

ALASKA LEGISLATURE COMMITTEES 1903-1904 00/2

2861 SRES SB 375 2861

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
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## Senate

### Committee on Resources

January 25, 1984

#### SUMMARY OF MAJOR PROVISIONS OF SB 375

*Superseded*

#### Access

##### EXISTING LAW

##### SB 375

AS 38.04.055 requires reservation of easements and rights-of-way across private land to reach public water and public and private land.

Would allow for retention of land in state ownership across or adjacent to private land.

AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."

Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.

AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.

This exemption would be removed.

Costs

EXISTING LAW

SB 375

Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).

Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.

AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.

Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW

SB 375

AS 38.05.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.

At least one public hearing would be required for exchanges involving more than 640 acres or having an appraised value of \$100,000 or more.

AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.

Notice requirements for land exchanges involving less than 640 acres or appraised at less than \$100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW

SB 375

Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact.

More than one notice method would be required.

AS 38.05.345(d) exempts negotiated sales from notice requirements.

Notice must be provided on negotiated sales.

See also "Land Exchanges."

Preference Rights

EXISTING LAW

SB 375

AS 38.05.035(b) allows for granting of preference rights to correct errors or omissions of a state or federal agency.

Would limit the right to apply for a preference to 3 years from the time of error.

AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.

Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW

SB 375

AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.

Would allow for consideration of resource values and land uses in determining parcel size.

AS 38.04.020(g) (2) requires that 20% of subdivision parcels be disposed of as homesites.

The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.

AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.

Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.

Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.

Patent could be obtained at the time of expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met.

Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erection of a dwelling within three years.

AS 38.09.090. would allow the purchase of a homestead parcel at fair market value within 5 years of issuance of the entry permit if all but the occupancy requirements have been met.

Under AS 38.45.080(a), a trapping cabin permit must be issued if the applicant meets certain conditions.

The commissioner would have discretion in issuance of trapping cabin permits.

Price of Land

EXISTING LAW

AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.

SB 375

AS 38.05.055 would allow bidding at auctions to begin at 8% of the appraised value of the land.

Survey

EXISTING LAW

AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.

SB 375

Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument.

# Alaska State Legislature

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## Senate

### Committee on Resources

March 10, 1984

Senator John Sackett  
Room 520, Capitol  
Juneau, Alaska 99811

Dear John:

On Friday, March 9 the Senate Resources Committee approved SB 375, an Act relating to land disposal and management.

Over the last several months the Senate Resources Committee has undertaken a comprehensive review of Title 38, the State's land statutes. Focused on problems identified by nearly 80 user groups and concerned individuals, the review resulted in several recommendations that will clarify and revise land management procedures and allow for more efficient implementation of the State's land disposal program.

Also on March 9, the Committee approved SB 222, which makes additional amendments to Title 38. Entitled An Act relating to the organization of DLR, substituting references in the Alaska statutes to the Department and the Commissioner for references to the Division of Lands and the Director of the Division of Lands, this bill was prepared by the revisor of statutes. Before approval by the Senate Resources Committee, SB 222 was reviewed by the Legislative Legal Division, who ensured that the technical changes it proposes to Title 38 are consistent with the changes proposed in SB 375.

I would appreciate your scheduling a hearing to hold SB 375 and SB 222. I have attached information on the bills and will be happy to discuss them with you at your convenience.

Sincerely,

Bettye Fahrenkamp  
Chairman

BF:sm  
Enclosures

# Alaska State Legislature

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## Senate

### Committee on Resources

#### MINUTES

March 9, 1984  
3:08 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Ziegler, Vice Chair  
Senator Eliason  
Senator Vic Fischer  
Senator Mulcahy

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#### CALENDAR

SB 375, An Act relating to land disposal and management.

SB 222, An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for the references to the Division of Lands and the Director of the Division of Lands.

SJR 32, Proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects and to provide equity for power cost assistance.

SB 423, An Act relating to the Alaska Power Authority.

SB 522, An Act specifying how revenues dedicated to the major projects fund shall be expended; and providing for an effective date.

SB 523, An Act making appropriations from the Major Projects Fund; and providing for an effective date.

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Mike Scott, Aide to Senator Ferguson, explained how the power cost assistance provision in the resolution would provide rural Alaska with some benefits of the energy program and thereby gain equity statewide.

Gordon Harrison, Office of Management and Budget, submitted a proposed Committee Substitute to SJR 32. He suggested that funds be dedicated for a limited number of years and that the power cost assistance language be clarified. He expressed concern that with Constitutional authorization of the Susitna project, there would be no avenue of retreat.

The meeting adjourned at 4:37 pm.

# Alaska MUNICIPAL League

TELEPHONES  
(907) 586-1325  
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301  
JUNEAU, ALASKA 99801

To: Senate Resources Committee

From: Scott A. Burgess, Executive Director 

Date: February 20, 1984

Re: SB 375 - Land Disposal and Management

The League urges passage of legislation which requires the State of Alaska to comply with all local subdivision ordinances and regulations in connection with state land disposal programs. The state should meet the same local requirements imposed on private citizens.

SB 375 not only removes the state exemption from compliance with local subdivision ordinances, but also clarifies Title 38 to promote sound land disposal and management practices. The League supports the bill in general as written and offers the following comments:

1. Resource Values and Uses: The League supports the language in Sections 1 and 2 specifically as they relate to recreational and hunting resource values. The League requests the State of Alaska to hold hearings in the community impacted areas in determining recreational or hunting values of individual properties before offering them for disposal.

2. Compliance with Municipal Planning: Removing the exemption of the state to comply with local subdivision ordinances is one of the League's highest priorities; therefore, the League supports the provisions of Sections 5, 11, 60, and 62. The League also supports requiring state land disposals to recognize local planning efforts, such as comprehensive plans and coastal management plans, including existing or planned municipally approved trails, by means of right-of-way dedication. The League believes this is the intent of the land disposal program and SB 375; however, the intent could be clarified in Section 1 (AS 38.04.005(b)) and, specifically, in Section 7 (AS 38.04.020(h)) by substituting "land use" for "zoning" on line 21, page 4.

Revenue for Improvements: The League supports the documentation of demand and costs of disposal and improvement contained in Sections 4 and 5, and the funding in Section 8. Recognizing the pressure on both the state and municipal governments to dispose of land, the League supports a cooperative effort by the state and municipalities to dispose of land in a continuous and orderly manner. The League also supports state funding to provide planning grants, funds for necessary access roads, survey costs for land scheduled for disposal, and state, borough, and city subdivision roads, sewers, and utilities to meet local subdivision improvement ordinances.

A point of clarification in Section 11 (AS 38.04.050), page 6, lines 24-26. how is "... borne by the recipient of the land..." to be interpreted with the amendments? The League favors, and presumes, that required improvements would be made prior to disposal and the cost of those improvements would be reflected in the selling price of the land, whether by auction, bid, etc.

Legal, Adequate, and Feasible Access: The League supports the clarification of access recognizing "legal" access may not, in actuality, provide feasible or buildable access. Requiring surveying and construction of roads also addresses the current problem.

The League also supports preserving needed specific rights-of-way and easements which provide for present and future public access (Section 12). The League has one concern with the language in Section 12. "Roads" should not be confused with "trails" in terms of access. The state has been criss-crossed with trails for access. As the state is developed, roads are needed but trail systems are being recognized and preserved by many communities as a recreational resource. The designation and improvement of historical trails for use by cars and trucks is often incompatible with the recreational activity. Therefore, additional land may have to be preserved to provide rights-of-way to "maintain present and future public use and access to public land and water and to reach adjacent private land" (page 7, lines 2-4) separate from a municipally approved trail.

Again, the League supports SB 375 and hopes these comments are helpful. We appreciate the opportunity to testify.

*Note*  
*Cost born*  
*in price of land*

*Watch*  
*trails*

2-24-84

CHAIRMAN  
SENATE TRANSPORT/ COMMITTEE  
SENATE SPECIAL AGRICULTURE COMMITTEE  
MEMBER  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE  
LEGISLATIVE COUNCIL  
REAA BUDGET OVERSIGHT COMMITTEE

# Alaska State Legislature



## State Senate

SENATOR  
H. PAPPY MOSS  
P.O. BOX 182  
DELTA JUNCTION, ALASKA 99737  
(907) 895-4384

JUNEAU OFFICE:  
POUCH V  
JUNEAU, ALASKA 99811  
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### SENATE SPECIAL COMMITTEE ON AGRICULTURE

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#### MEMORANDUM

February 24, 1984

RE: Senate Bill 375  
TO: Senator Bettye Fahrenkamp, Chair  
Senate Resources Committee  
FROM: Senator H. Pappy Moss, Chair  
Senate Special Committee on Agriculture

The farmers in the Delta II project are in trouble. It is true that many are deeply in debt to the state and are faced with the immediate problem of not being able to make their land payments to the state. This is not a new problem, or one that happened with no warning at all.

The Delta II land was sold in about 15 parcels by public auction in March 1982. Many farmers, and the Agricultural Action Council, agree that some of the information on which the purchasers based their bids, has not been accurate. Many of the predictions for state support of the agricultural projects, from the building of access roads to the availability of a marketing infrastructure, have not come to pass in the timely manner described in the sale brochures.

The farmers have already received time extensions on their deferred payments. Land payments were originally first due in March of 1983, and a short extension was given until December 1983. In December 1983 an extension was given, the deadline of which is the end of this month.

The Alaska Agriculture Action Council considers some of the problem to be that the Division of Land Management had set relatively high prices for the minimum bids on the land and then saw the bidding go much higher. Another problem is the relatively high number of buyers involved that really didn't have a strong agricultural background. One of the positive aspects of this sale is that it did provide an opportunity for beginning farmers in the State of Alaska. These people are helping to build a new

industry in the state, but they're starting from scratch and without a whole lot of experience. It has taken more time and more money for them to get into production than either they or the AAAC anticipated.

The state encouraged the Delta II farmers to come into the project and invest time and work in their land based on state supporting systems, which so far, have not provided the support in the manner originally intended. The farmers, when acquiring their land at this auction, were required to submit a five year plan for the development of their agricultural business. The farmers want the same from the state...some kind of long range plan so that the farmers can understand what governmental framework they are dealing with.

There are successful Delta II farmers. There are Delta II farmers that are not in debt. There are even a few Delta farmers who are actually making a little money. But even these, the successful farmers, are having difficulty making the land payments. Farmers who successfully cleared, planted, and harvested, are sitting on their grain for lack of a market. And for lack of a market, they are unable to come up with the funds to make their land payments.

It is these farmers that the state must continue to support. The attached proposed amendment provides for a schedule under which farmers may earn ✓ production credits to reduce the remainder of the purchase price of their land. This system of credit reduces the cost of the land to the farmer, the producing farmer. Under this system the state will benefit by trading some reduced land payments for an increased agricultural production, a healthy business investment.

In addition to the production credits to provide a long range solution to the farmers' crisis, steps must be taken to solve their immediate crisis. A ✓ four year deferral of payments on the principal and interest of the purchase price of the land is provided for in subsection (g) of this amendment. Under this subsection, the purchaser would be able to pay those deferred payments of the first four years over the remaining 16 years of the original land sale contract. This amendment is supported by the Director of the Division of Agriculture and the Executive Director of the Alaska Agricultural Action Council.

This amendment is not offered to assist poor businesspeople in the area of farming to continue where they have failed. This amendment is offered to support the successful, producing farmer who is contributing to agricultural development in the state of Alaska.

SENATE SPECIAL COMMITTEE ON AGRICULTURE  
Senator H. Pappy Moss, Chairman

EMERGENCY FARM ACT OF 1984

February 24, 1984

Offered in the SENATE

A M E N D M E N T

To SB 375:

Page 12, after line 12, insert the following new sub-sections to read:

(e) A purchaser who has entered into a contract of sale with the State for land sold at public auction before January 1, 1984 under AS 38.05.055 may apply for and receive reductions in the remainder of the purchase price due in accordance with the following schedule:

(1) a five percent reduction in the remainder of the purchase price for each year in which more than 40 but less than 60 percent of the land owner's tillable acres are in production and in which the number of acres in production is less than 800; or

(2) a 10 percent reduction in the remainder of the purchase price for each year in which 800 acres or more, or 60 percent of the landowner's tillable acres, whichever is less, are in production.

(f) A reduction in the remainder of the purchase price under (e) of this section may not be granted unless the required acreage is brought under production in accordance with crop and harvest regulations adopted by the Department of Natural Resources.

(g) A purchaser who has entered into a contract of sale with the state under (a) of this section may be granted a deferral of four years from the date of sale on the payment of principal and interest on the purchase price upon application to the Department of Natural Resources. A deferral may not be granted unless the purchaser has maintained his clearing and planting schedule as outlined in the terms of the Farm Development Plan as defined in the contract of sale. A purchaser who qualifies for a deferral will pay those four years' payments in monthly, quarterly or annual installments over the remaining 16 years of the 20 year period of the original contract with the state as in (a) of this section.



University of Alaska  
Statewide Office of Land Management  
3354 College Road  
Fairbanks, Alaska 99701  
474-7421

*can revisions  
these?  
put in SB 222*

February 9, 1984

Senator Bettye Fahrenkamp  
Chairman, Committee on Resources  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99801

Dear Bettye:

Thank you for your letter of December 27, 1983 and the opportunity to comment on the proposed bill and the changes it makes to title 38 of the Alaska Statutes.

In our original comments, sent to you on Sept. 23, 1983, we listed specific proposed changes to the statutes which we felt were required due to the passage of the University's lands bill. We explained that those requested changes would be augmented by others following a more complete review of title 38 by our attorney. That review is now complete. Accordingly, we are enclosing a complete version of our "Proposed Changes to Statutes Concerning University Lands". Many of these changes do not appear in your working draft of the bill and would have to be added. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Merry".

Merry Tuten  
Director

MT/ST/dc  
Enclosure  
cc: Mari. Neumayr

FEB 13 1984

January 30, 1984

PROPOSED CHANGES TO STATUTES  
CONCERNING UNIVERSITY LANDS

What follows is the final list of the statutes which should be amended to reflect recent legislation (CSSB 41) removing University-grant land from public domain land. In most cases, actual wording changes, additions and deletions have been suggested for the relevant statute.

Note: words to be deleted are capitalized and enclosed in parentheses; words to be added are underlined.

