

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8970 SENATE RESOURCES

Senator Lyda Green
June 29, 1995
Page 4

Bill section 14 annuls a significant portion of the program regulations applicable to the program under which the Department of Natural Resources disposes of the agricultural interest in state land classified as agricultural land.

Technical changes:

AS 44.33.375, referred to in AS 38.05.057(j), was repealed by ch. 75, SLA 1979. The requirement of AS 38.05.075(j) that a participant in a lottery for land that is part of the former agricultural development plan submit a single application for that land may have ongoing vitality. The provision is retained, with reference to the repealed provision, AS 44.33.375, modified by the addition, in bill section 5, of the word "former" to denote that section's previous repeal.

The amendment made in proposed AS 38.05.065(h)(2), set out in bill section 8, modifies the reference to "agricultural land" to substitute reference to state land that has been classified for agricultural uses and made subject to sale.

Transitional provisions:

Bill section 12, a temporary law provision, directs the commissioner of natural resources to issue new instruments of conveyance as to land classified as agricultural land as to which only agricultural rights have been conveyed. The substituted conveyance instruments must conform to AS 38.05.321(a) and (d), as amended by the measure.

Bill section 13, a second temporary law provision, directs the commissioner of natural resources to issue new instruments of conveyance to municipalities as to land classified as agricultural land as to which only agricultural rights have been conveyed. The substituted conveyance instruments must conform to AS 38.05.321(b), as amended by the measure.

JBC:klb
95-401.klb

SB 162 Sectional Analysis
9-LS0121\1C

Section 1

States the intent of the legislature is to convey fee simple title to agricultural land subject to an agricultural only covenant. Section 9 of this bill establishes this requirement.

This language would make it easier for owners of agricultural parcels to obtain financing from other than the state. Currently we convey only the agricultural interest and retain all other interests to the state. If adopted section 12 of this bill would require us to issue new conveyance documents for all patents issued since August 15, 1976 to comply with this requirement. We should also point out that if the state wants to use the land for another use (pipeline, telephone, etc.) we would have to buy those rights back as the fee simple title would be transferred.

Section 2

Removes survey requirements for agricultural land sales.

We oppose. All disposals of state land (sales or leases) are presently required to be surveyed. We have had numerous problems with unsurveyed land and paper plats to a point that legislation (HB 80) to make DNR the platting authority within the unorganized borough is likely to pass this legislature. This provision would not be supported by any municipal platting authority.

Section 3

Removes the requirement that agricultural land be part of an area plan and classified prior to disposal.

We oppose excluding agricultural land from the land use planning and classification process. The planning and classification statutes (AS 38.04) are the result of a 1986 Supreme Court case Alaska Survival v. State where it was found that disposals of state land cannot occur unless the land has been classified as a result of an area or regional planning process. There is no reason to exempt just agricultural land from this requirement.

Section 4

Takes away the authority to do pre-qualification of agricultural land buyers and allows the commissioner to waive, postpone or modify contract development requirements based on economics.

We oppose the loss of all control of how the land will be used and ensuring that only viable people obtain agricultural land for that purpose. We support the ability of the commissioner to waive, postpone or modify contract terms based on economic considerations.

Section 5

Restricts the lottery application process on land sales that involve land from former project disposals such as Delta I - II and Pt. MacKenzie.

We do not see the need for this provision but do not oppose it.

Section 6

Allows the sale of agricultural tracts by aliquot parts.

Oppose. See comments for Section 2.

Section 7

Adds a reference dealing with moratorium payments to the contract terms explanation.

We support this language that will clarify contract terms.

Section 8

Sets agricultural land sale interest rate at 8% and makes interest payments also subject to a moratorium. We assume that no refinancings are allowed. There is no reason to provide lower rates just to agricultural land.

We do not support lowering of the interest rate to 8% for only agricultural interests. HB 191, which is likely to pass, establishes an interest rate for all land loans at the prime rate plus 4% (this is currently 12.2%) and not to exceed 13.5%. We do support the change that would insure that interest changes are to be considered as part of any payment moratorium.

Section 9

Establishes a requirement for conveyance document wording:

- 1) requires fee simple title be used to convey land subject to an agricultural only covenant.
- 2) provides a covenant permitting subdivision down to 40 acres
- 3) establishes remedies for breach of covenants.

Number 1 - See comments in Section 1. Number 2 - this is already allowed by regulation (11 AAC 67.188) on a limited basis. The agricultural industry will be concerned on allowing unlimited subdivisions which this bill allows. Number 3 - is already covered by 11 AAC 67.165.

Section 10

Provides that land classified for agriculture may be conveyed to municipalities without any restrictions. Currently only the agricultural interest in the land may be conveyed to municipalities.

This is consistent with AS 29.65 (Municipal Land Act) where land classified agriculture may already be conveyed to municipalities.

Section 11

- 1) Allows the commissioner to require a buyer to cooperate with a conservation district on agricultural sales.
- 2) Allows changes in development plans based on cases of economic hardship or other extenuating circumstances.
- 3) Removes restrictions on building improvements, allows incidental uses, sale of timber and use of gravel.

These are major issues to the agricultural industry. We support these concepts.

Sections 12 and 13

Requires the commissioner to issue new conveyance documents on all agricultural parcels sold since August 15, 1976 to individuals and municipalities to comply with section 9 of this act.

We oppose. This is a major work load and not fair to those who chose not to purchase agricultural property because of the deed restrictions. There is also a very good chance of title problems as "wild deeds" will result because of dual title interests being conveyed by the state.

Section 14

Repeals current regulations affecting agricultural land disposals since August 1978.

We oppose any attempt by the legislature to repeal the executive branch's regulations.

= draft as noted, means change in FIN Committee

CS FOR SENATE BILL NO. 162(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 2/14/96
Referred: Rules

Sponsor(s): SENATORS GREEN, Torgerson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to land used for agricultural purposes and to state land
2 classified for agricultural purposes or subject to the restriction of use for
3 agricultural purposes only; and annulling certain program regulations of the
4 Department of Natural Resources that are inconsistent with the amendments made
5 by this Act."

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

7 * Section 1. LEGISLATIVE INTENT. It is the intent of the legislature in amending
8 AS 38.05.321(a) in sec. 9 of this Act that, for state land classified as agricultural land, the
9 state convey fee title subject to a covenant running with the land that limits use of the land
10 to agricultural purposes.

no amendment, sets out what bill does

11 * Sec. 2. AS 38.04.045(b) is amended to read:
12 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
13 for state land, an official cadastral survey shall be accomplished, unless a comparable,

1 classification may be made on the basis of a site-specific land use plan, except a
2 classification for a land disposal under AS 38.05.057, AS 38.08, or AS 38.09 [, OR
3 A NEW COMMERCIAL AGRICULTURE PROJECT UNDER AS 38.05.020(b)(6)].
4 After adoption of a regional land use plan, land classifications shall be made under the
5 plan.

6 * Sec. 4. AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
10 to the director to carry out specific functions and duties; regulations adopted by the
11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders
12 by the commissioner classifying land, issued after January 3, 1959, are not required
13 to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the purposes
15 of this chapter, including agreements with federal and state agencies;

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

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

19 (5) notwithstanding the provisions of any other section of this chapter,
20 grant an extension of the time within which payments due on any exploration license,
21 lease, or sale of state land, minerals, or materials may be made, including payment of
22 rental and royalties, on a finding that compliance with the requirements is or was
23 prevented by reason of war, riots, or acts of God;

24 (6) classify tracts for agricultural uses [~~AND REQUIRE THE~~
25 ~~PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION~~
26 ~~PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR~~
27 ~~PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN~~
28 ~~AGRICULTURAL DEVELOPMENT PROJECT UNDER AS 44.33.475];~~

29 (7) waive, postpone, or otherwise modify the development requirements
30 of a contract for the sale of agricultural land if

31 (A) the land is inaccessible by road; or [~~AND~~]

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6-98

Central Microfilm Services
Department of Education
State of Alaska

- except as noted, view changes in FIN Committee

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9 state convey fee title subject to a covenant running with the land that limits use of the land
10 to agricultural purposes.

11 * Sec. 2. AS 38.04.045(b) is amended to read:

12 (b) Before the issuance of a long-term lease under AS 38.05 070 or of a patent
13 for state land, an official cadastral survey shall be accomplished, unless a comparable,

1 approved survey exists that has been conducted by the federal Bureau of Land
2 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
3 [] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
4 except land that is classified for agricultural uses, an official rectangular survey grid
5 shall be established. The rectangular survey section corner positions shall be
6 monumented and shown on a cadastral survey plat approved by the state. For those
7 areas where the state may wish to convey surface estate outside of an official
8 rectangular survey grid, the commissioner may waive monumentation of individual
9 section corner positions and substitute an official control survey with control points
10 being monumented and shown on control survey plats approved by the state. The
11 commissioner may not issue more than one conveyance for each section within a
12 township outside of an official rectangular survey grid. Land [NO PORTION OF
13 LAND] to be conveyed may not be located more than two miles from an official
14 survey control monument except that the commissioner may waive this requirement
15 on a determination that a single purpose use does not justify the requirement if the
16 existing status of the land is known with reasonable certainty. The lots and tracts in
17 state subdivisions shall be monumented and the cadastral survey and plats for the
18 subdivision shall be approved by the state. Where land is located within a
19 municipality with planning, platting, and zoning powers, plats for state subdivisions
20 shall comply with local ordinances and regulations in the same manner and to the same
21 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
22 and recorded in the district recorder's office. The requirements of this section do not
23 apply to land made available through a cabin permit system, for material sales, for
24 short-term leases, for parcels adjoining a surveyed right-of-way, or for land that has
25 been open to random staking under the remote parcel program or homestead program
26 in the past; however, for short-term leases, the lessee shall [MUST] comply with local
27 subdivision ordinances unless waived by the municipality under procedures specified
28 by ordinance. In this subsection, "a single purpose use" includes a communication site,
29 an aid to navigation, and a park site.

30 * Sec. 3. AS 38.04.065(h) is amended to read:

31 (h) Before the commissioner adopts a regional land use plan, a land

1 classification may be made on the basis of a site-specific land use plan, except a
2 classification for a land disposal under AS 38.05.057, AS 38.08, or AS 38.09 [, OR
3 A NEW COMMERCIAL AGRICULTURE PROJECT UNDER AS 38.05.020(b)(6)].
4 After adoption of a regional land use plan, land classifications shall be made under the
5 plan.

6 * Sec. 4. AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
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11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders
12 by the commissioner classifying land, issued after January 3, 1959, are not required
13 to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the purposes
15 of this chapter, including agreements with federal and state agencies;

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

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

19 (5) notwithstanding the provisions of any other section of this chapter,
20 grant an extension of the time within which payments due on any exploration license,
21 lease, or sale of state land, minerals, or materials may be made, including payment of
22 rental and royalties, on a finding that compliance with the requirements is or was
23 prevented by reason of war, riots, or acts of God;

24 (6) classify tracts for agricultural uses [~~AND REQUIRE THE~~
25 ~~PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION~~
26 ~~PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR~~
27 ~~PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN~~
28 ~~AGRICULTURAL DEVELOPMENT PROJECT UNDER AS 44.33.475];~~

29 (7) waive, postpone, or otherwise modify the development requirements
30 of a contract for the sale of agricultural land if

31 (A) the land is inaccessible by road; or [~~AND~~]

1 (B) transportation, marketing, and development costs render the
2 required development uneconomic;

3 (8) reconvey or relinquish land or an interest in land to the federal
4 government if

5 (A) the land is described in an amended application for an
6 allotment under 43 U.S.C. 1617; and

7 (B) the reconveyance or relinquishment is

8 (i) for the purposes provided in 43 U.S.C. 1617; and

9 (ii) in the best interests of the state.

10 * Sec. 5. AS 38.05.057(j) is amended to read:

11 (j) The commissioner may require a participant in a lottery under this section
12 for the sale of land that is part of an agricultural development project under former
13 AS 44.33.475 to submit a single application for that land. Immediately following the
14 drawing of an applicant's name in the lottery, the applicant shall be given an
15 opportunity to select for purchase one parcel of the land that is offered in the lottery.
16 The names of alternate applicants shall be drawn after all parcels have been selected.
17 If the applicant who originally selected a parcel unequivocally rejects the offer to
18 purchase the parcel or fails to sign the contract of sale within the period of time
19 specified by the commissioner, the parcel shall be offered for sale to alternate
20 applicants in the order in which their names were drawn.

