ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1951 SRES HB 31

1951

Section 13 and 14 - Authorizes conveyance to an adjoining landowner parcel of land created by a highway right of way alignment or realignment or a parcel created by the vacation of a State owned right of way not to exceed the minimum lot size for that zone under specified circumstances. Parcels conveyed under this section must be sold at fair market value as determined by the Director on the basis of an appraisal. This land may be sold to a person not qualifying as an adjoining landowner if the adjoining landowner declines to purchase. State land rental and installments payment deadlines may be extended for good cause if penalties and interest are paid. Preference right parcels may be conveyed without classification or reclassification.

Section 15 - Requires that auction, lotteries or homesite/lottery disposals must be held in a municipality that is "closest to the land to be sold or disposed of and in which regular sessions of a court of the State are held".

Section 16 - Requires bidders to be present at auction sales of recreational and residential land unless medical reasons, attendance at school or military service outside the State prevent attendance. A bidder may be represented by an Attorney or Agent if the land offered for disposal is commercial, industrial or agricultural land; technical amendments; changes downpayment from 10% to 5% of the purchase price after deduction of the discount; to allow verification of discounts, requires Commissioner to issue a receipt of sale at auction instead of current requirement that sale contract be signed.

Section 17 - Deletes lottery minimums ($400 per acre general lottery; $100 per acre for agricultural rights). Adds a new requirement that applicants be present at the lottery if the land offered is for residential or recreational purposes unless medical reasons, attendance at school or military service outside the State prevent attendance. An agent may represent the applicant if land is offered as commercial, industrial or agricultural land. Require 5% deposit on day of lottery. Clarifies that the downpayment is determined after deduction of the discount.

Sections 18 and 19 - This section increases the period for payment for land sold at public auction from 10 to 20 years.

Section 20 - Redefines definition of eligible veterans, by eliminating reference to dates of service. An eligible veteran for purposes of veterans' discounts (38.05.058) is a person with 90 days or more active service in the armed forces of the U.S. who has been honorably discharged.

21
Section ~~20~~ - Technical amendment to correct a change in citation number [AS 38.05.047 (f)/ AS 38.04.020 (g) (2)].

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Section ~~21~~ - Negotiated leases under 38.05.070(b) are not eligible for a preference right under 38.05.102.

23 24 25 26 27 28
Sections ~~22, 23, 24, 25, 26 and 27~~ - REMOTE PARCEL PROGRAM. These sections substantially revise the remote parcel program. Under current law, an individual selected by lottery is entitled to stake a remote parcel which may not exceed 40 acres. After staking, the qualified applicant may lease the remote parcel for five years with an option to renew for an additional five years. The rent for this parcel is $150 an acre for the first five acres, and $50 for each additional acre. At the end of the lease, the lessee is entitled to purchase the first five acres of the parcel if he has surveyed the land and built a habitable dwelling on this land. The lessee may purchase additional acreage over five acres in a remote parcel if he surveys that land and constructs permanent improvements. The purchase price of the remote parcel is the appraised value at the time the survey plat is approved by the Commissioner.

Under SCS for CSHB 31 remote parcel areas would simply be opened to staking rather than sold through semi-annual lotteries. The annual rental is reduced to a flat $10 per acre fee. The bill adds a requirement that unless the land is surveyed the lessee shall within one year of approval of a lease application and continuously for the lease period physically delineate the boundaries of the parcel by brushing the lines so that they are readily visible from the ground. In order to qualify to purchase up to 40 acres, the lessee must survey the land. Habitable dwelling and other improvement requirements are eliminated. The lesssee must pay 5% of the discounted purchase price of the land as downpayment. The fair market value is determined as of the date the remote parcel was first leased to the purchaser of the land. Remote parcel purchasers must certify that they have not leased or purchased State land (except ag, commercial or industrial) from the land bank with 8 years immediately preceding the date of staking. Holders of existing remote parcel leases are allowed to convert to the new more liberal terms. Rental in excess of $10/acre paid under old remote parcel leases (under current program) may be credited against future rentals under a new lease or deducted from the purchase price.

Section 29 - If a person stakes a remote parcel in good faith but includes land in the parcel which was previously claimed by another person eligible to stake a remote parcel Director is required to approve that part of the later which does not conflict with the earlier staking and allow the person to stake additional land in the remote parcel selection area. If a good faith remote parcel entrant includes land in his parcel which is outside the remote parcel selection area, the Director shall either disapprove the staking outside the remote parcel area and allow the person to stake additional land in the remote parcel selection area or he may approve the staking outside the remote parcel selection area.

Sections 30, 31, 35 and 36 - Technical amendments to remedy a defect in prior legislation. Exempts eligible applicants from payment of annual rental on State land leased for a youth encampment as defined by the Commissioner by regulation.

Section 32 - Lessees of land offered for sale or long term leases may purchase or lease the land for the appraised fair market value(now they may purchase for the amount of the high bid at public auction). This section does not apply to negotiated leases. (See Section 15)

Section 33 - Upon application of a municipality or affected owners, the Department may vacate, release, modify or relocate easements or rights of way to and along navigable or public waters if the Commissioner determines it is in the public interest.

Section 34 - Repeals and reenacts 38.05.305 which currently provides for notice of proposed disposals of an interest in land to municipalities, regional and village native corporations, and communities of twenty five individuals or more. This section which must be read in conjunction with Section 30, restates a requirement in existing 38.05.305 that before disposing of an interest of land in the unorganized borough Commissioner must consider the effect that the disposal may be expected to have on the density of the population in the vicinity or the land and any potential for conflicts with traditional use of the land which could result from the sale, lease or disposal. If necessary, the Commissioner is required to develop a plan to resolve or mitigate the conflicts in a manner consistent with the public interest.

Section 35 - Technical amendments related to rent free youth encampment leases. See Section 29.

Section 36 - Technical amendments related to rent free youth encampment leases. See Section 29.

Section 37 - Repeals and reenacts 38.05.345 notice provisions to clarify ambiguities in existing law and to delete unnecessary procedural obstacles. Generally provides for 30 day notice of any pending disposal actions (classification, reclassification mineral closing orders, zoning, best interest finding, competitive disposal) by publication, posting, electronic media, notification of party likely to be affected by the action or other methods calculated to reach affected persons. Also requires notice to municipalities (if within the organized borough) or regional and village native corporations and communities of more than 25 persons (if outside the organized borough) at least 30 days prior to disposal actions. Irrevocable permits and negotiated sales under 38.05.115 are exempt from the requirements of this section.

Section 38 - Allows larger than five acre homesite parcels if the Director determines that a larger size is necessary to permit the design of a viable subdivision because of topographic features, soil conditions, sewage disposals requirements or water or drainage supply considerations unique to the subdivision.

Section 39 - Homesite applicants must present proof of residency to the Department in a manner designated by the Director.

Section 46 - This section amends the st[illegible] on trapping cabin permits. It increases the maximum period of the permit from five to ten years.

Section 41 - The definition of "subdivision" in 40.15.190 ( ) is amended to exempt State cadastral control plats, open to entry plats, for remote parcel plats [illegible]ardless of whether these plats include easements or other public dedications.

Section 42 - The Forest Practices Act established a Division of Forest, Land and Water Management and provided that the Director be appointed from a list submitted by the Board of Forestry. This section repeals the requirement to establish a Division of Forest, Land and Water Management, authorizes the Governor to establish a separate Division of Forestry and requires the Director to be appointed from a list submitted by the Board of Forestry.

Section 43 - This section clarifies previous ambiguities in the law. It also takes corrective action due to administrative error in that it allows an additional two years for individuals to repurchase land that was foreclosed upon by the state.

44

Section ~~43~~ - This section corrects previous legislative action taken on rental rates on state leases. During 1975 and 1976 problems arose from increase in rental rates on state leases. The legislature responded to these problems by enacting ch 138 SLA 1977 and ch 182, SLA 1978. Both of these acts were based on the belief that the rental increases in question arose from reappraisals made after 1975. This assumption is now known to be in error. This section changes the reappraisal date to 1970.

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Section ~~44~~-Repealers (1) 38.05.047 - repealed and reenacted in new 38.04.020; see Section 3. ~~(2) [illegible] - repeals question and terms' language, see section 24.~~ (3) 38.05.077(b) - repeals reference to "residential purposes" land within a remote parcel; see sections 18-22. (4) 38.05.078(b) - repeals reference to land "not used for residential purposes" in a remote parcel; see sections 18-22. ~~(5) 38.05.078(d) - repeals provision which prohibits conveyance of remote parcel for 10 years after sale unless title devolves by inheritance. (6) 38.05.08[illegible] section 23, 24, 28 and 29 amendments authorizing rent for public encampment leases.~~

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Section ~~45~~ - Remote parcel lease conversion and rental credit; see sections 22-27.

47

Section ~~46~~ - This section allows a person with a homesite entry permit to gain title to the land if the person satisfies the conditions under AS 38.08.060 (a) or Sec. 42, Chapter 85 SLA 1979.

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Section ~~47~~ - Land Disposals conducted by the Commissioner for fiscal year 1982 shall be in accordance with appropriations to the department for that purpose.

49 - Reinforcement of vested Health Provision now on Statute

50 51 52

Sections ~~48~~, ~~49~~ and ~~50~~ - Effective dates.

SECTIONAL ANALYSIS FOR
CS FOR HB 31 (RESOURCES)

Section 1 - If a municipal selection or nomination is rejected by the Director, a municipality may select additional State land of equal area to satisfy its entitlement not later than 90 days after receiving the Director's rejection.

Section 2 - LAND DISPOSAL BANK. Consolidates AS 38.04.020 (land disposal bank provisions) and 38.05.047 (classification and disposal procedures for land within municipalities); clarifies confusing provisions in both sections of the law; makes a number of substantive changes to these laws primarily relating to classification of land outside municipalities, the quota and funding of capital improvements. Specifically:

Requires Department of Natural Resources to finish classifying all State lands either as land disposal bank lands or retained multiple use lands by July 1, 1983. (Current law only applies to lands within municipalities). All land suitable for disposal of fee simple title including commercial, industrial, agricultural, residential and recreational lands would be included in the land bank. (Under current law, agricultural lands are not included in the land bank). Lands conveyed to the State by the Federal government which are to be retained in State ownership or deposited in the land disposal bank consist of those lands classified by the Commissioner within two years of receipt of tentative approval or patent whichever occurs first. The bank must contain at least 500,000 acres. (No change).

On January 15 of each year the Department is required to report to the Legislature the status of land in the land disposal bank. The 100,000 acre annual quota is repealed. Instead, Department of Natural Resources is required to submit annually a recommendation based on assessment of demand for disposal of State land in the land disposal bank. The request must include an estimate of the amount necessary for (1) survey and disposal of land proposed to be made available for remote parcel staking for the succeeding fiscal year with the general location of the land (2) survey and disposal of land to be offered as agricultural, commercial or industrial land during the succeeding fiscal year with general locations (3) survey and disposal of the land proposed to be offered as subdivisions with general locations (4) preliminary feasibility studies, engineering design work and construction of access roads and capital improvements required by municipal subdivision ordinances or regulations of the platting boards; if an accurate determination of those

amounts cannot be made at the time the estimate is submitted the Department must include a schedule for obtaining the estimates, constructing the access roads or capital improvements and disposing of the land (5) identification of land which will be proposed for disposal in future fiscal years. (Current law requires three alternative financing requests; does not specifically authorize requests for financing of capital improvements).

Lands would be disposed of as remote parcels, subdivision, agricultural, commercial or industrial land. Lands designated for subdivision disposal may not exceed five acres unless the Commissioner determines that a larger size is necessary to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision. (Current law does not authorize larger than five acre parcels under any circumstances). Lands designated for subdivision disposal must be disposed of as follows: a) up to 80% by lottery (b) at least 10% under homesite under the homesite law (AS 38.08) and at least an additional 10% under homesite lottery provisions. (Current law establishes a flat 80-10-10-formula).

Department of Natural Resources retains authority to sell land outside the land bank under any of its land disposal laws. Continues existing semi-annual nomination process for including or excluding lands from the land bank and the requirement that the Commissioner must make a written determination after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested. Adds a requirement that this determination be made within six months of the nomination. Requires a classification order instead of a mere finding when land is transferred from retention in State ownership to the bank or from the bank to retention. Retains provision that the Commissioner may withdraw from the land disposal bank land that has been offered for disposal but not conveyed within five years after inclusion in the bank. Changes the law to provide that land withdrawn from the land disposal bank may be classified for any purpose. (Current law provides that it must be classified for settlement and development purposes only).

Section 3 - INDENTIFICATION AND DISPOSAL OF MUNICIPAL ENTITLEMENT LAND. This section sets up a new system for conveyance of municipal entitlements not patented by the effective date of this act.

municipal land disposals

The Commissioner must initiate with each municipality with municipal entitlements a review of selections for which patent has not been issued as of the effective date of this act. By July 1, 1982, the Commissioner and each municipality must jointly designate 20% of those lands and which are most suitable for disposal into private ownership. A municipality may substitute land patented as of the effective date of this act with the concurrence of the Commissioner. If by July 1, 1982, the Commisioner and a municipality cannot agree on the land to be designated, the Commissioner makes the designation. By September 1, 1982, the land must be included as a special category of land in the land bank and made available for disposal under 38.04.020(d)-(h). However, none of the land may be disposed of as remote parcels and 38.04.020(j) does not apply. Municipalities may submit recommended disposal schedules for lands designated under this subsection.

By January 15 of each year the Commissioner has to submit to the Governor an appropriation request sufficient to survey all approved selections not patented, not designated above, and requiring survey under 29.18.207. (This request will be submitted by the Governor to the Legislature with the budget). Upon receipt of an appropriation for this purpose, the Commissioner must survey the land and issue patents as "expeditiously as possible." For approved selections not designated above and not in need of a survey, the Commissioner must issue patents by September 1, 1982. However, no patents may be issued until land suitable for disposal into private ownership has been designated.

When lands designated under this section have been disposed of the Commissioner must make a partial assignment to the municipality in which the land is situated the receipts from the land sale contract relating to the value of the land without improvements.

This section does not apply to the following situations:
(1) the land to be patented is for an essential public facility or purpose for which there is an immediate need as determined by the Commissioner

(2) the land has been scheduled and formally advertised for disposal by a municipality under its land disposal program or

(3) the amount of land patented to a municipality is less than 10% of its entitlement as of the effective date of this act and the municipality requests an amount of patented lands sufficient to bring it to the 10% level.

Section 4 - Provides that easements and rights of way on or across land that is made available for private use as necessary to reach or use public water and public and private land may include the established trails traditionally used for commerce, recreation or transportation.

Section 5 - Contracts with an appraised value of up to $50,000 may be signed by the Director without the Commissioner's concurrence. (now it is $10,000); leases with an annual rental value up to $5,000 may be approved by the Director without consent of the Commissioner (now $1,000). This section further provides that contracts for negotiated sales authorized by 38.05.115, permits issued under 38.05.330, or shore fishery site leases under 38.05.082 are not subject to written finding requirements of this section.