1. AS 29.18.206(a) (b) (d) and (e) is amended as follows:

School (,UNIVERSITY,) and mental health land, (a) If an entitlement determined as AS 29.18.201 or 29.18.202 results in a per capita entitlement for the municipality of less than one and one-half acre, the municipality may select vacant school (,UNIVERSITY,) or mental health land within the municipality in partial fulfillment of its land entitlement under this chapter. School (,UNIVERSITY,) or mental health land may be selected notwithstanding the fact that these lands are not unappropriated and unreserved within the meaning of this chapter and AS 29.18.190 and 29.18.200, repealed by this act, but any selection of school (,UNIVERSITY,) or mental health land by a municipality must be vacant, unappropriated, or unreserved land as defined in this chapter, except that it need not be general grant land.

(b) The acreage of school (,UNIVERSITY,) or mental health land, if any, within a municipality may not be included in the determination of entitlement under AS 29.18.201 or 29.18.202.

(d) Within six months after approval of a municipal selection of school (,UNIVERSITY,) or mental health land, the director shall identify state general grant land of approximately equal value to the land requested by the municipality, and shall propose the replacement land for the concurrence of the appropriate board. If a proposal by the director is rejected by the board, the director shall meet with the board as often as necessary to determine the type and amount of equal value replacement land that would be required to obtain the board's concurrence, and shall propose the replacement land for consideration by the board. The replacement land shall thereafter be managed for the purposes for which the land selected by the municipality was acquired by the Territory and the State of Alaska.

(e) The notice and review provisions of AS 38.05.305 and 38.05.345 are applicable to the designation of other general grant land as school (,UNIVERSITY,) or mental health land in replacement of land selected under this section. The provisions of AS 38.50.010 - 38.50.170 and 38.05.032 do not apply to such designations under this section. The provisions of AS 38.05.030(a), 38.05.030(e), and 38.05.035(a) (13) which require the approval of the respective trust board before disposal of lands by the director do not apply to selections of school (,UNIVERSITY,) or mental health land by a municipality under this section.

AS 29.18.206 is further amended by adding a new section to read as follows:

*IN OUT OF COURT SETTLEMENT. THIS IS INCORPORATED BY REFERENCE IN SB 4041.*  
(f) Nothing in this act precludes or prejudices negotiations between the Municipality of Anchorage and the University of Alaska to settle case Number 3AN-79-2801 Civil, Third Judicial District, State of Alaska, or prejudices or otherwise affects the pursuit or outcome of that litigation or diminishes or affects the rights of the University of Alaska or the Municipality of Anchorage in that pending litigation.

2. AS 29.18.213(4) is amended as follows:

"General Grant Lands" means land patented or tentatively approved to the state from the United States under 6(a) or (b) of the Alaska Statehood Act except university-grant lands and replacement lands.

3. AS 29.18.213(11) is repealed; or

AS 29.18.213(11) is amended as follows:

"university lands" means all sections 33 reserved to the University under 38 Stat. 1214, as amended (48 U.S.C. 353), all lands reserved for or granted to the territory and State of Alaska for the benefit of the University by the Act of 1929 (45 Stat. 1091), as amended, and section 6(k) of the Alaska Statehood Act (72 Stat. 339), as amended, which retain such designation, and all other lands owned in fee by the university, including state lands which have been transferred in fee to the university through its Board of Regents, as trustee, to replace former university lands which have been otherwise managed or disposed of. (AND ALL LANDS GRANTED TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY);

*DONE IN SB 375* 4. AS 38.04.040 is repealed.

5. AS 38.04.020(b) is amended by adding a new paragraph to read:

*Land disposal bank does not include*  
(5) University-grant land or replacement land.

*DONE IN SB 375* 6. AS 38.05.030(a) is repealed.

*DONE IN SB 375* 7. AS 38.05.030(c) is amended as follows:

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in ((A) AND) (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease or exchange to the Division of Lands within three months after the date that they make the acquisition, lease or exchange.

8. AS 38.05.030(d) is amended as follows:

DONE IN  
SB 375

(d) Real property acquired by, and under the management of, the agencies referred to in ((A) AND) (b) of this section, which is no longer needed for its intended use, shall be returned to the jurisdiction of the Division of Lands, except that the Department of Highways may dispose of real property acquired by it under AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

9. AS 38.05.030 is amended by adding a new paragraph to read:

(f) University-grant lands and replacement lands are not considered public lands and are not subject to the provisions of this chapter.

*Should be included if you do this you don't need to do #10*

10. AS 38.05.035(a) (7) is amended to read:

*Powers & duties of director:*

Have jurisdiction over state lands, except university-grant lands and replacement lands, lands acquired by the Alaska World War II Veterans Board and the Agriculture Loan Board or the departments or agencies succeeding to their respective functions through foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interest in state lands, including the taking of all necessary action to protect and enforce the state's contractual or other property rights;

11. AS 38.05.070 (c) uses the term "school lands". However, this term is no longer defined in the definitions section (AS 38.05.365). In order to avoid any confusion between "school lands" and University owned lands, either of the two following changes should be made:

- a. Remove AS 38.05.070 (c) from the statutes; or
- b. Amend AS 38.05.365 by adding a new section to read as follows:

(14) "school lands" means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and transferred to the state of Alaska upon its admission under 6 (k), Alaska Statehood Act, 72 Stat. 339, and any other lands designated solely for school revenues;

12. AS 38.05.125 is amended by adding a new paragraph to read:

*Reservation of mineral rights:*

(a) Conveyance of title to university-grant lands and replacement lands to the University Board of Regents is not subject to the reservations of this section.

*what is the impact - are there any reservations*

13. AS 38.05.315(d) is amended as follows:

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for which

*UNIV. RECEIVED MINERAL RIGHTS, BUT UNIV. MUST RESERVE IF THEY LEASE OUT THE LAND.*

the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on lands acquired primarily for development, or less than five percent of the fair market value on (UNIVERSITY OR) acquired lands.

14. AS 38.05.365(16) is amended as follows:

(16) "state lands" or "lands" means all lands, including shore, tide and submerged lands, or resources belonging to or acquired by the state (.), except university-grant lands.

*Ammas  
w/9-*

15. AS 38.05.365(20) is repealed; or

AS 38.05.365(20) is amended as follows:

(20) "university lands" means all sections 33 reserved to the University under 38 Stat. 1214, as amended (48 U.S.C. 353), all lands reserved for or granted to the Territory and State of Alaska for the benefit of the University by the Act of 1929 (45 Stat. 1091), as amended, and section 6(k) of the Alaska Statehood Act (72 Stat. 339), as amended, which retain such designation, and all other lands owned in fee by the university, including state lands which have been transferred in fee to the university through its Board of Regents, as trustee, to replace former university lands which have been otherwise managed or disposed of. (AND ALL LANDS GRANTED TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY);

16. AS 38.07.030 (c) is amended as follows:

(c) The cost of clearing land leased from the state, including but not limited to school, (University) and mental health land, shall be borne by the state. The lessee shall repay the cost over a 10 year period at five per cent interest.

17. AS 38.50.040 is amended as follows:

Except as otherwise provided in AS 38.50.010 - 38.50.170 the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. (THE CONVEYANCE OF UNIVERSITY LAND SHALL BE APPROVED IN THE MANNER PRESCRIBED IN AS 38.05.030 (1 CH 240 SLA 1976; AM 13 CH 181 SLA 1978; AM 17 CH 182 SLA 1978))

18. AS 38.50.090 (b) is amended as follows:

The director shall be afforded an opportunity for review and comment on any land exchange proposed by a state agency other than the Department of Natural Resources and the University of Alaska.

Note: The Legislature has given the University management authority over its lands. Therefore, there should no longer be a requirement that land exchanges contemplated between the University and other private entities or municipalities be reviewed by the director.

19. AS 38.95.160 uses the term "state lands". However, the term "state lands" is not defined for the purposes of this section. In order to avoid any confusion with university lands, this term should be defined either by:

a. Amending AS 38.05.365 as follows:

AS 38.05.365 Definitions. In AS 38.05.005 - 38.95.160 unless the context otherwise requires,.....

b. Or by including a separate definitions statute which applies to this specific section and which defines "state lands" in the same manner as in AS 38.05.365.

#### ADDITIONAL COMMENTS

1. The working draft of the bill to correct title 38 fails to incorporate several of the changes suggested in our document entitled "Proposed Changes to Statutes Concerning University Lands" contained in our letter to you of September 23, 1983 and appearing in complete form above. These changes are necessary due to the change in status of the University's lands from state to University ownership:

a. Change #1, concerning the Municipal Entitlements Act was not made. Although you note in your comments on the proposed changes that other legislation is being submitted concerning this statute, we still believe that the inapplicable reference to the University should be removed as part of your overall "clean-up" of the statutes. It is not likely that the other legislation of which you speak will concern itself with this change but rather will seek to make more substantive changes to this statute. In addition, if the other legislation fails we will still be left with inapplicable references to the University in this statute.

b. Change #11 (change #13 above) concerning leasing at less than fair market value, was not made. This change is in keeping with the objective of removing inapplicable references to the University where they appear in title 38.

2. In many instances title 38 refers to "state agencies". It would be helpful if the definitions portion of the statutes contained an entry which would define the term "state agency". This is especially necessary in the case of the University which has been defined both as a state agency and not as a state agency at different times and for different purposes.

*DNE treats  
under 315  
as state  
agency.*

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate

### Committee on Resources

#### MINUTES

February 27, 1984  
3:05 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Ziegler, Vice Chair  
Senator Eliason  
Senator Paul Fischer  
Senator Mulcahy  
Senator Sturgulewski

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#### CALENDAR

SB 335, An Act amending the Alaska Grain Reserve Program; and providing for an effective date.

SB 337, An Act relating to the Delta Junction bison range; and providing for an effective date.

SB 338, An Act making special appropriations for the development of the Delta Junction bison range and construction of a bison herd drift barrier; and providing for an effective date.

SB 375, An Act relating to land disposal and management; and providing for an effective date.

---

#### SB 337

Senator Bettye Fahrenkamp explained that the Committee Substitute addressed the location of the drift barrier and clarified that the bison permit fee had been increased to \$10.00.

Senator Mulcahy moved SB 337 from Committee with individual recommendations. There was no objection.

SB 335

Senator Fahrenkamp explained that a Committee Substitute replacing "non-graded" with "non-standardized" had been prepared to clarify that inferior quality grain will not be accepted.

Senator Sturgulewski moved to adopt the Committee Substitute and move it from committee with individual recommendations. There was no objection.

SB 338

Senator Ziegler moved the bill from committee with individual recommendations. There was no objection.

SB 375

Senator Eliason discussed his proposed amendment (#1) that would allow the state to quitclaim title to lands back to the federal government to settle certain land claims.

Ned Farquhar, Special Assistant to the Commissioner, Department of Natural Resources, suggested additional language that would allow the Commissioner to quitclaim lands classified as agricultural.

Senator Eliason moved amendment #1. There was no objection.

Senator Fahrenkamp discussed amendment #2, which would allow eligible veterans a 25% discount on the purchase price of state land.

Farquhar, and Meg Hayes, Southcentral District, Division of Land and Water Management, Department of Natural Resources, answered questions on the current veterans' preference program and the impact of the proposed amendment.

Senator Eliason moved to adopt the amendment. There was no objection.

Senator Fahrenkamp discussed amendment #3, which would postpone land disposals until area plans have been approved.

Farquhar, and Hayes, testified that the Department supports the concept of planning prior to disposals. However, a statutory moratorium on disposals could seriously disrupt the program.

Senator Fahrenkamp discussed amendment #4, which would repeal the demand assesment statute, AS 38.04.020(f).

Farquhar, testified that the Department uses its area planning program to identify available lands and relies on the market as an indicator of demand. He recommended this section be dropped because of its high administrative and fiscal costs.

Senator Sturgulewski moved to repeal AS 38.04.020(f) and amend to read " The request of the commissioner under (e) of this section shall include an analysis and determination that there is a market demand for the land proposed for disposal. There was no objection.

Senator Fahrenkamp discussed amendment #5, which would require consideration of the useful life of a project in determining the term of a lease.

Farquhar supported the amendment.

Richard Harris and Bob Loescher, Sealaska Corporation, supported the amendment.

Senator Sturgulewski moved the amendment. There was no objection.

Senator Ziegler moved amendment #6, which would change the term and value of a negotiated lease. There was no objection.

Farquhar testified in support of amendment #7, which would amend the surface leasing procedure to allow survey costs to be credited to the lessee.

Senator Eliason moved the amendment. There was no objection.

Senator Eliason moved amendment #8, which would authorize the Commissioner to require prequalification of bidders for surface leases. There was no objection.

Farquhar supported amendment #9, which would amend leasing procedures for tidelands leases.

Senator Mulcahy moved the amendment. There was no objection.

Senator Ziegler moved amendment #10, which would allow the Department to convey remnants of land to an adjoining landowner. There was no objection.

Jay Nelson, Executive Director, Alaska Environmental Lobby, testified in support of amendment #11, which would create citizens advisory boards to offer advice to DNR prior to formal public hearings on land disposals.

Farquhar testified that there are ample opportunities for public involvement in the land offering process.

Senator Sturgulewski moved amendment #12, which would allow for joint disposals. There was no objection.

Farquhar testified in support of amendment #13, which would clarify the appeal process for contract violations.

Senator Sturgulewski moved amendment #13. There was no objection.

The meeting adjourned at 4:18 pm.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate

### Committee on Resources

#### MINUTES

March 9, 1984  
3:08 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Ziegler, Vice Chair  
Senator Eliason  
Senator Vic Fischer  
Senator Mulcahy

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#### CALENDAR

SB 375, An Act relating to land disposal and management.

SB 222, An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for the references to the Division of Lands and the Director of the Division of Lands.

SJR 32, Proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects and to provide equity for power cost assistance.

SB 423, An Act relating to the Alaska Power Authority.

SB 522, An Act specifying how revenues dedicated to the major projects fund shall be expended; and providing for an effective date.

SB 523, An Act making appropriations from the Major Projects Fund; and providing for an effective date.

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SB 222

Sandra Schubert, Aide to Senator Fahrenkamp, explained that SB 222, which was prepared by the Revisor of Statutes, reflects changes in drafting style. The second Committee Substitute includes changes made to conform with the passage of SB 41, which awarded the University of Alaska ownership and management of certain state lands, and the changes proposed in SB 375, the lands bill.

Senator Mulcahy moved to adopt the second CS SB 222, and move it from committee with individual recommendations. There was no objection.

SB 375

Senator Eliason proposed an amendment to SB 375 that would change the effective date on the quitclaim section of the bill. He moved to adopt the amendment. There was no objection.

Senator Mulcahy moved CS SB 375 from committee with individual recommendations. There was no objection.