21 * Sec. 6. AS 38.05.059 is repealed and reenacted to read:

22 Sec. 38.05.059. SALE OF AGRICULTURAL LAND. The commissioner may
23 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses
24 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
25 subdivision requirements and municipal ordinances.

26 * Sec. 7. AS 38.05.065(c) is amended to read:

27 (c) The director shall, for contracts under (a), [OR] (b), or (h) of this section,
28 set out in the contract for each sale the period for the payment of installments and the
29 total purchase price plus interest. The director, with the consent of the commissioner,
30 may also include in contracts under this section conditions, limitations, and terms
31 considered necessary and proper to protect the interest of the state. Violations of any

1 provision of this chapter or the terms of the contract of sale subject the purchaser to
2 appropriate administrative and legal action, including but not limited to specific
3 performance, foreclosure, ejection, or other legal remedies in accordance with
4 applicable state law.

5 * Sec. 8. AS 38.05.065(h) is amended to read:

6 (h) The commissioner

7 (1) shall provide that, notwithstanding (a) and (b) of this section,
8 in a contract for the sale of land classified under AS 38.05.020(b)(6) for
9 agricultural uses, the interest rate to be charged on installment payments may not
10 exceed 9.5 percent; and

11 (2) may declare a moratorium of up to five years on payments on land
12 sold under this section for [A SALE OF AGRICULTURAL.] land classified under
13 AS 38.05.020(b)(6) for agricultural uses [UNDER THIS SECTION] if

14 (A) [(1)] the commissioner determines that the moratorium is
15 in the best interest of the state;

16 (B) [(2)] the commissioner certifies and the contract purchaser
17 agrees to perform farm development, crop production, and harvesting, not
18 including land clearing or related activity, requiring the expenditure of amounts
19 equivalent to the payments that would otherwise be made during the
20 moratorium;

21 (C) [(3)] the sale of the agricultural land takes place after
22 July 1, 1979; and

23 (D) [(4)] the contract purchaser is in compliance with the
24 development plan specified in the purchase contract at the time the purchaser
25 applies for a moratorium under this subsection and remains in compliance with
26 the development plan during the moratorium; for the payments subject to the
27 moratorium declared under this paragraph, interest [INTEREST]
28 payments are subject to the moratorium but interest continues to accrue during
29 the moratorium.

30 * Sec. 9. AS 38.05.321(a) is repealed and reenacted to read:

31 (a) The department shall include in a document that conveys state land

1 classified as agricultural land

2 (1) a covenant running with the land that restricts or limits the use of
3 the land exclusively for agricultural purposes; and

4 (2) a covenant running with the land permitting the owner of state land
5 classified as agricultural land to subdivide and sell the land in not more than four
6 parcels of not less than 40 acres each ~~and prohibiting the parcels resulting from this~~
7 ~~subdivision that is authorized by this paragraph from being further subdivided.~~

*Ex. paragraph
not to be
added
further
subdivided*

8 * Sec. 10. AS 38.05.321(b) is amended to read:

9 (b) Subject to (a) of this section, state [STATE] land classified as agricultural
10 land that has been selected by a municipality under former AS 29.18.190 - 29.18.200
11 or former AS 29.18.205(e) may be approved by the director for patent under
12 AS 29.65.050(c) [; HOWEVER, ONLY RIGHTS IN THE LAND FOR
13 AGRICULTURAL PURPOSES MAY BE TRANSFERRED AND ALL OTHER
14 INTERESTS IN THE LAND WILL REMAIN WITH THE STATE]. Agricultural land
15 approved for patent to a municipality shall be credited, acre for acre, toward fulfillment
16 of that municipality's entitlement under AS 29.65.010 - 29.65.030 or former
17 AS 29.18.201 - 29.18.203. [IF THE DIRECTOR LATER DETERMINES IT TO BE
18 IN THE BEST INTERESTS OF THE STATE TO TRANSFER SOME OR ALL OF
19 THE ADDITIONAL RIGHTS IN THAT APPROVED OR PATENTED
20 AGRICULTURAL LAND, THOSE RIGHTS SHALL PASS WITHOUT
21 CONSIDERATION TO THE MUNICIPALITY IN WHICH THE LAND IS
22 LOCATED. THE NOTICE AND REVIEW PROVISIONS OF AS 38.05.945 ARE
23 APPLICABLE TO CONVEYANCE OF RIGHTS UNDER THIS SECTION.]

24 * Sec. 11. AS 38.05.321 is amended by adding new subsections to read:

25 (d) For state land classified as agricultural land that is conveyed under (a) of
26 this section,

27 (1) the commissioner may require the landowner to cooperate with the
28 appropriate soil and water conservation district under AS 41.10 in the development and
29 implementation of soil conservation plans as authorized by AS 41.10.110(6);

30 (2) as a condition of the conveyance, the commissioner may not require
31 preparation and implementation of a farm development plan unless the commissioner

1 permits modification of a plan in cases of economic hardship or other extenuating
2 circumstances;

3 (3) the commissioner may not limit

4 (A) the landowner's right to construct improvements related to
5 agricultural use;

6 (B) the landowner's right to use the land and improvements for
7 purposes that are incidental to and not inconsistent with the primary use of the
8 land for agricultural purposes; and

9 (C) the landowner's right to subdivide and sell the land if the
10 resulting parcels are not in violation of the minimum parcel size set out in
11 (a)(2) of this section.

12 (e) A covenant described in (a) of this section may be enforced only by a civil
13 action.

14 (f) In this section, "agricultural purposes" means

15 (1) the production of plants and animals useful to man, including forage
16 and sod crops, grains and feed crops, fruits, trees, and vegetables, dairy animals and
17 products, and livestock;

18 (2) the construction of fixed, permanent, or immovable structures
19 reasonably required for or related to agricultural production, including that farmstead
20 normally required for yards, driveways, parking, barns, and other outbuildings, and
21 similar uses;

22 (3) the use of gravel reasonably required for agricultural production on
23 the parcel conveyed; and

24 (4) removal and disposition of timber in order to bring agricultural land
25 into production.

26 * Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR UNDER
27 FORMER AS 38.05.321(a). (a) The provisions of AS 38.05.321(a), as amended by sec. 9
28 of this Act, apply to state land classified as agricultural land that, under AS 38.05.069(c) or
29 under AS 38.05.321(a) before its amendment by sec. 9 of this Act, was subject to the
30 limitation of the conveyance of only the interest in the land that related to agricultural
31 purposes and that was sold, leased, or disposed of by the state after August 15, 1976, and

1 before the effective date of this Act.

2 (b) When the owner of the rights for agricultural purposes in land described in this
3 section applies to the Department of Natural Resources, the commissioner of natural resources
4 shall issue a new instrument of conveyance for the land that conforms to AS 38.05.321(a) and
5 (d), as amended and enacted by secs. 9 and 11 of this Act. The commissioner of natural
6 resources ~~may issue a new instrument of conveyance under this section only if the owner of~~
7 ~~the rights tenders a deed or other appropriate instrument of conveyance transmitting the~~
8 ~~owner's interests in the land to the state, accompanied by title insurance coverage for or a title~~
9 ~~report affirming ownership of the rights in the person making application under this~~
10 ~~subsection.~~

11 (c) ~~Until the commissioner of natural resources issues the new instrument of~~
12 ~~conveyance under (b) of this section, when necessary to enforce a state interest in the land,~~
13 ~~the state may enforce the interests in the land in the manner authorized by the instrument of~~
14 ~~conveyance that transferred the rights for agricultural purposes.~~

15 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).

16 (a) The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
17 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10
18 of this Act, was subject to the limitation of the conveyance of only the interest in the land that
19 related to agricultural purposes and that was conveyed by the state to a municipality after
20 June 30, 1978, and before the effective date of this Act.

21 (b) ~~When a municipality holding the rights for agricultural purposes in land described~~
22 ~~in this section applies to the Department of Natural Resources, the commissioner of natural~~
23 ~~resources shall issue a new instrument of conveyance for the land that conforms to~~
24 ~~AS 38.05.321, as amended by secs. 9 - 11 of this Act. The commissioner of natural resources~~
25 ~~may issue a new instrument of conveyance under this section only if the municipality tenders~~
26 ~~a deed or other appropriate instrument of conveyance returning the municipality's interests in~~
27 ~~the land to the state, accompanied by title insurance coverage for or a title report affirming~~
28 ~~the municipality's ownership of the rights.~~

29 (c) ~~Until the commissioner of natural resources issues the new instrument of~~
30 ~~conveyance under (b) of this section, when necessary to enforce a state interest in the land,~~
31 ~~the state may enforce the interests in the land in the manner authorized by the instrument of~~

1 ~~conveyance that transferred the rights for agricultural purposes.~~

2 * Sec. 14. The following regulations are annulled: 11 AAC 67.162, 11 AAC 67.165, 11
3 AAC 67.167(d), 11 AAC 67.170, 11 AAC 67.172, 11 AAC 67.175(1), 11 AAC 67.185, 11
4 AAC 67.187, 11 AAC 67.188(a)(3), 11 AAC 67.188(a)(4), 11 AAC 67.188(a)(5), 11 AAC
5 67.188(a)(6), 11 AAC 67.188(b), 11 AAC 67.188(c), 11 AAC 67.190(a), 11 AAC 67.192.

CHANGES TO SB 162 IN SENATE RESOURCES:

1) Page 5, lines 9-10:

Interest rate changed from 8% to
"may not exceed 9.5%"

2) Page 6, lines 5-12:

Clarified that owner of the ag land could subdivide not more than 4 parcels
of at least 40 acres:

Committee adopted language to clarify that the owner of land subdivided
under (2) may not subdivide that property sooner than 4 years after the last previous
subdivision and sale of land.

3) Page 7, Lines 17-19:

(c) new: removal of the reversionary clause
Now Commissioner must take the owner to court; just like subdivision clause - not
administrative proceeding.

= change in RES

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24 short-term leases, for parcels adjoining a surveyed right-of-way, or for land that has
25 been open to random staking under the remote parcel program or homestead program
26 in the past; however, for short-term leases, the lessee shall [MUST] comply with local
27 subdivision ordinances unless waived by the municipality under procedures specified
28 by ordinance. In this subsection, "a single purpose use" includes a communication site,
29 an aid to navigation, and a park site.

30 • Sec. 3. AS 38.04.065(h) is amended to read:

31 (h) Before the commissioner adopts a regional land use plan, a land

1 classification may be made on the basis of a site-specific land use plan, except a
2 classification for a land disposal under AS 38.05.057, AS 38.08, or AS 38.09 [, OR
3 A NEW COMMERCIAL AGRICULTURE PROJECT UNDER AS 38.05.020(b)(6)].
4 After adoption of a regional land use plan, land classifications shall be made under the
5 plan.

6 * Sec. 4. AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
10 to the director to carry out specific functions and duties; regulations adopted by the
11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders
12 by the commissioner classifying land, issued after January 3, 1959, are not required
13 to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the purposes
15 of this chapter, including agreements with federal and state agencies;

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

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

19 (5) notwithstanding the provisions of any other section of this chapter,
20 grant an extension of the time within which payments due on any exploration license,
21 lease, or sale of state land, minerals, or materials may be made, including payment of
22 rental and royalties, on a finding that compliance with the requirements is or was
23 prevented by reason of war, riots, or acts of God;

24 (6) classify tracts for agricultural uses [AND REQUIRE THE
25 PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION
26 PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR
27 PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN
28 AGRICULTURAL DEVELOPMENT PROJECT UNDER AS 44.33.475];

29 (7) waive, postpone, or otherwise modify the development requirements
30 of a contract for the sale of agricultural land if

31 (A) the land is inaccessible by road; or [AND]

1 (B) transportation, marketing, and development costs render the
2 required development uneconomic;

3 (8) reconvey or relinquish land or an interest in land to the federal
4 government if

5 (A) the land is described in an amended application for an
6 allotment under 43 U.S.C. 1617; and

7 (B) the reconveyance or relinquishment is

8 (i) for the purposes provided in 43 U.S.C. 1617; and

9 (ii) in the best interests of the state.

