined in (b) of
22 this section ~~or~~ 50 per cent more than the amount paid each year during
23 the initial period ~~or~~ the preceding 10-year period, whichever is
24 lower.

25 *method* (b) When it becomes necessary to determine the fair market value
26 of property as required by (a) of this section, the lessee shall appoint
27 an M.A.I. *expensive* appraiser and the state shall appoint an M.A.I. appraiser.
28 The two appraisers so appointed shall, within a specified period of time
29 agreed upon by the parties, make their appraisals of the property in

state

1 question. If the two appraisers agree upon the fair market value, the
2 determination is absolutely binding on the parties. In the event the
3 two appraisers are unable to agree, they shall together appoint a third
4 M.A.I. appraiser who shall then make his appraisal of the property in
5 question. When the third appraisal is completed, the two of the three
6 appraisals which are nearest each other in their determination of the
7 fair market value shall be averaged and the resultant sum shall be the
8 fair market value of the matter in question and absolutely binding on
9 the parties. All costs incurred in making the appraisals provided for
10 in this subsection shall be borne by the state and the lessee equally.

11 (c) The lessee shall make advance payments of the annual rent or
12 portion of it as the director, with the approval of the commissioner,
13 may require.

14 (d) A preference right lessee of grazing or forest land may follow
15 the payment schedule established in his cancelled federal lease or
16 grazing permit if he so desires.

17 (e) Notice of all actions by the department affecting the rights
18 of a lease or lessee shall be given to the lessee.

19 (f) A violation of a provision of this chapter or of a term or
20 provision of a lease subjects the lessee to appropriate legal action,
21 including, but not limited to, a forfeiture of the lease.

22 * Sec. 2. AS 38.05 is amended by adding a new section to read:

23 Sec. 38.05.103. RIGHTS OF HOLDER OF SECURITY INTEREST. (a) If
24 there is a breach or default of a term of a lease or of the provisions
25 of this chapter relating to a lease, the division shall provide written
26 notice of the breach or default by personal service or by registered or
27 certified mail to the lessee and to any holder of record having a
28 security interest in the leased property. The notice shall also make
29 demand upon the lessee to cure or remedy the breach or default within 60

1 days from the date of receipt of the notice and demand. If a lessee
2 fails to cure or remedy the breach or default within 60 days, or within
3 the additional time which the division may allow for good cause, the
4 state may, subject to (b) of this section, exercise any right which it
5 may have at law or as set out in the lease.

6 (b) If a lessee fails to cure or remedy a breach or default within
7 the time allowed in (a) of this section, a holder of a security interest
8 who has received notice under (a) of this section may cure or remedy the
9 breach or default if the breach or default can be cured by the payment
10 of money or, if this cannot be done, by performing or undertaking in
11 writing to perform the terms, covenants, restrictions and conditions of
12 the lease capable of performance by the holder. The holder shall act
13 within 60 days from the date of receipt of notice under (a) of this
14 section, or within an additional period as the director may allow for
15 good cause.

16 * Sec. 3. AS 38.05.105 is repealed and re-enacted to read:

17 Sec. 38.05.105. PERIODIC RENTAL ADJUSTMENTS. (a) Each lease
18 shall stipulate that at the conclusion of the initial 25-year period of
19 the lease and at intervals of 10 years thereafter the annual rental
20 payment is subject to adjustment. Charges or adjustments shall be based
21 primarily on a reappraised annual rental value. However, if the direc-
22 tor of the division of lands determines that residential development is
23 the best use of the land, the reappraisal period may be lengthened or
24 the readjustment waived in accordance with regulations adopted by the
25 department. Before a waiver of rental adjustment is issued, the land
26 shall have a current reappraisal. A waiver is valid only if residential
27 development actually occurs, and only if necessary for obtaining primary
28 long-term financing. The regulations adopted under this section shall
29 ensure that the state receives a fair return from the land. *impossible*

if land is limited by 50% ceiling

1 (b) The provisions of sec. 85(b) of this chapter are applicable to
2 reappraisals of leases required by this section.

3 * Sec. 4. The provisions of this Act are applicable to state leases which
4 are in existence on or before the effective date of this Act if a lessee
5 under a lease elects, in writing, to be bound by this Act. When a lessee
6 elects to be bound by the provisions of this Act, the state shall enter into
7 a new lease with the lessee for a term equal to the full period of the
8 original lease which is being terminated that is consistent with the pro-
9 visions of this Act. However, for purposes of determining the annual rent by
10 the state, the fair market value of the property which is used to establish
11 the fixed base annual rental for the initial period of the lease may not
12 exceed the fair market value as it was last appraised on or before January 1,
13 1975, or, if the lease was entered into after January 1, 1975, on the basis
14 of the fair market value at the time the lease was entered into.

15 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
16 070(c).