SJR 32

SB 423

SB 522

SB 523

Senator Gilman proposed that SJR 32 contain a provision for construction of the Bradley Lake hydroelectric project.

Dave Hutchens, Alaska Rural Electric Cooperative Association, proposed authorizing and funding the Bradley Lake project, and addressed problems associated with a delayed effective date on the repeal of the Susitna "blackmail" clause.

George Matz, Special Assistant, Department of Commerce and Economic Development, presented testimony on the status of negotiations with the four dam pool communities on signing power sales agreements.

Sterling Gallagher, John Nureen and Company, reviewed the problems associated with "roll-over" of APA's short term debt, citing pending Congressional legislation, higher future interest rates, and the assurances bonders would need to be willing to roll the debt.

Senator Halford urged that the language to be inserted in the Constitution be simplified.

Mike Scott, Aide to Senator Ferguson, explained how the power cost assistance provision in the resolution would provide rural Alaska with some benefits of the energy program and thereby gain equity statewide.

Gordon Harrison, Office of Management and Budget, submitted a proposed Committee Substitute to SJR 32. He suggested that funds be dedicated for a limited number of years and that the power cost assistance language be clarified. He expressed concern that with Constitutional authorization of the Susitna project, there would be no avenue of retreat.

The meeting adjourned at 4:37 pm.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate

### Committee on Resources

#### MINUTES

February 20, 1984  
3:12 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Ziegler, Vice Chair  
Senator Eliason  
Senator Mulcahy

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#### CALENDAR

SB 371, An Act relating to mining; and providing for an effective date.

SB 375, An Act relating to land disposal and management; and providing for an effective date.

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#### SB 371

Esther Wunnicke, Commissioner, Department of Natural Resources, testified in support of the proposed Committee Substitute, and proposed a delayed effective date for the section dealing with increased acreage for offshore prospecting permits.

R.V. Bailey, Aspen Exploration Corporation, spoke in support of the proposed Committee Substitute.

#### SB 375

Esther Wunnicke, Commissioner, Department of Natural Resources, testified that the Department strongly supports the bill and recommended that the legislature abolish the annual land demand assessment, allow the Commissioner to waive survey requirements for some homestead offerings, and recognize in statute the planning process the Department follows in offering lands. She supported an amendment proposed by Senator Eliason as SB 344, concerning quitclaiming title to land, and one proposed by Representative Shultz as HB 542, concerning refuse sites.

Jay Nelson, Executive Director, Alaska Environmental Lobby, spoke in support of the bill and discussed several proposed amendments. He recommended encouraging more public involvement in the land disposal program by using common terms in public notices and setting up citizens' advisory boards. He also suggested the implementation of a remote cabin system similar to the one operated by the U.S. Forest Service.

Robert W. Loescher, Vice President, Resource Management, Sealaska Corporation, proposed amendments dealing with tidelands leasing procedures, and the State's land exchange and condemnation procedures.

Dennis Harms, Alaska Master Guide, spoke in support of amendments that would increase the term of negotiated leases from 5 to 20 years.

Kelly Vrem, Alaska Professional Hunters Association, concurred with the testimony of Dennis Harms.

Richard Rainery, Rural Research Agency, spoke in support of Senator Ferguson's amendments to SB 375. These amendments would establish that traditional land uses constitute substantial economic uses, the preservation of which should be considered to be in the public interest.

Scott Burgess, Executive Director, Alaska Municipal League, testified in support of the bill, and specifically those sections that require the State to comply with local subdivision ordinances and regulations governing land disposal.

John Clark, Director, Habitat Division, Alaska Department of Fish and Game, testified in support of SB 375, and recommended that the remote cabin permit program be modified to meet specific needs.

Senator Eliason testified in support of his amendment that would allow the state to quitclaim title to lands back to the federal government.

Esther Wunnicke, Commissioner, Department of Natural Resources, spoke in support of Senator Eliason's amendments.

Dennis Harms, Alaska Master Guide, testified in support of Representative Hurlbert's amendment relating to preference rights.

The meeting adjourned at 4:32 pm.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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

March 7, 1984

The Honorable Bettye Fahrenkamp  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99801

Dear Senator Fahrenkamp:

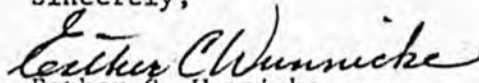
I am attaching the Department's fiscal note for CSSB 375 (Resources), preparatory to your Committee hearing on the bill Friday, March 9.

The major costs on the fiscal note are associated with Sec. 28, which has been added during the hearings process in response to Sealaska Corporation's proposal. The Department is largely supportive of the changes to our surface leasing processes embodied in this amendment, and it is my hope that we will be able to respond effectively to the new timelines and procedures in the statute. Without additional funding to support each District Office of the Division of Land and Water Management (Anchorage, Fairbanks, and Juneau), I anticipate that the Commissioner will regularly use the proposed authority to grant time extensions in the prequalification process [38.05.075(e)]. Please note that this prequalification process does not affect just tidelands leasing, but all surface leasing under 38.05.075.

Other major costs are associated with two major items that have also been added to the bill during the hearings process. The new authority to quitclaim interests in land to the federal government will generate many new requests for Departmental land actions; in the House consideration of the same proposal, we have recommended a fiscal note equal to that now included in our note for CSSB 375. We also anticipate new costs in the contract foreclosure process in Sec. 22. The Department requested this new procedure and needs to be able to keep up with the workload in contract administration.

I appreciate very much your attention to Title 38. If I may be of assistance, please contact me.

Sincerely,

  
Esther C. Wunnicke  
Commissioner

Attachment

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSSB 375 (RES)  
Title: An Act...land disposal and management

Sponsor: Fahrenkamp  
Requestor: Senate Resources  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DNR  
Program Category Affected: LRMEC

RU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Management: Land and Water Management;  
Information/Records Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES	208.2	208.2	208.2	208.2	208.2	208.2
200 TRAVEL	5.7	5.7	5.7	5.7	5.7	5.7
300 CONTRACTUAL	9.0	9.0	9.0	9.0	9.0	9.0
400 SUPPLIES	4.5	4.5	4.5	4.5	4.5	4.5
500 EQUIPMENT	1.5	1.5	1.5	1.5	1.5	1.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>
<b>CAPITAL</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>REVENUE</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	228.9	228.9	228.9	228.9	228.9	228.9
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>	<b>228.9</b>

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME	1 1/2	1 1/2	1 1/2	1 1/2	1 1/2	1 1/2
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar *NE* Phone: 465-2400  
Division: Commissioner's Office Date: 7 March 1984

Approved by Commissioner: *Carole W. Wunniche* Date: 7 March 1984  
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

DNR BACKUP ANALYSIS FOR  
FISCAL NOTE ON CSSB 375 (Resources)

Sec. 2: This change requires increased travel and advertisement to encourage local participation.

Land and Water Management:

200	4.5
300	<u>2.0</u>
Total	6.5

Sec. 9: The fund for land disposal revenues will require some administration.

Management:

100	7.2 ( $\frac{1}{2}$ Document Processing Clerk III)
-----	--

Sec. 12: The requirement to comply with local ordinances regarding access will be expensive but will be budgeted in future disposal projects.

Sec. 18: To respond to quitclaim requests, the Division of Technical Services will need new funding.

Information/Records Management:

100	46.2 (NRM I)
200	1.2
300	4.0
400	2.0
500	<u>1.5</u>
Total	54.9

Sec. 22: Mail, tracking, and programming costs for the Division of Land and Water Management and the Division of Management will increase.

Land and Water Management:

100	14.3 ( $\frac{1}{2}$ Document Processing Clerk III)
400	<u>1.0</u>
Total	15.3

Management:

100	14.3 ( $\frac{1}{2}$ NRT I)
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Sec. 25: See note for Sec. 28.

Sec. 27: See note for Sec. 28.

Sec. 28: To meet the timeline in statute as a matter of course, the Department would be forced to add staff in each District office of the Division of Land and Water Management. We anticipate difficulty meeting the requirement in subparagraph (e)(2) in completing all procedures required by AS 38.05.035(e) (appraisals, surveys, hearings, preliminary decisions, and written findings).

Land and Water Management:

100	46.4	(SCDO NRM I)
	46.4	(NCDO NRO II)
	<u>40.6</u>	(SEDO NRO II)
	133.4	
300	3.0	
400	<u>1.5</u>	
Total	137.9	

Sec.78-79: The requirement for front-end funding for compliance with local platting and subdivision ordinances will ~~will~~ primarily impact the Division of Technical Services and will be addressed in future budget submissions. The total annual impact for compliance with local ordinances on an annual basis is not easily estimated, but could reach tens of millions of dollars.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-485-2400

OFFICE OF THE COMMISSIONER

April 4, 1984

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

Dear Senator Mulcahy:

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


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

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

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

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

Sincerely,

  
Esther C. Wunnicke

Commissioner

cc: Senator Bettye Fahrenkamp

APR 6 1984



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCH V  
JUNEAU, ALASKA 99801  
(907) 465-3715

## MEMORANDUM

To: House Members  
From: Rep. John Ringstad  
Date: May 23, 1984  
Re: HCSCSSB 375 ( 2d Resources )

202  
DRAFT

\*\*\*\*\*

This legislation is a combined effort by Senate Resources, House Resources, and DNR to streamline existing law with regard to the disposal and management of state land.

There are few major policy changes however, as indicated by the mass of the document there are numerous technical and clerical adjustments. An explanation of each of these changes can be found in the sectional analysis provided.

The major policy sections are Sec. 5 (which deletes the loophole that existed with regard to annual disposal cost estimates), Sec. 9 (establishing a revolving loan fund within the general fund to handle revenues from the sale of state land), Sec. 23 (dealing with title to agricultural lands), Sec. 42 (extending the term of state land appraisals from 120 days to one year), Sec. 69 (involving the legislature in major land exchange decisions), and Sec. 85 (requiring state compliance with local subdivision ordinances when disposing of land within municipalities).

The legislation before you has had extensive review by the public and individual interest groups over the last year under the schedule of Senate Resources hearings as indicated by the attached list. ( see appendix page. ) In addition the Senate and House Resources Committees had lengthy hearings on this legislation this session and, while I believe that there may still be improvements needed in the future, this legislation, along with HCSCSSB 222, substantially improves existing land disposal law.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

rec 2-17-84  
POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

MEMORANDUM

February 15, 1984

SUBJECT: Sealaska amendments (SB 375)  
TO: Senator Bettye Fahrenkamp  
Chairman, Senate Resources Committee  
FROM: Richard A. Bradley *B*  
Legislative Counsel

You have requested my analysis and comments on a group of amendments to SB 375 (land disposal and management) proposed by the Sealaska Corporation.

Section 1 proposes a new section AS 38.04.058. It would permit a grantee, lessee, or interest holder of state land to "restrict the use of any easement or right-of-way reserved under AS 38.04.050 - 38.04.055 or other applicable law in order to protect public safety or property." The provisions cited are concerned with the direction to the director that when state land is surveyed before disposals to members of the public for private use, "adequate rights-of-way and easements" shall be reserved for public use.

The restriction on the easement or right-of-way would apparently occur "under terms agreed to by the director in writing".

It seems rather unusual to grant either a fee owner ("grantee") or someone who owns less than a fee interest ("lessee" or "interest holder of state land") the right to condition the use of what is stated to be a public "easement or right-of-way" on state land.

The reasons suggested for this right: "to protect public safety or (public?/ private?) property" seems unclear. I agree that the director (or DOT/PF) should retain and undoubtedly does retain the authority to close roads in the winter, or for other purposes. Other state officers may have similar powers in their areas of concern.

As drafted, it is not clear whether the director's participation is limited to approval of the framework under which the closure would occur or whether the closure would be directed by the director after consultation with the grantee, etc. To the extent that it suggests that private parties may close public easements and public rights-of-ways that extend over state property, I suggest that it states poor public policy. And perhaps more to the point, it reverses the strong policy stated in AS 38.04.050 - 38.04.055, a policy that derives, I may say, from the Settlement Act as to Native land. See Sec. 17(b) of the Settlement Act, Pub. L. 92-203.

I suggest that the problem be more specifically identified and that DNR or some other appropriate agency be given broad discretion to address the question.

And finally, I doubt that any easements will be reserved under AS 38.04. The better source for the authority of the director to reserve such easements is probably AS 38.05.035(a)(5) or similar law within AS 38.05.

Section 2 proposes an amendment to AS 38.04.065(a). As amended, the subsection would read:

(a) The commissioner shall, in conformity with AS 44.62.010 - 44.62.300 [WITH LOCAL GOVERNMENTAL AND PUBLIC INVOLVEMENT IN ACCORDANCE WITH AS 38.05.305], develop, maintain and, when appropriate, revise land use plans which provide, by regions or areas, for the use of the state-owned land.

I agree that the subsection is obsolete to the extent that AS 38.05.305 has been repealed. The repealed section had dealt with "notice and review" of proposed disposals of state land; the similar current section now dealing with that concept is AS 38.05.345.

Whether the benefits and burdens of the Administrative Procedure Act (AS 44.62) should be used to "develop, maintain, and . . . revise land use plans" for state-owned land is a question I leave to the committee-- but I would substitute AS 38.05.345 for the existing citation.

The "analysis" that accompanies the proposed amendments notes that land use plans come close to the concept of regulations as that term is defined in AS 44.62.640(a)(2). In

are land use plans regs.?

its review of a "Comprehensive Management Policy for Upper Cook Inlet (fisheries)", the Alaska Supreme Court concluded that the "management policy" was included within the definition of "regulation" at AS 44.62.640(a)(2) and, since it was not adopted under the Administrative Procedure Act, it was invalid.

The court noted that the definition of regulation in the APA is uniquely broad-- much broader than the similar definition in either of the laws from which the APA was derived. It concluded that the management

"policy . . . make[s] specific management policies for Upper Cook Inlet salmon stocks, and have the effect of regulations or standards of general application for the management of those stocks. As such, they are regulations, and should have been adopted according to APA procedures." Kenai Peninsula Fisherman's Co-op. Ass'n. v. State, 628 P.2d 897, 906 (Alaska 1981).

The differences between the requirements of AS 38.05.345 and regulation adoption procedures of AS 44.62 seem not that significant; in view of the Kenai Peninsula case, the legislative options that I recommend include a recognition that land management plans are subject to the APA-- or the legislature may wish to narrow the breadth of the definition of regulations in AS 44.62.640. The latter option could be accomplished broadly by amending AS 44.62.640 or by a specific amendment, say to AS 38.04.065, providing that land use plans need not be adopted under the APA notwithstanding the definition of regulations at AS 44.62.640.