10 • Sec. 5. AS 38.05.057(j) is amended to read:

11 (j) The commissioner may require a participant in a lottery under this section
12 for the sale of land that is part of an agricultural development project under former
13 AS 44.33.475 to submit a single application for that land. Immediately following the
14 drawing of an applicant's name in the lottery, the applicant shall be given an
15 opportunity to select for purchase one parcel of the land that is offered in the lottery.
16 The names of alternate applicants shall be drawn after all parcels have been selected.
17 If the applicant who originally selected a parcel unequivocally rejects the offer to
18 purchase the parcel or fails to sign the contract of sale within the period of time
19 specified by the commissioner, the parcel shall be offered for sale to alternate
20 applicants in the order in which their names were drawn.

21 • Sec. 6. AS 38.05.059 is repealed and reenacted to read:

22 Sec. 38.05.059. SALE OF AGRICULTURAL LAND. The commissioner shall
23 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses
24 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
25 subdivision requirements and municipal ordinances.

26 • Sec. 7. AS 38.05.065(c) is amended to read:

27 (c) The director shall, for contracts under (a), [OR] (b), or (h) of this section,
28 set out in the contract for each sale the period for the payment of installments and the
29 total purchase price plus interest. The director, with the consent of the commissioner,
30 may also include in contracts under this section conditions, limitations, and terms
31 considered necessary and proper to protect the interest of the state. Violations of any

1 provision of this chapter or the terms of the contract of sale subject the purchaser to
2 appropriate administrative and legal action, including but not limited to specific
3 performance, foreclosure, ejectment, or other legal remedies in accordance with
4 applicable state law.

5 * Sec. 8. AS 38.05.065(h) is amended to read:

6 (h) The commissioner

7 (1) shall provide that, notwithstanding (a) and (b) of this section,
8 in a contract for the sale of land classified under AS 38.05.020(b)(6) for
9 agricultural uses, the interest rate to be charged on installment payments may not
10 exceed 9.5 percent; and [Edu]

11 (2) may declare a moratorium of up to five years on payments on land
12 sold under this section for [A SALE OF AGRICULTURAL] land classified under
13 AS 38.05.020(b)(6) for agricultural uses [UNDER THIS SECTION] if

14 (A) [(1)] the commissioner determines that the moratorium is
15 in the best interest of the state;

16 (B) [(2)] the commissioner certifies and the contract purchaser
17 agrees to perform farm development, crop production, and harvesting, not
18 including land clearing or related activity, requiring the expenditure of amounts
19 equivalent to the payments that would otherwise be made during the
20 moratorium;

21 (C) [(3)] the sale of the agricultural land takes place after
22 July 1, 1979; and

23 (D) [(4)] the contract purchaser is in compliance with the
24 development plan specified in the purchase contract at the time the purchaser
25 applies for a moratorium under this subsection and remains in compliance with
26 the development plan during the moratorium; for the payments subject to the
27 moratorium declared under this paragraph, interest [INTEREST]
28 payments are subject to the moratorium but interest continues to accrue during
29 the moratorium.

30 * Sec. 9. AS 38.05.321(a) is repealed and reenacted to read:

31 (a) The department shall include in a document that conveys state land

1 classified as agricultural land

2 (1) a covenant running with the land that restricts or limits the use of
3 the land exclusively for agricultural purposes;

4 (2) a covenant running with the land permitting the owner of state land
5 classified as agricultural land to subdivide and sell the land in not more than four
6 parcels of not less than 40 acres each; and

7 (3) a covenant running with the land permitting the owner of land
8 subdivided, whether subdivided under (2) of this subsection or under this paragraph,
9 to further subdivide and sell the subdivided land in not more than four parcels of not
10 less than 40 acres each, provided that a subdivision and sale under this paragraph may
11 not occur sooner than four years after the last previous subdivision and sale of the land
12 under (2) of this subsection or this paragraph.

13 * Sec. 10. AS 38.05.321(b) is amended to read:

14 (b) Subject to (a) of this section, state [STATE] land classified as agricultural
15 land that has been selected by a municipality under former AS 29.18.190 - 29.18.200
16 or former AS 29.18.205(e) may be approved by the director for patent under
17 AS 29.65.050(c) [~~;~~ HOWEVER, ONLY RIGHTS IN THE LAND FOR
18 AGRICULTURAL PURPOSES MAY BE TRANSFERRED AND ALL OTHER
19 INTERESTS IN THE LAND WILL REMAIN WITH THE STATE]. Agricultural land
20 approved for patent to a municipality shall be credited, acre for acre, toward fulfillment
21 of that municipality's entitlement under AS 29.65.010 - 29.65.030 or former
22 AS 29.18.201 - 29.18.203. [IF THE DIRECTOR LATER DETERMINES IT TO BE
23 IN THE BEST INTERESTS OF THE STATE TO TRANSFER SOME OR ALL OF
24 THE ADDITIONAL RIGHTS IN THAT APPROVED OR PATENTED
25 AGRICULTURAL LAND, THOSE RIGHTS SHALL PASS WITHOUT
26 CONSIDERATION TO THE MUNICIPALITY IN WHICH THE LAND IS
27 LOCATED. THE NOTICE AND REVIEW PROVISIONS OF AS 38.05.945 ARE
28 APPLICABLE TO CONVEYANCE OF RIGHTS UNDER THIS SECTION.]

29 * Sec. 11. AS 38.05.321 is amended by adding new subsections to read:

30 (d) For state land classified as agricultural land that is conveyed under (a) of
31 this section.

1 (1) the commissioner may require the landowner to cooperate with the
2 appropriate soil and water conservation district under AS 41.10 in the development and
3 implementation of soil conservation plans as authorized by AS 41.10.110(6);

4 (2) as a condition of the conveyance, the commissioner may not require
5 preparation and implementation of a farm development plan unless the commissioner
6 permits modification of a plan in cases of economic hardship or other extenuating
7 circumstances;

8 (3) the commissioner may not limit

9 (A) the landowner's right to construct improvements related to
10 agricultural use;

11 (B) the landowner's right to use the land and improvements for
12 purposes that are incidental to and not inconsistent with the primary use of the
13 land for agricultural purposes; and

14 (C) the landowner's right to subdivide and sell the land if the
15 resulting parcels are not in violation of the minimum parcel size set out in
16 (a)(2) of this section.

17 (e) A covenant described in (a) of this section may be enforced only by a civil
18 action.

19 (f) In this section, "agricultural purposes" means

20 (1) the production of plants and animals useful to man, including forage
21 and sod crops, grains and feed crops, fruits, trees, and vegetables, dairy animals and
22 products, and livestock;

23 (2) the construction of fixed, permanent, or immovable structures
24 reasonably required for or related to agricultural production, including that farmstead
25 normally required for yards, driveways, parking, barns, and other outbuildings, and
26 similar uses;

27 (3) the use of gravel reasonably required for agricultural production on
28 the parcel conveyed; and

29 (4) removal and disposition of timber in order to bring agricultural land
30 into production.

31 • Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR UNDER

1 FORMER AS 38.05.321(a). The provisions of AS 38.05.321(a), as amended by sec. 9 of this
2 Act, apply to state land classified as agricultural land that, under AS 38.05.069(c) or under
3 AS 38.05.321(a) before its amendment by sec. 9 of this Act, was subject to the limitation of
4 the conveyance of only the interest in the land that related to agricultural purposes and that
5 was sold, leased, or disposed of after August 15, 1976, and before the effective date of this
6 Act. The commissioner of natural resources shall issue a new instrument of conveyance for
7 the land that conforms to AS 38.05.321(a) and (d), as amended and enacted by secs. 9 and 11
8 of this Act.

9 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).
10 The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
11 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10
12 of this Act, was subject to the limitation of the conveyance of only the interest in the land that
13 related to agricultural purposes and that was conveyed to a municipality after June 30, 1978,
14 and before the effective date of this Act. The commissioner of natural resources shall issue
15 a new instrument of conveyance for the land that conforms to AS 38.05.321, as amended by
16 secs. 9 - 11 of this Act.

17 * Sec. 14. The following regulations are annulled: 11 AAC 67.162, 11 AAC 67.165, 11
18 AAC 67.167(d), 11 AAC 67.170, 11 AAC 67.172, 11 AAC 67.175(1), 11 AAC 67.185, 11
19 AAC 67.187, 11 AAC 67.188(a)(3), 11 AAC 67.188(a)(4), 11 AAC 67.188(a)(5), 11 AAC
20 67.188(a)(6), 11 AAC 67.188(b), 11 AAC 67.188(c), 11 AAC 67.190(a), 11 AAC 67.192.

Sp. 1201 Green

ANSWERS TO QUESTIONS REGARDING MUNICIPAL LAND SELECTION:

SECTION 10:

Applies to municipal land selections made after effective date of SB 162. Ensures that municipal land selections of land classified as ag land are treated same as other ag land in this bill.

SECTION 13:

Applies to existing municipal land selections. Municipalities follow the same process as individuals - applicant driven. Must apply to Commissioner of DNR for new instrument of conveyance (applicant driven added in Finance)

CHANGES TO SB 162 IN SENATE FINANCE:

Section 6:

Page 4, Line 22: change shall to may
Commissioner's discretion to put ag parcels up for sale.

Section 9:

Page 6:
Delete reference to further subdividing of parcels.

Section 11:

Page 7:
Added language lines 12-13: covenant enforced only by a civil action.

Sections 12 and 13:

Pages 7-8: changes conveyance process and the transition provisions to applicant driven processes with applicant responsible for title insurance or title report to prove ownership.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

3601 C STREET, SUITE 1122
ANCHORAGE, ALASKA 99503-5947
PHONE: (907) 762-2692
FAX: (907) 762-2529

DIVISION OF LAND

January 18, 1996

JAN 22 1996

The Honorable Loren Leman
Chairman, Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3000)
Juneau, Alaska 99801-1182

Re: SB 162

Dear Senator Leman:

At the January 17, 1996 hearing two questions were asked that I could not answer at the time that I promised to follow-up on before the next hearing.

First was a question by Senator Halford concerning prequalification of bidders for agricultural tracts. The statutory reference for prequalification is AS 38.05.020(b)(6). Senator Halford was correct that there was a Superior Court case on this very issue.

In 1981 the Superior Court ruled that, at the time, the state had no authority to prequalify bidders on the Pt. MacKenzie sale. In response to the court decision the legislature, in 1982 as part of HB 418 (Ch 129 SLA 82), gave the department authority to pre-qualify bidders for agricultural tracts. The statutory authority for prequalification has never been tested in the courts since it was passed.

The second question dealt with how interest rates, particularly for federal farm loans are determined.

General Information

The Alaska Lands Act provides for the disposal of state land for private use. Commercial banks and lending institutions normally will not finance the acquisition of unimproved land, especially in remote areas. To reduce the instances of speculation and promote the transfer of state land to the broadest spectrum of the Alaskan population, AS 38.05.065 was passed by the legislature to allow the purchase of land on an installment basis. The contract obligors are not subject to a credit check. A five percent down payment is the only requirement. Title to the land is not conveyed until the installment contract is completely paid.

History of Interest Rate Charged

In 1979, the statute (AS 38.05.065) was changed to establish how the interest rate on land sale contracts should be determined. The statute allows for installment payments over a period of 20 years, with interest at the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed.

The federal land bank was superseded by the Farm Credit Service (FCS) in the 1980's. From 1979 to 1987, only one rate was furnished each month to Division of Land (DOL) by either the federal land bank or FCS. In 1987, FCS provided DOL three variable interest rates classified as Tier I, II, or III. The rates varied from 9.75% for Tier I to 12.25% for Tier III. FCS used the Tier I rate for the most credit worthy applicants. DOL chose to use the Tier III rate since credit information was not required from the contract applicant.