*big
covered*

*up to '70
M value
substan-
tial*

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 E. 4TH AVENUE - ANCHORAGE 99501

April 19, 1977

Governor Jay S. Hammond
Pouch A
Juneau, Alaska 99811

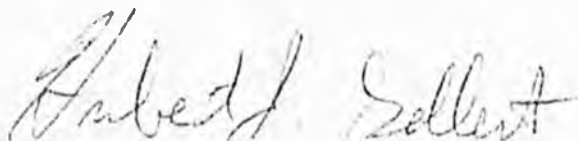
Dear Governor Hammond:

The Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures is pleased to present its final report and recommendations on state land practices and procedures. The Committee has met for 93 hours over a six-month period (including two evening work sessions and two evening public hearings), as well as spending a considerable amount of individual time in arriving at the material in this document. Along with stating general concerns, the Committee has made recommendations to effect the following: extensive improvement in the leasing system, including a recommended new lease form; provide predictability in appraisals and reappraisals; improve accounting and administrative procedures; provide flexibility and simplicity in disposal transactions; establish a system for land appeals/protests; and improve trust land management.

Perhaps the principal achievement of the Committee is the idea of a new leasing program for the State. The attached lease form, recommended for adoption, and a majority of the recommendations and statute and regulation changes contained in this report, would be instrumental in implementing a new program beneficial to both State and lessee, and are directed to that end.

We, the undersigned, submit this report as being in the best interests of the State and its clients. This report represents a consensus of the majority of the panel. Qualifying statements from those individuals who differ with specific portions of this report are attached.

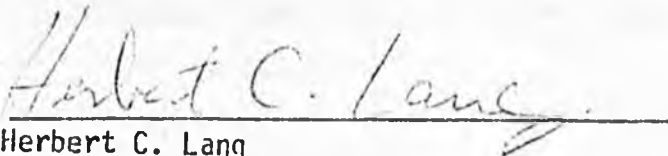
The Committee appreciated the opportunity to serve on this panel.



Hubert J. Gellert

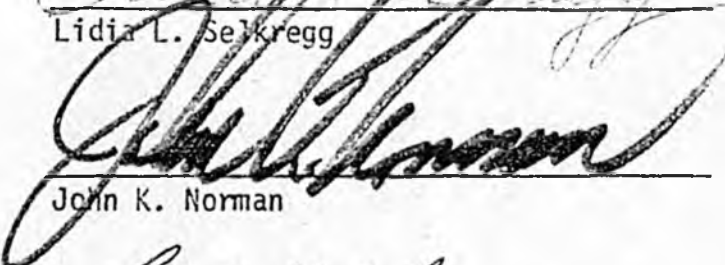


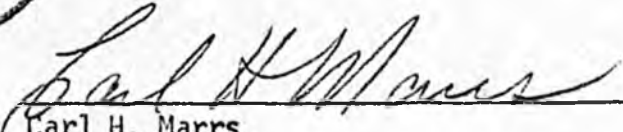
Theodore G. Smith

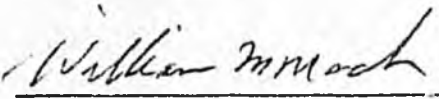


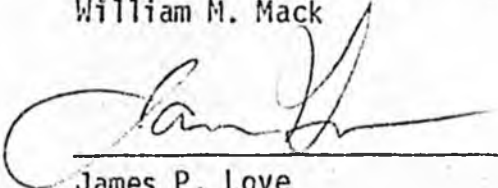
Herbert C. Lang

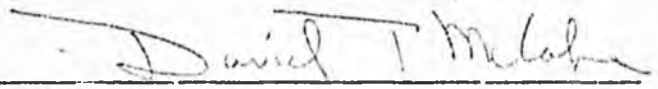

Lidia L. Selkregg


John K. Norman


Carl H. Marrs


William M. Mack


James P. Love


David T. McCabe

COOK INLET REGION, INC.



1211 WEST 27th AVENUE
(907) 274-8638

P.O. BOX 4-N
ANCHORAGE, ALASKA 99509

April 15, 1977

The Honorable Jay S. Hammond
Governor, State of Alaska
Pouch "A"
Juneau, Alaska 99811

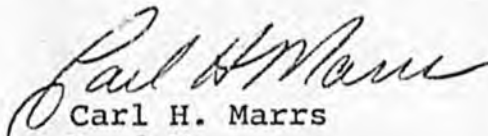
Dear Governor:

As a member of the Ad Hoc Advisory Committee on State Land Practices and Procedures, I wish to make the following comment on our final report of April 1977.

I do agree with the committee's report and stand behind it with one reservation. I do not pretend to have an answer but only concern. I feel that the lease rental increases being left open with a possible increase every five years to 100 percent is too much of a hardship on an individual leasing lands. I would think by having an open ended increase it would put an extraordinary heavy burden on the lessor for the purpose of financing any one project for the simple reason the banks would never know what the lessor would ultimately have to pay for the lease. Again, I state to you that I have no answer for the best possible solution, but only a great concern that I hope is given much more consideration before a final bill is passed through the legislator.

I appreciate the opportunity you have given me in serving with this committee.

Sincerely,


Carl H. Marrs
Land Manager

cc:
Representative Alvin Osterback
House Resources Committee

Theodore G. Smith, Co-Chairman

15 April 1977

The Hon Jay S Hammond
Governor, State of Alaska
Juneau, Alaska 99801

Dear Governor Hammond

It is with regret that I am obliged to file a minority report which substantially disagrees with that of some members of the Ad Hoc Advisory Committee on State Land Practices that you established in October.

My humble opinion is that the more vocal members overly involved themselves with minute administrative details while trying, as they said, to "maximize the monetary return" to the State. As a result they completely failed to recognize that unimproved land by itself will never provide the State with a substantial return. On the other hand, development of the land is the established vehicle by which jobs are provided and tax revenue accrue to both the State and local governments. This is why the State initially entered the land lease business.