Section 3 proposes an amendment to AS 38.05.070(c). As amended, it provides:

(c) A lease may be issued for a period up to 99 [55] years, if it appears to be in the best interests of the state and if the commissioner approves. The term of the lease shall not be less than the projected useful life of any improvements proposed and approved under the pre-qualification process of AS 38.05.075. If the commissioner determines that the land or a part of it which is the subject of a grazing lease is not being used for the purpose issued, the lease may be declared void. [HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.]

The section applies to leases of tide and submerged land and it seems that this is the basic concern of the proposed amendment. See AS 38.05.070(a).

The committee should note that AS 38.05.075 as cited in the amendment is repealed and reenacted in the next section proposed.

The amendment is straightforward; it changes the maximum usual term for a lease of the surface estate in state land from the present 55 years to 99 years. The amendment does not deal with the question of the renewal of the lease term; I believe that both 55 and 99 year leases usually do not have any renewal provisions.

To some extent a 55 year lease-- and certainly a 99 year lease-- resembles more the grant of a fee subject to annual rentals and a reverter than the ordinary lease of land.

Note also that what is suggested is a maximum term; the director would have the authority to lease for a shorter term if less than the "projected useful life of any improvements".

The amendment raises policy questions concerning the economic value of land and the length of time it is to be limited to a single purpose. I doubt that the "projected useful life" of anything constructed nowadays approaches even 55 years but I defer judgment on that point to others; beyond that, I have no comments.

Section 4 proposes a complex repeal and reenactment of AS 38.05.075. The existing law provides:

Sec. 38.05.075. LEASING PROCEDURES. The leasing shall be made at public auction to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days for a review of the director's determination. When a valid existing federal grazing lease is cancelled to allow state selection of the area under lease, the lessee of the lands has the preference right to lease the lands without competitive bidding for a term equal to that originally granted in the cancelled federal lease and upon terms as favorable to the lessee as those contained in the cancelled federal lease. The leasing shall be conducted by the director, or his

*lease term -  
how long  
limit to  
use?*

representative, and the successful bidder shall deposit the first year's rental, or that portion of it which the commissioner requires, in accordance with his bid. The director or his representative shall immediately issue a receipt containing a description of the land or interest leased, the price bid, and terms of the lease. The receipt shall be acknowledged in writing by the bidder. A lease, on a form approved by the attorney general, shall be signed by the lessee and, upon approval by the commissioner, shall be signed by the director.

I will not attempt to incorporate within this memorandum the provisions of the repealed and reenacted sec. 75; as suggested, it is quite complex.

But it provides essentially as follows:

The section is entitled "surface leasing procedure."

Sec. 75(a) provides that except as provided in AS 38.05.087 [Forest Service permittees' leasing preference: the section is not proposed for amendment] and (b) - (g) of this section, leasing shall be to the "highest pre-qualified bidder as determined by the director." The analysis provided with the amendments suggests that "an applicant (for a lease) does not have an adequate assurance that the lease will ultimately be granted (to the applicant) after survey, appraisal and auction are completed." The analysis suggests that it is because "existing law does not require potential competitive bidders to identify themselves before the date of the auction." This point may be conceded without agreeing that pre-qualification is necessary. And I suggest that identification of potential bidders before the auction is a fact not connected with the ability (or desire) of the applicant to match a high bidder's offer.

While an applicant has some interest in protecting the investment made, the state's interest in obtaining a fresh sampling of bidders should lead to an avoidance of any inhibition of the auction process by establishing pre-qualification.

Rather, the interest of the nominating bidder can be protected by a process that requires the eventual high

bidder to reimburse the applicant for its investment. This is what is done in other areas of the law by the preference concept; see for example, the protections to the applicant in AS 38.05.069(c)(4).

A person apparently denied status as a pre-qualified bidder may appeal the denial of that status to the commissioner. Lease auctions will be conducted by the director and a successful pre-qualified bidder shall deposit after the auction the first year's rental (or a percentage of it required by the director). A deposit required shall include "survey and appraisal costs; "if a bidder who has paid survey and appraisal costs does not become the highest bidder, the latter will pay the former those costs. The remainder of the section deals with the mechanics of the acknowledgement of the high bidder's interest and is only slightly different from existing law.

Sec. 75(b) deals with cancellation of federal grazing leases; it appears to be almost identical to the second sentence of existing sec. 75. Instead of granting the cancelled lessee "a term equal to that originally granted in the cancelled federal lease", the amended sec. 75(b) grants only the unexpired term of the original cancelled federal lease. And rather than granting "terms as favorable" to the cancelled lessee, it permits terms "no less favorable" to the lessee in the new state lease.

Given the premises and the goals of Sealaska, it is not clear why these changes are suggested.

Sec. 75(c) states new concepts of particular interest to Sealaska; it grants a "littoral or riparian owner or lessee . . . a preference right to acquire, without competitive bidding, a lease for tide and submerged land directly adjacent to his upland parcel" on certain conditions. A parcel of property is "littoral" when it "along the coast", that is, directly facing on tide and submerged land. A parcel is "riparian" when it is adjacent to a stream or river or lake.

The conditions in sec. 75(c) under which the preference arises include

- (1) the need by the upland owner for access to the tide/submerged land to facilitate water transportation or for other water-dependent purpose;
- (2) the use of the tide/submerged land is compatible with the classification of the land and with any land use plan adopted under AS 38.05.065; and
- (3) the lease will not interfere with prior existing rights in the leased upland.

Sec. 75(d) provides that annual rental will be determined under AS 38.05.310 ["appraisals": "no land may be . . . leased for less than the approved, appraised market value"]. If the upland ownership has less than a fee interest, the term of the tide/submerged land may not exceed the term of the unexpired upland interest and termination of the upland interest for any reason terminates the tide/submerged land term.

Sec. 75(e) deals with several significant issues including "pre-qualification."

It provides that the department shall require "pre-qualification" of bidders for a lease to be issued under AS 38.05.070 ("surface leasing of land generally"); moreover, it provides that the pre-qualification process for all bidders "must be completed within 50 days of receipt of the first lease application." I do not believe I understand what is implied in the "first" lease application-- unless it simply means receipt of "the" lease application.

But "within that (50 day) period", the department is also required to "take necessary classification action under AS 38.05.300", to complete the "finding and consent procedures required by AS 38.05.035(a)(14)", and to take "any other action required by law for the disposal of the lease to the bidder other than survey, appraisal, and auction."

AS 38.05.300 describes classification procedures; AS 38.05.035(a)(14) gives the director disposal authority over state land with certain procedural stipulations and certain findings required.

*if Sealaska submits  
bid, competitors  
have only 50 days  
to prepare their  
prequalification  
application.*

Sec. 75(f) provides that "If, as a result of pre-qualification," there is only one qualified bidder, then the director may lease to that bidder at appraised value established under AS 38.05.310 "without competitive bidding". The director is also directed to permit entry under reasonable terms and conditions pending survey and appraisal.

Sec. 75(g) requires the director to provide notice of the auction to be made "personally or by registered mail" to all pre-qualified bidders.

Sec. 75(h) permits a person aggrieved by a decision of the director made in the course of prequalification to appeal to the commissioner within five days of the adverse decision. The decision may be further appealed to the superior court but the "pendency of an appeal does not stay (suspend) any further action of the department"; presumably this latter provision is intended to provide that the 50 day period is not extended by difficulties with pre-qualification. Both the commissioner and the court are granted discretion to order otherwise.

Section 5 amends AS 38.05.345(a); the section deals with "notice" of actions with regard to land required of the department. The aim of the amendment is apparently to recognize that under the amendment to the prior section, at AS 38.05.075(g), the director is required to give notice "personally or by registered mail" to pre-qualified bidders. To that extent, the form of the notice required by AS 38.05.345 is changed.

Section 6 amends AS 38.50.020 by adding new subsections (c) and (d). AS 38.50 is the chapter authorizing exchanges of state land with other land. The section amended deals with the ~~the~~ "value of properties exchanged."

As the analysis of the amendments suggests, Sealaska is concerned with the possibility that if an exchange proposed by the state to acquire private land for a state purpose is rejected, then the state will acquire the property by eminent domain (condemnation). As a later amendment will suggest (see sec. 8), Sealaska wants the state to be required to make an effort at a good faith exchange before it may exercise the eminent domain power. If eminent domain is pursued, then the state will be required under this

amendment to value the land not under its valuation to its then owner but under the value to which the state will intend to put the land.

While that may be a fair policy to Sealaska, I do not believe that it states the current law and does not represent fair protection to the public. The suggestion increases the cost to the public of services, and bears no resemblance to the value of the land to its owner, the proper measure of compensation. The situation described does not appear to be the situation where an intended use is thwarted by state action; rather, the state is being asked to take land that has a certain value and reward its owner for the public benefit that the state intends to construct. It represents a windfall for the owner and does not represent an advance in public policy.

I note moreover the one-sided aspect of the two amendments proposed to AS 38.50.020. In neither (c) nor (d) is there a recognition that the private owner may advocate an exchange and that in that situation, the state land being exchanged could also be valued not at raw value but rather at the value the land would have after the private owner adds its improvements. And in (d), the state may also incur costs in responding to an exchange initiated by a private land owner; it should in such situations also receive "a y costs reasonably incurred by the person in negotiating or consummating the exchange . . . ."

My recommendation is that rather than seek to give a one-sided advantage where none seems really necessary, that each party be treated as fairly as seems the case under the existing law.

Section 7 proposes an amendment adding a new subsection to AS 38.50.030. It suggests that when one state agency proposes an exchange of land that would result in land managed by another state agency being traded, that the matter would routinely be resolved by "the office of the governor." The amendment is unnecessary.

It is certainly true that if the two agencies are at an impasse in the exchange, then one option is for the common supervisor of the two agencies to resolve the question; the highest common supervisor is, of course, the governor. As the amendment is now written, however, it seems that it would be entirely possible for the two agencies to be in the

same department with a commissioner to resolve the difficulty; consider, for example, a difficulty between the division of parks and the division of lands.

But I doubt that each such situation is likely to avoid resolution until it reaches the governor's desk. If some or a majority of the situations reach such a settlement without involving the governor or the governor's office, then the law seems unnecessary.

And the power exists for that resolution without the section.

Section 8 amends AS 09.55.270, a provision of the "Code of Civil Procedure" concerned with eminent domain.

*all private  
land should  
receive same  
treatment.*

It adds a provision applicable only to corporations established as a result of the Settlement Act; it provides that eminent domain is not available for a taking of land of such a corporation until a "bona fide offer of exchange under AS 38.50" has been made to the corporation and refused by it.

The current law establishes truly substantial burdens on efforts by the state to acquire private land; I cannot recommend further unnecessary protections that do not go uniformly to all property owners.

Section 9 proposes an amendment to AS 09.55.310(a)(1). The section proposed amends a section dealing with the hearing on the eminent domain proceeding and adds language to provide that "if the surface and the subsurface estate have been separated, the value of each estate shall be separately determined".

The situation is a problem for Sealaska, apparently, because the regional corporation is the recipient of the minerals but the village corporation receives the surface.

I understand that when the state takes land for eminent domain purposes, it takes not only the surface estate but also the mineral estate down to 100 feet. This accomplishes a protection to the surface estate acquired by effectively prohibiting an exploitation of the mineral estate for gravel and such minerals but, of course, unaffected oil and gas development.

Senator Bettye Fahrenkamp  
Page 11  
February 15, 1984

And in the typical leasehold case, the state expects to and can apply usual appraisal concepts to value ~~the~~ leasehold separately from the fee.

But I understand that in the Settlement Act situation, the problem is more complicated because of Sec. 14(f) the Act (Pub. L. 92-203, as amended; see 43 U.S.C., sec. 1613(f)).

That section provides that "the right to explore, develop, or remove minerals from the subsurface estate in lands within the boundaries of any Native village shall be subject to the consent of the Village Corporation."

In fact, this right to withhold consent is so strongly favored by Congress that when it established legislation permitting the merger or consolidation of the regional and village corporations, it provided that any plan of merger or consolidation shall provide that:

"the right of any affected Village Corporation pursuant to section 1613(f) of this title to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village."

What I believe that this means for a requirement of appraising the interests separately is that the regional interest is of very uncertain value because it cannot be exercised without the permission of the village corporation. The village corporation exercises an essentially untrammelled discretion to grant permission or to deny permission to the regional corporation to develop the minerals.

I understand that the Department of Law expects to comment on the Sealaska proposals and it may have further comments on this issue.

Section 10 proposes an amendment to AS 09.55.430 to require the separate valuation of the mineral estate be pleaded in the complaint for eminent domain.

To a large extent, my comments regarding the previous amendment also apply here.

If I may be of further assistance, please advise.

RAB:ojb  
J3/097

PROPOSED AMENDMENT TO SB 375  
FAHRENKAMP

Page 47

Add a new section 77 and renumber remaining sections accordingly:

AS 38.95.080(a) is amended to read:

(a) The commissioner may [DIRECTOR OF THE DIVISION OF LANDS  
SHALL] issue a nontransferable permit for the construction of a  
trapping cabin on state land to a person who meets the following  
qualifications:

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

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

RATIONALE:

Current statute directs the Commissioner to issue a trapping cabin  
permit to any applicant with an established trapline of sufficient  
length to justify cabin construction. The Senate version of SB 375  
made this authority discretionary; the House version maintains current  
statute.

In those situations where resource or use conflicts may occur, or  
when the furbearer population is unable to sustain the intensive  
trapping brought about through cabin use, the Commissioner should  
have the opportunity to review each permit application.

# Alaska MUNICIPAL League

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105 MUNICIPAL WAY, SUITE 301  
JUNEAU, ALASKA 99801

To: House Resources Committee

From: Scott A. Burgess, Executive Director



Date: April 18, 1984

Re: CSSB 375 (Resources) - Land Disposal and Management

I speak in favor of Committee Substitute for SB 375 (Resources). The Alaska Municipal League urges passage of this legislation for several major reasons:

1. The bill would require the state to meet the same local ordinance requirements imposed on private citizens when disposing of land. Legislation requiring the State of Alaska to comply with local subdivision ordinances and regulations in connection with its land disposal program is a top legislative priority of the League in 1984.
2. The bill provides a mechanism with legislative oversight to fund required improvements such as roads and utilities. The improvement costs would be reflected in the purchase price and paid for by the purchaser, the direct beneficiary of the land and those improvements.
3. The bill requires the Commissioner to consider, among other resources, recreational and hunting values of individual properties before offering them for disposal. The bill also requires the Commissioner to hold public hearings when appropriate to solicit views of the residents of the communities affected by the proposed disposals.
4. The bill would allow the state, by quit claim deed, to return the state land, or interest in land, to the federal government for settlement of Native allotments.
5. Finally, the bill clarifies Title 38 to promote sound land disposal and management practices.