Section 6 & 7 - Authorizes conveyance to an adjoining landowner parts of land created by a highway right of way alignment or realignment or a parcel created by the vacation of a State owned right of way not to exceed one acre under certain specified circumstances. Parcels conveyed under this section must be sold at fair market value as determined by the Director on the basis of an appraisal. This land may be sold to a person not qualifying as an adjoining landowner if the adjoining landowner declines to purchase.

Section 8 - Requires that auction, lotteries or homesite disposals must be held in a municipality that is "closest to the land to be sold or disposed of and in which regular sessions of the Superior Court are held".

Section 9 - Requires bidders to be present at auction sales of recreational and residential land unless medical reasons or a military service outside the State prevent attendance. A bidder may be represented by an Attorney or Agent if the land offered for disposal is commercial, industrial or agricultural land; technical amendments; changes downpayment from 10% to 5% of the purchase price after deduction of the discount; to allow verifications of discounts, requires Commissioner to have a receipt of sale at auction instead of current requirement that sale contract be signed.

Section 10 - Deletes lottery minimums ($400 per acre general lottery; $100 per acre for agricultural rights; requires the Commissioner to sell for less than fair market value if he determines that scarcity of land for private use in the area of the land to be sold has result in unrealistic land values.

(Under current law this authority is discretionary. Adds a new requirement that applicants be present at the lottery if the land offered is for residential or recreational purposes unless medical reasons or military service outside the State prevent attendance. An agent may represent the applicant if land is offered as commercial, industrial or agricultural land require 5% deposit on day of lottery. Clarifies that the downpayment is determined after deduction of the discount.

Section 11 - Redefines definition of eligible veterans, by eliminating reference to dates of service. An eligible veteran for purposes of veterans' discounts (38.05.058) is a person with 90 days or more active service in the armed forces of the U.S. who has been honorably discharged.

31 only

Section 12 - REMOTE PARCEL PROGRAM. Substantially revises the remote parcel program. Under current law, an individual selected by lottery is entitled to stake a remote parcel which may not exceed 40 acres. After staking, the qualified applicant may lease the remote parcel for five years with an option to renew for an additional five years. The rent for this parcel is $150 an acre for the first five acres, and $50 for each additional acre. At the end of the lease, the lessee is entitled to purchase the first five acres of the parcel if he has surveyed the land and built a habitable dwelling on the land. The lessee may purchase additional acreage over five acres in a remote parcel if he surveys that land and constructs permanent improvements. The purchase price of the remote parcel is the appraised value at the time the survey plat is approved by the Commissioner.

Under CS for HB 31 remote parcel areas would simply be opened to staking rather than sold through semi-annual lotteries. The annual rental is reduced to a flat $10 per acre fee. The Bill adds an additional requirement that unless the land is surveyed the lessee shall within one year of approval of a lease application and continuously for the lease period physically delineate the boundaries of the parcel by brushing the lines so that they are readily visible from the ground. In order to qualify to purchase up to 40 acres, the lessee must survey the land and build a habitable dwelling on that land. Other improvement requirements are eliminated. The lessee may prove the existence and location of this habitable dwelling by executing an affidavit as to its existence and location and including with that affidavit a clear photo and an accurate drawing prepared, signed and dated by the lessee. The lessee must pay 5% of the discounted purchase price of the land. The fair market value is determined as of the date the remote parcel was first leased to the purchaser of the land. Holders of existing remote parcel leases are allowed to convert to the new more liberal terms (See Section 22).

Section 18 - Allows larger than five acre homesite parcels if the Director determines that a larger size is necessary to permit the design of a viable subdivision because of topographic features, soil conditions, sewage disposals requirements or water or drainage supply considerations unique to the subdivision.

Section 19 - Homesite applicants must present proof of residency to the Department in person at the time and place designated by the Director unless medical reasons or military service outside the State prevent attendance.

Section 20 - The definition of "subdivision" in 40.15.190 (2) is amended to exempt State cadastral control plats, open to entry plats, for remote parcel plats regardless of whether these plats include easements or other public dedications.

Section 21 - The Forest Practices Act establishes a Division of Forest, Land and Water Management and provides that the Director must be appointed by the Commissioner from a list submitted by the Board of Forestry. This amendment repeals the requirement to establish a Division of Forest, Land and Water Management and authorizes the Governor to establish a separate Division of Forestry. In addition, this amendment restores to the Commissioner his authority to hire a Director of his choosing to head this new division of Forestry, if created. The net effect of the amendment is to restore to the executive branch its authority to create divisions within the Department of Natural Resources for particular purposes and to hire Directors to head those Divisions in its discretion.

Section 22 - See Section 17

Section 23 - Land Disposals conducted by the Commissioner for fiscal year 1982 shall be in accordance with appropriations to the department for that purpose.

~ Municipality disposals.

Section 24 - Repealers. (1) 38.05.047 - See Section 1. (2) 38.05.065(a) - Repeals auction sale terms language; See Section 9 (3) 38.05.077(b)(2)-repeals reference to "residential purposes" land within a remote parcel; See Sections 12-17 (4) 38.05.078(b)-repeals reference to land "not used for residential purposes" in a remote parcel; See Section 12-17.

Section 25 - Effective date of July 1, 1981.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF COMMUNITY PLANNING POUCH B – JUNEAU 99811

(907) 465-4750

May 19, 1981

The Honorable Bettye Fahrenkamp
Chairman, Senate Resources Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Chairman Fahrenkamp:

The Department of Community and Regional Affairs supports SB 531. We offer the following comments and recommendations:

1. Section 4. LAND DISPOSAL BANK. The Department supports Section 4 which repeals the 100,000 acre annual quota and establishes a demand assessment method for determining the rate of disposal.

   Many of the criticisms leveled at the existing State land disposal program can be traced to the fixed 100,000 acre annual rate of disposal. The fixed quota has perpetuated a short-term program focused on acreage requirements, notwithstanding community impacts, land suitability or demands.

   The Department believes the rate of disposal should be based on a rational, recurring assessment which includes such factors as need and demand for land, suitability and capability of State land to meet demand, other disposal efforts, and funds available for subdivision and disposal purposes, including funds necessary for capital improvements and roads.

2. Section 5. DISPOSAL OF MUNICIPAL GRANT LAND ENTITLEMENTS. The Department strongly supports this section of SB 531. We believe municipalities should be encouraged, not mandated, to establish municipal land disposal programs. Financial assistance is a good form of encouragement. We support a grant or loan program for municipal land disposal.

3. Section 6. We recommend deletion of AS 38.05.035(a)(14)(D), unitization of oil and gas leases.

4. Section 33. NOTICE. This section pertains to requirements for public notice. The Department recommends that the notice requirements in subsection (b), (c), and (d) be changed in the following manner.

(b) Notice of an action described in (a) of this section shall be given at least 60 [30] days before the action by (1) publication in a newspaper of general circulation in the vicinity of the proposed action, (2) publication through public service announcements on the electronic media serving the area affected by the action, (3) posting in a conspicuous location in the vicinity of the action, (4) notification of parties known or likely to be affected by the action, or (5) another method calculated to reach affected persons. A notice shall contain sufficient information to inform the public of the nature of the action and opportunity of the public to comment on the action.

(c) Notice at least 60 [30] days before action under (a) [(2) AND (3)] of this section shall also be given to the following:

(1) to a municipality if the land is within the boundaries of the municipality;

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

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

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

(d) A municipality or a corporation entitled to receive notice under (c) of this section may hold a hearing within 60 [30] days after receipt of the notice. If a hearing is held, the commissioner shall attend the hearing. The commissioner may hold a public hearing at his own discretion.

5. Local Regulation of State Subdivisions. A major issue in the State land disposal program is the extent to which state subdivisions for purposes of land disposals should adhere to municipal subdivision ordinances. Enacted with the quota in HB 66 in 1979 was a provision removing the authority of the local platting board to disapprove a subdivision plat for state land and preventing municipalities from requiring the State to construct access roads and capital improvements in State subdivisions. The reason for instituting this provision was to prevent municipalities from slowing down state disposals.

Section 21 of CSHB 31 (Fin) extends state authority to "override" local subdivision ordinances by exempting State subdivision plats from approval and signature by platting boards before they can be filed in the recorder's office and offered for sale. The Department strongly opposes state "override" authority regarding municipal subdivision regulations. Subdivision regualtions are a key tool for responsible exercise of local government. These regulations are used by local governments to guide land development and protect the community's quality of life. They have a profound influence on the density and location of structures, environmental quality and development costs. To remove municipal authority to approve, disapprove or condition State subdivision plats for compliance with subdivision regulations seriously erodes local platting authority. Without approval or disapproval authority, municipalities essentially have no way to enforce compliance with municipal regulations.

The Department is pleased SB 531 does not contain amendments to Title 40 which would allow the state to file state subdivision plats in the Office of the Recorder without the approval of the platting board or other subdivision authority.

Sincerely,

Marie Matsuno

for Lee McAnerney
Commissioner

cc: Keith Specking

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21 April 1981

APR 23 1981

Senator Bettye Fahrenkamp
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Senator Fahrenkamp,

Enclosed is a copy of a letter to Lieutenant Governor Terry Miller. It is a report in which I present several new findings about state land disposal programs based on recent and ongoing work as much as it is a letter. It is in this capacity that I share it with you. To recapitulate the findings:

- Out of every 100,000 acres offered for sale using the subdivision lottery, homesite, and remote parcel programs, less than 20,000 acres will pass ultimately into private ownership.

- Only about 2,2[illegible] Alaskans directly benefit from each 100,000 acre disposal by becoming owners of state land.

- There is nearly an equal number of people who win the right to acquire state land through these programs and then reject it. This process does not occur in a casual manner. It starts with people who are excited by winning lottery land; it ends with their feeling almost betrayed by the state. In between is the monetary cost, pain and anger they experience.

- Based on DNR land disposal budget requests rather than actual expenditures, it appears that there will be a net loss of revenue to the state of about $17,400,000 for each 100,000 acre offering using these programs.

I discuss Freemanizing 20 percent of borough entitlement lands as provided for in HB 31 at the end of the report. Whether or not this or similar land legislation passes this year is not a central issue in my judgment. How long it will be before a wholly new policy and technical approach is taken to state land disposal is. There are few, if any, legitimate reasons for us not accomplishing a good and effective state land disposal program directed at meeting real land needs of Alaskans.

The "letter" is divided into three sections:

BACKGROUND ON LAND DEMANDS.....Page 1
HOW WELL HAVE STATE LAND DISPOSAL PROGRAMS FARED?.....Page 4
WHAT CAN BE DONE?.....Page 7

A graphic on Page 5 summarizes how 100,000 acres offered using these programs result in less than 20,000 acres of land sales.

I appreciate your time in reading this.

George E. Gee

economic and resource management consultant
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george E gee

Terry Miller
Lieutenant Governor
Pouch AA
Juneau, Alaska 99811

21 April 1981

Dear Terry Miller,

I'm told that one must be brief to command the attention of high public officials and legislators. I will not for brevity sake submit a one page summary. The matter is too critical, too explosive. A clock is ticking with 100,000 acres of state land offerings a year precipitating unthought-out land ownership patterns that carry enormously high price tags. We cannot even calculate the costs.

We are sacrificing resource development opportunities. We are creating a mishmash of potential demands for services. We are defacing and dissipating public use lands with NO TRESPASSING signs. We are heedlessly altering natural environments. We are overburdening fragile subsistence systems and destroying lifestyles dependent upon them. More immediately -- and tragically -- we are violating the trust of thousands of people who win state land only to learn it is a worthless prize. They become disillusioned, hurt, and angry.

We cannot band-aid these problems away. Removing the quota is not even a big enough bandage. We need new policy directions. We need different types of technical expertise. We must cultivate a sensitivity to the impacts of government programs on individuals. We need, most of all, insightful and courageous leadership and I know not whence it will come.

BACKGROUND ON LAND DEMANDS

The one dominant factor central in all types of land demand is population growth. In Alaska, population growth predominately proceeds from the creation of or decline in employment opportunities. Although the private sector has a leading role in directing economic events, the State of Alaska, through management and use of its land entitlement and its participation in the placement, funding, design and construction of infrastructural improvements has played and will continue to play a large role in shaping patterns of economic development within the state. *So one aspect of the state's land disposal program traces through to any deliberate or unintentional effects of the state's economic development program.*

As focus shifts from population to land markets, there are three distinctions in the latter that are useful for evolving an effective state land disposal program. That is, it is useful to focus on three types of land demand. First, there are land demands that are area-specific (relative to a population center). The most obvious example is the demand for residential land, although there are also area-specific demands derived from commercial,

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industrial, recreational, agricultural and other types of land uses. A principal characteristic of this type of demand is that the area affected more or less can be geographically delineated with respect to a population area. Residential land demand areas are largely congruent with effective labor market areas. Although labor market areas are not fixed nor are their geographic extent always apparent, good working definitions of effective labor market areas -- and residential demand areas -- are not difficult to formulate.

The second type of land demand predicated on direct physical uses of land is functionally related to population growth but is not area-specific in relationship to any population center. The best example is land demand for private recreational use. A principal feature of this type of use is that it is occasional or seasonal rather than daily and consequently suitable land can be located far away from a person's place of residence and work. A good proportion of this type of demand is for land in wilderness settings although the full spectrum of desired private recreation activities include readily accessible land in settled areas of the state. On the demand side, of any systematic analysis of land demands of this type, the concentration of attention on population growth is still warranted, but location of land becomes subjugated to the importance of other factors as a principal analytical feature on the supply side. The land demand for private recreational uses -- and other non area-specific uses of which there are many -- approximate a statewide demand.

If the geographic approach to describing, analyzing, forecasting, and selling land to meet area-specific land demands is characterized as demand oriented, the comparable approach to nonarea-specific demands is supply oriented. The former defines an area of analysis in terms of population features and systematically seeks functional relationships between demand factors and suitable lands within the area. The latter defines the "area of analysis" in terms of lands having site features indicating suitability for different types of nonarea-specific land uses and strives to usefully link these with many population areas.

There can be considerable overlap in these two different types of demand. Some people want to live, partially subsisting on gardening, fishing, and hunting, in a wilderness area away from the hubbub and pressures of already settled areas. Some people want recreation land that is readily accessible -- particularly waterfront land that can be used for staging frequent excursions into more remote settings for fishing, hunting, hiking, skiing and other types of recreational activities. The fact of overlapping demand and supply categories does not significantly diminish the potency and usefulness of adopting the proposed distinctions in demand types.

Complex relationships with other types of important problems can be conceptually and analytically evolved for each type of demand. For example, land demand for residential use is distinguishable from housing demand but is related to it. In identifying the available supply of "residential land" independent of any public disposals, the focus is on undeveloped

land. Once housing is constructed -- whether single family residences or multi-family units -- it is as if it is "consumed" from the perspective of future new residential use. The commodity under consideration is undeveloped residential land rather than developed housing units.