As proposed by the Committee, the lease procedures are cumbersome and the lease forms restrictive. They do not reflect land lease practices in the private sector in that they are patterned after leases for improved property. The difference, of course, is that an individual who improves land cannot remove his warehouse, residence, cabin, or roads if the land lease rates are increased excessively as has been done. On the other hand, furniture and fixtures by themselves can be relocated with little loss.

I believe that the statutory provisions proposed by the administration and based on the Committee's interim report will effectively end the State's lease program as far as new leases are concerned. The Act definitely rules out H.U.D. financing and makes conventional financing questionable to individuals who cannot back up a loan with a substantial balance sheet.

A second point, and most important, is the fact that the committee has completely failed to offer you methods whereby you can offer relief to the many lease holders who have been subjected to unreasonably high land lease rate increases during, incidentally, a period when most private landlords were restricted by rent controls.

Please note Section 38.05.106 of the proposed act (H.B. No. 383). This provides for an individual to convert an existing lease to terms in a new document but Catch 22 is in paragraph c. This says "annual rental value at conversion shall be based on the most recent reappraisal." This, of course, if adopted would mean no relief from the 1000% plus


increases that are now forcing many Alaskans off their improved and unimproved State lease land.

ADL officials will tell you that the proposed Board of Land Appeals is the source of relief. This may or may not be the case.

Governor Hammond, it is my hope that your schedule will allow you to personally look into this problem which requires a solution before this legislative session ends.

I urge you to withdraw the administration House Bill No. 383 and look toward other proposed legislation such as Senate Bill 159 for your solutions.

Respectfully submitted


WILLIAM M. MACK

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

JAY S. HAMMOND, GOVERNOR

DIVISION OF LANDS

323 E. 4TH AVENUE - ANCHORAGE 99501

April 19, 1977

Governor Jay S. Hammond
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

I concur with the attached report with one exception. The committee recommends on page 14 that the various trusts be free to contract with private individuals for management of trust lands. I do not believe that such a fragmentation of land management responsibilities is desirable. I fear that rather than making the management more effective, it would merely become more costly.

I concur that improvements in the trust land management program are needed and feel that the recommendations contained in the balance of this report will do a great deal to achieve such improvements.

Yours truly,



Theodore G. Smith, Director
Land and Water Management

FINAL REPORT AND RECOMMENDATIONS

April, 1977

THE GOVERNOR'S AD HOC ADVISORY COMMITTEE ON
STATE LAND PRACTICES AND PROCEDURES

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- I. Summary of the Committee's Formation, Mission and Accomplishments
- II. Individuals on the Committee
- III. Committee Work Process
- IV. Findings and Recommendations of the Committee
- V. Appendix
 - A. List of People Giving Public Comments
 - B. Recommended Bill Presented to the Legislature
 - C. Recommended Standard Lease Form with Attachments

I. SUMMARY OF THE COMMITTEE'S FORMATION, MISSION, AND ACCOMPLISHMENTS

On October 8, 1976 the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures met for the first time. The mission of the committee was outlined by Guy Martin, Commissioner of the Department of Natural Resources. He said that the Governor desired a small, precise, and efficient panel to find new ways to improve state land practices and procedures, not to set policy but to address the legal and technical aspects of disposal and other contractual relationships. Judgments, criticisms, and new recommendations were to be effected. Michael C. T. Smith, Director of the Division of Lands, clarified the mission further by adding that the committee should:

- 1) consider primarily revenue production, as opposed to social benefits, in its analysis;
- 2) make no assumptions as to state policy regarding the number, size, and location of land sales or other disposals; and
- 3) recommend changes that will be applicable to any likely state land policy.

The committee made a dedicated attempt to accomplish its mission. The tasks of studying existing statutes, regulations, and practices, and examining them in light of current land disposal and contractual relationships was formidable, but many members worked successfully to this end. Uncovering and identifying disposal and contractual problems involved considerable time and effort. Correct identification of a particular problem of this nature is a major step toward solving it. Perhaps the greatest success of the committee was discerning from Division of Lands personnel and state lessees the exact nature of their problems and concisely defining them. This action will have a lasting effect on Division of Lands personnel who are charged with formulating policy and procedures for land disposals and contractual relationships. The committee did make significant recommendations to effect changes in statutes, regulations, and Division procedures and policy. The lease form used by the State was revised to include terms and conditions that would offer benefits to both the State and the lessee. The recommendations of the committee in general give the State more flexibility to respond to client needs. Both client and State will benefit greatly if the committee's recommendations are carried out. The mission of the committee has been accomplished with admirable success in this regard.

Selected areas were covered, specifically those of sales and leasing. The committee states that this report is not meant, by any means, to be all-inclusive.

II. THE INDIVIDUALS ON THE COMMITTEE

The individuals who served on the committee volunteered considerable time and effort. Each member was selected on the basis of having specialized knowledge and expertise. The following list of members and their qualifications shows considerable diversity.

Mike Colletta - State Senator.

Hugh Gellert - President of Bear Fritz, Inc., a land development company with interests in Anchorage and the Kenai Peninsula.

Grant Giesler - Vice President of Alaska Mutual Savings Bank (resigned 1/5/77).

Herb Lang - President of Anchorage Sand and Gravel (joined the committee 1/6/77).