On behalf of the Alaska Municipal League, I support CS for SB 375 (Resources) and ask for the support of the House Resources Committee as well.

*Alaska*  
**MUNICIPAL**  
*League*

DRAFT

586-5869



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105 MUNICIPAL WAY, SUITE 301  
JUNEAU, ALASKA 99801

To: Senate Resources Committee  
From: Scott A. Burgess, Executive Director  
Date: February 20, 1984  
Re: SB 375 - Land Disposal and Management

The League urges passage of legislation which requires the State of Alaska to comply with all local subdivision ordinances and regulations in connection with state land disposal programs. The state should meet the same local requirements imposed on private citizens.

SB 375 not only removes the state exemption from compliance with local subdivision ordinances, but also clarifies Title 38 to promote sound land disposal and management practices. The League supports the bill in general as written and offers the following comments:

1. Resource Values and Uses: The League supports the language in Sections 1 and 2 specifically as they relate to recreational and hunting resource values. The League requests the State of Alaska to hold hearings in the community impacted areas in determining recreational or hunting values of individual properties before offering them for disposal.

2. Compliance with Municipal Planning: Removing the exemption of the state to comply with local subdivision ordinances is one of the League's highest priorities; therefore, the League supports the provisions of Sections 5, 11, 60, and 62. The League also supports requiring state land disposals to recognize local planning efforts, such as comprehensive plans and coastal management plans, including existing or planned municipally approved trails, by means of right-of-way dedication. The League believes this is the intent of the land disposal program and SB 375; however, the intent could be clarified in Section 1 (AS 38.04.005(b)) and, specifically, in Section 7 (AS 38.04.020(h)) by substituting "land use" for "zoning" on line 21, page 4.

*Would cover both zoning & subdivision ordinances*

"local"

OK  
AMENDMENT X

Revenue for Improvements: The League supports the documentation of demand and costs of disposal and improvement contained in Sections 4 and 5, and the funding in Section 8. Recognizing the pressure on both the state and municipal governments to dispose of land, the League supports a cooperative effort by the state and municipalities to dispose of land in a continuous and orderly manner. The League also supports state funding to provide planning grants, funds for necessary access roads, survey costs for land scheduled for disposal, and state, borough, and city subdivision roads, sewers, and utilities to meet local subdivision improvement ordinances.

DNR - covered by "or otherwise provided in statute"

A point of clarification in Section 11 (AS 38.04.050), page 6, lines 24-26. how is "... borne by the recipient of the land..." to be interpreted with the amendments? The League favors, and presumes, that required improvements would be made prior to disposal and the cost of those improvements would be reflected in the selling price of the land, whether by auction, bid, etc.

**Legal, Adequate, and Feasible Access:** The League supports the clarification of access recognizing "legal" access may not, in actuality, provide feasible or buildable access. Requiring surveying and construction of roads also addresses the current problem.

The League also supports preserving needed specific rights-of-way and easements which provide for present and future public access (Section 12). The League has one concern with the language in Section 12. "Roads" should not be confused with "trails" in terms of access. The state has been criss-crossed with trails for access. As the state is developed, roads are needed but trail systems are being recognized and preserved by many communities as a recreational resource. The designation and improvement of historical trails for use by cars and trucks is often incompatible with the recreational activity. Therefore, additional land may have to be preserved to provide rights-of-way to "maintain present and future public use and access to public land and water and to reach adjacent private land" (page 7, lines 2-4) separate from a municipally approved trail.

Again, the League supports SB 375 and hopes these comments are helpful. We appreciate the opportunity to testify.

*condemnation is in title 9 -  
leave out of this bill*

TESTIMONY OF

ROBERT W. LOESCHER

VICE PRESIDENT, RESOURCE MANAGEMENT

SEALASKA CORPORATION

ON

SENATE BILL 375,

AN ACT RELATING TO LAND DISPOSAL AND MANAGEMENT

FEBRUARY 20, 1984

MY NAME IS ROBERT W. LOESCHER, VICE PRESIDENT OF RESOURCE MANAGEMENT FOR SEALASKA CORPORATION. I AM HERE TODAY TO TESTIFY ON SENATE BILL 375, AN ACT RELATING TO STATE LAND DISPOSAL AND MANAGEMENT.

SEALASKA CORPORATION IS THE SOUTHEAST ALASKA REGIONAL NATIVE CORPORATION WHICH REPRESENTS OVER 15,000 SHAREHOLDERS. SEALASKA WILL ULTIMATELY OWN APPROXIMATELY 330,000 ACRES OF SURFACE ESTATE AND 600,000 PLUS ACRES OF SUBSURFACE ESTATE IN SOUTHEAST ALASKA. SEALASKA LANDS BORDER IN EXCESS OF 1,000 MILES OF STATE OWNED AND MANAGEMENT TIDELANDS. THE MANAGEMENT AND DEVELOPMENT OF OUR UPLAND RESOURCES IS VIRTUALLY DEPENDENT UPON ACCESS TO AND USE OF STATE OWNED AND MANAGED TIDELANDS.

ON JANUARY 20, 1984, SEALASKA SUBMITTED FOR CONSIDERATION, A SERIES OF PROPOSED AMENDMENTS TO SENATE BILL 375. SINCE THAT TIME, WE HAVE DISCUSSED OUR PROPOSED AMENDMENTS WITH VARIOUS INTERESTED PARTIES. AS A RESULT OF THESE DISCUSSIONS, WE SUBMITTED A SECOND LETTER DATED FEBRUARY 15, 1984 MAKING TWO CHANGES TO THE JANUARY 20, 1984 AMENDMENTS.

WE HAVE BEEN ADVISED THAT THE RESOURCES COMMITTEE IS USING THIS HEARING TO BECOME FAMILIARIZED WITH VARIOUS AMENDMENTS BEING PROPOSED TO SB 375 AND WILL NOT ENTERTAIN MOTIONS TO AMEND SB 375 UNTIL THE HEARING SCHEDULED FOR FRIDAY, FEBRUARY 24, 1984.

DURING THIS PERIOD, SEALASKA CORPORATION WILL BE WORKING WITH THE ADMINISTRATION, ALASKA DEPARTMENT OF NATURAL RESOURCES AND OTHERS WHO HAVE EXPRESSED AN INTEREST IN OUR PROPOSED AMENDMENTS TO DEVELOP COMPROMISE LANGUAGE TO OUR AMENDMENTS WHICH WILL BE SUBMITTED TO THE COMMITTEE AT THE FEBRUARY 24, 1984 HEARING.

AT THIS TIME, I WISH TO BRIEFLY EXPLAIN THE INTENT AND EFFECT OF THE SEALASKA PROPOSED AMENDMENTS:

SECTION 1, AS 38.04 IS AMENDED BY ADDING A NEW SECTION .058 RESTRICTIONS ON EASEMENT OR RIGHT-OF-WAY USE. UNDER EXISTING LAW, ALASKA DEPARTMENT OF NATURAL RESOURCES IS AUTHORIZED TO RESERVE EASEMENTS ACROSS STATE LANDS (INCLUDING TIDELANDS) AS PART OF A LAND DISPOSAL OR TIDELAND LEASE. EXISTING LAW DOES NOT PROVIDE AUTHORITY FOR THE DEPARTMENT TO CONDITION A RESERVED EASEMENT TO RESTRICT PUBLIC ACCESS IN ORDER TO PROTECT PROPERTY OR PUBLIC SAFETY. THIS AMENDMENT WILL ALLOW THE PRIVATE OWNER OR LESSEE TO COOPERATE WITH THE DEPARTMENT IN SETTING TERMS AND CONDITIONS FOR PUBLIC USE OF RESERVED EASEMENTS TO PROTECT PROPERTY OR PUBLIC SAFETY.

\* \* \*

SECTION 2, AS 38.04.065(a). THE DEPARTMENT OF NATURAL RESOURCES IS REQUIRED TO PREPARE REGIONAL AND AREA LAND USE PLANS. THESE PLANS INCLUDE RULES OF GENERAL APPLICABILITY FOR THE USE, MANAGEMENT AND PROTECTION OF STATE LAND WITHIN THE PLANNING AREA. THESE RULES OF GENERAL APPLICABILITY, IN ACCORDANCE WITH A RECENT COURT DECISION KENAI PENINSULA FISHERMAN'S COOP ASSOCIATION V. STATE, MUST BE ADOPTED UNDER THE ADMINISTRATIVE PROCEDURES ACT. IN LIGHT OF THIS RECENT COURT DECISION IT IS NECESSARY TO ENSURE THAT ADOPTION OF REGIONAL AND AREA LAND USE PLANS OCCURS IN ACCORDANCE WITH THE APA.

\* \* \*

SECTION 3, AS 38.05.070(c). SEALASKA PROPOSES TO AMEND AS 38.05.070 TO ENSURE THAT THE LENGTH OF THE LEASE IS NOT LESS THAN THE PROJECTED USEFUL LIFE OF ANY IMPROVEMENT APPROVED UNDER THE LEASE. THIS AMENDMENT IS NECESSARY BECAUSE THE DEPARTMENT OF NATURAL RESOURCES PERIODICALLY ISSUES LEASES FOR A LENGTH OF TIME SHORTER THAN THE ANTICIPATED USEFUL LIFE OF THE FACILITY. FOR EXAMPLE, SEALASKA CORPORATION CONSTRUCTED A MAJOR DOCK FACILITY ON KLAWOCK ISLAND WITH A USEFUL LIFE OF 55 YEARS, HOWEVER, THE DEPARTMENT ISSUED A TIDELAND LEASE FOR ONLY 30 YEARS.

\* \* \*

SECTION 4, AS 38.05.075. THIS AMENDMENT MAKES SEVERAL CHANGES TO SURFACE LEASING PROCEDURES.

THE FIRST CHANGE ESTABLISHES A PROCEDURE FOR PRE-QUALIFICATION OF BIDDERS FOR TIDELAND LEASES. UNDER PRESENT PERMITTING PROCEDURES, AN APPLICATION TO CONSTRUCT FACILITIES ON STATE TIDELANDS WILL HAVE ALL NECESSARY APPROVALS (EXCEPT A TIDELAND LEASE) TO START CONSTRUCTION ON THE PROJECT WITHIN 60 DAYS OF APPLICATION. THESE PERMITS ARE OF LITTLE VALUE TO THE APPLICANT IF A NECESSARY TIDELANDS LEASE HAS NOT BEEN OBTAINED. CURRENTLY, IT TAKES ALMOST ONE YEAR TO OBTAIN A TIDELANDS LEASE EVEN THOUGH ALL OF THE SUBTANTIVE DECISIONS REGARDING THE ISSUANCE OF THE LEASE ARE CURRENTLY MADE WITHIN 50-60 DAYS. THE REMAINING TIME IS SPENT IN SURVEY, APPRAISAL AND PUBLIC AUCTION.

UNDER EXISTING PROCEDURES THE DEPARTMENT ALLOWS AN APPLICANT TO ENTER THE PROPERTY, UNDER LEASE APPLICATION, ONCE ALL PERMITS ARE RECEIVED AND A DEPARTMENTAL DECISION TO LEASE HAS BEEN MADE. HOWEVER, THE APPLICANT HAS NO ASSURANCE THAT HE WILL ULTIMATELY RECEIVE THE LEASE FOR ALMOST ONE YEAR FROM DATE OF APPLICATION OF THE LEASE. THUS, AN APPLICANT IS RELUCTANT TO MAKE ANY IMPROVEMENTS ON THE LEASED PROPERTY FOR FEAR THAT AT THE TIME OF AUCTION HE MAY BE OUTBID FROM A PREVIOUSLY UNIDENTIFIED PARTY. THIS IS BECAUSE EXISTING LAW DOES NOT REQUIRE POTENTIAL

*as it  
supposed  
to until  
have lease!*

COMPETITIVE BIDDERS TO IDENTIFY THEMSELVES BEFORE THE DATE OF THE AUCTION. THUS, ALTHOUGH THE INITIAL APPLICANT HAS ENDURED THE TIME AND EXPENSE OF INTERAGENCY AND PUBLIC REVIEW, AND HAS SUFFERED PERHAPS A YEAR'S DELAY, HE MAY LOSE HIS PROJECT TO A VIRTUAL LAST MINUTE BIDDER.

THE PURPOSE OF THIS AMENDMENT TO CURE THIS PROBLEM BY REQUIRING ANY PERSON WISHING TO COMPETE FOR THE LAND TO BE LEASED WOULD BE TO SUBMIT HIS OWN APPLICATION WITHIN THE PUBLIC NOTICE PERIOD PROVIDED.

UNDER THIS PROCEDURE AT THE END OF FIFTY DAYS, THE APPLICANT WILL KNOW WHETHER HE HAS QUALIFIED FOR THE LEASE AND WILL ALSO KNOW WHETHER THERE ARE OTHER COMPETITIVE BIDDERS. IF THERE ARE NO OTHER "PREQUALIFIED" BIDDERS, THIS AMENDMENT WOULD DIRECT THE DEPARTMENT TO ALLOW THE INITIAL APPLICANT TO ENTER ONTO THE LANDS. ALL THAT WOULD REMAIN PRIOR TO FINAL CONVEYANCE OF THE LEASE WOULD BE A SURVEY TO ESTABLISH PRECISE BOUNDARIES, AND AN APPRAISAL WHICH WOULD SET THE LEASE FEE.

ANOTHER IMPORTANT PROVISION OF SEALASKA'S AMENDMENTS TO AS 38.05.075 IS THE CREATION OF AN UPLAND OWNER'S PREFERENCE--UNDER CERTAIN SPECIFIC CONDITIONS--FOR LEASE OF ADJACENT TIDE OR SUBMERGED LANDS. TRADITIONALLY, THE GOVERNMENT'S OWNERSHIP OF TIDE AND SUBMERGED LANDS HAS BEEN VIEWED AS A TYPE OF TRUST FOR CERTAIN SPECIAL PURPOSES. THE MOST WELL ESTABLISHED OF THOSE PURPOSES IS FACILITATING TRANSPORTATION AND COMMERCE FROM ADJACENT UPLANDS, WHICH IS VITAL TO UPLAND ECONOMIC DEVELOPMENT. THE PROPOSED AMENDMENTS CONFINE THE PREFERENCE TO ONLY THESE TYPES OF USES, AND IS THUS NOT ONLY CONSISTENT WITH, BUT FURTHERS THOSE TRUST RESPONSIBILITIES. UNDER THE AMENDMENTS, NO PREFERENCE IS AVAILABLE IF THE INTENDED USE IS INCONSISTENT WITH THE CLASSIFICATION OF THE LAND OR ANY APPLICABLE LAND USE PLANS.