Since federal land conveyances to private owners have terminated, the only expansions in privately owned, undeveloped land bases are from lands made available for private purchase by the state or local governments. In every major population area, the rate of consumption of private undeveloped land -- of conversions of land into developed uses -- has greatly exceeded the rate of additions to the private land base through public disposal programs. As a result, the two principal allocative functions of land prices are strongly evident. Relative prices are used by buyers in their selection of parcels for purchase from all available options; prices are also used to allocate the use of the stock of undeveloped private land over time. This is reflected in land prices predictably spiraling upwards at rates in excess of inflationary increases, even in areas where there would appear to be ample quantities of undeveloped private land available. High rates of real return to land ownership have ultimate effects in housing markets. If land ownership produces a substantially greater return than do investments in housing, an area's housing vacancy rate shrinks, forcing housing prices and rents up and up, until a relative balance becomes established between the rates of return to land and housing investments. As this occurs; more housing comes onto the market. Throughout this process, a community undergoes the throes of a tight housing market, a widespread, familar phenomenon in Alaska that is perplexing to people because they see ample amounts of undeveloped land in their vicinity and usually blame land speculators for keeping it off of the market.

The third type of major land demand is for investment or speculative purposes. A distinction is drawn between "investment" and "speculation" only because so many buyers object to being classified as speculators. People who buy land before they have plans for immediate and direct use are called investors here rather than speculators whose only intent is to resell the land for profit at a later date. The markets for investment and speculation in land are secondary to and dependent on the markets for direct physical use of land, whether area- or nonarea-specific.

These simple distinctions are critically important. Two entirely different approaches have to be taken in the disposal of land for direct uses. One -- area-specific -- requires an area-by-area approach in setting objectives, administering disposals through alternative programs, making road and sewer investment decisions, and monitoring programs to discover and correct mistakes. On the other hand, objectives and implementation for nonarea-specific land demands must be handled differently. Thirdly, the only practical way to attract or discourage investment or speculative purchases of state land is by successfully conducting the disposal programs for other types of demand in desired ways. An effective and successful state land disposal program simply demands hard, long, exacting, and well-directed work; wishing and knocking-on-wood with simple-minded quotas and well-named programs do little

to meet the legitimate land demands of the people in this state while they do court disasterous consequences.

HOW WELL HAVE STATE LAND DISPOSAL PROGRAMS FARED?

State land disposal programs superficially accommodate differences between area-specific and nonarea-specific land demands. Subdivision lotteries and homesites appear to be designed to target lands for residential uses; the remote parcel program provides for recreational land demands. In their design and implementation, these programs have failed dismally: in numbers and in people impacts. First, the numbers.

Based on the first three land lotteries, only 43 percent of the lots offered in subdivision lotteries are applied for. The 57 percent remaining in state ownership are judged by Alaskan residents to represent excessive offerings or land of too poor of quality. About 10 percent of the winners of subdivision lots later find the land fails to meet their minimum expectations and they relinquish their rights to the land.

Of every 100,000 acres of state land offered for private purchase in the subdivision, homesite, and remote parcel lotteries, 31,000 acres are subdivision lots. Assuming a success rate of 40 percent, only 12,500 acres are ultimately transferred into private ownership. At an average parcel size of 8.3 acres, about 1,500 persons acquire subdivision lots per 100,000 acres offered using the three programs.

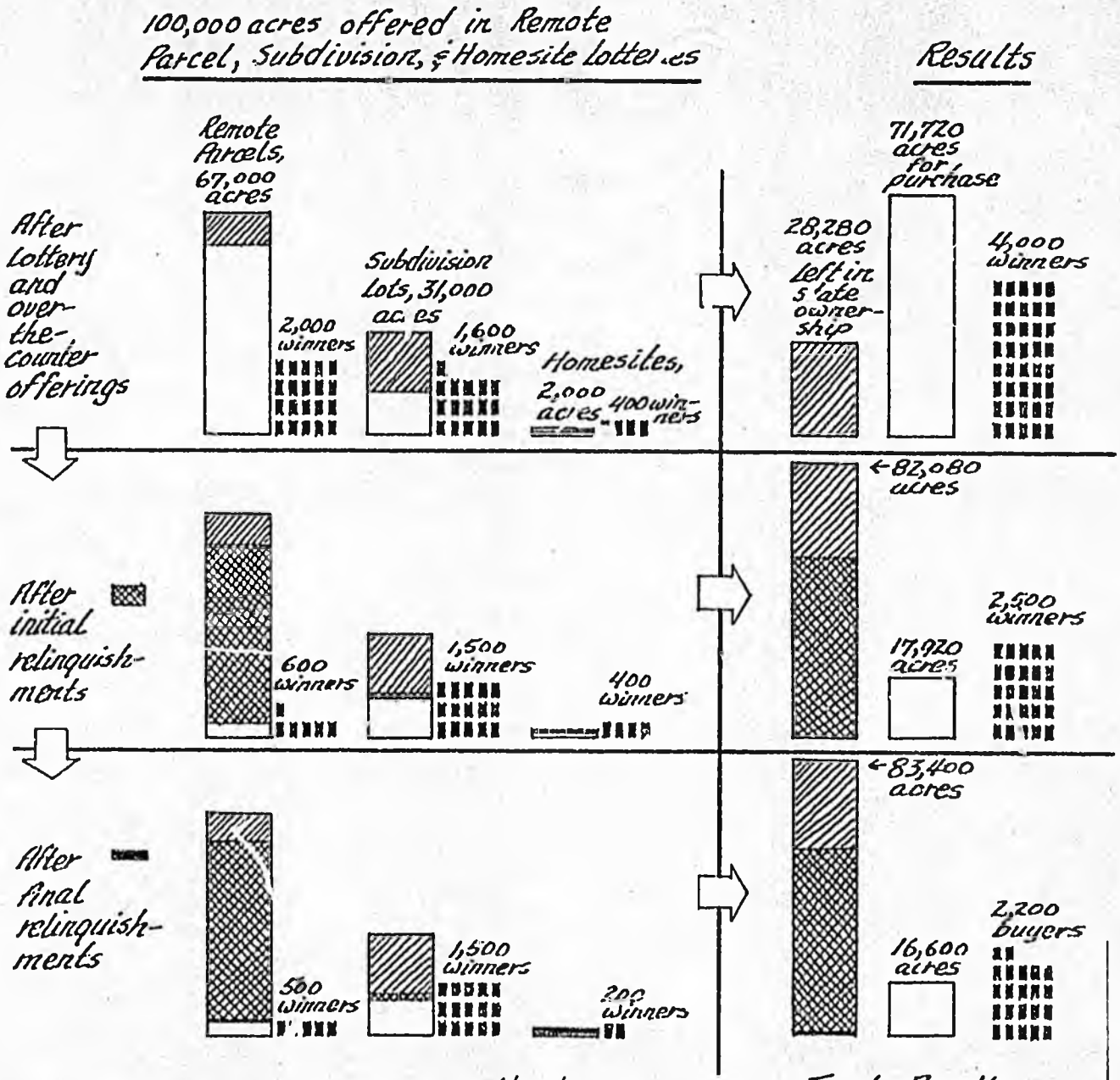
The remote parcel program is the most and least successful of the state's disposal programs. Proportionally more parcels are applied for and less acreage conveyed into private ownership than in the others. At lottery, 65 percent of the available entry awards are applied for and won. But of the winners, only 29 percent stake parcels for lease and ultimate purchase. Reasons for this dramatic attrition rate will be presented later. Whatever the reasons, only 25 percent of the parcel opportunities are actually accepted. Of the 25 percent that stake parcels, few take full advantage of the available acreage allotment. Rather, the average remote parcel staked is about 7 acres in size. Finally, based on the historical rate of lapses of OTE leases obtained between 1968 and 1973, an estimated 15 percent of the people who lease remote parcels will not purchase the lots.

Of every 100,000 acres of state land offered through the programs under consideration, 67,000 acres are available as remote parcels. Fifteen percent of the parcels are not applied for. This means about 10,000 acres stay in state ownership from the start. Relinquishments prior to staking by 71 percent of the winners leave about 40,200 additional acres in state ownership. The election to stake and lease parcels that are smaller than the maximum allowed size leaves 12,700 more acres in state ownership. If 15 percent of the leased parcels are relinquished prior to purchase, some 600 acres would be returned to state ownership. Consequently, of 100,000 acres offered using these three programs, only 3,500 acres pass into private ownership through the remote parcel program. At 7 acres per parcel,

These will be owned by 500 persons.

The final component of 100,000 acres offered is 2,000 acres of homesite parcels. At lottery, about 72 percent or 1,440 acres are applied for. The program has not been in use long enough to indicate how many homesite winners will acquire their land by complying with building and habitation requirements. A representative of DNR's disposal program estimates that in the best homesite offering made in 1978 -- consisting of accessible lots -- less than 45 percent of the successful applicants will meet the program's requirements by the deadline this year. If 50 percent is assumed to succeed on average, then about 720 acres will be "purchased" ultimately by about 200 persons.

These relationships are summarized graphically below.



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For every 100,000 acres offered by the state through the remote parcel, subdivision, and homesite programs, less than 20,000 acres become privately purchased. This is one indication that there are fundamental problems in the state's disposal programs.

A related but different type of indicator is the great attrition in claims on remote parcels during the time between winning entry rights at lottery and staking parcels. *The initial high success of remote parcel offerings suggests that people's imaginations are fired by the prospects of owning such a parcel. But the exhilaration of winning becomes twisted by real circumstances into feelings of loss, disillusionment, and, sometimes, betrayal.* According to comments by winners made in response to a DNR survey, many do not inspect areas they apply for prior to winning. When they do, frequently they find the land is such poor quality that they do not want to own it. There are cases of persons staking their parcels in the winter only to find them submerged in a flood plain in the summer. These people don't merely relinquish their claims; they relinquish after they have spent time and money to get to the area. They feel defrauded by the state. One respondent put it this way: *"...It's been an expensive lesson for me, accumulated lottery fees, time off work, renting an airplane and pilot, etc....I think the state is deliberately putting up poor, inaccessible areas, just to fool the public into thinking the state is really trying to get land out to Alaskans."*

Perhaps the most prevalent problem contributing to remote parcel relinquishments and small acreage selections by people who stake parcels is the uncertainty and risk inherent in having to lease and improve property, on an acre-by-acre basis, and having to pay for a survey, prior to knowing what the final purchase price will be. A Wasilla resident writes: *"There are many problems with the Remote Parcel program, I'll list a few. (1) Lease rate is much too high. (2) Lease cost should be deducted from the purchase price. (3) The staking instructions make it impossible to purchase the exact plot you want. It is beyond me to see why you think you need such ridiculous staking instructions.... (4) You seem to have an inflated view of just how much remote land is worth. By the time a person stakes the land, makes the necessary improvements, pays the surveyor, pays the lease for a number of years, and then pays the purchase price, he will have invested more time and money in the land than it could possibly be worth."*

Similarly, a Fairbanks resident comments: *"I must be crazy because I'm working to improve land which I don't know yet I can afford. Problem is, I have had estimates (by Division of Lands employee) ranging from $50 to $1000 per acre. That's $28,000 tops or $1,400 at the low end...would you buy land like that? Problem -- how do I improve land "in keeping with the wilderness character" of that land? I don't feel that wilderness can be improved, only scared. "As Is" is beautiful. Problem -- my lease payments are not applied to my final purchase.... Problem -- no state guarantees that remote lottery areas will not be sub-divided and distributed by the state at some future date.... Problem -- you asked but do you listen?"* In the survey, there were eight people who had problems with the remote parcel program for every one who was a strong proponent of it.

The lack of success of the state land offerings seems to translate into a very poor fiscal performance. Apparently it takes about $300 an acre of operations and survey costs to run a 100,000 acres a year disposal program. The subdivision lottery program in which lots are sold outright is the principal source of revenues from these disposals. On average, these sell at about $750 per acre after price discounts. Consequently, these sales generate about $9,300,000 of revenue for the program. If remote parcels are evaluated to have the same per acre sales value and are purchased after five years, they would generate in lease and purchase payments about $3.3 million. Assuming that the homesites that are awarded return $200 per parcel for surveying costs, they would generate about $40,000. Consequently, total revenues to the state for a 100,000 acre offering would be only about $12,640,000. *The state is taking an estimated $174 per acre loss for these transactions; oil pays the bill anyway.*

Another fundamental problem is that *over 70 percent of the subdivision and homesite sales are to people who do not live in vicinity of where the land is located.* Such sales do not directly help offset an area's land needs.

Finally, there are at least two types of equity issues at stake. The disposal programs are seemingly guided by a "share the wealth" policy. That is, it's aimed at making the opportunity to acquire state land equally available to all qualified citizens rather than at meeting specific land needs. *When only 2,200 people successfully acquire land per 100,000 acre offering, it would take about a century to get one parcel to each qualified person currently living in the state.* A second equicy issue is that *the discounts grant winners of subdivision lots about $3,400 in discounted prices for winning while the state records a net loss for all other Alaska citizens from operating the land sale programs.*

WHAT CAN BE DONE?

Every type of problem which plagues state land disposal programs can be solved. It will not be accomplished by passage of HB 31 or any other band-aid approach.

In a may 1979 paper submitted to DPDP, I commented on the passage of HB 66:

"There is probably very little that can be done to alter the legislature's course of action. The legislature was not poorly motivated; it acted out of frustration, without good information, and with little understanding of the consequences of what it was doing. Another change of direction by this group probably will await a significant buildup of pressure from all the groups that will be badly affected by the recent legislation. The legislature in any case is an institution ill-equiped to design and manage an effective land program.

"A key step will have been accomplished when the Administration makes a strong commitment to developing a comprehensive program for state land management...."

I still recommend two fundamental changes in the administration of land disposal programs suggested in an October 1980 paper submitted to DPDP:

- "Formation of a high level, interdepartmental administration group is recommended. This group's chief responsibilities would be to: 1) set land management and disposal policy objectives, 2) annually review the operation of the DNR's management and disposal programs, and 3) arbitrate when routine decision making processes involving divisions within DNR that represent different resource interests or interdepartmental representatives result in certain types of conflict. The objectives setting function is not conceived as overlapping with the legislature's responsibilities. Rather, it is to translate general directive and advisory policies set by the legislature into practical guidelines for routine decision processes concerning land management and disposals. The second function is to monitor progress made toward the objectives set and thereby to review the effectiveness and appropriateness of the objectives and their implementation procedures. The third function can be probably accomplished by establishing a process by which certain types of decisions can be appealed to the group."

Almost every problem described in this letter could be solved with relative speed within such a framework. Depending on the legislature to serve in the above capacities is like asking a dinosaur to pick daisies. DNR ought not to be expected to fairly represent the full range of state policy objectives from economic development plans to wildlife habitat management to protecting lifestyle preferences of people living in sparsely settled areas.

- "The second program administration change recommended is adoption of area-by-area disposal planning procedures to generate information on which disposal decisions can be based. DNR has already made great strides in developing the procedural foundations and technical capabilities for regional and area land management and disposal planning. Realistically, this approach will need several more years of development and refinement before it becomes established as the state's hallmark land planning tool. This does not imply that area-by-area planning has to be sacrificed during the interim, it means that more highly judgemental and ad hoc procedures must suffice until more technical and standardized methods are in place and fully functional.

"Specific interim procedures and techniques for accomplishing area-by-area disposal planning can best come from DNR's planning staffs. Here, it is envisioned that formal disposal planning relationships can be established with boroughs and formally established land committees in sparsely settled areas in the unorganized borough where significant quantities of state land exist. Instead of basing disposal decisions on technical analyses of physical land features, an area's land and supply conditions, and prospects for economic development of resources on state land, these ad hoc procedures would be aimed at tapping and using local knowledge of these important indicators.