Jamie Love - Director of the Alaska Public Interest Research Group (AkPIRG).

David McCabe - Private Appraiser.

William Mack - Chairman of the Alaska Land and Lease Holders Association.

Carl Marrs - Land Manager for Cook Inlet Region, Inc.

John Norman - Attorney specializing in the area of corporate and natural resources law.

Lidia Selkregg - Anchorage Assemblywoman; Professor of Regional Planning at the Arctic Environmental Information and Data Center in Anchorage.

Theodore G. Smith - Former State Representative; present Director of the State Division of Land and Water Management.

III. COMMITTEE WORK PROCESS

The committee worked in a series of sessions, all of which were open to the public. Meetings were held weekly from October 8, 1976 to March 30, 1977 with the exception of 12/17/76 -1/5/77, when the committee recessed for the holidays. Two additional evening work sessions were held, and two evening meetings to hear public comments took place on 12/1/76 and 3/3/77. The meetings were loosely structured to accommodate those attending and to provide time for public comment.

The committee addressed the area of sales in its first sessions and proceeded to the area of leases in the later sessions. There was considerable public input from concerned individuals, and organizations, and many persons with specialized knowledge were invited. A great deal of support was provided by many state agencies, particularly by the State Division of Lands and the Department of Law. Considerable time was spent in information gathering. The Division often was requested to provide information on current procedures. Considerable information on Division activities was compiled. The changes recommended were made cautiously and are well supported by the information gathered. The committee's recommendations were made in the form of motions which were voted on by majority vote at the meetings. Recommendations were made freely as each subject area was explored.

Many meetings, including the two evening public comment sessions, were advertised in two newspapers. Press releases and newspaper articles appeared locally. Mass mailouts provided general information and announced upcoming meetings; lists of meeting dates were available at all sessions. The interested public was encouraged to contact the Division of Lands with any verbal or written questions and comments. Copies of materials used by the committee were available to the public and public comment was specifically taken on the committee's interim recommendations and draft bill to the Governor.

Almost all sessions were tape recorded in their entirety. Written minutes of meetings were time-keyed to the tapes to allow verification. The public is welcome to listen to or make copies of these tapes by contacting the Division of Lands.

IV. FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

The findings of the committee were numerous but can be grouped into major categories:

- 1) State lessees are dissatisfied with the state interpretation of lease contract terms, especially those relating to appraisal. Many lessees testified before the committee as to their grievances.
- 2) The Division's regulations covering sales and leases are often outdated and conflicting with statutes in some cases.
- 3) The State's lease contract form is not in line with commercial contracts and has many ambiguities in it.
- 4) Some state statutes in Title 38.05 are vague and unclear.
- 5) Payment methods for state sales contracts do not match those used in the private sector and may contribute to ballooning land values.

These findings outline the basis for the committee's recommendations which follow.

The recommendations of the committee concern statute, policy, and regulation changes, and can be grouped by topic.

The following five items are of general concern:

1. The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committee's deliberations and, therefore, not addressed.
2. To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superseded by statutes.

3. The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3, Title 19, and Title 35. The rationale would be to make land laws uniform among the Division of Aviation, Department of Highways, and Division of Lands.
4. Looking to the future, when the Division appraisal workload gets even heavier, the committee recommends that all (or all significant) appraisals be done by contract appraisers, with the Division appraisers functioning as review appraisers.
5. The committee stands opposed to Senate Bill 234, since the needs as outlined in this bill are covered by present legislation; the committee finds SB 234 not in the best interests of the State or the land management of the State.

In order to provide predictability in appraisals and reappraisals, for the benefit of the State and the public, the committee recommends the following:

1. At present many lessees are suffering hardship due to rent increases of several hundred percent. To provide for this relief and as a curative for such future increases the statutory provisions found in section nine of the attached bill are recommended. Provision for optional conversion of present leases to ones that will place a ceiling of 100% on rental increases every five years will largely prevent future hardship cases and resolve satisfactorily the present cases. With a rent ceiling, lease rental increases will be more predictable resulting in more financial stability for the lessee. (The Alaska Industrial Subdivision hearing panel recommends insuring predictability by placing some control over the size of the rental increase through utilization of a ceiling on the size of the increase in rental every five years.)

Sections 8 and 9 of the attached bill will accomplish the above recommendations.

2. The committee recommends that land offered over the counter be reviewed at 90 to 120 day intervals to determine if an increase in value has occurred. This review is desired so that parcels are not undervalued by progressive changes in the market.

Section 10 of the attached bill would accomplish this.

3. Since public notice is covered in AS 38.05.345 the change to "appraisal" for AS 38.05.310 is warranted by its present content. The committee recommends that land may be appraised 120 days in advance of a sale or lease. The change from 90 to 120 days would be desirable in that minimum bid information could be given to the public well in advance of the actual sale or lease auction. In addition 11 AAC 54.140 should be repealed.

Section 10 of the attached bill will accomplish this.

4. In order to provide a workable solution to the problems of confidentiality of appraisal data, the committee recommends that the Director of the Division of Lands refrain from including confidential information in any appraisal prepared for the Division of Lands use.
5. The committee believes that the word "primarily" may imply special consideration to some lessees. In order to treat all lessees fairly and equitably the committee recommends that the word "primarily" be stricken. Deleting "primarily" would clarify the basis for reappraisal. (This was also recommended by the Alaska Industrial Subdivision hearing panel.)