In 1988, FCS replaced the three variable rate tier system. The new system for agricultural loans included four variable interest rates for each of eight different terms (one to thirty year). Each of the 32 rates was subject to a rate code adjustment for credit worthiness. A credit of .61% was allowed for a 5% buy down of the principal (down payment). On November 28, 1988, DOL Director's Policy 89-06, established rate code 6 as the rate that DOL would use as the adjustment for the financial condition of the average Alaska borrower. Rate code 6 increased the base rate by 1%.

FCS again changed their rate methodology in September 1989. They established one base rate for the eight different terms. A variable rate was used for shorter duration loans (one or five years). For long term loans (ten to thirty years), the one rate that was quoted was a fixed interest rate mortgage. FCS continued to use the six rate codes for credit worthiness. Although they offered fixed rate and variable rate loans, most loans issued were variable rate loans. An attorney for FCS, in July 1989, determined that an equitable fixed rate mortgage loan rate would be 1.75% more than the variable rate used by FCS. Therefore, from September 1989 through December 1994, DOL used the base rate provided by FCS for a 20-year mortgage and adjusted this interest rate upwards 1.75% for the variable to fixed rate adjustment, and increased it an additional 1.00% for the rate code 6 adjustment. This 2.75% increase was then reduced by .61% because land sale contract obligors were required to make a 5% down payment.

In April 1991, FCS again changed their rating system for credit worthiness from six rate codes to five alpha ratings (AAA, AA, A, B, C) for both fixed and variable rate mortgages. They continued to offer the eight different terms. A loan with a rating of AAA was reserved for the most credit worthy applicants. At this time, FCS stopped granting a credit for a down payment amount. Since the FCS is not a public lending institution, it can establish its own rates that favor

particular markets and customers. It can, and does, discriminate against less credit worthy borrowers.

Interest Rate Methodology

The interest rate used by DNR is one of the five rates (AAA, AA, A, B, C) used by FCS for two-year, fixed-rate real estate mortgages. The reasons for choosing the "A" rate include:

- a. The "A" rate is the midpoint rate. If one standard rate is chosen, then contract obligors at both ends of the credit worthiness spectrum may pay more or less interest than they should; however, using a mid-range will lessen the financial impact to the average contract obligor.
- b. The rating methodology used by FCS to determine the credit worthiness of an applicant is proprietary information and is not known by DNR. Therefore, even if DNR would obtain credit information from the contract obligor, it would be impossible for DNR to match the credit worthiness of a land sale contract obligor to any one of the five rates provided by FCS.
- c. DNR does not require credit information from the contract obligors. Therefore, DNR does not have the information to decide what credit worthiness rate it apply to each land sale contract. Absent a specific rate to charge, a midpoint rate is the logical one to use.
- d. The AAA rate is reserved for the most credit worth contract obligor. Normally, a borrower who has received the highest credit worthiness rating from a financial institution will not default on loan payments or have the loan terminated because of lack of payment. The average new DNR land sale contract obligor does not meet these high credit worthy criteria. During 1994, DNR issued 1,126 default notices on approximately 3,700 land sale contracts. The default notice is the first action in the foreclosure process. Most of these defaults were cured before DNR took final action to foreclose on the contracts. However, since 1987 approximately 1,000 contracts were relinquished, terminated, or foreclosed on. Therefore, using the midpoint A rate recognizes the implied financial condition of the average DNR land sale contract obligor.

The interest rate for January 1996 is 9.45%. It has been steadily dropping over the past year when it reached an all time high of 12.35%.

SB 162
January 18, 1996
Page 4

In order for the public to easily determine our interest rate, we are proposing in HB 191 to set the interest at the "prime rate" as published in the Wall Street Journal plus 4%. This rate recognizes private market conditions and our inability to establish a credit worthiness rate for each individual sale contract.

I hope this answers the committee's questions. Please feel free to contact me if there are any further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Swanson".

Ron Swanson
Deputy Director

cc: Carol Carroll
Jay Kertulla
Pat Pourchot

AMENDMENT

OFFERED IN THE SENATE RESOURCES COMMITTEE

TO: CSSB 162 9-LS1021\F

1 Page 5, line 7 through 10:

2 Delete all material and insert:

3 (1) shall provide that, notwithstanding (a) and (b) of
4 this section, in a contract for the sale of land classified under
5 AS 38.05.020(b)(6) for agricultural uses, the interest rate to be
6 charged on installment payments shall not exceed 9.5%; and

**ENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 4/20/95

FURTHER: Finance

Date of 5-Day Notice: 10-13-95
(in accordance with Uniform Code 23)

DATE TURNED INTO OFFICE: 1-23-96

Resources Committee considered SB 162

Land and state land used for agricultural purposes or subject to the restriction of use; annulling certain program regulations of the Department of Natural Resources.

and recommends:

- be replaced with CS SB 162 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR _____

SIGNATURE DO PASS	DT	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Robert Taylor</i>	<input checked="" type="checkbox"/>	<i>True Lease</i>			<input checked="" type="checkbox"/>
<i>James [unclear]</i>	<input checked="" type="checkbox"/>	<i>[unclear]</i>	<input checked="" type="checkbox"/>		
<i>[unclear]</i>	<input checked="" type="checkbox"/>				
<i>Paul [unclear]</i>	<input checked="" type="checkbox"/>				
<i>[unclear]</i>					
CHAIR: <i>Loren A. Lerman</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DNR - AG Dev	1-17-96		285
DNR - Land Dev	1-17-96		227.8

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

AMENDMENT

OFFERED IN THE SENATE RESOURCES COMMITTEE

TO: CSSB 162 9-LS1021\F

1 Page 5, line 7 through 10:

2 Delete all material and insert:

3 (1) shall provide that, notwithstanding (a) and (b) of
4 this section, in a contract for the sale of land classified under
5 AS 38.05.02(b)(6) for agricultural uses, the interest rate to be
6 charged on installment payments shall not exceed 9.5%; and

Committee on the CS

Federal Reserve rate + 1%

State funds:

1. ...
2. ...
3. ...

~~1. ...~~
2. ...
3. ...

3. ...

4. ...

5. ...

6. ...

7. ...

ENATE COMMITTEE REI RT

First Committee of Referral

DATE: 4/20/95

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Date of 5-Day Notice: 10-13-95
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and recommends:

- be replaced with CS SB 162 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

same title
 new title

House Bill:

same title
 technical title
 new: SCR _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			<input checked="" type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
DNR - AG Dev	1-11-96		273
DNR - Land Dev	1-17-96		227

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

cc:Mail for: Annette Kreitzer

Subject: SB162

From: Mary Kvalheim at LAA_ANC 1/22/98 6:01 PM

To: Annette Kreitzer at JNU_CAPITOL

Annette,

When you get the CS for SB162 which was passed out of today's meeting, could you fax to us at 376-6180? One of our more frequently requested bills this session.

MARY:

Thanks for your help

Mary The Resources Committee Substitute will be available through the LIOs probably on Wednesday or Thursday afternoon, since there is no Senate session tomorrow (Tuesday) for the Resources version to be read across the floor.

I am faxing the CS as it passed from Resources. The only change from the version you received before is on page 5, lines 9-10. The sponsor replaced "8 percent" with "may not exceed 9.5%".

As you heard on the teleconference, the Senate Finance Committee will be looking most specifically at Section 8 (page 5) - there is still disagreement over what the interest rate should be.

Hope this helps those who are interested in the bill.

Annette Kreitzer
(907) 465-4907

Annette
Mary Kvalheim

9-LS1021AK ✓
Chenoweth
1/22/96

CS FOR SENATE BILL NO. 162()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to land used for agricultural purposes and to state land
2 classified for agricultural purposes or subject to the restriction of use for
3 agricultural purposes only; and annulling certain program regulations of the
4 Department of Natural Resources that are inconsistent with the amendments made
5 by this Act."

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

7 • Section 1. LEGISLATIVE INTENT. It is the intent of the legislature in amending
8 AS 38.05.321(a) in sec. 9 of this Act that, for state land classified as agricultural land, the
9 state convey fee title subject to a covenant running with the land that limits use of the land
10 to agricultural purposes.

11 • Sec. 2. AS 38.04.045(b) is amended to read:

12 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
13 for state land, an official cadastral survey shall be accomplished, unless a comparable,

1 approved survey exists that has been conducted by the federal Bureau of Land
2 Management. Before land may be offered under [AS 38.05.055, 38.05.057.] AS 38.08
3 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
4 except land that is classified for agricultural uses, an official rectangular survey grid
5 shall be established. The rectangular survey section corner positions shall be
6 monumented and shown on a cadastral survey plat approved by the state. For those
7 areas where the state may wish to convey surface estate outside of an official
8 rectangular survey grid, the commissioner may waive monumentation of individual
9 section corner positions and substitute an official control survey with control points
10 being monumented and shown on control survey plats approved by the state. The
11 commissioner may not issue more than one conveyance for each section within a
12 township outside of an official rectangular survey grid. Land [NO PORTION OF
13 LAND] to be conveyed may not be located more than two miles from an official
14 survey control monument except that the commissioner may waive this requirement
15 on a determination that a single purpose use does not justify the requirement if the
16 existing status of the land is known with reasonable certainty. The lots and tracts in
17 state subdivisions shall be monumented and the cadastral survey and plats for the
18 subdivision shall be approved by the state. Where land is located within a
19 municipality with planning, platting, and zoning powers, plats for state subdivisions
20 shall comply with local ordinances and regulations in the same manner and to the same
21 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
22 and recorded in the district recorder's office. The requirements of this section do not
23 apply to land made available through a cabin permit system, for material sales, for
24 short-term leases, for parcels adjoining a surveyed right-of-way, or for land that has
25 been open to random staking under the remote parcel program or homestead program
26 in the past; however, for short-term leases, the lessee shall [MUST] comply with local
27 subdivision ordinances unless waived by the municipality under procedures specified
28 by ordinance. In this subsection, "a single purpose use" includes a communication site,
29 an aid to navigation, and a park site.

30 • Sec. 3. AS 38.04.065(h) is amended to read:

31 (h) Before the commissioner adopts a regional land use plan, a land

1 classification may be made on the basis of a site-specific land use plan, except a
2 classification for a land disposal under AS 38.05.057, AS 38.08, or AS 38.09 [, OR
3 A NEW COMMERCIAL AGRICULTURE PROJECT UNDER AS 38.05.020(b)(6)].
4 After adoption of a regional land use plan, land classifications shall be made under the
5 plan.

6 * Sec. 4. AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
10 to the director to carry out specific functions and duties; regulations adopted by the
11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders
12 by the commissioner classifying land, issued after January 3, 1959, are not required
13 to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the purposes
15 of this chapter, including agreements with federal and state agencies;

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

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

19 (5) notwithstanding the provisions of any other section of this chapter,
20 grant an extension of the time within which payments due on any exploration license,
21 lease, or sale of state land, minerals, or materials may be made, including payment of
22 rental and royalties, on a finding that compliance with the requirements is or was
23 prevented by reason of war, riots, or acts of God;

24 (6) classify tracts for agricultural uses [AND REQUIRE THE
25 PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION
26 PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR
27 PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN
28 AGRICULTURAL DEVELOPMENT PROJECT UNDER AS 44.33.475];

29 (7) waive, postpone, or otherwise modify the development requirements
30 of a contract for the sale of agricultural land if

31 (A) the land is inaccessible by road; or [AND]

1 (B) transportation, marketing, and development costs render the
2 required development uneconomic;

3 (8) reconvey or relinquish land or an interest in land to the federal
4 government if

5 (A) the land is described in an amended application for an
6 allotment under 43 U.S.C. 1617; and

7 (B) the reconveyance or relinquishment is

8 (i) for the purposes provided in 43 U.S.C. 1617; and

9 (ii) in the best interests of the state.

10 * Sec. 5. AS 38.05.057(j) is amended to read:

11 (j) The commissioner may require a participant in a lottery under this section
12 for the sale of land that is part of an agricultural development project under former
13 AS 44.33.475 to submit a single application for that land. Immediately following the
14 drawing of an applicant's name in the lottery, the applicant shall be given an
15 opportunity to select for purchase one parcel of the land that is offered in the lottery.
16 The names of alternate applicants shall be drawn after all parcels have been selected.
17 If the applicant who originally selected a parcel unequivocally rejects the offer to
18 purchase the parcel or fails to sign the contract of sale within the period of time
19 specified by the commissioner, the parcel shall be offered for sale to alternate
20 applicants in the order in which their names were drawn.