"These relationships would not require the state to subordinate broad state

interests to local autonomy. It is desirable that the rationale for overriding local interests in most instances be based on explicit policy objectives and be presented locally. On the other hand, formation of these formal relationships would tend to reassert the importance of local determination in state land disposal planning. Except in rare circumstances, the people residing in the vicinity of state land are most affected by management, use and disposal decisions about that land.

"A model which might be used for forming these planning relationships is the joint-consideration process established for the transfer of state land to municipalities."

It is incredible how committed the legislature can be to "statewide" solutions to the dire land needs of citizens of Alaska. The statewide acreage quota within which are program quctas is one example. The override of municipal subdivision requirements is another. In HB31, the House of Representatives is now considering making boroughs -- areas where most of the state's population reside and consequently where land needs are most pressing and underlying land conditions are most complex -- let the state sell 20 percent of their entitlements. Any opposition to Freemanizing borough land programs seems to be interpreted by House members as opposition to getting land into private ownership.

That the state disposal programs have been nearly disasterous in their potential consequences on people already living subsistence lifestyles in remote areas, on municipal costs of providing services, on natural or recreation areas, and on winners of state land seem hardly to be legitimate concerns on the part of boroughs when they are comtemplating a direct state role in their disposal programs. That the state programs disperse ownership of the majority of lots sold to buyers in other areas of the state seems not to be a legitimate concern. That the state's administration of disposals under the direction of the legislature has a dismal track record of identifying and correcting disposal problems as they occur on an area-by-area basis seems to be just more opposition to getting land to the people.

Ironically, the municipal entitlement act passed in 1978 is probably the most important state disposal program the state has developed in that it affects areas where most of the state's population growth occurs and it enables land sale programs to be designed and conducted to meet land needs on an area-by-area basis. The municipal entitlement act closed the gap between the politics of land disposal, program administration and implementation, and voters' oversight. Local accountability is the key feature of control over the amounts and types of land offered for sale and the program's costs that the state's land sale programs have been unable to achieve.

Unfortunately, the strength of the legislature's commitment to statewide solutions in no ways alter the fundamental area-by-area nature of many of the state's most pressing land problems.

Thank you,
George E. Gee

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MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF TECHNICAL SERVICES

TO: Claud M. Hoffman, Director
Division of Technical Services

DATE: September 12, 1980

FILE NO: 1553

THRU: Warner T. May, Acting
Chief Title Administrator

TELEPHONE NO: 263-2242

FROM: George Nichols
Land Management Officer
Title Defense

SUBJECT: Introduction of Legislation in 1981 Session - Extension of Repurchase Rights

Problem 1 date & method of recording

notice

It has become apparent that Section 26, Chapter 182, SLA 1978, must be amended during the 1981 Legislative Session. The necessity for such action was precipitated by a change in policy by the Attorney General's Office regarding the properties that are elgible for Repurchase under Section 26. (See Attachment A)

Section 26, Chapter 182, SLA 1978 reads as follows:

> *Sec. 26. A right of repurchase created by former AS 34.10.220 and existing on the effective date of this section may be exercised only if it is exercised under the statute within three years following the effective date of this section. The division of lands shall publish notice of the expiration of all such repurchase rights in the manner provided by AS 38.05.345 before January 1, 1979 and again before January 1, 1980 and before January 1, 1981.
>
> *Approved by the Governor: July 18, 1978
> Actual Effective Date: Secs. 1, 2, 8-16, 22 and 24-26 take effect July 1, 1978, secs. 3, 5-7, 18 and 19 take effect as provided in sec. 27 of this Act; sec. 17 takes effect as provided in Sec. 29 of this Act; sec. 4 takes effect as provided in secs. 27 and 28, and repeals provided in sec. 20 take effect as provided in secs. 27, 28, and 29. Sec. 21 takes effect July 19, retroactive to September 21, 1977.

The date of July 19, 1981 was established by the Division of Forest, Land and Water Management as being the termination date for Repurchase Rights under Section 26. This date was established as a result of a memorandum (Attachment B) from Alice L. Iliff to a distribution list including the Attorney General's office. The date of July 19, 1981, has been used in the two publications to date.

It is my recommendation, that Section 26, Chapter 182, SLA 1978, be amended as follows:

> A right of repurchase created by former AS 34.10.220 and existing on the effective date of this section may be exercised only if it is exercised under that statute before

July 19, 1981 for properties that were foreclosed on and deeded to the State of Alaska after May 3, 1959, or before July 19, 1983, for properties that were foreclosed on and deeded to the Territory or State of Alaska before May 4, 1959. The Division of Technical Services shall publish notice of the expiration of [ALL SUCH] repurchase rights in the manner provided by AS 38.05.345 before [JANUARY 1, 1979 AND AGAIN BEFORE JANUARY 1, 1980 AND BEFORE] January 1, 1981 for all repurchase rights, and again before January 1, 1982 and before January 1, 1983 for repurchase rights on properties that were foreclosed on and deeded to the Territory or State of Alaska before May 4, 1959.

This Act takes effect immediately in accordance with AS 01.10.070(c) and is retroactive to July 19, 1978.

Note: The basic wording and format was provided by Mr. David Creekman, Regulations Coordinator, Division of Research and Development, but with some minor changes. Mr. Creekman's presentation is shown as Attachment C. A draft bill is shown as Attachment D for your consideration.

The following provides the background for the recommended change:

The Right of Repurchase as stated in Section 26, has only applied, to date, to properties that were foreclosed upon and deeded to the State of Alaska, after May 3, 1959. This cut-off date was established by the Attorney General's Office as the result of a Memorandum opinion written by Assistant Attorney General Thomas E. Meacham, dated September 20, 1978. (Attachment E) Mr. Meacham's opinion was based on the premise, that properties foreclosed on and deeded to the Territory or State of Alaska prior to May 4, 1959, contained fixed time limits for Redemption (not Repurchase), and such time limits had long expired. Therefore, such properties were not affected by Section 26 since the Right of Redemption was not derived from AS 34.10.220. AS 34.10.220 was enacted on May 4, 1959, and this statute established Repurchase Rights. Under AS 34.10.220, the rightful owners right of repurchase could be exercised at any time after a property was foreclosed on and deeded to the State, with the exceptions that a repurchase right would be terminated if the State sold such property or if such property was dedicated to an authorized public use. Under Land Registration Laws that were established prior to May 4, 1959 (the date that Repurchase Rights [not Redeemption Rights] was established), properties foreclosed on and deeded to the Territory or State, could only be Redeemed. The Redemption Rights had fixed time limits or periods in which properties could be redeemed. If such properties were not redeemed (not repurchased) during those periods of time, the properties were forever, barred and foreclosed upon.

Thus, only foreclosed upon properties that were deeded to the State after May 3, 1959, have been given the opportunity of being reclaimed (Repurchased).

On January 15, 1980; Mr. Meacham's opinion was withdrawn and reversed by a Memorandum opinion (Attachment F) written by Assistant Attorny General Barabara J. Miracle, with the assistance of Thomas Meacham. In this Memorandum, the issue of whether the extension of the three-year redemption (I assume they meant repurchase) right by the 1978 Repealing Act applies to properties foreclosed on prior to May 4, 1959. Miracle and Meacham concluded that the redemption (I assume they meant repurchase) right applies to all properties that wer foreclosed under the 1953 Land Registraion Act. Ms. Miracle also concluded that in order to avoid claims of insufficiency of notice, the properties that were foreclosed on and deeded to the Territory or State prior to May 4, 1959, which have not been noticed during the last two years as required by the statute, should receive additional notice beyond 1980.

Since the Land Registration Act of 1953, as amended, was repealed and signed into law on July 18, 1978; the properties that were foreclosed on and deeded to the State after May 3, 1959, have been advertized or noticed twice. The third and final notice will be advertized before January 1, 1981. The Repurchase Rights expire on July 18, 1981, for the properties so noticed to date.

My recommendation is to "Notice" the properties that were foreclosed on and deeded to the Territory or State prior to May 4, 1959. One notice can be accomplished on such properties under the existing Section 26 statute, before January 1, 1981. However, second and third notices (before January 1, 1982 and January 1, 1983) cannot be accomplished under the existing statute, which states that all repurchase rights will expire on July 19, 1981. Thus, it will be necessary to introduce legislation for the consideration of the 1981 Legislative Session in order to provide the pre May 4, 1959, foreclosed upon properties, two (2) additional years of "Notice", and to extend the Repurchase Rights to July 19, 1983 for such properties.

It has been discussed that <u>all</u> properties elgible for Repurchase, including the properties that have been advertised twice, should be advertised the additional two (2) years (beyond the third notice coming up in December 1980) and that the Repurchase Rights be extended to July 19, 1983 for all Reourchase properties. On the surface, this would not be advisable in that the post May 3, 1959 properties would acquire an additional two years of grace over the pre-May 4, 1959 foreclosed on properties. Such an action could possibly create an ongoing monster.

However, a possible problem may exist in that some or all of the "Notices" that have been accomplished to date could be challenged by a rightful owner, based on insufficiency of "Notice".

To date, two advertisements or Notice periods have occured. The first Notice was to have been accomplished before January 1, 1979 for 1978. The second Notice was to have taken place before January 1, 1980 for 1979.

According to AS 38.05.345 (Attachments G & H), three (3) Notices should have been published prior to January 1, 1979 and four (4) Notices should have been published prior to January 1, 1980. Also, my interpretation of the Statute is, that the advertisement was to have appeared in at least one (1) newspaper of general circulation in the vicinity of each parcel, for the pre-January 1, 1979 publication. For the January 1, 1980 Notices, we were to publish in newspapers of general circulation in the State (and not in the vicinity of each parcel). Also, when there is no newspaper of general circulation in the vicinity of the parcel(s), Notices were to be posted in three public places near the land (each parcel) for the properties that were to be advertised prior to January 1, 1979. The same applied to the pre-January 1, 1980 Notices, except that the Notices were to be posted four (4) weeks prior to January 1, 1980. There was not a time constraint placed on the pre-January 1, 1979 posting. Also, the pre-January 1, 1980 Notice(s) must be aired on electronic media in the region of each parcel, once a week for four (4) consecutive weeks, with the last airing to be before January 1, 1980. Note: all requirements for the pre-January 1, 1980 Notice period, also, applies to the pre-January 1, 1981 Notice period.

All or parts of each of the requirements of Chapter 26 and AS 38.05.345 stated above, have been violated or omitted by the Department of Natural Resources (District offices) in the two Notice periods that have taken place to date. A review by District of such violations or omissions is found in Attachment I. Such infractions, in my opinion, could create an ongoing monster as time goes on if not corrected. I believe that a rightful owner would be in a good legal position if he, she challenged the State for repurchase after the termination date for repurchase expires on July 19, 1981. This situation might get even more binding if the State should sell such a property to another party. Such a proposition suggests that it might behoove the State to extend the Repurchase Rights to July 19, 1983 also, rather than July 19, 1981; for properties that have already been advertised two times and that were foreclosed and deeded to the State after May 3, 1959. This extension would allow us to readvertise in a proper manner (according to AS 38.05.345). If not extended the alternatives might be that a controversy may never develop because of insufficiency of notice; that if such a controversey or controversies should arise, they could be resolved through administrative error remedies; or that such controversies could involve the State and/or a third party in a lawsuit.

If the Department of Natural Resources should decide that the Repurchase Rights should be extended to July 19, 1983 (and readvertised), for properties already advertised, together, with the pre-May 4, 1959 properties, draft legislation could be developed within a short period of time.

In conclusion, a decision must be made as to whether the Repurchase date extension of July 19, 1983 should apply only to the properties foreclosed on and deeded to the Territory or State prior to May 4, 1959, and not as yet

advertised or "Noticed"; or if the extension should apply also to the previously advertised properties. Also, a critique is requested on the proposed legislation made part of this report.

Time is of the essence, since the proposed legislation should be processed through the necessary channels soon as possible so that it will be ready for the 1981 Legislative Session.

Attachments:

A - Section 26 Legislation (1978)
B - Iliff memorandum
C - Creekman draft legislation
D - Draft Bill
E - Meacham memorandum
F - Miracle memorandum
G - AS 38.05.345 (Applies to 1978 Notice)
H - AS 38.05.345 amended (Applies to 1979 & 1980 Notices)
I -District Office(s) Notice Review

GN:sa

like House version

no nominations

6(j) dup

Jim Palmer
Senate Resources Committee

Jeff Haynes
Deputy Commissioner

The following contains a section by section comparison of the Senate Bill draft with CS for HB 31.

Section 1 - Same provision in CS for HB 31.

Section 2 - No parallel provision in CS for HB 31.

Section 3 - No parallel provision; this section was considered by the House Resources Committee and rejected.

Section 4 - Substantially similar to Section 2 of HB 31. Please note the following differences:

a. 38.04.020(i) of ~~your~~ Senate bill deletes the reference to 38.05.070 and 38.08 (see page 5, subsection (i) of CS for HB 31);

b. The Senate Bill does not include 38.04.020(j) (page 5 of CS for HB 31) and 38.04.020(k) (page 5 of CS for HB 31). 38.04.020(j) authorizes persons or agencies to

nominate land retained in State ownership for inclusion in the land disposal bank or visa versa. 38.04.020(k) authorizes the Commissioner to withdraw from the land disposal bank State land that has been offered for disposal but not conveyed within five years after inclusion in the bank.

Also note that 38.04.020(j) on page 6 of the Senate Bill essentially duplicates 38.04.020(g) on page 5 of the Senate Bill. 38.04.020(g) precisely parallels CS for HB 31 (38.04.020(g) and is the preferred approach.

Section 5 - CS for HB 31 adopts a different approach re: municipal land disposals; see Section 3 and attached Sectional Analysis for CS for HB 31.

Section 6 - No parallel provision in CS for HB 31.

Section 7 - Same provision in CS for HB 31; see Section 4. Note technical difference in how this section is handled in both bills.

with technical change

Section 8 - Same provision in HB 31; see Section 5

Section 9 - No parallel provision in CS for HB 31.

Section 10 - No parallel provision in CS for HB 31.

Section 11 - Same provision in CS for HB 31, see Section 6.

Section 12 - Same provision in CS for HB 31; see Section 7.

Section 13 - Same provision in CS for HB 31; see Section 8.

Section 14 - Ditto; see Section 9.

Section 15 - Ditto; see Section 10.

Section 16 - No parallel provision in CS for HB 31.

Sec 17 - No parallel provision in CS for HB 31.

Section 18-24 - Same as sections 12 - 17 of CS for HB 31 with the following exceptions:

a. Section 18 in the Senate Bill (Section 12 of CS for HB 31) has been rewritten to require that the Commissioner set the number of remote parcels that may be selected in each remote parcel area. This provision is permissive in CS for HB 31. The Senate Bill also omits technical reference to classification.

b. Section 21 requires lessee to certify that he has not purchased land (except Ag, industrial and commercial) within 10 years of July 1, 1978. In CS for HB 31, he need only certify that he has not leased a remote parcel within eight years (see Section 15, CS for HB 31).

c. Sections 22 and 23 of the Senate Bill make several changes not covered in CS for HB 31 including deletion of the habitable dwelling requirement and setting purchase price as 5% of the fair market value ~~reqiring~~ as determined by the Commissioner at the time of lease (see Sections 16 and 17 of CS for HB 31). In addition, Section 24 of the Senate Bill adds two new provisions to 38.05.078 which are not contained in CS for HB 31. Other changes contained in the Senate Bill relating to the remote parcel program are technical only.