Section 8 of the attached bill will accomplish this.

To improve accounting policies and administrative procedures, and to protect the State, the purchaser and the lessee, the following are recommended:

1. The committee recommends that the Division of Lands have the option of requiring all sales contracts over \$400.00 per year to be paid in quarterly installments instead of annual installments. It is the committee's belief that this would ease the financial strain on the buyer and yet not add significantly to the State's administrative costs. To provide quarterly payments would require a change in AS 38.05.065 with the present annual payments deleted and the quarterly payment provision adopted in its place.

Section 3 of the attached bill would accomplish this.

2. The committee recommends that a \$10.00 fee charge to cover administrative costs be given to those who make sale or lease payments with checks that are returned. It is a standard business practice to provide for such charges and is recommended to protect the State's interests.

3. The committee recommends instituting default charges for late sale or lease payments. At present, there exists no penalty and many payments are late. The form of penalty recommended is notification charges to all delinquent payments and penalty charges to payments delinquent more than 30 days. The notification charge would be \$5.00 for the first notice, \$20.00 for the second notice and a penalty charge of 6 percent of the payment.

It is suggested that the fee charges be adopted as a regulation under authority of AS 38.05.035(4)(5) as follows:

11 AAC 54.365. Delinquent Payments.

In the event of a delinquent payment, the following charges will apply:

1. A \$10.00 penalty for payment with a check that is returned.
 2. A \$5.00 penalty for notification of payments over thirty-five days late.
 3. A \$20.00 penalty for a second notification of payments more than fifty days late.
 4. A penalty of 6 percent of the rental or sale payment for payments delinquent by more than thirty days.
4. The committee recommends adding the following to the end of 11 AAC 54.190: Upon execution of the contract of sale the director shall cause the original copy of the contract to be recorded in the recording district wherein the property is located.
 5. The committee recommends that 11 AAC 58.490 have a section .495 added: Upon execution of the lease the director shall cause the original copy of the lease to be recorded in the recording district wherein the property is located.
 6. The committee recommends adding in 11 AAC 58.830 Recordation of Assignments, Modifications, Changes in Rental or Cancellations: Upon any assignment, modification, change in rental or cancellation, the director shall cause to be recorded an original document which recites the changes made in the recording district in which the property is located.

7. The committee recommends that somewhere in 11 AAC 58 a section be added: Fees for Recordation. The Division of Lands shall absorb any expense of recording all existing contracts of sale, leases, assignments, modifications, changes in rent; the director shall collect the necessary fee for recording any contract of sale, lease, or change of application hereunto from the contract purchaser or lessee at the time of execution.
8. The committee recommends that the Attorney General draft for introduction to the next session of the Legislature a statute which will require all state agencies dealing in lands to record any such transaction (including any transaction dealing with plats and subdivisions) and further stating that failure to so record does not impose any liability on the State.

In order to achieve more flexibility and simplicity in handling land disposal transactions, the following are recommended:

1. The committee recommends that the State charge a market rate of interest in its sales contracts. The interest rate, at present 6%, is below market levels and may have contributed to inflated prices at state land sales. By setting interest rates at market levels, the State would help prevent inflated land prices and at the same time return more income to the State. To provide for a market rate of interest in sales contracts, no change in AS 38.05.065 would be required. The addition of a statement of market rate in this statute would be desirable, however.

Section 3 of the attached bill would accomplish this.

2. The committee recommends that the State adopt a system of level payments in place of declining payments in its sale contracts. The system of level payments is in common use in the business world, and the payment figures are easily set forth in a contract. The disadvantage of the present method is that interest must be recalculated every year and the payments decrease each year. From both the State's and the buyers' viewpoints, the level payment method would be preferred. The State would receive slightly more in interest payments over the contract terms and the buyer would not have to make as high initial payments. To provide level payments would require a change in AS 38.05.065 with the present system deleted and the level payment system adopted in its place.

Sections 2 and 3 of the attached bill would accomplish this.

3. The committee recommends that in Title 38.05 the term "fair market value" be used in place of "fair appraised market value" and "market value." The meaning is felt to be the same in all cases. The committee would like to see one standard term used to avoid confusion and misunderstanding.

Sections 4, 5, 7, and 13 of the attached bill would accomplish this.

4. The current procedures for informing the public of state lands transactions are covered in AS 38.05.305 and AS 38.05.345. The two procedures do not mesh in a clear manner. The committee recommends that the procedures be clarified in a manner that will be flexible enough to inform the public fully and yet not require multiple advertising for minor negotiated transactions.

Section 11 of the attached bill will accomplish this.

5. The committee recommends that the Director be given the authority to set the payment period from one to twenty years. This type of flexibility would allow the State and buyers greater market possibilities. To provide for this would require that the installment clause in AS 38.05.065 be deleted and replaced by the one to twenty year provision.

Section 3 of the attached bill would accomplish this.

6. The committee recommends that the State be given more flexibility to resolve contract of sale violations. This is necessary to prevent foreclosures as the only remedy for minor contract violations.

Section 3 of the attached bill would accomplish this.

To institute improvements in the leasing system, the following are recommended:

1. To implement the new lease provisions recommended by this committee new lease forms for various types of leases will be required. It is the committee's recommendation that the Division draft new lease forms to comply with the statutes adopted, and that the new forms be reviewed by this committee.