THIS AMENDMENT FURTHER ENVISIONS THAT IF AN UPLAND OWNER IS ENTITLED TO A PREFERENCE, HE WILL NORMALLY BE ABLE TO OBTAIN A

LEASE AT FAIR APPRAISED MARKET VALUE WITHOUT COMPETITIVE BIDDING.

THE FINAL AMENDMENT TO THIS SECTION WOULD ALLOW A CREDIT FOR SURVEYING COSTS INCURRED BY THE LESSEE, WHEN FILING FOR A TIDELAND LEASE. SEALASKA BELIEVES THAT THIS SURVEY PROVIDES OBVIOUS LONG TERM BENEFITS TO THE STATE AS THE LANDOWNER AND IF THE APPLICANT UNDERTAKES THESE ADMINISTRATIVE MATTERS ON BEHALF OF THE STATE THEN THESE COSTS SHOULD BE REIMBURSED THROUGH TIDELAND LEASE FEE CREDITS, EQUAL TO THE DOCUMENTED COST OF THE SURVEY.

\* \* \*

SECTION 5 IS SIMPLY CONFORMING LANGUAGE TO MAKE THE EXISTING STATUTE CONFORM WITH THE PROPOSED AMENDMENTS IN SECTION 4.

\* \* \*

SECTION 6 THROUGH 10 OF SEALASKA'S PROPOSED AMENDMENTS DEAL WITH THE STATE'S LAND EXCHANGE (TITLE 38) AND CONDEMNATION AUTHORITIES (TITLE 9). CONGRESS AND THE STATE RECOGNIZED THAT BOUNDARY CHANGES DUE TO STATE AND NATIVE CONVEYANCES MAY BE NECESSARY TO PROMOTE SOUND LAND USE MANAGEMENT. BOTH ALSO RECOGNIZED THAT A EXCHANGE WAS THE MOST EFFECTIVE AND FAIR VEHICLE TO ACCOMPLISH THAT RESULT.

HOWEVER, THE STATE'S CURRENT LAND EXCHANGE AUTHORITY, AS 38.50, CONTAINS SEVERAL PROVISIONS WHICH DISCOURAGE PRIVATE LANDOWNERS FROM ENTERING INTO EXCHANGE NEGOTIATIONS WITH THE STATE. THE SECOND THEME OF SEALASKA'S AMENDMENTS IS TO CURE THOSE DEFICIENCIES, AND PROVIDE A MORE FLEXIBLE AND FAIR PROCEDURE FOR EXCHANGING LAND.

\* \* \*

SECTION 6 PROPOSES A NEW SUBSECTION (c) TO AS 38.50.020. THIS

SUBSECTION PROVIDES THE FOLLOWING CHANGES.

IN THE EXISTING LAND EXCHANGE AUTHORITIES THERE IS A LACK OF GUIDELINES FOR VALUATION OF PROPERTY BEING CONSIDERED FOR EXCHANGE BETWEEN THE STATE AND OTHER LANDOWNERS. QUITE OFTEN, THE STATE WILL BE ACQUIRING RAW LAND LOCATED IN THE UNORGANIZED BOROUGH OR OUTSIDE ORGANIZED MUNICIPAL GOVERNMENTS WHERE USE OR SUITABILITY OF LAND IS NOT WELL ESTABLISHED THROUGH LOCAL PLANNING AND ZONING ORDINANCES. IN THESE AREAS THE STATE'S TENDENCY HAS BEEN TO EVALUATE THE PROPERTY TO BE ACQUIRED SOLELY AT ITS PRESENT, UNIMPROVED VALUE. AS WITH ANY VALUATION, THE STATE SHOULD BE REQUIRED TO APPRAISE THE FAIR MARKET VALUE OF THE PROPERTY TO BE RECEIVED AT ITS HIGHEST AND BEST USE. THE PROPOSED CHANGES TO AS 38.50.020 WOULD ACHIEVE THIS RESULT.

UNDER EXISTING LAW, THE STATE DOES NOT ASSESS A DISTINCT VALUE FOR SEPARATELY OWNED SURFACE AND SUBSURFACE ESTATES. FOR ANCSA LANDS, THESE ESTATES ARE SEPARATED BETWEEN VILLAGE (SURFACE) AND REGIONAL (SUBSURFACE) CORPORATIONS. IN ORDER TO ASSURE JUST COMPENSATION IN ANY EXCHANGE TO BOTH INTEREST HOLDERS, IT IS IMPORTANT THAT THESE ESTATES BE SEPARATELY VALUATED AT THE OUTSET FOR ACQUISITION FOR EXCHANGES PURPOSES, AS WELL AS FOR CONDEMNATION PURPOSES.

THE PROPOSED CHANGES TO AS 38.50.020 WOULD ALSO RECOGNIZE THAT THE STATE RECEIVES A SUBSTANTIAL PUBLIC BENEFIT FROM ANY EXCHANGE, AND THEREFORE ANY COST REASONABLY INCURRED BY THE PRIVATE LANDOWNER IN HELPING TO CONSUMMATE THAT EXCHANGE SHOULD BE CONSIDERED AS PART OF THE VALUE RECEIVED BY THE STATE.

\* \* \*

SECTION 7 PROPOSES TO ADD A NEW SUBSECTION (c) TO AS 38.50.030. THE RESULT OF THIS AMENDMENT PROVIDES FOR THE GOVERNOR'S RESOLUTION OF INTERAGENCY CONFLICTS INVOLVING LAND EXCHANGES. IT HAS BEEN OUR EXPERIENCE WITH CERTAIN LAND EXCHANGES, FOR EXAMPLE,

*In Title 9, state recognizes separate value (surface vs. subsurface) at time of condemnation but not at any time during negotiations.*

THAT THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES WILL DESIRE TO OBTAIN LAND THROUGH AN EXCHANGE FOR ITS USE. INVARIABLY, THE LAND OFFERED IN EXCHANGE WILL BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES. THE RESULT IS INTERAGENCY DISAGREEMENT OVER WHICH THE PRIVATE LANDOWNER HAS LITTLE CONTROL. IN ORDER TO ENSURE THAT THE POSSIBILITY OF A MUTUALLY VALUABLE EXCHANGE IS NOT LOST AS A RESULT OF INTERAGENCY DISAGREEMENTS, IT IS VITAL THAT ONE ACCOUNTABLE OFFICIAL BE DESIGNATED TO ARBITRATE THOSE PROBLEMS, AND MOVE THE PROCESS ALONG. SEALASKA BELIEVES THAT THE OFFICE OF THE GOVERNOR IS THE PROPER PLACE FOR THAT AUTHORITY TO RESIDE.

\* \* \*

SECTION 8 THROUGH 10 ARE AMENDMENTS TO TITLE 9'S CONDEMNATION PROCEEDINGS WHICH NEED TO BE MADE IN ORDER TO MAINTAIN CONTINUITY IN POLICY WITH SEALASKA'S PROPOSED LAND EXCHANGE AUTHORITY AMENDMENT IN TITLE 38 (SEE SECTION 6 SEALASKA AMENDMENTS).

OCCASIONALLY, NATIVE LANDS MAY BE NECESSARY FOR VITAL PUBLIC SERVICES. THESE LANDS MAY BE ACQUIRED THROUGH EXCHANGE OR CONDEMNATION PROCEEDINGS. THERE IS A TENDENCY BY STATE AGENCIES TO INITIATE CONDEMNATION PROCEEDINGS OF ANCSA INTEREST LANDS INSTEAD OF WORKING OUT A MUTUALLY AGREEABLE ACQUISITION OR LAND EXCHANGE. IT IS IMPORTANT TO UNDERSTAND THAT THE LAND BASE CONVEYED THROUGH ANCSA IS FAR MORE THAN A MERE CAPITAL ASSET. WHILE THE LAND IS HELD IN FEE, RATHER THAN TRUST, ANCSA LANDS HOLD A SOCIAL, CULTURAL AND EMOTIONAL VALUE WHICH CANNOT, IN ALL CIRCUMSTANCES, BE COMPENSATED FOR WITH CASH. AN EXAMPLE OF THIS ANTICIPATED PROBLEM IN FEDERAL LAW IS FOUND IN SECTION 1302(B) OF ANILCA, WHICH PROHIBITS THE USE OF EMINENT DOMAIN TO ACQUIRE ANCSA-CONVEYED LANDS FOR ADDITIONS TO THE CONSERVATION SYSTEM.

SEALASKA IS NOT RECOMMENDING A SIMILAR PROHIBITION IN STATE LAW. HOWEVER, IN ORDER TO PRESERVE THE INTENT OF THE ANCSA LAND CONVEYANCES, WE ARE PROPOSING IN AN AMENDMENT TO AS 09.55.270,

THAT THE STATE BE REQUIRED TO FIRST MAKE A BONA FIDE, ARMS-LENGTH OFFER TO EXCHANGE BEFORE CONDEMNATION IS INITIATED.

THIS AMENDMENT NOT ONLY ADDS CREDIBILITY TO THE EXCHANGE PROCESS; IT ALSO FURTHERS THE CONGRESSIONAL POLICY OF ANCSA. THE PRIMARY PURPOSE OF ANCSA WAS TO GRANT TO ALASKA NATIVES AN ADEQUATE LAND BASE--A BASE WHICH CONGRESS RECOGNIZED COULD NOT BE REPLACED WITH CASH. THE PURPOSES OF ANCSA ARE ILL-SERVED IF THAT BASE IS ERODED OVER THE YEARS THROUGH THE EXERCISE OF EMINENT DOMAIN AUTHORITY BY THE STATE OF ALASKA.

WE URGE THE COMMITTEE'S CONSIDERATION OF THESE PROPOSED AMENDMENTS. WE STAND READY TO MEET WITH YOU OR YOUR TECHNICAL STAFF TO UNDERTAKE FURTHER WORK ON THESE AMENDMENTS, IF DEEMED NECESSARY.

SB 375

STATEMENT OF ESTHER C. WUNNICKE,  
COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES  
REGARDING SB 375 ON LAND MANAGEMENT  
BEFORE THE SENATE COMMITTEE ON RESOURCES  
February 20, 1984

Madame Chair, members of the Committee, I appreciate this opportunity to appear before you today to discuss the Committee's proposed amendments to Title 38. On behalf of the Sheffield Administration, I commend you and your staff for your careful review of this important statute.

The bill before you today, SB 375, generally has my strong support. It incorporates some needed changes affecting the Department's land offerings and land management. In fact, as you will note through my testimony and in the Department's sectional analysis of the bill, there are very few areas of disagreement between us.

Today I will address several major points in SB 375 and two other proposals for amendment that have come to our attention.

The major issues in SB 375 relate to the State's land offerings program. The book released by the Resources Committee last month, "Review of the State's Land Disposal Program," showed that Alaskans are concerned about the amount of acreage for disposal statewide, the costs of land and of the disposal program itself, state compliance with local subdivision rules, and the quality and value of lands included in the disposal program.

Public response to the Department's own review, "Proposed Policies to Guide State Land Offerings and Disposals," indicates that Alaska's citizens generally support the policy changes that we are considering: to comply with municipal and borough ordinances, to provide access and improvements for most non-remote disposals, to plan for land offerings in a coordinated fashion at the region and sub-region level, and to offer high-quality lands with some preserved amenity values. These are popular, sensible policies that are included in SB 375 and which have the Department's support.

I have several further recommendations about the land disposal sections of SB 375. The wording of these possible changes is provided in the sectional analysis of SB 375 that I sent you last week.

First, it is my suggestion that the Legislature abolish the requirement for an annual assessment of demand for land in AS 38.04.020(f). (This is addressed in our comments on Section 5 of the proposed Committee Substitute.) The demand assessment requirement was originally enacted at the Department's request when DNR was striving to comply with a fixed legislative quota of 100,000 acres of disposals yearly. Unfortunately, the demand study has never been useful to the Legislature or the Department in defining the land disposal program. As your "Review..." stated last month, DNR's disposals "are as much a function of funds available for implementation of the disposal program (particularly survey, which is required prior to disposal of any state land) as of an assessment of demand." (p.41) Now that the quota no longer exists, the Department uses its planning process and the demonstrated response to

prior land disposals as the benchmark for disposals. The land demand assessment requirement should be repealed.

Second, I recommend allowing the Commissioner to waive survey requirements for some homestead offerings, which I expect would reduce some of the public's concern about costs and acreage offered under the new Homestead law. (See our comments on Section 38 of the proposed Committee Substitute.) Survey is an expensive and difficult task for many entrymen on State lands, and at times it is unnecessary because of low public interest in a disposal site, poor topography, or remoteness from existing monuments. Survey requirements as they exist sometimes prevent the offering of good lands, with no benefit to the State or the entryman.

Third, I would like to see the Legislature recognize in statute the funding process that the Department must follow in offering lands. (This is addressed in our comment on Section 4 of SB 375.) It takes three years, after candidate lands are identified for disposal, to provide for 1) public review, project approval, and classification by the Commissioner; 2) project development (surveying, lot design, contracting, platting); and 3) sale (interest findings, notice, appraisal information distribution, filing, and sales). If the Committee needs any more information about this process, I will gladly provide it, because I think it is important for Alaskans to know what procedures are required before an offering can take place.

There are other land disposal issues that are important and I'm sure will come up for discussion. The Senate Community and Regional Affairs Committee last week produced a report on rural disposals and has proposed amendments that would constrain our disposal program in remote parts of the state. We have not reviewed this document in its entirety, but generally have found that although we do not agree with the proposed statutory amendments, we are sympathetic to the principle that the disposal program should be sensitive to rural needs and that its impacts should be limited as much as possible. The interests of local residents and the statewide interest in land disposals and management are sometimes divergent, and it is our obligation as land managers to balance these interests.

The legislation as proposed includes some important changes in the land exchange statutes. We support these proposals, particularly those which extend the period in which appraisals remain valid. With the other requirements in the exchange process, we have found that it is very difficult to keep the process within the statutorily designated six-month timeframe.