Purchaser ~~pays~~ pays full FMV at time of last leased parcel)

Section 25 - No parallel provision in CS for HB 31

Section 26 - No parallel provision in CS for HB 31.

Section 27 - No parallel provision in CS for HB 31

Section 28 - No parallel in CS for HB 31.

Section 29 - No parallel provision in CS for HB 31.

Section 30 - No parallel provision in CS for HB 31.

Section 31 - No parallel provision in CS for HB 31. Note, however, the Department has prepared an alternative notice provision which is attached to this memorandum.

Section 32 - No parallel provision in CS for HB 31.

Section 33 - No parallel provision in CS for HB 31.

Section 34, 35 & 36 - No parallel provision in CS for HB 31. However, see attached notice rewrite.

Section 37 - Substantially similar to Section 19 of CS for HB 31. However, Senate Bill does not include medical reason or military service outside the State excuses for failure to attend.

Section 38 - Senate Bill adds repeal of 38.05.078(d)(1) and 41.01.100. The Senate Bill does not repeal 38.05.047 (see Section 24 of CS for HB 31) which was incorporated in the rewrite of 38.04.020 (see Section 3 of Senate Bill; section 2 of CS for HB 31).

Section 39 - No parallel provision in CS for HB 31.

Section 40 - No parallel provision in CS for HB 31.

Section 41 -42 - The Senate Bill contains two alternative provisions which essentially accomplish the same result.

Section 42 is closest to CS for HB 31. (See Section 22 of CS for HB 31). Note that Section 41 of the Senate Bill specifically prohibits remote parcel lease convertees from recovering lease payments made before July 1, 1981. This provision is not contained in CS for HB 31.

Section 43 - Same effective date.

Provisions in CS for HB 31 not contained in the Senate Bill - Sections 11, 18, 20, and 21. Other additions have been noted above.

SECTIONAL ANALYSIS FOR
CS FOR HB 31 (RESOURCES)

Section 1 - If a municipal selection or nomination is rejected by the Director, a municipality may select additional State land of equal area to satisfy its entitlement not later than 90 days after receiving the Director's rejection.

Section 2 - LAND DISPOSAL BANK. Consolidates AS 38.04.020 (land disposal bank provisions) and 38.05.047 (classification and disposal procedures for land within municipalities); clarifies confusing provisions in both sections of the law; makes a number of substantive changes to these laws primarily relating to classification of land outside municipalities, the quota and funding of capital improvements. Specifically:

Requires Department of Natural Resources to finish classifying all State lands either as land disposal bank lands or retained multiple use lands by July 1, 1983. (Current law only applies to lands within municipalities). All land suitable for disposal of fee simple title including commercial, industrial, agricultural, residential and recreational lands would be included in the land bank. (Under current law, agricultural lands are not included in the land bank). Lands conveyed to the State by the Federal government which are to be retained in State ownership or deposited in the land disposal bank consist of those lands classified by the Commissioner within two years of receipt of tentative approval or patent whichever occurs first. The bank must contain at least 500,000 acres. (No change).

On January 15 of each year the Department is required to report to the Legislature the status of land in the land disposal bank. The 100,000 acre annual quota is repealed. Instead, Department of Natural Resources is required to submit annually a recommendation based on assessment of demand for disposal of State land in the land disposal bank. The request must include an estimate of the amount necessary for (1) survey and disposal of land proposed to be made available for remote parcel staking for the succeeding fiscal year with the general location of the land (2) survey and disposal of land to be offered as agricultural, commercial or industrial land during the succeeding fiscal year with general locations (3) survey and disposal of the land proposed to be offered as subdivisions with general locations (4) preliminary feasibility studies, engineering design work and construction of access roads and capital improvements required by municipal subdivision ordinances or regulations of the platting boards; if an accurate determination of those

amounts cannot be made at the time the estimate is submitted the Department must include a schedule for obtaining the estimates, constructing the access roads or capital improvements and disposing of the land (5) identification of land which will be proposed for disposal in future fiscal years. (Current law requires three alternative financing requests; does not specifically authorize requests for financing of capital improvements).

Lands would be disposed of as remote parcels, subdivision, agricultural, commercial or industrial land. Lands designated for subdivision disposal may not exceed five acres unless the Commissioner determines that a larger size is necessary to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision. (Current law does not authorize larger than five acre parcels under any circumstances). Lands designated for subdivision disposal must be disposed of as follows: a) up to 80% by lottery (b) at least 10% under homesite under the homesite law (AS 38.08) and at least an additional 10% under homesite lottery provisions. (Current law establishes a flat 80-10-10-formula).

Department of Natural Resources retains authority to sell land outside the land bank under any of its land disposal laws. Continues existing semi-annual nomination process for including or excluding lands from the land bank and the requirement that the Commissioner must make a written determination after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested. Adds a requirement that this determination be made within six months of the nomination. Requires a classification order instead of a mere finding when land is transferred from retention in State ownership to the bank or from the bank to retention. Retains provision that the Commissioner may withdraw from the land disposal bank land that has been offered for disposal but not conveyed within five years after inclusion in the bank. Changes the law to provide that land withdrawn from the land disposal bank may be classified for any purpose. (Current law provides that it must be classified for settlement and development purposes only).

Section 3 - INDENTIFICATION AND DISPOSAL OF MUNICIPAL ENTITLEMENT LAND. This section sets up a new system for conveyance of municipal entitlements not patented by the effective date of this act.

The Commissioner must initiate with each municipality with municipal entitlements a review of selections for which patent has not been issued as of the effective date of this act. By July 1, 1982, the Commissioner and each municipality must jointly designate 20% of those lands and which are most suitable for disposal into private ownership. A municipality may substitute land patented as of the effective date of this act with the concurrence of the Commissioner. If by July 1, 1982, the Commisioner and a municipality cannot agree on the land to be designated, the Commissioner makes the designation. By September 1, 1982, the land must be included as a special category of land in the land bank and made available for disposal under 38.04.020(d)-(h). However, none of the land may be disposed of as remote parcels and 38.04.020(j) does not apply. Municipalities may submit recommended disposal schedules for lands designated under this subsection.

By January 15 of each year the Commissioner has to submit to the Governor an appropriation request sufficient to survey all approved selections not patented, not designated above, and requiring survey under 29.18.207. (This request will be submitted by the Governor to the Legislature with the budget). Upon receipt of an appropriation for this purpose, the Commissioner must survey the land and issue patents as "expeditiously as possible." For approved selections not designated above and not in need of a survey, the Commissioner must issue patents by September 1, 1982. However, no patents may be issued until land suitable for disposal into private ownership has been designated.

When lands designated under this section have been disposed of the Commissioner must make a partial assignment to the municipality in which the land is situated the receipts from the land sale contract relating to the value of the land without improvements.

This section does not apply to the following situations:
(1) the land to be patented is for an essential public facility or purpose for which there is an immediate need as determined by the Commissioner

(2) the land has been scheduled and formally advertised for disposal by a municipality under its land disposal program or

(3) the amount of land patented to a municipality is less than 10% of its entitlement as of the effective date of this act and the municipality requests an amount of patented lands sufficient to bring it to the 10% level.

Section 4 - Provides that easements and rights of way on or across land that is made available for private use as necessary to reach or use public water and public and private land may include the established trails traditionally used for commerce, recreation or transportation.

Section 5 - Contracts with an appraised value of up to $50,000 may be signed by the Director without the Commissioner's concurrence. (now it is $10,000); leases with an annual rental value up to $5,000 may be approved by the Director without consent of the Commissioner (now $1,000). This section further provides that contracts for negotiated sales authorized by 38.05.115, permits issued under 38.05.330, or shore fishery site leases under 38.05.082 are not subject to written finding requirements of this section.

Section 6 & 7 - Authorizes conveyance to an adjoining landowner parts of land created by a highway right of way alignment or realignment or a parcel created by the vacation of a State owned right of way not to exceed one acre under certain specified circumstances. Parcels conveyed under this section must be sold at fair market value as determined by the Director on the basis of an appraisal. This land may be sold to a person not qualifying as an adjoining landowner if the adjoining landowner declines to purchase. Also authorize payment extensions for lease and sale contracts & for good cause if penalties provided

Section 8 - Requires that auction, lotteries or homesite disposals must be held in a municipality that is "closest to the land to be sold or disposed of and in which regular sessions of the Superior Court are held".

Section 9 - Requires bidders to be present at auction sales of recreational and residential land unless medical reasons or a military service outside the State prevent attendance. A bidder may be represented by an Attorney or Agent if the land offered for disposal is commercial, industrial or agricultural land; technical amendments; changes downpayment from 10% to 5% of the purchase price after deduction of the discount; to allow verifications of discounts, requires Commissioner to have a receipt of sale at auction instead of current requirement that sale contract be signed.

Section 10 - Deletes lottery minimums ($400 per acre general lottery; $100 per acre for agricultural rights; requires the Commissioner to sell for less than fair market value if he determines that scarcity of land for private use in the area of the land to be sold has result in unrealistic land values.

(Under current law this authority is discretionary. Adds a new requirement that applicants be present at the lottery if the land offered is for residential or recreational purposes unless medical reasons or military service outside the State prevent attendance. An agent may represent the applicant if land is offered as commercial, industrial or agricultural land require 5% deposit on day of lottery. Clarifies that the downpayment is determined after deduction of the discount.

Section 11 - Redefines definition of eligible veterans, by eliminating reference to dates of service. An eligible veteran for purposes of veterans' discounts (38.05.058) is a person with 90 days or more active service in the armed forces of the U.S. who has been honorably discharged.

Section 12 - REMOTE PARCEL PROGRAM. Substantially revises the remote parcel program. Under current law, an individual selected by lottery is entitled to stake a remote parcel which may not exceed 40 acres. After staking, the qualified applicant may lease the remote parcel for five years with an option to renew for an additional five years. The rent for this parcel is $150 an acre for the first five acres, and $50 for each additional acre. At the end of the lease, the lessee is entitled to purchase the first five acres of the parcel if he has surveyed the land and built a habitable dwelling on the land. The lessee may purchase additional acreage over five acres in a remote parcel if he surveys that land and constructs permanent improvements. The purchase price of the remote parcel is the appraised value at the time the survey plat is approved by the Commissioner.

Under CS for HB 31 remote parcel areas would simply be opened to staking rather than sold through semi-annual lotteries. The annual rental is reduced to a flat $10 per acre fee. The Bill adds an additional requirement that unless the land is surveyed the lessee shall within one year of approval of a lease application and continuously for the lease period physically delineate the boundaries of the parcel by brushing the lines so that they are readily visible from the ground. In order to qualify to purchase up to 40 acres, the lessee must survey the land and build a habitable dwelling on that land. Other improvement requirements are eliminated. The lessee may prove the existence and location of this habitable dwelling by executing an affidavit as to its existence and location and including with that affidavit a clear photo and an accurate drawing prepared, signed and dated by the lessee. The lessee must pay 5% of the discounted purchase price of the land. The fair market value is determined as of the date the remote parcel was first leased to the purchaser of the land. Holders of existing remote parcel leases are allowed to convert to the new more liberal terms (See Section 22).

Section 18 - Allows larger than five acre homesite parcels if the Director determines that a larger size is necessary to permit the design of a viable subdivision because of topographic features, soil conditions, sewage disposals requirements or water or drainage supply considerations unique to the subdivision.

include sec 4

Section 19 - Homesite applicants must present proof of residency to the Department in person at the time and place designated by the Director unless medical reasons or military service outside the State prevent attendance.

Section 20 - The definition of "subdivision" in 40.15.190 (2) is amended to exempt State cadastral control plats, open to entry plats, for remote parcel plats regardless of whether these plats include easements or other public dedications.

Section 21 - The Forest Practices Act establishes a Division of Forest, Land and Water Management and provides that the Director must be appointed by the Commissioner from a list submitted by the Board of Forestry. This amendment repeals the requirement to establish a Division of Forest, Land and Water Management and authorizes the Governor to establish a separate Division of Forestry. In addition, this amendment restores to the Commissioner his authority to hire a Director of his choosing to head this new division of Forestry, if created. The net effect of the amendment is to restore to the executive branch its authority to create divisions within the Department of Natural Resources for particular purposes and to hire Directors to head those Divisions in its discretion.

Section 22 - See Section 17

Section 23 - Land Disposals conducted by the Commissioner for fiscal year 1982 shall be in accordance with appropriations to the department for that purpose.

Section 24 - Repealers. (1) 38.05.047 - See Section 1. (2) 38.05.065(a) - Repeals auction sale terms language; See Section 9 (3) 38.05.077(b)(2)-repeals reference to "residential purposes" land within a remote parcel; See Sections 12-17 (4) 38.05.078(b)-repeals reference to land "not used for residential purposes" in a remote parcel; See Section 12-17.

Section 25 - Effective date of July 1, 1981.

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FOREST, LAND & WATER MANAGEMENT

ROBERT E. LeRESCHE
Commissioner

May 8, 1981

1151

279-5577

THEODORE G. SMITH S/S
Director

SB 531

I am very pleased to see a good land disposal bill for a change. I think this one is an excellent effort and, while I may have some small quibbles, I think that passage of this bill intact would be a great improvement in the state's disposal programs.

A minor change that I would recommend would be the change of the term "director" to "commissioner" wherever it appears in order to make our delegations of authority easier.

I would like to go through section by section and make comments which I hope will be considered pertinent.

Section 1. I believe the intent of this section is to enable a municipality to complete its entitlement. There is some confusion in the language, however, which would appear to permit them to maintain an overselection. Accordingly at line 16 on page 1 we recommend deletion of the words "of equal area" and substitution of the words "as necessary" therefore.

Section 2 appears to be necessary in light of subparagraph (c) of 29.48.260. A recent problem we've had is a need to define what constitutes "commercial development" as found on line 23 of page 1. For instance, we've had requests from a non-profit lessee to conduct profit making activities on a parcel of land in order to support its activities generally undertaken throughout the community.

Section 4. At line 19 on page 2 we recommend deletion of the word "suitable" and substitution of the word "classified." At line 20 we recommend deleting the words "by fee simple title." This would lessen the confusion about agricultural lands. We feel that we grant "fee simple title" to the agricultural interest in land even though we don't grant all of the interest thereto. Many people do not understand this fine distinction. At line 16 on page 3 we are required to submit another report which is in effect a classification report. I would suggest that this one be combined with the classification report which is required by AS 38.05.300(b). Paragraph 5 of my April 15, 1981, memo on CSHB 31 spoke to the necessity for including a fourth category in subparagraph (d) between lines 16 and 23 on page 3. Suffice it to say that I believe we need a subparagraph (4) which says: "and suitable for other purposes." This will accommodate land that is classified "utility." On page 5 under

subparagraph (g)(2) there is no specific provision for auction of subdivision parcels. While I believe that the language "up to 80%" indicates that other methods are contemplated, it would be helpful to have a specific authority for disposal of land by auction as is found in sub (3) at line 26 on page 5.