The recommended lease form and attachments in Appendix C accomplish this.

2. The committee recommends that all state leases to other public agencies be at the normal fair market value rate of payment.

This reflects a regulation change.

3. The committee recommends that state government agencies get out of residential leasing.

This reflects a policy change.

4. To provide the lessee insurance against a land boom or unexpected increase the committee recommends that rental increases at the five year reappraisal periods not exceed 100 percent of the prior existing annual rental rate. This action would increase the predictability of the lessee's payments. The stability thus created would add significant borrowing power for the lessee to finance improvements on the leased ground.

Section 8 of the attached bill would accomplish this.

5. The duration of a lease and the economic life of substantial improvements, such as stores or factories, may not coincide. In order to see that state leased land is used in a rational, economically productive manner the committee recommends that lessees of long-term leases be given a renewal option for up to fifteen years. This type of option would grant the lessee more flexibility in maximizing his investment returns, especially during the final years of his lease. It would also increase the lessee's planning possibilities for use of the leased ground. This action would also soften the impact of termination of the lease. Specifically, this would permit a lessee to make substantial repairs to a building when the remaining term of the lease would not otherwise justify it.

Section 6 of the attached bill would accomplish this.

6. The committee agrees that a lease should be converted at its present classification, and the leaseholder should then have the option to change classification subject to Division of Lands approval.

This is made possible under the attached lease document so that a conversion (assuming passage of HB 383) to a new lease form would permit the leaseholder to change classification at his option.

7. The committee recommends that a level term for recreational leases not be provided.
8. The Alaska Industrial Subdivision hearing panel recommends that in accord with the provisions of the lease, lessees should be encouraged to record expenses incurred in site preparation so that the "original condition" can be more adequately ascertained.

The Ad Hoc committee concurs. This recommendation is handled in the attached lease document.

9. The Alaska Industrial Subdivision hearing panel recommends that lease language should be clarified to remove any possible inconsistencies with 11 AAC 58.520 (Adjustment of Rental).

The Ad Hoc committee concurs.

10. The Alaska Industrial Subdivision hearing panel recommends eliminating the floating easement. The State could exercise the right of eminent domain to condemn. The condemnation would probably result in greater compensation for damages to the lessee, especially in view of the Supreme Court decision in State v. Hammer, 550 P.2d 830, thus the lease would be more attractive to the leasing market. Additionally, the language in the current lease is ambiguous as to damages compensable. This ambiguity only encourages litigation.

The Ad Hoc committee concurs. This has been accomplished in the attached lease form.

11. The Alaska Industrial Subdivision hearing panel states that, if its recommendations are adopted, the State would be assured a competitive position in the lease market. The recommendations would encourage development of the leaseholds consistent with the intent of the leasing regulations and would be equitable to the lessee. The hearing panel also believes the State should be able to obtain a good return on its land. Accordingly, the rental rate should be changed to reflect the removal of the undesirable aspects of the state lease.

The Ad Hoc committee concurs. Continuing to include rate as an appraisal element will accomplish this objective.

This change is found in the attached lease form.

12. In order to set a fixed rental rate on a lease, the committee recommends an addition to A.S.38.05.085:

amend to add the following sentence after ". . . to protect the interests of the state. The lease rental rate shall remain fixed for the term of the lease and any permitted extensions thereof, unless the leased premises or a portion thereof is reclassified pursuant to provisions of this chapter. A violation of any provision of this chapter"

To provide a vehicle for arbitrating protests and appeals involving land transactions, the following is recommended:

1. The Division of Lands has had many protests from private parties over the past few years leading the committee to believe that a board of appeals is highly desirable and needed at this time. At present there exists no arbitration board or board of appeals to handle appeals allowed by Division of Lands regulations. The creation of a board of appeals would effect a responsive mechanism for solving most problem cases arising from Division of Lands transactions that affect private parties. The board of appeals would be faster and less costly to private parties than legal recourse, which would still be available. The board is structured to maintain adequate expertise while attempting to eliminate bias in favor of the Division of Lands. This binding appeals board would substitute for the Commissioner in the present appeal process. (The Alaska Industrial Subdivision hearing panel also recommends such an appeal process.)

Section 14 of the attached bill would accomplish this.

The committee recommends the following to improve trust land management:

1. The committee believes that state trust lands (school, mental health, and university) are now and have been managed at low intensity. These lands may be returning only a fraction of their potential value that could be

realized by a small, full-time management staff. The Division manages these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore, it has traditionally placed low priority on management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the State's land act.

Section 1 of the attached bill would accomplish this.

2. In order to provide a uniform 55-year limit for all long-term leases the committee recommends deletion of the 99-year provision found in A.S.38.05.070(c) for school lands.

Section 6 of the attached bill would accomplish this.

V. APPENDIX A

LIST OF PUBLIC GIVING COMMENTS AT AD HOC MEETINGS

GRAHAM, Joe

AKERS, Merle (Anchorage International Airport Pilots' Association)

FORD, R. G. (Anchorage Camper Center--Alaska Industrial Subdivision)

DAVIS, Ken (Alaska Industrial Subdivision--school land lessee)

RICHARDSON, Phil (Talkeetna lessee)

BAER, Paul (International Airport Road--lessee/attorney)

NORENE, Larry (appraiser/broker)

SIMMONS, Errol (appraiser)

CUTLER, Dale (Chairman, Anchorage International Airport Pilots' Association)

BROWN, Leon (ASW Drive-In, Brown's Electrical--Alaska Industrial Subdivision)

FERRARA, Fred (appraiser, retained by Alaska Industrial Subdivision)

BEAMER, Mr.