In its sectional analysis of the bill, the Department has not addressed in its comments Sections 21 $\frac{1}{2}$  and 21 $\frac{1}{2}$  of the draft Committee Substitute. The Department supports Sec. 21 $\frac{1}{2}$ , raising negotiated lease limits, but opposes 21 $\frac{1}{2}$ , which would lengthen the term of long-term leases to 99 years. We believe that this is just too long to predetermine the use of state-owned land.

There are other proposals to amend Title 38 before the Legislature this session. I will address two of those that are not incorporated in SB 375.

One of them, proposed by Senator Eliason as SB 344 and Representative Goll as HB 455, concerns our preference right statute, AS 38.05.035(b). This bill is very important to the Department because it will give us a legal mechanism for court-ordered reconveyance of valid Native allotment claims held by the State but owed by the federal government to claimants. There is no established means for the commissioner otherwise to assure that these lands are conveyed to their rightful owners.

Another worthy amendment to Title 38 has been proposed by Representative Shultz, Co-Chairman of the House Resources Committee. His bill, HB 542, would allow less-than-fair-market leasing of special sites for local refuse disposal. We support this proposal.

Before closing, I would also recommend dropping our proposed change to Section 36 of the proposed Committee Substitute. This would have reduced the temperature definition for geothermal leasing, but we believe upon review that change is unnecessary.

This concludes my testimony today. I appreciate your attention to Title 38 and look forward to more work with you in the future. With me are Tom Hawkins, Director of the Division of Land and Water Management, and Deputy Commissioner Robert Arnold. We would be pleased to respond to your questions.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



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## Senate

### Committee on Resources

#### MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: SB 375, Lands Bill

DATE: March 7, 1984

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SB 375, relating to land disposal and management, is scheduled for committee action on Friday, March 9. Attached is a Committee Substitute that incorporates the amendments adopted by the Committee at our February 27 hearing. Also attached are a revised sectional summary and an outline of the major provisions of the Committee Substitute.

Specifically, the following sections have been added:

Section 18 gives DNR the authority to quitclaim land to the federal government.

Section 25 increases from \$250/year to \$5000/year the value of a lease that may be negotiated, and increases the term from 5 to 10 years.

Section 26 requires consideration by DNR of the useful life of any approved activities in determining the term of a lease.

Section 28 provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive bidding. Authorizes DNR to require prequalification of bidders for surface leases.

Section 46 grants a 25% discount on the purchase price of state land to veterans.

Section 76 clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses.

Sections 3, 17, 34, 40, 47, 65, 66, 72-75, and 77 amend current statute to reflect passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
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## Senate

### Committee on Resources

#### M E M O R A N D U M

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, Monday, February 20, 1984

DATE: February 14, 1984

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Please find attached back-up information on SB 375, An Act relating to land management and disposal, which is scheduled for a hearing on Monday, February 20 at 3:00 pm in the Beltz Room.

As you know, during the past interim Committee staff conducted a substantial review of Title 38, the State's land statutes. SB 375 is a result of that process. Our proposed amendments to the statute are intended to clarify current language and allow for more efficient implementation of the land management and disposal programs.

Included in the attached notebook are several other amendments that have been presented to the Committee for consideration. These amendments were not a part of the public review process conducted during the interim. Testimony will be provided on them at our February 20 hearing; decisions on the amendments will be made at a follow-up hearing on Friday, February 24.

A number of people have expressed interest in testifying at our initial hearing on the 20th. Committee members should therefore plan on a lengthy meeting on that date. Please have the attached notebook available at the hearings.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

POUCH V

OFFICE OF THE COMMISSIONER

February 13, 1984

The Honorable Bettye Fahrenkamp  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

*- Sec. 5, 16, 20, 38  
need discussion  
- no comment yet on Sec. 21/4-1/2  
- Sec 4 am. not in mark-up  
All others O.K.*

Dear Senator Fahrenkamp:

After close review of your proposed revisions to Title 38 (including SB 371 on mining and SB 375 on land disposal and management), I wish to express appreciation for your careful attention to the statutes that guide Alaska land and resource management.

The attached comments are based on the proposed Committee substitute for SB 375 prepared by your staff prior to the bill's first hearing. I am providing our comments and a mark-up of the bill itself; I will provide a fiscal note later this week.

Still outstanding are numerous proposed amendments to Title 38 from other sources. I have attached a list of known proposals and would appreciate your additions to this list. The Department will of course prepare analyses and fiscal backup for any of these that you and the Committee request.

I look forward to meeting with the Committee next week to discuss the proposed legislation, and am available prior to the hearing to answer any inquiries.

Sincerely,

*Bill Arnold, Deputy*  
for Esther C. Wunnicke  
Commissioner

DEPARTMENT OF NATURAL RESOURCES  
SECTIONAL ANALYSIS OF SB 375 (Proposed CS)  
February 13, 1984

The following is the Department's sectional analysis of the draft Committee substitute for SB 375.

Sec. 1 (p.1): The proposed amendment comports with current Departmental policy and practice; if the amendment is enacted and new programs are envisioned, further detail of legislative intent should be provided.  
FISCAL IMPACT: None anticipated unless new programs are required.  
DNR RECOMMENDATION: Enact.

*adopt*  
*ok*  
Sec. 2 (p.1): The proposed amendment comports with current Departmental policy and practice, and with 11 AAC 55.250. If the Legislature envisions something beyond present practice, further detail of intent should be provided. In the past year, the Department has held almost 100 public meetings and hearings on proposed land offerings. The three-year process that precedes any public land offering is an effective means of gathering and considering public views on proposed land disposals.  
FISCAL IMPACT: None anticipated unless new programs are required.  
DNR RECOMMENDATION: Enact. Correct drafting error.

*adopt*  
*ok*  
Sec. 3 (p.2): 1) The existing statute requires separation of residences even though efficient land use planning and public demand sometimes justify clustered rural and recreational development. 2) The amendment should be clarified to indicate which resources the Department must consider, rather than stating "resources such as timber, firewood and water."  
FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact, but amend the final sentence to read "The availability of timber, firewood, and water resources shall be considered in determining separation among residences."

Sec. 4 (p.2): 1) The Department's current practice is to request and use capital funding for disposal planning, survey and design, and access two years prior to the disposal. This is necessary to allow adequate time for contracting, public involvement and planning. The existing statute, which needs amendment to reflect this two-year disposal process, implies an immediate relationship between disposal budgeting and land offerings that would be impossible to achieve. 2) The statute should provide for land acquisition by purchase for the provision of access.

FISCAL IMPACT: None anticipated unless new programs are required.  
DNR RECOMMENDATION: 1) Revise statute to reflect current practice. This can be accomplished by substituting the following wording for lines 14-18 on p. 2: "(e) Recognizing that two fiscal years are needed to prepare for the disposal of any state lands in the land disposal bank, the commissioner shall annually submit to the governor an appropriation request for funding for the next two years to allow:" and by deleting "for" on lines 19, 22, 25, and 27 of p.2 and on line 6 of p.3. 2)

*not on  
DNR mark up*

Provide for land acquisition in provision of access by adding "right-of-way acquisition," after "work," on line 28, p.2.

Sec. 5 (p.3-4): The need for a land demand assessment arose in past years when the disposal program was subject to sudden changes and was affected by acreage quotas. The Department has striven to stabilize land offerings, relying on the market response as an indicator of demand. The demand assessment is of little value to the Department and the Legislature in predicting the market response, and the requirement for demand assessment should be dropped owing to its administrative and fiscal costs. The Department uses its area planning program to identify available lands and maintains a disposal land bank to meet current demands for lands. Together these programs provide for demand assessment in the context of current conditions.

FISCAL IMPACT: Beneficial if the Legislature removes demand assessment requirements now in effect.

DNR RECOMMENDATION: ~~Repeal AS 38.04.020(f).~~

*policy*

Sec. 6 (p.4): The Department supports the proposed amendment.

FISCAL IMPACT: Will increase revenues to the state from land offerings.

DNR RECOMMENDATION: Enact.

Sec. 7 (p.4): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

*not intended  
to be fully fund  
the program  
opinion  
coming from  
Bradley*

Sec. 8 (p.4): The Department supports the concept of a fund providing for some land disposal costs. This will encourage a more stable land offerings program. In its early years, the fund will be unable to meet demands upon it because land payments will initially reflect unimproved land values. If the fund is to be established, the need for front-end funding must be recognized. There are concerns about the constitutionality of the proposed fund.

FISCAL IMPACT: May increase some administrative costs.

DNR RECOMMENDATION: Enact.

Sec. 9 (p.5): The proposed amendment reflects current Department practice. FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact. To clarify that the proposed amendment does not constrain expansion of the remote cabin permitting program, add "or" at line 14, p.5, before "where".

*add*

Sec. 10 (p.5): The Department supports the proposed amendment. Local survey and monumentation requirements may supersede this provision.

FISCAL IMPACT: Savings to the state.

DNR RECOMMENDATION: Enact.

Sec. 11 (p.6): The requirement to plan and provide access in compliance with local subdivision ordinances generally comports with Departmental policy proposals.

FISCAL IMPACT: Potentially large, but recoverable in increased revenue from land sales (except for the homesite program).

DNR RECOMMENDATION: Enact.

Sec. 12 (p.6): The Department recommends maintaining the existing statute as written, and adding a sentence that would accomplish the purpose of the proposed amendment. The existing statute rightly requires the commissioner to reserve easements and rights-of-way, but ~~our concern is that the proposed amendment also would require the commissioner to retain any public lands that have received, or may receive, public use.~~ This, obviously, would prevent waterfront disposals in many areas of the state, even though the same public purpose can be achieved by selective retention of lands.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Retain existing language, but add at the end of line 7, p.7, the words: "The commissioner may retain public lands to maintain present and future public use and access."

Sec. 13 (p.7): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 14 (p.7): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 15 (p.7): The Department supports the proposed amendment. The second sentence of the existing statute (lines 3-9 on p.8) more logically belongs in another section than in the section on best interest findings (possibly 38.05.045).

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact.

Sec. 16 (p.8): The Department supports the proposed amendment, but suggests adding wording to 38.05.035(b) (7) to allow the Director to convey scraps and remnants of land that would be unusable and expensive to maintain in state ownership. Lacking such authority, the Department once auctioned 3/100ths of an acre in Ketchikan.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact, adding after "landowner" on line 12, p.10, the words "any remnant of land that the Director considers unmanageable or".

Sec. 17 (p.10): The Department supports the proposed amendment.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact.

Sec. 18 (p.11): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 19 (p.12): The Department supports the proposed amendment.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact.

Sec. 20 (p.12): The Department supports the proposed amendment, but recommends restricting the provision to adjacent lands.

FISCAL IMPACT: None.

*policy -  
increasing  
authority*

*maybe  
controversial*

DNR RECOMMENDATION: Enact, removing the language "or in close proximity to" at line 21, p.12.

Sec. 21 (p.13): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 21½ (p.13½): The Department ~~has not~~ analyzed this section but will be prepared to comment before the first hearing.

Sec. 21½ (p.13½): The Department ~~has not~~ analyzed this section but will be prepared to comment before the first hearing.

Sec. 22 (p.14): The Department supports the proposed amendment, which comports with current Departmental policy to avoid competition with the private sector in the commerce of timber and materials.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 23 (p.14): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 24 (p.14-15): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 25 (p.15): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 26 (p.15): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 27 (p.16): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 28 (p.16): The Department supports the proposed amendment.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact.

Sec. 29 (p.16-17): The Department supports the deletion of the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: No action necessary.

Sec. 30 (p.17-18): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 31 (p.18): The Department supports the proposed amendment.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 32 (p.18-19): The Department supports the proposed amendment.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact.

*done in C.S.*

Sec. 33 (p.19): This appears to be a drafting error.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Instead of deleting lines 10-14 on p.19, the references to "(a) (14)" on lines 10 and 14 should be changed to "(e)".

Sec. 34 (p.19): The proposed amendment is consistent with current Departmental policy and practice.

FISCAL IMPACT: None.

DNR RECOMMENDATION: Enact.

Sec. 35 (p.19-20): The Department concurs with the purpose of the proposed amendment; however, revocable permits and negotiated sales should be exempted from the requirement for notice rather than exempted from the definition of "interests in land".

*ok*

FISCAL IMPACT: Increased notice expenses.

DNR RECOMMENDATION: Amend (d) to read "(d) No notice is required under this section for:" at line 29, p.19 ff.

Sec. 36 (p.20): The Department supports the proposed amendment, and proposes amending the definition of "geothermal resources", line 56, p.23, to 110°C instead of 120°C.

*why?*

FISCAL IMPACT: None.

*ok*

DNR RECOMMENDATION: Enact, but substitute "110" for "120" at line 6, p.23.

Sec. 37 (p.23): The Department supports the proposed amendment.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact.

Sec. 38 (p.23-24): The Department recognizes the intent of the amendment, but expects it to create a more confused and complex survey situation for the entryman. The statute should instead be amended by the addition of wording to provide for the waiver of cadastral survey monumentation requirements (instead allowing control monumentation) where topographic features, diffuse settlement, or low public interest do not justify or require cadastral survey.

*policy. Why was cadastral required in 1st place.*

FISCAL IMPACT: Reduction in future survey costs.

DNR RECOMMENDATION: Enact, adding after "entry" on line 28, p.23 the words ", but this requirement may be waived where the Commissioner determines that topographic features, diffuse settlement, or low public interest do not justify or require cadastral survey".

Sec. 39 (p.24): The Department supports the proposed amendment.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact.

Sec.40-51 (p.24-32): The Department supports these proposed amendments related to the survey and coordinate system.

FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact.

Sec. 52 (p.32): The Department supports the proposed amendment.  
FISCAL IMPACT: Beneficial.  
DNR RECOMMENDATION: Enact.

Sec. 53 (p.32): The Department supports the proposed amendment.  
FISCAL IMPACT: Beneficial.  
DNR RECOMMENDATION: Enact.

Sec. 54 (p.32): The Department supports the proposed amendment.  
FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact.

Sec. 55 (p.33): The Department supports the proposed amendment.  
FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact.

Sec. 56 (p.33-34): The Department supports the proposed amendment.  
FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact.

Sec. 57 (p.34): The Department supports the proposed amendment, but suggests clarifying whether the aggregate total as comprise all land and value in the exchange or just those of the state.

FISCAL IMPACT: Beneficial.  
DNR RECOMMENDATION: Enact, substituting at lines 6-8, p.34: For an exchange of more than 640 acres of state land or state land having an appraised or estimated fair market value of more than \$100,000, there...

*adopt*

Sec. 58 (p.34): The Department supports the proposed amendment.  
FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact.