Section 5. We have no problem with this section but wonder if it wouldn't be more appropriately located in 29.18 which deals with municipal grant entitlements.

Section 6. We have had a number of discussion with the AG's Office and univeristy recently regarding authorities for management of university lands. In light of the recent Supreme Court decision it seems that the management must be for the benefit of the trustees and that the legislature may not invade this trust with less than fair market value programs. Accordingly it seems appropriate to remove university lands from the jurisdiction of the Department of Natural Resources. Accordingly, we would recommend that on lines 3 and 4 at page 8 the line which says "under the purposes of this chapter" be deleted.

Section 7. We find this section unnecessary since it merely expands on existing language without explaining it.

Section 8. The punctuation change in this section is confusing and we can see no point to it.

Section 11. There appears to be a typo on line 13 which should be amended to read "dispose to an adjoining land owner." At line 18 the language "one acre" should be deleted and "the minimum lot size for that zone" substituted. At line 24 after the word "extend" we recommend inserting "for up to 90 days." This would prevent frivolous applications for very long waivers of rental.

Section 12. We recommend that the first sentence of subparagraph (c) be set as a separate section and that the numeral "(7)" be deleted in that section. This then becomes a general classification waiver for all preference right conveyances. The remainder of the subsection which is found at the bottom of page 10 and top of page 11 could stand as a subsection by itself. On page 11 at line 3 after the word "land" we suggest inserting "under AS 38.05.055 or .057" to avoid the possibility of negotiated sales that would harass the adjoining land owner.

Section 13. We need clarification of the term on lines 13 and 14 "a court of the state." Does this include magistrates courts? If so, this will greatly expand the number of lotteries to be held and increase the cost.

Section 14. At line 17 the proposed amendment speaks of "required" method of sales. We are unable to find any requirement in this chapter for sales. Only in AS 38.04 is the requirement for 20% homesite found. We also think the requirement for a bidder to appear in person is unnecessary. We have been conducting auction sales for over 20 years and have not had any problem with or demand for this provision. We have also, in that same period of time, had no objections to the payment of 10% down and 10% a year for 10 years in order to purchase land. I would suggest that this provision also be deleted. The remainder of the changes are satisfactory.

Section 15. The requirement that applicants attend the lottery in person may give us some practical difficulties. For instance, if employees of the Division of Lands wish to participate they would have to go on leave in order to be there as a participant. This might give us substantial difficulties in manning the many lotteries scheduled. We also wonder if there shouldn't be an exemption for people attending college or other valid reasons. We realize that this is intended to be a resident preference but suggest that we might be able to do it indirectly by the timing of the lottery.

Section 16. We think this is a good provision in case the state does schedule the surface of mining claims for sale. However, we would hope that the necessity for utilizing this process would be minimal, that is, that we would not offer mining claims surface for subdivision sale. If, however, it ever happens, the timing needs to be adjusted so that the presence of a valid claim is known prior to survey in order that the subdivision may be designed to accommodate the use area. I would assume that since the mining claimant pays fair market value that the state would pay for the survey.

Section 17. We believe that this paragraph is unnecessary since AS 38.05.102 grants a general preference right to a lessee including a grazing lessee. However, this provision does limit the size to the largest parcel offered for disposal by the director within the boundaries of the grazing lease. No such restriction appears in section 102. Therefore, if this is the purpose it would be necessary to leave this section in place. In that event we would suggest that the language "unless the lessee has previously exercised a preference right in order to obtain land which is used in connection with the lease" be added prior to the semicolon on line 8. We would also recommend a limitation on this as well as all agricultural preference rights to one per lifetime. This would be in conformity with the one per lifetime limitation proposed for the mining claimant preference right.

Section 18. This provision gives us some problems in the language that permits the commissioner to specify the number of remote parcels that may be selected. With the accompanying repeal of the lottery provision this means that it would wind up being first come, first served for the specified work of entries. Our recommendation would be to let the physical configuration of the land limit the number of entries rather than trying to do it

bureaucratically. Accordingly, we would recommend that the language "specify the number of remote parcels that may be selected in each" be deleted and the words "shall designate" be substituted therefore.

Section 19. At line 27 the word "select" should be deleted and the word "stake" substituted therefore. This would be in conformity with the amendments made in section 20.

Section 21. Requires only that an individual be a resident of the state. This means that in most cases he either be only physically present or that he be registered to vote. Other land law requires a year of residency and we would like this clarified as to whether this is a departure from that land law or we use the 30 day qualification. At line 3 and 4 on page 17 we recommend deletion of the words "from the land disposal bank" and changing the date from 1978 to 1979. HB 66 became effective on July 1, 1979.

Section 23. I recommend that the last sentence of this section on lines 14 and 15 be deleted. Under other provisions the maximum rental that can be charged is $400 per year for 40 acres. This will probably cover the administrative costs of the program but we would be better off to not charge any rent than to apply it to the purchase price. The application of the rental payments to the purchase price further induces the individual to wait the maximum possible time for purchase of the land thus increasing the state's long term cost in administering and carrying the land records over an extended period of time. I believe that the other benefits contained in the other changes made are adequate so that there is no reason to provide this added inducement.

Section 25. This is the one really bad provision in the bill. It provides for negotiating upland leases to set net fishermen. There is no rational excuse for this unless the drafter confused "riparian" with "submerged" lands.

Sections 26, 27, 32 and 36 are all involved in an amendment to correct an improper citation in section 097. I don't believe that the method proposed here is satisfactory. Accordingly, I recommend that section 26 be changed so that .095(b) is amended to change the citation from "section .097" to "section .315." I recommend that section 27 be deleted from the bill and that section 36 be changed to a repealer of AS 38.05.097. This series of changes will leave the exemption for rental payments for youth organizations standing in .315 where it belongs and in .095 make the organization which has its rental waived unable to assign their lease.

Section 28. I believe this section should be deleted from the bill. AS 38.05.102 already has a general provision for lessee preference in renewal of leaseholds which is perfectly adequate. I see no reason to make a special case for grazing leases.

Section 29. At line 12 on page 20 we believe that the citation of subparagraph (d) is a mistake and should be changed to subparagraph (e).

Section 32. In accordance with my previous comments on university lands at section 3 we recommend that at line 21 on page 21 the word "university" be deleted.

Section 33. It's still possible to have multiple notices for the same action. We recommend that subsection (b) include a sentence something like "where an action includes more than one of the actions listed in paragraph (a) above then all required notices may be combined into one notice given pursuant to this subsection and subsection (c)."

Section 34 appears to solve a problem that doesn't exist and it will probably create a number of them. At present we permit applicants to mail in proof of residency and this is working fine. We see no reason to require an individual to report to the department in person.

Section 35. We can find no AS 41.01.100 and can't even figure what the typo error might be.

Section 37. We recommend deletion of this section. The cited regulation merely requires retention in state ownership in accordance with 38.04.020. We do not feel it opprobrious in any way.

Finally, in order to complete the divorce of university from DNR land management we recommend that AS 38.05.030(a) be repealed.

If you have any question on my comments please feel free to contact me.

cc: District Managers

Alaska State Legislature

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Senate

Committee on Resources

MEMORANDUM

TO: MEMBERS OF FREE CONFERENCE ON LAND DISPOSAL MEASURES

FROM: JIM PALMER
SENATE RESOURCES COMMITTEE STAFF

RE: STATUS REPORT ON LAND DISPOSAL CONFERENCE

DATE: JUNE 11, 1981

Senate Section	House section	decision of conference committee
1	1	Senate
2		Senate
3	2	no decision
4	3	no decision
5		Senate
6	4	Senate
7	5	Senate
8		Senate
9		no decision
10,11	6,7	no decision
12	8	no decision
13	9	Senate
14	10	no decis'
	11	House
	12	House
15		Senate
16-21	13-18	no decision
22		no decision
23		Senate
24		Senate
25		Senate
26		Senate
27		Senate
28		Senate
29		Senate
	19	House
30		no decision
31	20	Senate

Senate section	House section	decision of conference committee
	21	no decision
	22	House
32	23	House
34	24	Senate
	25	House
33	26	no decision (disagree over AS 38.05.078(d)
35	27	House

AMENDMENT to SCS for CS for HB31

Add a new section 32 to read as follows:

AS 38.95.080 (c) (1) is amended to read:

(1) permits shall be issued for a period of not more than ten (five) years, with succeeding ten-year (five-year) renewal options, if continued use and occupancy is established, and the qualifications of (a) of this section continue to be met;

Renumber sections accordingly.

AMENDMENTS TO LAND DISPOSAL LEGISLATION BY THE DEPARTMENT OF LAW.
(amendments are to SCS for CS for HB31)

1. On page 3, line 15, delete the second "The" and add "For each fiscal year, the"

2. On page 3, line 18, add a comma after "staking" and delete "for the succeeding fiscal year,"

3. On page 3, line 22, add a comma after "38.05.057" and delete "during the succeeding fiscal year,"

4. On page 4, line 8, delete "a" and add "an annual". On line 9, delete "current"

5. On page 6, line 16, after the second "the" add "annual".

6. On page 6, line 17, after "AS 38.04.020(e)" add a new sentence "The commissioner shall establish by regulation the deadline a municipality's request under this section must be submitted to the department in order to be considered for inclusion in the estimate submitted under AS 38.04.020(e)."

7. On page 6, line 25, delete the words "next five years;" and add "five fiscal years immediately after the fiscal year in which the municipality's request is made;"

8. On page 7, line 16, delete "current" and add "same".

9. On page 7, line 19, delete "current" and add "same".

10. On page 10, line 10, add "best" before the word "interests".

11. On page 11, line 5, add the word "the" after the word "upon".

12. On page 15, line 12, delete "AS 38.05.065(b)." and add "AS 38.05.065."

13. On page 16, line 15, add "at the time of the sale or long term lease" after the word "value".

14. On page 20, line 25, delete "38.05.065(a)," and on line 26, delete "and 38.05.097".

15. See also attached amendments to AS 38.05.065(a) and 38.05.065(b).

For an Act entitled: "An Act establishing a homesite habitable dwelling loan guarantee account; and providing for an effective date."

* Section 1. AS 37.05 is amended by adding a new section to read:

Section 37.05.156. HOMESITE HABITABLE DWELLING LOAN GUARANTEE ACCOUNT. (a) There is established as a separate account in the general fund the homesite habitable dwelling loan guarantee account. The account consists of money appropriated for the purposes of the account. The commissioner of revenue shall administer the account, and may enter into agreements with financial institutions within the state to use the assets of the account to provide guarantees for loans made by financial institutions to borrowers seeking to fulfill the requirements of AS 38.08.060(2).

(b) A loan guaranteed under (a) of this section

(1) must be for the purpose of construction or acquisition of a habitable, permanent, single-family dwelling as described in AS 38.08.060(2) and applicable regulations;

(2) may not exceed the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount;

(3) may not be for a term longer than 30 years from the date the loan is made;

(4) may not exceed 90 percent of the appraised value of the habitable dwelling being financed with the proceeds of the loan;

(5) may not be assumed unless approved by the commissioner;

(6) shall contain complete amortization provisions satisfactory to the commissioner requiring periodic payments by the borrower;

(7) shall be in the form and contain the terms and provisions with respect to insurance, repairs, alterations, payments of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, secondary liens and other matters the commissioner prescribes;

(8) shall be secured as to repayment by a mortgage or other security instrument, including a homesite entry permit as described in AS 38.08, in a manner the commissioner determines is feasible to assure timely repayment under a loan agreement entered into between the borrower and a financial institution.

(c) Before the commissioner guarantees a loan under this section, he may require the borrower to

(1) obtain from the Department of Natural Resources a letter of intent signed by an authorized representative of the department which shows the transfer of title to the property from the State of Alaska to the borrower if the borrower fulfills the requirements of AS 38.08.060; and

(2) purchase mortgage insurance from a mortgage insurer authorized to do business in Alaska with coverage acceptable to the commissioner.

(d) the commissioner may adopt regulations in accordance with the Administrative Procedures Act (AS 44.62) to implement AS 37.05.156.

(e) Notwithstanding the provisions of AS 18.56 or AS 44.47.380-560, this section authorizes the Alaska Housing Fiinance Corporation and the division of housing assistance in the Department of Community and Regional Affairs to purchase loans guaranteed under this section, at their discretion.

(f) For the purposes of this section

(1) "account" means the homesite habitable dwelling loan guarantee acount;

(2) "commissioner" means the commissioner of revenue;

(3) "financial institution" means a bank, savings and loan association, credit union or mortgage company authorized to do business in Alaska.

* Section 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

M E M O R A N D U M

TO: John A. Carlson, Borough Mayor
FROM: Don Goggin, Planning Director
SUBJECT: Platting Board
DATE: April 20, 1981

Positon Paper HB 31 as revised.

Planning Department

Since the passage of HB 66 in 1979 there have been various conflicts between the State of Alaska disposals and platting authorities. These conflicts have focused on subdivision design, legal access, road constructability, soils suitability for sewage disposal systems, platting standards, and physical access to subdivision boundaries.

The consensus of the consultants who have been awarded contracts for State subdivisions, has been that the conflicts arise not from a lack of State design expertise, nor a lack of awareness of the effects of inadequate design and evaluation by the State, nor even the intrasigence of Borough authorities who have the responsibility of review of these subdivisions; but rather, the lack of time available to adequately address all phases of subdivision development (legislatively mandated) and the lack of funds to address road constructability, material sources, and soils test borings. Adequate review time frames could ensure that a resulting design can adequately serve the potential subdivision property owners. In short, the phrase incorporated into the language of HB 66... "at least cost to the State and potential purchaser, (AS 3805.047 (e)), has effectively been changed to apply only to the State.

The Planning Department looks with optimism at many of the provisions of CS HB 31 as reported out of the Resource Committee. Promising changes include provisions in the budget submittal (AS 38.04.020) requirements for feasibility reports, engineering design work and construction of access roads and capital improvements required in municipalities.

Even if roadways are not constructed by the State, the availability of appropriate engineering data for such construction would provide future homeowners with a realistic figure for improvements and insure that the design would propely reflect existing conditions.

The addition of identification of land disposals for future fiscal years provides a necessary tool for planning. Advance notification will probably also prevent the proliferation of problems which currently existent in this program.

A major consideration of any subdivision design is the soils types encompassed within the boundaries. If soils are such that larger lots must be provided to protect the public health, there are presently no tools available to determine the land capability. In the existing law five acres has been prescribed as the maximum lot size for residential subdivisions. The current bill represents a considerable improvement.

In addition the modification of the original 100,000 acre per year mandate to 60,000 acres in the original bill, and the elimination of a quota in the Resources bill is to be applauded. Disposal adequacy can be reviewed on a year by year basis far more appropriately than by arbitrary quotas which result in the submittal of subdivisions with such appropriate names as "Desperation", "Walk-To-It" (now a remote staking site) and "Quota."

The proposed change of AS 45.190 (2) appears reasonable, although the inclusion of cadastral plats may be subject to misinterpretation. A cadastral survey is intended to provide an original survey of large areas of public lands by the government to create an official statement (plat) of the quantity of real property in any district for the purpose of apportioning taxes payable. A definition of a cadastral plat should be provided by legislation.