HOGAN, L. L.

CHRISTOPHER, Jim (Alaska Industrial Subdivision)

WEEKS, Lloyd E.

LEDBETTER, Charles (recreational lease, Rocky Lake, Matanuska Valley)

GRAY, Brian Mark

MacNUTT, Lowell (Alaska Industrial Subdivision)

DAVIS, Ken (Alaska Industrial Subdivision)

PENNEY, Bob (Penland Subdivision)

HOGGE, Andrew (attorney)
BIELAWSKI, Joe (Alaska Industrial Subdivision)
MALONEY, Dennis
WILHOUR, Joe (Alaska Industrial Subdivision)
TROEH, Paul .
VANDERMOLEN, John (HUD/FHA--Anchorage Insuring Office)
MEEKINS, Russ (Alaska Land & Leaseholders Association)
HURLEY, Katherine (State Board of Education)
HEINE, Darwin (School Trust Lands-Fairbanks)
KERNS, Dick (Department of Highways)
GEORGE, Al (University of Alaska--Fairbanks)
DENHAM, Bob (Pastor, 1st Church of the Nazarene)
FLAVIN, Frank (State Ombudsman)
RIGSBEE, Alberta
ROETMAN, Emmett
BALLY, Douglas (Attorney for Alaska Industrial Subdivision)
MORRIS, Lloyd

IN THE

BY RULES COMMITTEE BY REQUEST
OF THE GOVERNOR

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to state lands and providing for
an effective date."

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

* Section 1. AS 38.05.030 is amended by adding a new subsection to read:

Section 38.05.030 (f). Notwithstanding the provisions of (a) and (e) above and 38.05.035 (a)(13), the trustees of state trust lands may manage or contract with any agency, public or private, for the management of trust lands pursuant to the provisions of this chapter. Costs of such management shall be borne by the respective trusts.

* Section 2. AS 38.05.055 is amended to read:

Section 38.05.055. SALE PROCEDURES. Except as provided in Section 315(d) of this chapter, the sale shall be made at public auction to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit an amount determined by the director but not less than 5% (EQUAL TO ONE-TENTH) of the purchase price. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price bid, and the terms of sale, which receipt shall be acknowledged in writing by the bidder. A contract of sale on a form approved by the attorney general shall be signed by the purchaser and, after approval of the commissioner, the contract shall also be signed by the director on behalf of the state.

* Section 3. AS 38.05.065 is amended to read:

Section 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale shall require the remainder of the purchase price to be paid over a period

of not more than 20 years, which shall be set for each sale by the director.
Installment payments plus interest will be set on the level payment basis
over the payment period. The interest rate charged on installment payments
shall be the prevailing rate on similar land transactions at the time the contract
is signed, as determined by the director, but in no case shall it be below
5% per year or above the current usury rate as set by AS 45.45.010(b) and (d).
(IN ANNUAL INSTALLMENTS OF NOT LESS THAN 10 PER CENT OF THE PURCHASE PRICE,
WITH INTEREST AT THE RATE OF NOT LESS THAN FIVE PER CENT A YEAR.) The
director, with the consent of the commissioner, may also impose conditions,
limitations, and terms which he considers necessary and proper to protect
the interest of the state. Violations of any provision of this chapter or
the terms of the contract of sale subject the purchaser to appropriate
administrative and legal action, including but not limited to specific
performance, foreclosure, ejectment, or other legal remedies in accordance
with applicable state law. (LEGAL ACTION, INCLUDING A FORECLOSURE ACTION
IN ACCORDANCE WITH APPLICABLE STATE LAW.)

* Section 4. AS 38.05.067(b) is amended to read:

Section 38.05.067(b). The director shall not sell the lands under this section at less than their fair (APPRAISED) market value. The director shall make regulations necessary to ensure that lands sold under this section are for bona fide residential use and not for speculation.

* Section 5. AS 38.05.068(a) is amended to read:

Section 38.05.068(a). FOREST SERVICE PERMITTEES' SALES PREFERENCE.
Before offering to the public any land which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, or which is subject to a lease issued under Section 87 of this chapter, the director shall offer the land for sale to the permittee or his successor in title, if he can be found, at not less than its fair (APPRAISED) market value before offering to the general public.

* Section 6. AS 38.05.070(c) is amended to read:

Section 38.05.070(c). A lease may be issued for a period of up to 55 years, if it appears to be in the best interest of the state and if the commissioner approves. A lease for a period in excess of 25 years shall grant the lessee an option entitling him to extend the term of the lease for up to 3 consecutive five year periods in addition to the original term. If the Commissioner determines that the land or a part of it which is the subject of a grazing

lease is not being used for the purpose issued, the lease may be declared void. (HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.)

* Section 7. AS 38.05.087(a) is amended to read:

Section 38.05.087(a). FOREST SERVICE PERMITTEES' LEASING PREFERENCE. Before offering to the public any land for lease which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, the director shall offer the land for leasing to the permittee at not less than its fair (APPRAISED) market value before offering it to the general public.