21 * Sec. 6. AS 38.05.059 is repealed and reenacted to read:

22 Sec. 38.05.059. SALE OF AGRICULTURAL LAND. The commissioner shall
23 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses
24 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
25 subdivision requirements and municipal ordinances.

26 * Sec. 7. AS 38.05.065(c) is amended to read:

27 (c) The director shall, for contracts under (a), [OR] (b), or (h) of this section,
28 set out in the contract for each sale the period for the payment of installments and the
29 total purchase price plus interest. The director, with the consent of the commissioner,
30 may also include in contracts under this section conditions, limitations, and terms
31 considered necessary and proper to protect the interest of the state. Violations of any

1 provision of this chapter or the terms of the contract of sale subject the purchaser to
2 appropriate administrative and legal action, including but not limited to specific
3 performance, foreclosure, ejection, or other legal remedies in accordance with
4 applicable state law.

5 * Sec. 8. AS 38.05.065(h) is amended to read:

6 (h) The commissioner

7 (1) shall provide that, notwithstanding (a) and (b) of this section,
8 in a contract for the sale of land classified under AS 38.05.020(b)(6) for
9 agricultural uses, the interest rate to be charged on installment payments may not
10 exceed 9.5 percent; and

11 (2) may declare a moratorium of up to five years on payments on land
12 sold under this section for [A SALE OF AGRICULTURAL] land classified under
13 AS 38.05.020(b)(6) for agricultural uses [UNDER THIS SECTION] if

14 (A) [(1)] the commissioner determines that the moratorium is
15 in the best interest of the state;

16 (B) [(2)] the commissioner certifies and the contract purchaser
17 agrees to perform farm development, crop production, and harvesting, not
18 including land clearing or related activity, requiring the expenditure of amounts
19 equivalent to the payments that would otherwise be made during the
20 moratorium;

21 (C) [(3)] the sale of the agricultural land takes place after
22 July 1, 1979; and

23 (D) [(4)] the contract purchaser is in compliance with the
24 development plan specified in the purchase contract at the time the purchaser
25 applies for a moratorium under this subsection and remains in compliance with
26 the development plan during the moratorium; for the payments subject to the
27 moratorium declared under this paragraph, interest [INTEREST]
28 payments are subject to the moratorium but interest continues to accrue during
29 the moratorium.

30 * Sec. 9. AS 38.05.321(a) is repealed and reenacted to read:

31 (a) The department shall include in a document that conveys state land

1 classified as agricultural land

2 (1) a covenant running with the land that restricts or limits the use of
3 the land exclusively for agricultural purposes;

4 (2) a covenant running with the land permitting the owner of state land
5 classified as agricultural land to subdivide and sell the land in not more than four
6 parcels of not less than 40 acres each; and

7 (3) a covenant running with the land permitting the owner of land
8 subdivided, whether subdivided under (2) of this subsection or under this paragraph,
9 to further subdivide and sell the subdivided land in not more than four parcels of not
10 less than 40 acres each, provided that a subdivision and sale under this paragraph may
11 not occur sooner than four years after the last previous subdivision and sale of the land
12 under (2) of this subsection or this paragraph.

13 * Sec. 10. AS 38.05.321(b) is amended to read:

14 (b) Subject to (a) of this section, state [STATE] land classified as agricultural
15 land that has been selected by a municipality under former AS 29.18.190 - 29.18.200
16 or former AS 29.18.205(e) may be approved by the director for patent under
17 AS 29.65.050(c) [; HOWEVER, ONLY RIGHTS IN THE LAND FOR
18 AGRICULTURAL PURPOSES MAY BE TRANSFERRED AND ALL OTHER
19 INTERESTS IN THE LAND WILL REMAIN WITH THE STATE]. Agricultural land
20 approved for patent to a municipality shall be credited, acre for acre, toward fulfillment
21 of that municipality's entitlement under AS 29.65.010 - 29.65.030 or former
22 AS 29.18.201 - 29.18.203. [IF THE DIRECTOR LATER DETERMINES IT TO BE
23 IN THE BEST INTERESTS OF THE STATE TO TRANSFER SOME OR ALL OF
24 THE ADDITIONAL RIGHTS IN THAT APPROVED OR PATENTED
25 AGRICULTURAL LAND, THOSE RIGHTS SHALL PASS WITHOUT
26 CONSIDERATION TO THE MUNICIPALITY IN WHICH THE LAND IS
27 LOCATED. THE NOTICE AND REVIEW PROVISIONS OF AS 38.05.945 ARE
28 APPLICABLE TO CONVEYANCE OF RIGHTS UNDER THIS SECTION.]

29 * Sec. 11. AS 38.05.321 is amended by adding new subsections to read:

30 (d) For state land classified as agricultural land that is conveyed under (a) of
31 this section.

1 (1) the commissioner may require the landowner to cooperate with the
2 appropriate soil and water conservation district under AS 41.10 in the development and
3 implementation of soil conservation plans as authorized by AS 41.10.110(6);

4 (2) as a condition of the conveyance, the commissioner may not require
5 preparation and implementation of a farm development plan unless the commissioner
6 permits modification of a plan in cases of economic hardship or other extenuating
7 circumstances;

8 (3) the commissioner may not limit

9 (A) the landowner's right to construct improvements related to
10 agricultural use;

11 (B) the landowner's right to use the land and improvements for
12 purposes that are incidental to and not inconsistent with the primary use of the
13 land for agricultural purposes; and

14 (C) the landowner's right to subdivide and sell the land if the
15 resulting parcels are not in violation of the minimum parcel size set out in
16 (a)(2) of this section.

17 (e) A covenant described in (a) of this section may be enforced only by a civil
18 action.

19 (f) In this section, "agricultural purposes" means

20 (1) the production of plants and animals useful to man, including forage
21 and sod crops, grains and feed crops, fruits, trees, and vegetables, dairy animals and
22 products, and livestock;

23 (2) the construction of fixed, permanent, or immovable structures
24 reasonably required for or related to agricultural production, including that farmstead
25 normally required for yards, driveways, parking, barns, and other outbuildings, and
26 similar uses;

27 (3) the use of gravel reasonably required for agricultural production on
28 the parcel conveyed; and

29 (4) removal and disposition of timber in order to bring agricultural land
30 into production.

31 • Sec. 12. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR UNDER

1 FORMER AS 38.05.321(a). The provisions of AS 38.05.321(a), as amended by sec. 9 of this
2 Act, apply to state land classified as agricultural land that, under AS 38.05.069(c) or under
3 AS 38.05.321(a) before its amendment by sec. 9 of this Act, was subject to the limitation of
4 the conveyance of only the interest in the land that related to agricultural purposes and that
5 was sold, leased, or disposed of after August 15, 1976, and before the effective date of this
6 Act. The commissioner of natural resources shall issue a new instrument of conveyance for
7 the land that conforms to AS 38.05.321(a) and (d), as amended and enacted by secs. 9 and 11
8 of this Act.

9 * Sec. 13. CONVERSION OF DISPOSALS MADE UNDER FORMER AS 38.05.321(b).
10 The provisions of AS 38.05.321(a), as amended by sec. 9 of this Act, apply to state land
11 classified as agricultural land that, under AS 38.05.321(b) before its amendment by sec. 10
12 of this Act, was subject to the limitation of the conveyance of only the interest in the land that
13 related to agricultural purposes and that was conveyed to a municipality after June 30, 1978,
14 and before the effective date of this Act. The commissioner of natural resources shall issue
15 a new instrument of conveyance for the land that conforms to AS 38.05.321, as amended by
16 secs. 9 - 11 of this Act.

17 * Sec. 14. The following regulations are annulled: 11 AAC 67.162, 11 AAC 67.165, 11
18 AAC 67.167(d), 11 AAC 67.170, 11 AAC 67.172, 11 AAC 67.175(1), 11 AAC 67.185, 11
19 AAC 67.187, 11 AAC 67.188(a)(3), 11 AAC 67.188(a)(4), 11 AAC 67.188(a)(5), 11 AAC
20 67.188(a)(6), 11 AAC 67.188(b), 11 AAC 67.188(c), 11 AAC 67.190(a), 11 AAC 67.192.

Administration Proposal - SB 162

An Act relating to land used for agricultural purposes and to state land classified for agricultural purposes or subject to the restriction of use for agricultural purposes only.

Section 1. LEGISLATIVE INTENT. It is the intent of the legislature in amending AS 38.05.321(a) in Section 6 of this Act, that for state land classified as agricultural land, the state convey fee title subject to a covenant running with the land that limits use of the land to agricultural purposes and that the agricultural covenant can only be enforced by a court of competent jurisdiction.

Sec. 2. AS 38.04.045(b) is amended to read:

(b) before the issuance of a long-term lease under AS 38.05.070 or of a patent for state land, an official [CADASTRAL] survey shall be accomplished, unless a comparable, approved survey exists that has been conducted by the federal Bureau of Land Management. Before land may be offered under AS 38.05.055, 38.05.057, AS 38.08, or AS 38.09 an official rectangular survey grid shall be established. The rectangular survey section corner positions shall be monumented and shown on a cadastral survey plat approved by the state. For those areas where the state may wish to convey surface estate outside of an official rectangular survey grid, the commissioner may waive monumentation of individual section corner positions and substitute an official control

survey with control points being monumented and shown on control survey plats approved by the state. The commissioner may not issue more than one conveyance for each section within a township outside of an official rectangular survey grid. Land [NO PORTION OF LAND] to be conveyed may not be located more than two miles from an official survey control monument except that the commissioner may waive this requirement on a determination that a single purpose use does not justify the requirement if the existing status of the land is known with reasonable certainty. The lots and tracts in state subdivisions shall be monumented and the cadastral survey and plats for the subdivision shall be approved by the state. Where land is located within a municipality with planning, platting, and zoning powers, plats for state subdivisions shall comply with local ordinances and regulations in the same manner and to the same extent as plats for subdivisions by other landowners. State subdivisions shall be filed and recorded in the district recorder's office. The requirements of this section do not apply to land made available through a cabin permit system, for material sales, for short-term leases, for parcels adjoining a surveyed right-of-way, or for land that has been open to random staking under the remote parcel program or homestead program in the past; however, for short-term leases, the lessee shall [MUST] comply with local subdivision ordinances unless waived by the municipality under procedures specified by ordinance. In this subsection a single purpose use includes a communication site, an aid to navigation, and a park site.

• Sec. 3. AS 38.05.020 (b) is amended to read:

(b) The commissioner may

(1) establish reasonable procedures and adopt reasonable regulations necessary to carry out this chapter and, whenever necessary, issue directives or order to the director to carry out specific functions and duties; regulations adopted by the commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders by the commissioner classifying land, issued after January 3, 1959, are not required to be adopted under AS 44.62 (Administrative Procedure Act):

(2) enter into agreements considered necessary to carry out the purposes of this chapter, including agreements with federal and state agencies;

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

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

(5) not withstanding the provisions of any other section of this chapter, grant an extension of the time within which payments due on any exploration license, lease, or sale of state land, minerals, or materials may be made, including payment of rental and royalties, on a finding that compliance with the requirements is or was prevented by reason of war, riots, or acts of God;

(6) classify tracts for agricultural uses [AND REQUIRE THE PREQUALIFICATION, INCLUDING THE SUBMISSION OF CONSERVATION PLANS, DEVELOPMENT PLANS, OR OTHER PLANS, SCHEDULES, OR PROGRAMS, OF PERSONS WHO APPLY TO PARTICIPATE IN AN AGRICULTURAL DEVELOPMENT PROJECT

UNDER AS 44.33.475];

(7) waive, postpone, or otherwise modify the development requirements of a contract for the sale of agricultural land if

(A) the land is inaccessible by road; ~~or~~ [AND]

(B) transportation, marketing, and development costs render the required development uneconomic;

(8) reconvey or relinquish land or an interest in land to the federal government if

(A) the land is described in a valid [AN AMENDED] application for an allotment under 43 U.S.C. 1617; and

(B) the reconveyance or relinquishment is

(i) for the purposes provided in 43 U.S.C. 1617;

and

(ii) in the best interests of the state.