Sec. 59 (p.34-35): The Department supports the proposed amendment.  
FISCAL IMPACT: Beneficial.  
DNR RECOMMENDATION: Enact.

Sec. 60 (p.35): This amendment is generally consistent with current Departmental policy proposals.  
FISCAL IMPACT: There will be new costs in land disposals that should be recovered in revenues from land sales (higher appraised values).  
DNR RECOMMENDATION: Enact.

Sec. 61 (p.35): The Department supports the proposed amendment.  
FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact.

Sec. 62 (p.35-36): The proposed amendment comports with the Department's proposed policies.  
FISCAL IMPACT: None.  
DNR RECOMMENDATION: Enact.

*-demand assessment*

*policy*

Sec. 63 (p.36): The Department supports the proposed amendment, but recommends repealing AS 38.04.020(f), as stated at the comment on Sec.5.

FISCAL IMPACT: Beneficial.

DNR RECOMMENDATION: Enact, but add "38.04.020(f)" at line 9, p.36.

Introduced: 1/25/84

DNR MARKUP

Original sponsor: Fahrenkamp

2/13/84

DNR  
CHANGES  
↓

IN THE SENATE

BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 375

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

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

26 \* Sec. 2. AS 38.04.005(e) is repealed and reenacted to read:  
27 INVOLVEMENT OF MUNICIPALITIES AND LOCAL RESIDENTS IS ESSENTIAL.  
28 (e) In classifying and making state land available for private  
29 use and settlement, the director shall, when appropriate, hold public  
hearings in the communities affected by the disposal to solicit the  
MEETINGS



views of the residents of the communities affected.

\* Sec. 3. AS 38.04.010(b) is amended to read:

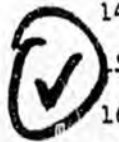
(b) State land which is located beyond the range of existing schools and other necessary public services, or which is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement. The seasonal recreation use or low density settlement shall have [, WITH] sufficient separation between residences so that public services will not be necessary or expected. The availability of resources such as timber, firewood, and water shall be considered in determining separation between residences.



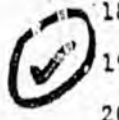
12 \* Sec. 4. AS 38.04.020(e) as amended by sec. 3, ch. 103, SLA 1983 is  
13 amended to read:

*Recognizing that two fiscal years are needed to prepare for the disposal of any state lands in the land disposal bank*

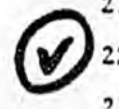
(e) The commissioner shall annually submit to the governor an appropriation request *for funding for the next two years to allow:* ~~land disposal bank that shall be included in the budget submitted to the legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary.~~



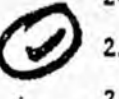
(1) ~~the~~ survey and disposal of land proposed to be made available for homestead staking, with the general location of the land;



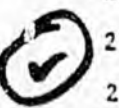
(2) ~~the~~ survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;



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



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



1 platting board under AS 29.33.150; [IF AN ACCURATE DETERMINATION OF  
2 THE AMOUNTS NECESSARY FOR ACCESS ROADS OR CAPITAL IMPROVEMENTS CANNOT  
3 BE MADE AT THE TIME THE ESTIMATE IS SUBMITTED, A SCHEDULE FOR OBTAIN-  
4 ING THE ESTIMATES, CONSTRUCTING THE ACCESS ROADS OR CAPITAL IMPROVE-  
5 MENTS, AND DISPOSING OF THE LAND SHALL BE SUBMITTED;]

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

8 \* Sec. 5. AS 38.04.020(f) is amended to read: ← **DELETE SEC. 5** \*

\*(Delete Sec. 5) COMMENT:

An accurate analysis of demand is difficult and has had little impact on legislative appropriations for disposal programs. Adding another aspect to the demand assessment, such as identifying demand for public services and capital improvements, will be time consuming and costly. In past years DNR has budgeted up to \$60,000 for the assessment.

*DNR wants to repeal (f) = demand  
assessment requirement*

#2 Repeal AS 38.04.020(f) Demand assessment

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on an analysis of the amount of private, municipal, and federal land available for disposal on terms equivalent to those used in comparable state land disposal programs and shall include the length of time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public.]

1 which the land will be offered to the public. [The assessment shall  
2 also identify the demand for public services and capital improvements,  
3 including roads, associated with the market for state land.]

4 \* Sec. 6. AS 38.04.020(g)(2) is amended to read:

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

8 (A) UP TO 80 PERCENT OF THE PARCELS SHALL BE SOLD  
9 UNDER THE LOTTERY SALE PROCEDURES ESTABLISHED IN AS 38.05.057 AND  
10 38.05.065;

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

13 (C) AT LEAST AN ADDITIONAL 10 PERCENT OF THE PARCELS  
14 SHALL BE DISPOSED OF AS HOMESITES UNDER AS 38.08.010 - 38.08.120  
15 EXCEPT THAT, NOTWITHSTANDING AS 38.08.040(b), PARCELS OFFERED  
16 UNDER THIS SUBPARAGRAPH SHALL BE OFFERED BY LOTTERY UNDER AS 38.-  
17 05.057].

18 \* Sec. 7. AS 38.04.020(h) is amended to read:

19 (h) Individual parcels disposed of in subdivisions may not  
20 exceed five acres unless the commissioner determines that a larger  
21 site is necessary to comply with zoning ordinances, [OR] to permit the  
22 design of a viable subdivision because of topographical features, soil  
23 conditions, on-site sewage disposal requirements, or water drainage or  
24 supply considerations that are unique to the subdivision, to minimize  
25 adverse effect on wildlife, fishery, timber, or other significant  
26 resources in the area, or to minimize adverse affect on other resi-  
27 dential uses in the area.

28 \* Sec. 8. AS 38.04 is amended by adding a new section to read:

29 Sec. 38.04.022. FUNDS FOR LAND DISPOSAL. (a) The revenue from

1 the sale of state land shall be deposited in a special state land  
2 disposal income account in the state general fund. The legislature  
3 may appropriate money from the special state land disposal income  
4 account for expenditure by the Department of Natural Resources for  
5 necessary costs incurred by the commissioner in the implementation of  
6 state land disposal programs authorized under AS 38 and for implemen-  
7 tation of AS 38.04.021.

8 (b) Within 30 days after the legislature convenes in regular  
9 session the Department of Natural Resources shall submit a report  
10 reflecting all money deposited  or anticipated to be deposited  in the  
11 fund established under (a) of this section for the next fiscal year.

12 \* Sec. 9. AS 38.04.035(4) is amended to read:

13 (4) For enabling isolated cabin development in remote  
14 locations where survey and conveyance is impractical, <sup>or</sup> where potential  
15 conflicts with other resources and uses require additional conditions,  
16 or where a long-range interest in public ownership and use exist, a  
17 system for cabin permits on public land may be used.

18 \* Sec. 10. AS 38.04.045(b) is amended to read:

19 (b) Before the conveyance of surface rights to state land, an  
20 official cadastral survey shall be accomplished, unless a comparable,  
21 acceptable survey exists that has been conducted by the federal Bureau  
22 of Land Management. The rectangular survey section corner positions  
23 shall be monumented and shown on a cadastral survey plat approved by  
24 the state. However, for those areas where the state may wish to  
25 convey surface estate outside of an official cadastral survey grid,  
26 the director may waive monumentation of all individual section corner  
27 positions and substitute an official control survey with control  
28 points being monumented [AT APPROXIMATELY TWO-MILE INTERVALS] and  
29 shown on control survey plats approved by the state. No portion of



1 land to be conveyed may be located more than two miles from such a  
2 survey control monument. The lots and tracts in state subdivisions  
3 shall be monumented and the cadastral survey and plats for the sub-  
4 division shall be approved by the state. Where land is located within  
5 a municipality with planning, platting, and zoning powers, plats for  
6 state subdivisions shall comply with local ordinances and regulations  
7 in the same manner and to the same extent as plats for subdivisions by  
8 other landowners. State subdivisions shall be filed in the district  
9 recorder's office. The requirements of this section do not apply to  
10 land made available through a cabin permit system, material sales, or  
11 short-term leases; however, for short-term leases the lessee must  
12 comply with local subdivision ordinances unless waived by the munic-  
13 ipality under procedures specified by ordinance.

14 \* Sec. 11. AS 38.04.050 is amended to read:

15 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state  
16 land is surveyed for purposes of private use, legal [ADEQUATE] rights-  
17 of-way and easements shall be reserved [AS NECESSARY] for access and,  
18 where appropriate, for utility services [POWER AND TELEPHONE SERVICE]  
19 to each parcel of land. A right-of-way or easement shall be located  
20 to assure adequate and feasible access for the purposes for which the  
21 right-of-way or easement was intended. Where necessary and appropri-  
22 ate for the use intended or where required by local subdivision ordi-  
23 nances, the director shall arrange for the development of surface  
24 access as part of the land availability program. The direct cost of  
25 local access development shall be borne by the recipient of the land  
26 unless otherwise provided by state statutes or regulations.

27 \* Sec. 12. AS 38.04.055 is amended to read:

28 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director  
29 shall reserve easements [LAND] rights-of-way [and land in state]



~~maintain present and future~~  
~~public use and access to public land and water and to reach adjacent~~  
~~private land~~ REACH OR USE PUBLIC WATER AND PUBLIC AND PRIVATE LAND.  
 An easement ~~OR~~ right-of-way ~~or state land~~ reserved under this  
 section may include established trails, traditionally used for com-  
 merce, recreation, or transportation. *The commissioner may retain public utility to maintain present and future public access.*

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\* Sec. 13. AS 38.05.030(c) is amended to read:

(c) In addition to the requirements specified in AS 38.50.090,  
 the agencies referred to in <sup>\*\*</sup>(a) and (b) of this section and other  
 state agencies with authority to acquire or dispose of land shall give  
 written notification of the fact of acquisition, lease, disposal, or  
 exchange to the commissioner [DIVISION OF LANDS] within three months  
 after the date that they make the acquisition, lease, disposal, or  
 exchange.

\* Sec. 14. AS 38.05.030(d) is amended to read:

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

\* Sec. 15. AS 38.05.035 is amended by adding a new subsection to read:

(e) Upon a written finding that the interests of the state will  
 be best served, the director may, with the consent of the commis-  
 sioner, approve contracts for the sale, lease, or other disposal of  
 available land, resources, property or interests in them, and, in  
 addition to the conditions and limitations imposed by law, may impose

\* We repealed (a) which dealt with disposal of University lands.

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

17 (1) a contract for a negotiated sale authorized under  
18 AS 38.05.115;

19 (2) a lease of land for a shore fishery site under AS 38.-  
20 05.052; or

21 (3) a permit or other authorization revocable by the commis-  
22 sioner.

23 \* Sec. 16. AS 38.05.035(b) is amended to read:

24 (b) The director may

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

28 (2) grant preference rights for the lease or purchase of  
29 state land without competitive bid in order to correct [THE PAST OR

1 FUTURE] errors or omissions of a state or federal administrative  
2 agency when inequitable detriment would otherwise result to a diligent  
3 claimant or applicant due to situations over which the claimant or  
4 applicant had no control; the exercise of this discretionary power  
5 operates only to divest the state of its title to or interests in land  
6 and may be exercised only

7 (A) with the express approval of the commissioner; and  
8 (B) if the application for the preference right is  
9 filed with the director within three years from the occurrence of  
10 the error or omission;

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

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

29 (5) when the director [HE] determines it is in the best

1 interest of the state and will avoid injustice to a person or the  
2 [HIS] heirs or devisees of a person, dispose of land, by direct nego-  
3 tiation to that person who presently uses and who used and made im-  
4 provements to that land before January 3, 1959 or to the [HIS] heirs  
5 or devisees of the person; the amount paid for the land shall be its  
6 fair market value on the date that the person first entered the land,  
7 as determined by the director; a parcel of land disposed of under this  
8 paragraph shall be of a size consistent with the person's prior use,  
9 but may not exceed five acres;

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

12 (7) convey to an adjoining landowner a parcel of land  
13 created by a highway right-of-way alignment or realignment, or a  
14 parcel created by the vacation of a state-owned right-of-way if

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

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

19 (C) the director and the platting authority having  
20 land use planning jurisdiction agree that conveyance of the  
21 parcel to the adjoining landowner will result in boundaries that  
22 are convenient for the use of the land by the landowner and  
23 compatible with municipal land use plans;

24 (8) for good cause extend for up to 90 days the time for  
25 rental or installment payments by a lessee or purchaser of state land  
26 under AS 38.05.005 - 38.05.370 if reasonable penalties and interest  
27 set by the director are paid.

28 \* Sec. 17. AS 38.05.050 is amended to read:

29 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The

✓  
p. 11, 12, 13  
increasing  
authorities

1 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-  
2 mine the land to be disposed of for private use. The commissioner  
3 [DIRECTOR] shall determine the time and place of disposal. An auction  
4 sale, a lottery sale, or a disposal of land for homesites [UNDER  
5 AS 38.04.020(g)(2)(C)] must be held in the community [MUNICIPALITY]  
6 that is closest to the land to be sold or disposed of [and in which  
7 regular sessions of a court of the state are held].

8 \* Sec. 18. AS 38.05.055 is amended to read:

9 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method  
10 of sale is required under AS 38.05.005 - 38.05.370, under AS 38.07.-  
11 010 - 38.07.060, or under AS 38.08.010 - 38.08.120, the sale of state  
12 land shall be made at public auction to the highest qualified bidder  
13 as determined by the director. The director may accept bids and sell  
14 state land under this section at no less than 85 percent of the ap-  
15 praised fair market value of the land. A bidder must appear in person  
16 at the auction unless medical reasons, attendance at school, or mili-  
17 tary service outside the state prevent attendance. A bidder may be  
18 represented by an attorney or agent at the auction if the land offered  
19 for disposal is commercial, industrial, or agricultural land. An  
20 aggrieved bidder may appeal to the commissioner within five days after  
21 the sale for a review of the director's determination. The sale shall  
22 be conducted by the director [OR HIS REPRESENTATIVE,] and at the time  
23 of sale the successful bidder shall deposit an amount equal to five  
24 percent of the purchase price [, OR IF THE PURCHASER ELECTS TO USE  
25 LAND DISCOUNTS GRANTED UNDER AS 38.05.058, FIVE PERCENT OF THE AMOUNT  
26 BID AFTER DEDUCTION OF THE DISCOUNT]. The director [OR HIS REPRESEN-  
27 TATIVE] shall immediately issue a receipt containing a description of  
28 the land or property purchased, the price bid, and the amount depos-  
29 ited [, AND THE AMOUNT OF ANY DISCOUNT ALLOWED]. The receipt shall