It is suggested that the definition of a cadastral plat reflect the accepted concept of the rectangular survey system of a township of 36 sections as the unit of survey, and the section of approximately one square mile as the unit of subdivision shown thereon. Any smaller units should be restricted to government lots defined by natural or manmade boundaries of streams, rivers, lakes, tidal shorelines, roadways, or other surveys not a part of the rectangular system.

HB 31 has been reported out of the Finance Committee with an amendment which appears to subvert the intent of local authorities having review powers over lands within their boundaries. That amendment removes the requirements that the local platting board be signatory to the final plat.

Requiring that the state subdivision disposals meet the requirements of the local platting authority in all areas other than those specifically exempted by the legislature, guarantees local input and expertise which improves the quality of those subdivisions. Local review has pointed out problem areas which will be addressed by HB 31, and continuing review will provide an overview otherwise unavailable to the state. Future public interests will be protected on a continuing basis, and not be abandoned due to immediate pressures.

The addition of a provision which would allow DNR to present a budget for feasibility studies and engineering design one year prior to submission of the budget for actual disposal would go beyond other considerations addressed herein to alleviate problems encountered to date in the current lands disposal program. If included in the bill, poor land could be eliminated, appropriate access routes could be defined and soils information could be made available to define appropriate lot sizes.

Time

Another consideration which would improve the disposal program is changing the deadline of disposals to September 30, 1981. The additional time would allow the incorporation of minor design changes which presently are restricted to the end of the survey season of the previous fall.

Final decisions regarding local platting and land use are in the hands of elected officials, appointed commissions and boards not subject to State or local bureaucratic scheduling.

Attached are letters to the State addressing subdivisions originally scheduled for FY 1981. A list of the defects gets conspicuously longer as the time frame available for processing shortens.

DG/AD/RN/jjf

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SCS for HCS for HB 31 (Finance) am
Title An Act relating to the management, disposal and use of state/mun. lan
Requested by Senator Bennett Date 6/8/81

II. FISCAL DETAIL
Agency Affected Department of Natural Resources
Program Category Affected NRMEC
BRU, Program, or Subprogram(s) Affected Land Management
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		591.2				
200	TRAVEL		33.5				
300	CONTRACTUAL		428.5				
400	COMMODITIES		11.0				
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	CAPITAL		13084.8				
	TOTAL		14149.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		14149.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		14				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
1. Classification of all land within two years.
2. Assessment of statewide/local demand.
3. Lotteries in locality; personal attendance.
4. Advance appraisals on remote parcels.
5. Conversion of existing leases; appraisals; additional staking
6. Field inspections.
7. Supervision of grant program to municipalities
8. Director of Division of Forestry.
9. Supervision of local disposals, brochures, qualifications.
10. Initial grant funds pool for municipalities (CAPITAL)
11. Cadastral land survey. (CAPITAL)

Positions: FLWM: Appraiser, Div. Director, (5) LMO II, LMO I
DR&D: Info. Officer, LMO II.
DA&M: Acct. Tech. II, Acct. Tech. I, CT III, D/Agr; LMO II.

IV. DATE 6/8/81 PREPARED BY Jeff Haynes
AGENCY Deputy Commissioner, DNR
PHONE 465-2400

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

PROPOSED
LANDS LEGISLATION
NOTEBOOK

SB 531-HB 31

PREPARED
BY

SENATE RESOURCES
COMMITTEE STAFF

MAY 11, 1981

SB 531		CS HB 31 (Fin) am	
SEC.	STATUTE	SEC.	STATUTE
1	AS 29.18.204 (c)	1	AS 29.18.204 (c)
2	AS 29.48.260		
3	AS 38.04.005 (b)		
4	AS 38.04.020	2	AS 38.04.020
5	AS 38.04 MAI GRANTS	3	AS 38.04
6	AS 38.04.040		
7	AS 38.04.055	4	AS 38.04.055
8	AS 38.05.035 (a) (14)	5	AS 38.05.035 (a) (14)
9	AS 38.05.035 (b) (3)		
10	AS 38.05.035 (b) (5)		
11	AS 38.05.035 (b)	6	AS 38.05.035 (b)
12	AS 38.05.035	7	AS 38.05.035
13	AS 38.05.050	8	AS 38.05.0
14	AS 38.05.055	9	AS 38.05.0
15	AS 38.05.057 (a)	10	AS 38.05.057 (a)
16	AS 38.05 MINING PREFERN E		
		11	AS 38.05.067 (d)
		12	AS 38.05.067 (e)
17	AS 38.05.069		
18	AS 38.05.077 (a)	13	AS 38.05.077 (a)
19	AS 38.05.077 (c)	14	AS 38.05.077 (c)
20	AS 38.05.077 (d)	15	AS 38.05.077 (d)
21	AS 38.05.077	16	AS 38.05.077
22	AS 38.05.078 (a)	17	AS 38.05.078 (a)
23	AS 38.05.078 (c)	18	AS 38.05.078 (c)
24	AS 38.05.078		
25	AS 38.05.082 (a)		
26	AS 38.05.095 (a)		
27	AS 38.05.097 (a)		
28	AS 38.05		
29	AS 38.05.127		
30	AS 38.05.305		
31	AS 38.05.315 (b)		
32	AS 38.05.315 (d)		
33	AS 38.05.345		
		19	AS 38.08.010 (b)
34	AS 38.08.040 (b)	20	AS 38.08.040 (b)
35	AS 38.05.065 (a)		
	AS 38.05.077 (b) (2)		
	AS 38.05.078 (b) & (d) (1)		
	AS 41.01.010		
36	AS 38.05.095 (b)		
37	11 AAC 53.450 (c)		
		21	AS 40.15.010
		22	AS 40.15.190 (2)
		23	AS 41.17.020 (a)
38	----------	24	----------
		25	----------
		26	AS 38.05.047
			AS 38.05.065 (a)
			AS 38.05.077 (b) (2)
			AS 38.05.078 (b)
39	----------	27	----------

SB 531 - HB 31
Section to Section
Comparisons
- one-word ~~to~~ section titles

Introduced: 4/29/81
Referred: Resources and Finance

IN THE SENATE BY FAHRENKAMP

SENATE BILL NO. 531

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the disposal and use of state and municipal land; and providing for an effective date."

Original sponsors: Freeman, Gardiner and Halford

Offered: 4/22/81
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 31 (Finance) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

A B ,

For an Act entitled: "An Act relating to the management of state land; and providing for an effective date."

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

Sec. 29.18.204. Status of entitlements. (a) After July 1, 1978, general grant land entitlements provided in AS 29.18.201 and 29.18.202 are vested property rights which must be fulfilled as provided in AS 29.18.205 or 29.18.208.

(b) General grant land entitlements provided by AS 29.18.203 are property rights which vest on the date of incorporation of the municipality. The entitlement must be fulfilled as provided in AS 29.18.205.

(c) Land may be selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 and 29.18.202 at any time before October 1, 1980.

(d) Land may be selected by a municipality to satisfy a general grant land entitlement under AS 29.18.203 at any time within one year after the director certifies the entitlement to the municipality.

(e) The time limitations imposed by (c) and (d) of this section for exercising a vested general grant land entitlement do not apply to

(1) the portion of an entitlement which cannot be satisfied by that date because of a shortage of land suitable for residential, commercial and industrial purposes which is vacant, unappropriated, unreserved land;

(2) payments for land deficiency under AS 29.18.208;

(3) the portion of an entitlement which cannot be satisfied because the land selected by a municipality has been selected by a party entitled to select land owned by the United States or the state; or

(4) the portion of an entitlement which cannot be satisfied because the land nominated for selection by the municipality is not tentatively approved for patent to the state. (§ 2 ch 180 SLA 1978; am § 2 ch 85 SLA 1979)

Effect of amendment. — The 1979 amendment rewrote this section.

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

* Section 1. AS 29.18.204(c) is amended to read:

(c) Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.18.201 and 29.18.202 at any time before October 1, 1980. However, if a municipal selection or nomination or a part of a municipal selection or nomination is rejected by the director, the municipality may, not later than 90 days after receipt of the director's rejection, select additional state land of equal area to satisfy its entitlement.

* Section 1. AS 29.18.204(c) is amended to read:

(c) Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.18.201 and 29.18.202 at any time before October 1, 1980. If a municipal selection or nomination or a part of a municipal selection or nomination is rejected by the director, the municipality may select additional state land of equal area to satisfy its entitlement not later than 90 days after receipt of the director's rejection.

Sec. 29.48.260. Municipal properties. (a) A municipality may acquire and hold real and personal property or interest in property, and may sell, lease or otherwise dispose of property no longer required for municipal purposes.

(b) Notwithstanding the provisions of (c) of this section, a municipality may sell, lease, donate or exchange with the United States, the state, or a political subdivision real estate or other property, or interest in property, when in the judgment of the assembly or council it is advantageous to the municipality to do so.

(c) The assembly or council shall by ordinance establish a formal procedure for the sale, lease or disposition of real property or interest in real property. The ordinance shall require (1) an estimated value of the property by a qualified appraiser or the assessor; (2) a notice of sale published in a newspaper of general circulation distributed within the municipality at least 30 days before the date of the sale, lease, or disposition, or posted within that time in at least three public places in the municipality; (3) public auction or opening of sealed bids, if any; and (4) other terms and conditions fixed by the assembly or council. However, no ordinance for the sale, lease, or disposition of real property or interest in real property valued at $25,000 or more is valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted. Thirty days notice shall be given of the election and during that period the assembly or council shall have published at least once a week in a newspaper of general circulation distributed within the municipality a notice stating the time of the election and the place of voting, describing the property to be sold, leased or disposed of, giving a brief statement of the terms and conditions of the sale and the consideration, if any, and stating the title and date of passage of the ordinance. Notice shall also be given by posting a copy of it in at least three public places in the municipality at least 30 days before the election. If no newspaper of general circulation is distributed within the municipality, the notice given by posting is sufficient for the purposes of this section.

(d) The assembly or council may by ordinance establish a formal procedure for acquisition from the state of land or rights in land and the disposal of the land or rights in land, in which event the provisions of (c) of this section do not apply.

(e) A municipality, in order to make sites available for beneficial new industries, may acquire and hold real property, either inside or outside the corporate limits, and may sell, lease or dispose of it to persons who agree to operate a beneficial new industry upon the terms and conditions the assembly or council considers advantageous to the municipality. (§ 2 ch 118 SLA 1972)

Sec. 29.48.260. Municipal properties.

(f) A deed, contract of sale, lease, or other instrument evidencing disposition by a borough of land or interest in land classified by the borough as agricultural land shall include, among other terms, conditions and limitations which may be required by law or which the assembly may elect to include, a condition that the land is restricted to agricultural use. The assembly may not by subsequent action waive or abrogate the condition for a period of 50 years. An abrogation of the restriction to agricultural use after the 50-year period requires the consent of any party having an interest in the land. The assembly shall provide for enforcement by appropriate legal means, including but not limited to forfeiture of the purchaser's interest for violation of the condition.

(am § 1 ch 146 SLA 1975)

Granting right to use wharf is not disposition of property. — The grant of a right to use a public wharf did not effect a sale, lease, exchange or other disposition of property within the meaning of this section. Femmer v. City of Juneau, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

But granting right-of-way is. — If a valid right-of-way, in writing, and executed by proper and authorized parties had been given an individual, the right-of-way would be invalid inasmuch as a right-of-way is property. It would be the sale of property, which must be ratified by a majority of qualified voters voting at a general or special election, or otherwise, at which the question of ratification of such sale is duly submitted, as required by this section. Seltenreich v. Town of Fairbanks, 13 Alaska 424, 100 F. Supp. 296 (D. Alas. 1951).

No ratification of sale by voters required if property not held for public use. — No ratification of sale of lands and the execution of the deed is required by this section as to land which had not been acquired or held for any public use or devoted thereto. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

Cities may accept gifts by will or deed in trust for public purposes.— Municipal corporations have the capacity and power to take and hold real and personal property, by devise, bequest, or deed of gift in trust for the purposes of a public nature, including uses germane to the objects of the corporation, although the ob-

ject may be one which the municipality could not carry out at public expense. Cochran v. City of Nome, 10 Alaska 425 (1944).

And may abandon property.—This section would be authority for a city council to abandon property inasmuch as an abandonment is a lesser included power than the power to sell for which this section specifically provides. Seltenreich v. Town of Fairbanks, 13 Alaska 424, 100 F. Supp. 296 (D. Alas. 1951).

Or sell or lease sites to operators of new industries. — The common council has authority to sell, lease, or dispose of available sites upon such terms as may be deemed by it advantageous to the civic welfare of the municipality, to such persons as will agree to install, maintain, and operate thereon new industries. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

If council judges such disposition advantageous.—The common council can sell, lease, or otherwise dispose of land by making such land available as sites for new housing industries, but it would be necessary for the common council to find that the sale of such sites would benefit the civic welfare of the municipality and that the terms of such sale or sales were deemed by the common council to be advantageous to the civic welfare of the municipality. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

And voters need not ratify council's action.—There is no requirement in subsection (e) of this section for a ratification by the voters of the action of the common council as to the sale, lease or disposition of available sites for the installation and operation of new industries. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

As power of judgment is vested in council.—Implicit in the language of subdivision (e) of this section is that the power of judgment is intended to be vested in the city council. Seltenreich v. Town of Fairbanks, 14 Alaska 568, 211 F.2d 83 (9th Cir. 1954).

The exercise of the council's judgment need not be coincidental with the sale or other disposal of the property. Seltenreich v. Town of Fairbanks, 14 Alaska 568, 211 F.2d 83 (9th Cir. 1954).

Grantees must agree to operate new industry.—An agreement on the part of grantees in the deed or lease to install, maintain and operate new industries would be necessary to comply with this section. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

"Industry" is defined as follow : The result of operations whereby man changes and makes fit for his use materials which were unserviceable in their natural state. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

Industry is any department or branch of art, occupation or business; especially one which employs much labor and capital and is a distinct branch of trade, as the sugar industry. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

"Trade" is defined as "commercial enterprises," and "industries" as that branch of trade employing capital and labor. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alas. 1952).

The power to lease corporate property held by a municipality for public use cannot ordinarily be wholly or partly diverted to a possession or use exclusively private without specific legislative authority, and a town cannot lease a part of a public dock to a private concern, nor can a city which has condemned private property for use as a wharf lease it unconditionally for a term of years to be used in the prosecution of private business and for private gain. Juneau Ferry & Navigation Co. v. Morgan, 236 F. 204 (9th Cir. 1916).

A general obligation bond issue for the purpose of encouraging industrial development within a municipality was held valid in Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

Construction of hospital and lease thereof to sectarian order.—Where a hospital is constructed and a lease made by a city to a sectarian order of the Catholic faith in order to provide for the care of the sick, without regard to race, color or creed, and

thus accomplish a valid public purpose, there is nothing in this arrangement from which it can be inferred that a tax-established, public institution is to be utilized to aid a religious group to spread its faith or to interfere with the religious beliefs of others. The city's action was not designed, nor does it have the effect by its nature, of promoting or giving a preferred position to whatever religious beliefs the individual members of the corporation might have. The fact that specific sectarian beliefs may be entertained by those persons does not bar the city from achieving its valid secular goal of caring for the sick. Lien v. City of Ketchikan, Sup. Ct. Op. No. 146 (File No. 275), 383 P.2d 721 (1963).