*** Sec. 4. AS 38.05.065(c) is amended to read:**

(c) The director shall, for contracts under (a), [OR] (b), or (h) of this section, set out in the contract for each sale the period for the payment of installments and the total purchase price plus interest. The director, with the consent of the commissioner, may also include in contracts under this section conditions, limitations, and terms considered necessary and proper to protect the interest of the state. Violations of provision of this chapter or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state

law.

• Sec. 5. AS 38.05.065(h) is amended to read:

(h) The commissioner

(1) may declare a moratorium of up to five years on payments on land sold under this section for [A SALE OF AGRICULTURAL] land classified under AS 38.05.020(b)(6) for agricultural uses [UNDER THIS SECTION] if

(A) the commissioner determines that the moratorium is in the best interest of the state;

(B) the commissioner certifies and the contract purchaser agrees to perform farm development, crop production, and harvesting, not including land clearing or related activity, requiring the expenditure of amounts equivalent to the payments that would otherwise be made during the moratorium;

(C) the sale of the agricultural land took [TAKES] place after July 1, 1979; and

(D) the contract purchaser is in compliance with the development plan specified in the purchase contract at the time the purchaser applies for a moratorium under this subsection and remains in compliance with the development plan during the moratorium; for the payments subject to the moratorium declared under this paragraph, interest [INTEREST] payments are subject to the moratorium but interest continues to accrue during the moratorium.

• Sec. 6. AS 38.05.321(a) is repealed and reenacted to read:

(a) The department shall include in a document that conveys state land classified as agricultural land

(1) a covenant running with the land that restricts or limits the use of the land exclusively for agricultural purposes;

(2) a covenant running with the land permitting the owner of state land classified as agricultural land to subdivide and sell the land in not more than four parcels of not less than 160 acres each if;

(A) the subdivision is approved by the commissioner;

(B) all costs of a survey is paid by the land owner; and

(C) the owner reimburses the state for any difference in value between original parcel size and the subdivided parcels size; the cost of the appraisal shall be paid by the land owner.

*** Sec. 7. AS 38.05.321 is amended by adding new subsections to read:**

(d) for state land classified as agricultural land that is conveyed under (a) of this section,

(1) the commissioner may require the landowner to cooperate with the appropriate soil and water conservation district under AS 41.10 in the development and implementation of soil conservation plans as authorized by AS 41.10.110(6);

(2) as a condition of the conveyance, the commissioner may not require preparation and implementation of a farm development plan unless the commissioner permits modification of a plan in cases of economic hardship or other extenuating circumstances;

(e) a covenant described in (a) of this section may be enforced only by a civil action in a court of competent jurisdiction.

(f) land classified as agricultural is to be considered the same as a commercial property and AS 38.05.067 (Veterans Preference) does not apply.

(g) In this section, agricultural purposes means

(1) the production of plants and animals useful to man, including forage and sod crops, grains and feed crops, fruits, trees, and vegetables, dairy animals and products, and livestock;

(2) the construction of fixed, permanent, or immovable structures reasonably required for or related to agricultural production, including the farmstead normally required for yards, driveways, parking, barns, and other outbuildings, and similar uses;

(3) the use of gravel reasonably required for agricultural production on the parcel conveyed; and

(4) removal and disposition of timber in order to bring agricultural land into production.

* Sec. 8. CONVERSION OF DISPOSALS MADE UNDER AS 38.05.069(c) OR UNDER FORMER AS 38.05.321 (a). The provisions of AS 38.05.321(a) as amended by sec. 6 of this Act, apply to state land classified as agricultural land that, under AS 38.05.069(c) or under AS 38.05.321(a) before its amendment by sec. 6 of this Act, was subject to the limitation of the conveyance of only the interest in the land that related to agricultural purposes and that was sold, leased, or disposed of after August 15, 1976, and before the effective date of this Act. The commissioner of natural resources, upon application of the land owner, shall issue a new instrument of conveyance for the land that conforms

to AS 38.05.321(a) and (d), as amended and enacted by secs. 6 and 7 of this Act. The landowner shall be responsible for all reasonable costs incurred in verifying title and issuing a new instrument of conveyance.

ALASKA STATE LEGISLATURE



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Session
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SENATOR LYDA GREEN
SENATE DISTRICT N

Sponsor Statement

Senate Bill 162

Senate Bill 162 amends Alaska Statute Title 38 with regard to agricultural land disposal and utilization. The proposed changes are designed to help facilitate the growth, stability and economic viability of agriculture as a renewable resource industry for Alaska.

This legislation expands the state's ability to convey interests in land classified for agricultural purposes that the state has conveyed or may convey. Currently, the state conveys agricultural interest only and the state retains all other interests. With the passage of SB 162, the state shall convey fee simple title, subject to certain restrictive covenants that would underpin the use of the land for agricultural purposes. This change would allow owners of agricultural parcels the opportunity to obtain financing from other than the state.

Agricultural land disposal represents a cost effective means of transferring public land into private ownership. Increased private ownership expands the local tax base and reduces revenue sharing needs while promoting community development and supporting infrastructure development for a variety of other resource uses, i.e., public recreation, mining and transportation. Other provisions of SB 162 aid future land disposals in two ways: by allowing the use of a site-specific plan to support a land classification for new commercial agricultural projects, and by authorizing the sale of Ag land in parcels or tracts by aliquot parts.

The remaining provisions of the bill emphasize a greater level of autonomy for the individual agribusiness owner, while ensuring the states interests are protected. The bill also reduces the state's direct control over individual farm development and utilization and allows Ag land owners the ability to make business decisions responsive to the economic factors of the marketplace and their individual circumstances.

SB 162 redefines the state's role in agricultural land disposal and development to better enhance economic development opportunities. Its passage will allow the state of Alaska to reap the benefits of agriculture as an economically viable and expanding resource industry. I respectfully request your support of SB 162.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB162(ver K)

Revision Date: 24-Jan-96 Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural BRU: Agricultural Development
purposes and to state land classified for agricultural purposes Component: Agricultural Development
 Sponsor: Senator Green
 Requestor: _____ Component Serial No. 455

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	28.5	11.4	11.4	11.4	11.4	11.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.5	11.4	11.4	11.4	11.4	11.4
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (1005)						

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	28.5	28.5	28.5	28.5	28.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	28.5	28.5	28.5	28.5	28.5	28.5

Estimate of any current year (FY96) cost: \$ None anticipated

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 475 land sales would be appealed on economics the first year, at 10% in future years, at a cost of approximately \$240/appeal.

Per Section 9 of the bill: Based upon the price paid to the State for the agricultural values only, the State will sustain losses ranging from \$0 to \$32.0 million at the time of subdivision, depending on participation.

Under the assumption that this legislation is not retroactive, there will be no loss of revenue due to interest rate changes.

Prepared by: Jay Kermus, Director Phone: 745-7200
 Division: Agriculture Date: 24-Jan-96
 Approved by Commissioner: _____ Date: 24-Jan-96
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB162

Revision Date: 17-Jan-96 Dept Affected Natural Resources
 Title: An Act relating to land used for agricultural purposes and to state land classified for agricultural purposes BRU: Agricultural Development
 Component: Agricultural Development
 Sponsor: Senator Green
 Requestor: _____ Component Serial No. 455

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	28 5	28 5	28 5	28 5	28 5	28 5
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28 5	28 5	28 5	28 5	28 5	28 5
CAPITAL EXPENDITURES	0 0	0 0	0 0	0 0	0 0	0 0
CHANGE IN REVENUES (1005)	(20 3)	(40 6)	(60 9)	(81 2)	(101 5)	(121 8)

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28 5	28 5	28 5	28 5	28 5	28 5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	28 5	28 5	28 5	28 5	28 5	28 5

Estimate of any current year (FY96) cost: \$ None anticipated

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 475 land sales would be appealed on economics, at a cost of approximately \$240/appeal.

The loss of revenue, which assumes no refinancing will be allowed, is partially a result of reducing the current interest rate from 12.5% to 8%.

Per Section 9 of the bill: Based upon the price paid to the State for the agricultural values only, the State will sustain losses ranging from \$0 to \$32 0 million at the time of subdivision, depending on participation.

Prepared by Jay Kernula, Director Phone 745-7200
 Division Agriculture Date 17-Jan-96
 Approved by Commissioner _____ Date 17-Jan-96
 Agency Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB162

Revision Date: 17-Jan-96 Dept Affected Natural Resources
 Title: An Act relating to land use for agricultural BRU: Resource Development
purposes and to state land classified for agricultural purposes Component: Land Development
 Sponsor: Senator Green
 Requestor: _____ Component Serial No. 431

(Thousands of Dollars)

Expenditures/Revenues	FY97	FY98	FY99	FY00	FY01	FY02
OPERATING EXPENDITURES						
PERSONAL SERVICES	117.0					
TRAVEL						
CONTRACTUAL	110.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	227.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	227.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	227.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ none

POSITIONS

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME	3	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: * (Attach a separate page if necessary)

Section 12 & 13 are estimated to cost \$227.0 to implement.

Prepared by: Jane Angvik, Director Phone: 269-8503
 Division: Land Date: 17-Jan-96
 Approved by Commissioner: _____ Date: 17-Jan-96
 Agency: Natural Resources

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SENATOR LYDA GREEN SENATE DISTRICT N

The following is a copy of your Public Opinion Message as received by our office.

MR HERBORT SIMON
HC 01 BOX 2292 MILE 135 GLENN HWY
Glennallen, AK 99588 Phone: 822-3059

Affiliation: Reg. Voter: U Date: SB 162 Constituency: C
Distribution: 60 Bill Number: 01/19/96
Response: Supports
Subject: AGRICULTURE

Message:

PUBLIC TESTIMONY ON SB 162 SUPPORTS AG LAND REFORM.
DNR/SWANSON TESTIMONY REAFFIRMS INTENTIONAL LONG
STANDING GENOCIDE OF ALASKA AG INDUSTRY. DNR FISCAL
POSITION BLOATED AND EQUATES TO EXTORTION. MANDATES OF
THIS NATURE
ARE GRASS ROOT CAUSES OF ALASKA FISCAL PROBLEM AND
JUSTIFIES LEGISLATIVE AUDIT.

January 22, 1996

Dear HERBORT,



The Alaska Farm Bureau

P.O. Box 2410 • Palmer, AK 99645
Fax 745-2727



RECEIVED
JAN 04 1993
Ans'd.....

1996 RESOLUTION PLATFORM

1. Support no reduction in general fund appropriations for the Division of Agriculture. The Alaska State Farm Bureau resolves that the one-stop agricultural services of the Division of Agriculture are an invaluable service to Alaskan consumer, farmers and ranchers and parallel services of similar agencies in our sister 49 states. To preserve the expertise and knowledge and continue the current momentum in developing economically competitive products and to lower prices to Alaskan consumer, it is vital that the Governor and his administration maintain the Division of Agriculture as a positive support entity for the continued growth and development of agriculture as a renewable resource industry in Alaska.
2. Resolve that the administration should restore the \$3,000,000 through the general fund to the School of Land and Resources Management for replacement of the current annual appropriation through the Alaska Science and Technology Foundation.
3. Endorse the concept of fee simple land sales, protecting agricultural interest through the use of agricultural covenants in state land titles for disposal of lands classified with agricultural potential and support legislation to that end.
4. Support the transfer of Department of Environmental Conservation food and agriculture related activities into the Division of Agriculture to establish an effective service agency within the DNR. The activities that affect the agriculture and food processing industry include, Animal Health, Laboratory Services, Dairy Sanitation, Meat and Seafood Inspecting and the Pesticides Control Program. More efficient government services plus improved promotion and development of the food industry in Alaska is the object of this action.
5. For all privately owned domestic animals, we encourage livestock health regulations, licensing, fencing requirements, and any other legitimate regulations be administered solely by the Department of Natural Resources, Division of Agriculture.
6. Maintain a zero net loss on all state land currently classified agricultural, including that which is held under the Mental Health Lands Trust.
7. The opportunity to utilize land wisely is the basic foundation of agriculture's success. We support the plan to transfer the administration of agriculture/grazing leases and sale of agricultural land to the DNR, Division of Agriculture. We encourage the immediate processing of all pending agriculture/grazing lease applications. We further encourage the sale of all available agriculture land tracts and regular sales of land classified for agriculture use. Land that is classified agriculture should retain that land use classification and future land classifications should be considered for agriculture when they exhibit agricultural potential.