* Section 8. AS 38.05.105 is amended to read:

Section 38.05.105. Each lease shall stipulate that the annual rental payment is subject to adjustment at five year intervals and shall be based (PRIMARILY) on a reappraised annual rental value. Any increase due to reappraisal may not exceed 100% of the annual rental for the preceding 5 year period. However, if the director of the division of lands determines that residential development is the best use for the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the commissioner. Before a waiver of rental readjustment is issued, the land shall have a current reappraisal. A waiver is valid only if residential development actually occurs, and only if it is necessary for obtaining primary long-term financing. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

* Section 9. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.106. CONVERSION OF LEASES. (a) Any person holding a valid lease as lessee of lands from the State under provisions of AS 38.05.070 - .105, or as an approved assignee of such lessee under the terms of such lease, may, at his option, convert his lease so as to obtain certain benefits, enumerated in subparagraph (b) below, which were not available to him at the date his lease was originally entered, if the lessee at the time of conversion makes all payments due under the conversion rate and is not in violation of any other lease provision.

(b) Those lease benefits which shall be made available to a lessee qualifying under subsection (a) of this section shall be all of those lease provisions authorized or made applicable by this act to new leases entered into by the State after the effective date of such statutes.

(c) The effective annual rental value at conversion shall be based on the most recent reappraisal provided that such reappraisal was within 2 years of the effective date of this act. In all other cases, the conversion shall be based on the next reappraisal.

(d) Any conversion as to trust lands shall be effective only if approved by the appropriate board of trustees.

(e) Applications for conversion must be made within 3 years of the effective date of this act.

* Section 10. AS 38.05.310 is amended to read:

Section 38.05.310 (NOTICE AND) APPRAISAL. (a) No land may be sold or leased, or a renewal lease issued (WITHOUT PUBLIC NOTICE) except in the case of an oil or gas or mineral lease, unless it has been appraised within 120 (90) days before the date of (FIXED FOR THE) sale or lease. (WHEN LAND IS OFFERED AT PUBLIC SALE BUT IS NOT SOLD AND IS AVAILABLE) For over the counter sale (AT THE PRIVATE SALE, NO) an (RL) appraisal is required unless the director finds (CONSIDERS) that a change in value of the lands has not (MAY HAVE) occurred. A grazing lease may be granted to a lessee of federal grazing lands without prior appraisal, if his federal lease was cancelled to allow the state to select the lands under lease. No land may be sold or leased for less than fair (THE APPROVED, APPRAISED) market value, except as provided in .315 and .320 of this chapter and .75 - .85 of this chapter. No land or interest in land may be sold, leased, or otherwise disposed of without public notice.

(b) When land is offered at public sale but is not sold, it may be available for sale over the counter. The director shall review the list

of lands available on a quarterly basis and shall certify that there has been no change in value since the last reappraisal. If an increase in value occurs in any parcel, the director shall withdraw that parcel from sale over the counter.

* Section 11. AS 38.05.345(a) is amended to read:

Section 38.05.345(a). Public notice of an auction sale (LEASE OR OTHER DISPOSAL) of land or interest in it shall be substantially as follows.

* Section 12. AS 38.05.345(e) is amended by adding a new subparagraph to read:

Section 38.05.345(e) Public notice of an action other than as specified in paragraph (a) above shall conform to the requirements of AS 38.05.305 and this paragraph. Such notice shall, when given pursuant to AS 38.05.305(c), be published at least once in a newspaper of general circulation in the vicinity in which the land affected by the proposed activities is located.

* Section 13. AS 38.05.365 is amended by adding a new subparagraph to read:

Section 38.05.365. "Market Value" or "Fair Market Value" means the highest prices, estimated in terms of money, which the property would bring if exposed for a sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.

* Section 14. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.380. STATE BOARD OF LAND APPEALS. (a) The State Board of Land Appeals shall consist of five members, one of whom shall be the Commissioner of Natural Resources or his designated representative. The other members of the board shall be appointed by the governor from the general public, with due regard for the desirability of prior legal, natural resource or real estate training and experience as criteria for selection of public members. All board members are subject to confirmation by a majority of the members of the legislature in joint session.

(b) The director of the division of lands shall provide administrative support for the board.

(c) The governor shall appoint the public members of the board for terms of three years each, except that the initial terms of one of the members first appointed under this chapter shall be for one year and one member for two years. The public members are entitled to compensation

in the amount of \$50.00 per day for each day or portion of a day spent in actual meeting or on authorized official business incident to their duties, and to all other transportation and per diem expenses as provided by law.

(d) Jurisdiction of the board shall extend to all matters arising under the Alaska Land Act (AS 38.05) and the Water Act (AS 46.15) from which an appeal may be taken under statute or regulation to the commissioner from a decision of the director, division of lands. The board in all appeals filed after the effective date of this chapter, shall have the appellate authority formally vested in the commissioner by provisions of the Alaska Land Act. An appeal from a decision of the board, if taken, shall be to the Superior Court.

(e) Three members of the board shall constitute a quorum. A majority of a quorum shall be able to render a decision. The board shall adopt regulations governing its procedures, and may adopt other regulations which may be necessary or convenient in carrying out the purposes of this chapter.

V. APPENDIX C
LEASE CONTENTS

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