Not limited by this section.—Subsection (a) of this section, which authorizes municipalities to lease property, is not relevant where the powers of a home rule city are being considered. This section is not the source of the city's power to lease its hospital. Therefore, the portion of this section which requires a finding that property to be leased is not required for municipal purposes is not a limitation on the power of a home rule city to lease its hospital. Lien v. City of Ketchikan, Sup. Ct. Op. No. 146 (File No. 275), 383 P.2d 721 (1963).

A city has no authority to conduct a drugstore, as this article sets out the several powers granted by the legislature to municipal corporations, and nowhere therein is such an institution as a drugstore provided for. Cochran v. City of Nome, 10 Alaska 425 (1944).

The burden of proof is upon the plaintiffs in an action to enjoin city from abandoning property. Seltenreich v. Town of Fairbanks, 13 Alaska 424, 100 F. Supp. 293 (D. Alas. 1951).

Effect of amendment. — The 1975 amendment added subsection (f).

As the rest of the section was not affected by the amendment, it is not set out.

Subsection (e) authorizes extraterritorial activity of a municipality for specified purposes. Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

Subsection (e) authorizes a municipality to acquire land for a private, not a public, purpose, when the purpose is "to make sites available for beneficial new industries." Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

Not every new enterprise comes within this section, for this section specifies "beneficial new industry." Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

The term "new industry," as used in subsection (e) of this section, refers to any newly organized business that is not a mere expansion or continuation of a business that has previously operated in the municipality. Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

The term "new industry" contemplates a newly organized enterprise, which may or may not be a new type of business. Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

Operation of a cold storage plant by a company was both a new enterprise and a new type of business, and it was apparently beneficial to the community. Therefore it was a "beneficial new industry" within the meaning of subsection (e) of this section. Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

Subsection (e) does not establish an exemption from the bid requirements of subsection (c). Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

Since the legislature demonstrated its awareness of subsection (e) of this section by explicitly exempting some types of transactions from its requirements, the supreme court concluded that the legislature intended not to exempt transactions under subsections (a) and (e) of this section, which contain no explicit exemption, from its requirements. Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

Subsection (e) of this section merely sets forth a purpose for which municipalities are authorized to acquire and hold property; it does not affect the applicability of procedural requirements imposed by other parts of the statute. Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

Provision of an ordinance which purported to exempt leases for new industry sites from the ratification requirement conflicted directly with the requirements of subsection (e) of this section and was invalid. Libby v. City of Dillingham, Sup. Ct. Op. No. 2097 (File No. 3861), 612 P.2d 33 (1980).

* Sec. 2. AS 29.48.260 is amended by adding a new subsection to read:

(p) A municipality may lease municipal land for a term of not more than 55 years to a nonprofit corporation, association, club or society organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare. Municipal land leased under this subsection may not be used for commercial development. Before municipal land may be leased under this subsection, the proposed lessee shall demonstrate to the satisfaction of the borough assembly or city council that it is exempt from federal income taxation, that all of the land requested is to be used for an established or proposed project, and that the applicant is financially able to carry out the project. A lease may not be granted under this subsection unless the project for which the municipal land is leased is open for use by the public. The provisions of (c) of this section do not apply to a lease under this subsection.

Sec. 38.04.005. Policy. (a) In order to provide for maximum use of state land consistent with the public interest, it is the policy of the State of Alaska to plan and manage state-owned land to establish a balanced combination of land available for both public and private purposes. The choice of land best suited for public and private use shall be determined through the inventory, planning, and classification processes set out in AS 38.04.060 — 38.04.070.

(b) In classifying state land for private use and settlement purposes, the director shall make adequate provision for public open space which is accessible to communities so that natural areas are easily reached from all communities and settled areas. The amount of that land shall be sufficient to meet existing and projected needs for accessible public recreation land. Special care shall be taken to preserve public access to public water and to retain state ownership of sufficient land which combine high value for recreation and other public purposes with accessibility to settled areas. This classification for public purposes does not constitute dedication to open space, but the division's management of land so classified shall be in a manner to preserve the identified values.

(c) In allocating land for private use and public retention, the requirements of future generations shall be considered. To this end, a supply of state land of a variety of types and locations shall be reserved to provide an opportunity for future decisions.

(d) Private land use rights are integral to the material well-being of the people of Alaska and our society.

(e) Involvement of municipalities and local residents is essential in the decision-making process which leads to making state land available for private use. (§ 5 ch 181 SLA 1978)

* Sec. 3. AS 38.04.005(b) is amended to read:

(b) In classifying state land for private use and settlement purposes, the director shall make adequate provision for public open space which is accessible to communities so that natural areas are easily reached from all communities and settled areas. The amount of that land shall be sufficient to meet existing and projected needs for accessible public recreation land. Public access to navigable or public waters of the state shall be preserved as provided in AS 38.05.127. Special care shall be taken to preserve public access to public water and to retain state ownership of sufficient land which combine high value for recreation and other public purposes with accessibility to settled areas. This classification for public purposes does not constitute dedication to open space, but the division's management of land so classified shall be in a manner to preserve the identified values.

Sec. 38.04.020. Land disposal bank. (a) The commissioner shall establish a land disposal bank which contains state land that is available for disposal for private ownership. By July 1, 1979, the land disposal bank shall contain at least 250,000 acres of state land which is available for

(1) use as remote cabin sites under AS 38.05.079;

(2) disposal for recreational and residential use;

(3) disposal for commercial use; and

(4) disposal for industrial use.

(b) By November 1, 1979, the commissioner shall deposit in the land disposal bank all state land in a municipality that is not

(1) identified for one or more of the purposes specified in AS 38.05.047(a)(1) — (5); or

(2) nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 — 29.18.203.

(c) After January 1, 1981, the land disposal bank shall contain at least 500,000 acres of state land which is available for the purposes set out in (a) of this section and all state land in a municipality that is not classified for one or more of the purposes specified in AS 38.05.047(a)(1) — (5) before September 1, 1980.

(d) During the fiscal year ending June 30, 1981, and during each fiscal year thereafter, the commissioner shall make available for private ownership at least 100,000 acres of state land contained in the land disposal bank which is suitable for a variety of uses. If, after January 1, 1981, the land disposal bank contains less than 500,000 acres of land which is available for the purposes listed in (a)(1) — (4) of this section, the commissioner shall classify state land located outside municipalities until at least 500,000 acres are available for those purposes.

(e) The commissioner shall withdraw from the land disposal bank state land located outside a municipality that has been offered for disposal but not conveyed within five years after inclusion in the land disposal bank. State land withdrawn from the land disposal bank under this section becomes state public domain land and, through classification, may be made available for private use, settlement, and development as well as for public uses associated with settlement and development.

(f) The commissioner shall annually submit to the governor three alternative financing requests for the disposal of state land in the land disposal bank. The alternate requests for each fiscal year shall be submitted with the budget submitted to the legislature by the governor. The alternate requests must specify the amount of land to be offered for private ownership under each alternative, the location of the land, and the disposal program under which the land will be offered. The alternatives submitted shall include

(1) an estimate of the appropriations required to finance the disposal of the land identified for disposal during the fiscal year;

(2) an estimate of the appropriations required to finance the disposal of one-half the land identified for disposal during the fiscal year; and

(3) an estimate of the appropriations required to finance the disposal of 50 per cent more land than identified for disposal during the fiscal year.

(g) A person or a municipality may nominate state land for classification for private ownership or may nominate land which is contained in the land disposal bank for reclassification. The commissioner shall hold public hearings semiannually to take nominations of state land under this subsection. The commissioner shall issue a written finding if he determines that land nominated will not be classified or reclassified according to the nominations received during a public hearing required by this subsection. (§ 5 ch 181 SLA 1978; am § 11 ch 85 SLA 1979)

Effect of amendment. — The 1979 amendment rewrote this section.

Editor's note. — See Editor's notes following the chapter analysis.

Legislative history report. — For adoption of the Free Conference Committee letter of intent on AS 38.04.020(a) as repealed and reenacted in House Bill No. 66 (ch. 85, SLA 1979), see 1979 House Journal, pp. 1330 — 1333, 1355; 1979 Senate Journal, pp. 1120 — 1124.

* Sec. 4. AS 38.04.020 is repealed and reenacted to read:

Sec. 38.04.020. LAND DISPOSAL BANK. (a) The commissioner shall establish a land disposal bank containing state land suitable for disposal by fee simple title into private ownership.

(b) The land disposal bank does not include

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

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

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

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

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.-05.300. Land within a municipality retained in state ownership consists of land classified for retention in state ownership as of December 31, 1980. Land outside a municipality to be retained in state ownership consists of land classified for retention in state ownership by the commissioner by July 1, 1983. Land conveyed to the state by the federal government which is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

(1) land suitable for remote parcel disposal;

(2) land suitable for subdivision disposal; and

(3) land suitable for agricultural, commercial, or industrial disposal.

(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank which shall be included in the budget submitted to the legislature by the governor. The request shall include an estimate of the amount necessary

(1) for survey and disposal of land proposed to be made available for remote parcel staking for the succeeding fiscal year, with the general location of the land;

(2) for survey and disposal of land to be offered as agricultural, commercial, or industrial land under AS 38.05.055 or 38.05.057 during the succeeding fiscal year, with the general location of the land;

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

(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

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

(f) The request of the commissioner under (e) of this section shall be based on an assessment by the commissioner of the current needs and anticipated uses of state land in the different regions of the state and developed in consultation with municipalities. The assessment must be completed each year in writing. It must identify areas where land values are artificially inflated and include a survey of the supply of land in private ownership currently on the market, plans for the disposal of municipal land, and the amount of federal land available for disposal through sales, leases, or permits for specific activities. The assessment of needs and anticipated uses for state land shall be based on an analysis of demand for land offered for a variety of purposes under terms equivalent to those available under comparable state land disposal programs. The assessment must include findings regarding the amount of state land which is necessary to meet the statewide demand for three fiscal years immediately after the year in which the assessment is made. The assessment must also include the general location of land to be disposed of and recommendations for the methods of disposal and terms under which the land will be offered to the public.

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

(1) land designated as suitable for remote parcel disposal shall be classified and surveyed under this chapter and AS 38.05 and made available for staking and lease under AS 38.05.077;

(2) land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 38.05.-065;

(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08; and

(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08 except that, notwithstanding AS 38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057;

(3) land designated agricultural, commercial, or industrial shall be sold under AS 38.05.055 or 38.05.057.

(h) Individual parcels disposed of in subdivisions may not exceed five acres unless the commissioner determines that a larger size is necessary to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision.

(i) Nothing in this section prevents the sale of other land by the commissioner in accordance with AS 38.05.055, 38.05.057, or other law, or the issuance of remote cabin permits under AS 38.05.079.

(j) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and notice under AS 38.05.345. The commissioner shall make a written determination within six months after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested.

* Sec. 2. AS 38.04.020 is repealed and reenacted to read:

Sec. 38.04.020. LAND DISPOSAL BANK. (a) The commissioner shall establish a land disposal bank containing state land suitable for disposal by fee simple title into private ownership.

(b) The land disposal bank does not include

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

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

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

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

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.-05.300. Land within a municipality retained in state ownership consists of land classified for retention in state ownership as of December 31, 1980. Land outside a municipality to be retained in state ownership consists of land classified for retention in state ownership by the commissioner by July 1, 1983. Land conveyed to the state by the federal government which is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

(1) land suitable for remote parcel disposal;

(2) land suitable for subdivision disposal; and

(3) land suitable for agricultural, commercial, or industrial disposal.

(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank which shall be included in the budget submitted to the legislature by the governor. The request shall include an estimate of the amount necessary

(1) for survey and disposal of land proposed to be made available for remote parcel staking for the succeeding fiscal year, with the general location of the land;

(2) for survey and disposal of land to be offered as agricultural, commercial, or industrial land under AS 38.05.055 or 38.05.057 during the succeeding fiscal year, with the general location of the land;

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

(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

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

(f) The request of the commissioner under (e) of this section shall be based on an assessment by the commissioner of the current needs and anticipated uses of state land in the different regions of the state and developed in consultation with municipalities. The assessment must be completed each year in writing. It must identify areas where land values are artificially inflated and include a survey of the supply of land in private ownership currently on the market, plans for the disposal of municipal land, and the amount of federal land available for disposal through sales, leases, or permits for specific activities. The assessment of needs and anticipated uses for state land shall be based on an analysis of demand for land offered for a variety of purposes under terms equivalent to those available under comparable state land disposal programs. The assessment must include findings regarding the amount of state land which is necessary to meet the statewide demand for three fiscal years immediately after the year in which the assessment is made. The assessment must also include the general location of land to be disposed of and recommendations for the methods of disposal and terms under which the land will be offered to the public.

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

(1) land designated as suitable for remote parcel disposal shall be classified and surveyed under this chapter and AS 38.05 and made available for staking and lease under AS 38.05.077;

(2) land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 38.05.065;

(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08; and

(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08 except that, notwithstanding AS 38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057;

(3) land designated agricultural, commercial, or industrial shall be sold under AS 38.05.055 or 38.05.057.

(h) Individual parcels disposed of in subdivisions may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with local zoning ordinances or to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision.

(i) Nothing in this section prevents the disposal of interests in land not in the land disposal bank by the commissioner under

(1) AS 38.05.055;

(2) AS 38.05.057;

(3) AS 38.05.070;

(4) AS 38.05.079;

(5) AS 38.08; or

(6) other law.

(j) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and notice under AS 38.05.345. The commissioner shall make a written determination within six months after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested.

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

* Sec. 5. AS 38.04 is amended by adding a new section to read:

Sec. 38.04.021. DISPOSAL OF MUNICIPAL GRANT LAND ENTITLEMENTS. (a) A municipality may apply for financial assistance for the execution of a land disposal program of general grant land entitlements received from the state under AS 29.18.201 - 29.18.213 by submitting a request to the commissioner for inclusion in the estimate submitted to the legislature under AS 38.04.020(e). A municipality may request financial assistance for expenses of surveying land, designing subdivision plats, installing improvements required by municipal ordinance or regulation of the local platting board, and other reasonable direct costs of land disposal.

(b) A request by a municipality under this section must be accompanied by

(1) a schedule for the disposal of municipal land for the next five years; the schedule shall be based on an assessment of the demand for private land within the municipality;

(2) an estimate of the number of acres of municipal land which the municipality plans to dispose of during each fiscal year of the five-year period;

(3) a description of the methods to be used for the disposal of municipal land and the terms under which it will be offered to the public; and

(4) a description of the municipal land which the municipality plans to dispose of each fiscal year during the five-year period.

(c) The commissioner shall determine that a request by a municipality meets the requirements of this section before it is submitted to the legislature. The commissioner shall administer money appropriated by the legislature for financial assistance to a municipality under this section. Money spent under this section constitutes a grant unless otherwise provided by the legislature.

(d) A grant made under this section to a first class city or to a first or second class borough may not exceed five times the amount of money appropriated by the city or borough for the disposal of municipal land unless the commissioner exempts the city or borough from this subsection.

(e) A grant made under this section to a second class city or to a first class city or a first or second class borough exempted by the commissioner under (d) of this section may not exceed seven times the amount of money appropriated by the city or borough for disposal of municipal land.