Farm Service Views

Karon Olson Lee, State Director

Alaska is full of inventive experiments designed by our governments to keep us from making the same perceived mistakes as the rest of the United States. There's rural preference for subsistence, community development quotas for fish, Native corporations, Mental Health lands, agricultural-rights-only lands, just to start off a unique-to-Alaska list.

Like any other batch of experiments, some work and many don't. The trick is to discern the difference, and do something about the ones which don't.

Agricultural-rights-only, as fashioned by the State of Alaska, has been on this agency's mind for some time, since we knew we would be taking over the federal farm lending functions October 1. For a lender, the lands are precarious collateral because the state reserves the right to reclaim the property as punishment for "non-agricultural use" even after the land is bought and paid for.

Even the most ardent ag-rights fan would have to admit the statute has had a chilling effect on farm lending and on farming. So, where did it go and how can it be fixed?

The first place it went wrong was at its inception. The ag-rights idea originated as an urban solution to preserving nearby farms. The Alaska plan took this idea and stood it on its head. Essentially, the Alaska idea was to preserve farmland at the wilderness stage. We were worried about the sky falling long before there were skies to fall.

The prototype for ag-rights programs is King County, which contains the city of Seattle. In the 1970's the people there passed \$50 million in farmland preservation bonds, to save farms threatened by parking lots, housing, stadiums. These were real threats, not something like, "Well that farmer over by the salmon river better not think he can put in a bed-and-breakfast to help the farm pay, because we won't let him."

A total of 12,600 acres were purchased in King County, most within a 15-mile radius of Seattle. The program was meant to preserve a rural feeling around the city, and the people were willing to pay for that. It was, and remains, an elegant solution to the problem of open space retention around an affluent expanding city.

Tellingly, though, the county no longer uses the term "farmland preservation". The replacement, and more accurate, phrase, is "open space". One of the people in King County told me, "It turned out that it takes more than just saving farmland to save real farming. There are many other issues involved, like infrastructure and markets". He characterized much of the preserved farmland as having evolved into estates and hobby farms. The diary numbers are greatly reduced, as are large row-crop farms.

This is true even though the King County title remains much safer collateral than the Alaska ag-rights-only land. It is fee simple land with an agricultural covenant. It also appears to give more individual leeway on homesites, for example, saying only that each parcel must not have over five per cent of the total land covered by "impermeable improvements", such as pavement or buildings.

Alaska has only a few areas with problems even remotely like those of King County. The main such area is Palmer, and it was the early 1970's rush to subdivide private farmlands near there which was mostly responsible for the ag-rights restrictions which apply to all new farms in the state. A bill to provide buy-up of development rights from farmers would have been more to the point. Such a bill was introduced during this timeframe, but was never passed. Ag-rights was, but the state did not own any of the farmland bordering Palmer.

Consequently, the ag-rights solution which has bedeviled new farmers throughout Alaska was devised not for their lands, but because of nostalgia for lands already out of reach.

The real key to developing and retaining farming comes down to only one thing: farm income. If farm income is good, people will farm. If circumstances conspire to keep farm income poor or unstable, people will farm only as a hobby or out of desperate habit.

The ag-rights fight in Alaska has taken attention from other barriers to farming here, like government domination, low infrastructure, lack of sufficient land, unstable commodity prices and the high cost of start-up. We have persisted in a foolish belief. That edicts and wish lists will make a farm appear. Unfortunately, a decree didn't clothe the emperor, and it won't work a field.

The Farm Service Agency may be able to help your farm export, conserve soil and water, get credit, insure a crop or recoup a loss. Call us at: Delta, 895-4242; Fairbanks, 479-6767; Homer, 235-8176; Palmer, 745-4271; or Credit, 745-7982.



AFB Newsletter

December 1995

The Voice of Alaskans Involved in Agriculture

Volume 24

Legislative Report

Bill D. Ward, Kenai Peninsula/Delta Jct.

There are issues on which everyone can agree. Land is necessary for agriculture production and the price paid for that land must reflect its agricultural potential. If agriculture producers are to be successful, then they need to be able to make intelligent business decisions without unnecessary interference by state government.

Agriculture has been through a lot of turmoil over the past twenty years but today it is maturing into a stable and profitable industry. The need to keep land in agriculture production which fostered the Ag Rights legislation in the 70's is still important today but the laws and regulations designed to preserve those lands require changes to meet the changing needs of the industry. The state is no longer trying to drive the development of agriculture and the state is not or never was qualified to dictate how people should develop or manage their farms. The state no longer has the will nor the resources to actively participate in the day to day operations of agriculture and the farmers and ranchers are beginning to realize that they need to take over the responsibility of deciding the future of their industry. The interpretation of AS38.05.321 (Ag Rights Title) and the language included in the agriculture patents is in dispute, regulations are being implemented without the legal authority of a statute, and the land "holders" aren't able to make the same independent decisions that they would if they were land "owners".

Senate Bill 162, *An Act Relating to Agriculture Land*, provides a mechanism to assist in the disposal of agriculture land, protects the agriculture use mandate, and allows the farmer the latitude to make the wise business decisions necessary for success. SB-162 will strengthen rather than weaken the concept of "Ag Rights" and the protection of agriculture lands. The land title will adhere to standard real estate law and the agriculture restrictive use covenant attached to the title will have the enforcement of judicial law rather than the current administrative oversight. Private property rights will be restored and people will own their land rather than just an owner of an interest and a possessor of land under current law. Disputes which can't be resolved will be decided fairly in a court of law rather than granting the final authority to the Director of the Division of Lands who is a bureaucrat and political appointee. The private landowner will be free to implement farm management

plans without being required to gain approval from the state first.

SB-162 will remove some of the stumbling blocks which have delayed land sales by allowing land to be sold based on aliquot parts rather than waiting for a survey in advance of sale. Land will be sold at 8% interest rather than the 12-13% currently charged. Laws and regulations designed to protect the environment are already provided through DEC, Corp of Engineers, USDA, ADF&G, and other agencies, so redundant oversight regulations from DNR will be removed. Some non-agricultural activities may occur on the farm provided they are incidental and complementary to the agriculture operations. This will permit some diverse income to the farm from businesses such as bed & breakfasts, custom repair shops, or agriculture tourist ventures.

There are those who question whether we should "open up" the Ag Rights law and invite the scrutiny of the public and legislature. Most of those who resist a change to Ag Rights have never had to deal with the frustration and limitations of Ag Rights ownership. This is an opportunity to meet directly with people and show them that agriculture in the 90's is successful, growing, and contributing to the economy of the state. We can't continue to hide and wait each year for the "axe to fall" when the legislature debates agriculture in a positive manner. We can show them that we have confidence in agriculture and we are willing to take control of its growth without intense involvement of the state. We can dispel the negative myths and educate people regarding the contribution agriculture brings to Alaska.

There are also those who are worried that land prices will increase with a valid title. If the land is protected by a strong covenant then the value will continue to be a reflection of the agriculture potential and the demand for it. If the legislation helps to stabilize agriculture and that makes the industry more profitable then I believe the value of the land should increase with the establishment of a profitable farm.

Senate Bill 162 will not become law by itself. This legislation will benefit the people directly involved in agriculture and we must be the ones to work for its passage. We should not rely on the Division of Agriculture or others to interpret what our needs are or to wage our battles for us. This will require an ongoing effort by everyone to educate each legislator, attend every committee hearing, lobby for passage this year, and when it is passed, convincing the governor that it's an appropriate bill to sign into law.



Ward Farms

P.O. Box 290 • Soldotna, Alaska 99669 • (907) 262-6159 • FAX (907) 262-7278

SB-162 is important legislation that deserves passage this session. While there are many aspects of this bill that warrant support, I would like to address two fundamental issues at stake with this legislation. One is Private Property Rights and the other is Government Interference in the Private Sector.

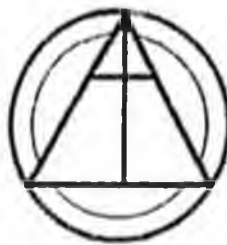
Ever since it's inception, there has been argument and debate over the language of the Ag Rights patent and the degree of ownership vested with the title. The existing patent does not follow conventional land law, it is vague in it's intent, and there is dispute regarding the ownership value. Some believe the State retains ownership of the land and we only have possession of the land for agriculture use and some vague ownership of an "interest" in the land. That is morally and fundamentally wrong and amounts to nothing more than a perpetual lease of the land. Alaskans believe in good faith that they are purchasing land for agriculture purposes. They are investing their time, money, and lives into this land and they deserve all the rights and benefits of legal ownership of that land. The intent is to keep the land in agriculture and the cost and value of the land is supposed to reflect agriculture values. This legislation will clarify the issue by selling the fee simple interest in the surface estate but it will impose a restrictive use covenant on the title which will limit the lands use to agriculture. This follows standard land law, the covenant is enforceable in court, and our fundamental freedoms of private property ownership in this country is protected.

The other issue deals with the state's interference in the decisions of private businesses. The track record of the State of Alaska guiding and promoting agriculture development has been a dismal failure. Much of the problems associated with agriculture in Alaska has been a direct result of the State's mandatory requirements for development and operations of the farms. If the current intent is to protect the environment and protect our resources, we already have a multitude of agencies which provide this oversight. These include the Corp of Engineers, DEC, SCS, ASCS, EPA, and local ordinances. We do not need the additional oversight of DNR to regulate our businesses. The state is trying to reduce the size of state government and we no longer need or can afford the regulations that are imposed on the Ag Rights lands. If agriculture is to contribute to the economy of Alaska then it will succeed by the efforts of the individual farmers and ranchers of the private sector and not by the interference and manipulation of the State.

I urge the passage and support of SB-162, legislation that will reduce state government, promote private sector growth, and restore private property rights to it's citizens.

Bill A. Ward

Post-It™ brand fax transmittal memo 7571		# of pages = 1
To <i>Ward</i>	From	
Co. <i>Ward Farms</i>	Co. <i>SB 162</i>	
Dept.	Phone #	
Fax #	Fax #	



Trinity Enterprises

P.O. Box 882

Soldotna, Alaska 99669

(907) 262-9242

Oct. 24, 1995

Senator Lyda Green
Juneau, AK 99801-1182

Dear Senator Green:

I had planned on attending the teleconference hearing on Senate Bill 162 today. I have just encountered a business problem that must take me away from attending. Having served on Governor Hickels "Future of Agriculture Task Force", ownership of agricultural lands was one of the main topics of discussion.

I do want to express my support the SB 162. Any action the State takes to get lands into the public ownership I strongly support. I also support members of the public that want to pursue agricultural endeavors in this state. They need low cost land and land that is suitable for that purpose and close to the market. These lands must be titled in fee simple. Having agricultural covenants on the title will keep people from getting land for future higher value use, to speculate on.

It is important to the state to keep the cost of the land down, so products can be brought to the public at a price that can compete with lower 48 prices. We can grow a higher quality product and with less chemicals than growers outside. The residents of Alaska have shown support of our local producers and the retailers have seen the value of supplying these products to their customers.

I am hopeful that this bill will bring about the changes necessary to eliminate the stumbling blocks that producers have been experiencing. A producer has the dream and the drive to bring it into reality but this can't be accomplished if lending institutions are not willing to loan to the producer, because of title problems.

I commend the members of the legislature for providing a means for those who want to pursue agriculture as a way of life and a means to support their families. Alaska is a vast land with many diverse people. The chance for opportunity is all the people of Alaska cry for.

Sincerely,

Ronald R. Sexton

745-7982

Charles W. Thompson
P.O. Box 2365
Palmer. Alaska 99645

OCT 23 1995

October 5, 1995

Senator Lyda Green
4000 Palm Dale
Wasilla, Alaska 99654

Dear Senator:

In this letter, I will introduce myself and the program I administer, and address a couple of issues that I feel need action by the State Legislature this year. These two issues are State Land Policy regarding agricultural land, and the State Budget. This is not an official Agency policy letter, only my own opinion based on my experience and discussions with Alaskan Farmers in the last year.

I moved permanently to Alaska in October 1994 and serve as the Farm Credit Director for the Farm Service Agency (FSA), USDA. Before moving here, I served 6 years as a County Supervisor in Utah, and then 4 years in Washington, D.C. I previously lived in Wasilla from 1982 to 1983, and have visited Alaska several times since that date.

The purpose of the Farm Credit program of FSA is to assist family farmers in becoming successful. This program was not active prior to 1994 in Alaska. However, in this last year, I have made loans to 5 new USDA borrowers, some of which can be classified as "Beginning Farmers."

Regarding State Land Policy:

It appears to me that the "Agricultural Rights Only" restriction on State Ag lands deeded to private interests is a significant hinderance to successful farming operations. As you know, Agriculture in the rest of the United States developed gradually over several generations. The first generation homesteaded the land, cleared it for Ag production, and made improvements. Each successive generation made its own improvements to the land. Today, Agricultural production in most of the States is unequaled anywhere else in the world.

When you look at the succes. of this Agriculture, you cannot overlook the fact that the land was obtained fee simple by the homesteaders. This allowed these individuals to utilize all the resources the land could provide to become successful. I believe the same system is needed here in Alaska. Our farmers should be given every opportunity to use all of the resources the land can offer to establish a successful operation.

I understand that some Alaskans are concerned that some of our best agricultural land may be converted to housing, or some other development. I cannot argue that that will not happen to farmland located adjacent to developing areas. However, using the other States again as an example, there are thousands of acres of prime farmland that will stay that way for generations to come because that is their highest and best use. There are hundreds of producing farms that are also producing oil or gas, gravel, or some other natural resource. Some farms may also include a small business of some type. These activities are prohibited on all Ag. land that have the Ag. Rights Only restriction.

Allowing people to become successful is the best function that Government can provide. Alaska is not short of agricultural land. There are millions of acres that can and should be developed into highly productive farms. I believe we could work with the Federal Government to also release some of its holdings.

I encourage you to pursue the repeal of the "Ag. Rights Only" policy so that Agriculture in the State of Alaska can move forward. This economic potential, in Alaska, is tremendous, especially now that we are looking to other sources of economic growth and State Revenue development. I would be glad to assist in any discussion on alternatives to preserving agricultural lands. Certainly, the options are many.

Regarding, the budget:

I believe it is a mistake to use the Permanent Fund (PF) for State budget expenses. Once PF income is used for any budget item, then the PF becomes fair game for all budget items. There are many special interests that would love to get their hands on PF money and this should never happen.

I am one of those that believe that the problem with the budget is not with inadequate revenue, but too much spending. The State should take care of basic services and that is all.

I appreciate your efforts in behalf of Agriculture.

Charles W. Thompson

Charles W. Thompson

Testimony from Scott Miller

ON SB 162

1 of 2

Dear members of this senate Hearing,

my name is Scott Miller - my titles include, Delta Farmer, President of Alaska Farm Bureau, Delta Chapter and board member of the newly formed Delta/Greely community coalition. I'm chairman of the Agricultural economic Development task Force.

my wife and I moved to Delta in 1981 and started a farm and a family.

we call our farm Misty Mountain Farm which consists of a 225 head commercial cattle Feeding operation, a 20 head beef cow herd and we farm 1000 acres of Barley, Hay, Oats + Peas and pasture.

In 1981 we purchased a 280 acre undeveloped ag rights parcel of land and have built it to what it is today. A 1/2 million dollar operation with annual sales approaching \$200,000⁺⁺

Over the past 14 years we have borrowed literally hundreds of thousands from the States Ag Revolving Loan Fund.

Not once have we been able to borrow against our property from a commercial lender due to our Ag Rights only land title.

② of ②

Not having been able to borrow money to build our house and other personal expenses over the years has caused extreme financial hardship for us.

ARLF can not borrow money's for these things, and no lender would accept our land as collateral.

The time has come to abolish this poor excuse for land ownership and give Farmers a real title that commercial lenders will accept as collateral.

I support SB162 and feel it would be a great benefit to our growing agricultural industry.

Speaking also as an elected leader + spokesperson of my industry I'd like to add that there's a silent Revolution taking place in Alaska's Agriculture and Delta is leading that movement. Big things are expected and anticipated for Delta's agriculture. Passage of SB 162 is a step in the right direction.

Let us become real farmers and not just tenant farmers of the state. Thank You.

Scott R. Miller

DEC 18 1995

December 10

Senator Green

This letter is written in support of S. B. 162

I and my wife own 41 acres of land in the Trapper Creek area as a result of an agriculture sale in 1984.

Because of the covenant restricting the building of "fixed or immovable structures" the land is mostly useless.

There is no road access and the construction of farm buildings would make use of the place more practicable. As it stands now even the erection of greenhouses or barns is illegal.

I've been paying taxes for the last 10 years in which time they have doubled. I wouldn't mind as much if the law made

it possible to develop this
farm site.

With the building of a home
and small greenhouse operation
the government would gain from
a higher tax on the property
and I would finally be able
to try my hand at a small
farm operation.

If there ~~is~~ anyway I can
be of help please write to
the address below or call
my Juneau phone number.

Thank you

Timothy H. Green

Box 240-405

Douglas, Alaska

99824

907 - 364 - 4636

PO Box 477001
Wasilla, Alaska 99647-7201
November 23, 1995

The Honorable Lyda Green
The State Senate
4000 Palmdale
Wasilla, Alaska 99854

Dear Senator Green,

It was my pleasure in seeing you at the 19th Annual Agriculture Symposium. This is a support letter of Bill 162. Both my husband, Jim and I support this bill. I know you hear reasons why this bill should not be implemented and then there are those who are supportive of Bill 162. I would like to explain another feasibility of why all Agriculture Rights Land should be converted into fee simple land after the patent is completed. Quite a few producers who are against the bill already have fee simple land due to the Homestead Act. These individuals do not want the land value market to decrease because they are concerned with their retirement plans. A good portion of these individuals are sitting on prime land which they have commented that they probably will subdivide one day. Other individuals are concerned that our production land will be in housing units as alot of our farm land has been done in the Mat-Su Valley area.

My concern is, if we don't have land available for the beginner farmers, then who will be supplying fresh production to our stores, farmers markets, and etc. If you look at the age groups of who is farming in Alaska today, you will see the majority are in their late 40's to mid 70's. I'm not criticizing the age group, only wondering where the younger generation from ages 20 to late 40's fit in this picture. These individuals in the younger generation, probably have similar thoughts as to mine. Why should I go get a farmstead and put in expenses constructing building for a headquarters, crops seeded and fertilized in the fields, livestock, and etc. Then one day, the Division of Agriculture says we are going to shut you down and you have to be off the land in 30 days (as stated in the beginner farmer contract). Where would a person go and what would they do with all of the responsibilities listed above? What happens to the crops out in the field and what about my expenses. I still have a debt for operating and ownership (with the high interest rate existing with APRF) expenses?

Our markets can handle more production then what is produced today (\$30 million worth of Agriculture products in 1995), instead, of outside products being shipped in. We can produce a product with more minerals, taste, and quality then those from outside. Last year, they were conducting a study of Alaska cabbage to control early stages of breast cancer. This is a magical vegetable, if we can control breast cancer in the fashion of just changing our diets. Plus, a comment should be made

Page 2

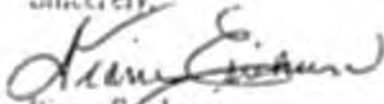
letter dated 11/23/95

on the size and large weights that can be grown in our State as we see at the State Fair and also noted in the Guinness World Book of Records.

Hopefully, I have expressed another view as to what I have comprehended when talking with Alaska Producers. I would also like to mention that Senator Robin Taylor gave an outstanding speech at the Agriculture Symposium. The news media had illustrated him in articles as a complete different person than what he really is. Many comments were made about his presentation, the opposite conception of the printed articles by our news media, and that they were amazed (as I was) in knowing that he is for agriculture in Alaska. Alaska producers of food, fiber, minerals, and fish need to ~~All~~ stick together. A vast amount of the public is very naive as to where and how their needs come from. We need all four products listed above to survive and majority of the people recognize that these producers utilizing these products enhance our State, instead of destroy. These individuals are consciousness people and I have seen more wildlife and native vegetation where management practices were completed. Producers are working with Mother Nature by implementing conservation practices instead of working against her.

Thank You for your time and consideration in listening to my thoughts and new points. If I can be of any assistance, please don't hesitate to give me a call, write, or send a fax.

Sincerely,



Diane Ericksen

phone numbers: 907-373-3805 (home)

907-745-7382 (work)

Fax number: 907-745-7984 (work)



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

SENATE RESOURCES COMMITTEE

*expected to be present

- *Chairman: Senator Loren Leman
- *Vice Chairman: Senator Drue Pearce
- *Senator Steve Frank
- *Senator Rick Halford
- *Senator Robin Taylor
- *Senator Georgianna Lincoln
- *Senator Lyman Hoffman

Teleconference Sites: ANC, FBX, Mat-Su, Delta Junction, Glenallen, Kenai

AGENDA

3:30 to 5:00 p.m.

Wednesday, January 17, 1996

SB 162: Agricultural Land
SENATOR GREEN, Sponsor

Teleconferenced

CS in Packet: (9-LS1021\F Chenoweth 1/15/96)
New Fiscal Note from DNR

Expected Witnesses:

Senator Green to present CS and explain amendments arising from 10/24/95 meeting (may be assisted by Brett Huber, Legislative Aide)

Ron Swanson, Director, Division of Lands/DNR

John Cramer, Former Director Div. of Agriculture/DNR (Mat-Su)

Mark Weaver, Former Director Div. of Agriculture/DNR (Mat-Su)

Karen Lee, Director, Farm Service Agency (Juneau)

Robert Franklin, President of Alaska Farm Bureau (FBX)

Charles Forck, ARLF member, Creamery Corp. (Delta Junc.)

Bill Ward, Ward Farms, Agriculture Revolving Loan Fund Board member (Mat-Su)

Don Quarberg, Delta Coop. Extension (Delta Junction)

Herb Simon, Owner/Little Nelchina Farms (offnet)

Don Kratzer, Ag Owner (Delta Junction)

Scott Miller, Ag Owner (Delta Junction)

Tim Green (JUNEAU)

Harvey Baskin, Point Mac Dairyman (ANC)

Ron Sexton, Ag Owner (Kenai)

Not recorded
Diane McCain, Ag Owner (Mat-Su)
Larry DeVilbiss, Mat-Su Assemblyman, Ag Owner (Mat-Su) - *problem*
Gary Stromberg, Ag Owner, (Mat-Su)
Ed Bostrom, Ag Owner (Fairbanks)
Mike Schultz, Shultz Farms (Delta Junction)
Scott Schultz, Shultz Farms (Delta Junction) *1/21/96*

Committee will be held on 1/21/96 at 10:00 a.m. in the Senate Chamber.
SB 128: Nonresident Hunt, Sport Fish, Trap Fees
SENATOR DONLEY, Sponsor

Expected Witnesses:

Senator Donley, to present bill
Wayne Regelin, Director, Division of Wildlife Conservation/ADF&G
Kevin Delaney, Director, Division of Sport Fish/ADF&G

Next Meeting:

Monday, January 22, 1996 - Schedule to be posted by 4:00 p.m.
Thursday.

ADJOURN



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

MEMO

TO: Senate Resources Committee Members

FROM: Annette Kreitzer, Aide to
Senate Resources Committee

DATE: January 18, 1996

RE: Information received after hearing on SB 162

.....

Please add the following items to the SB 162 folder:

a) Letter from Ron Swanson dated 11/13/95, referred to by Mr. Swanson in testimony at yesterday's hearing.

b) Copy of written testimony from Mike Bronson

Also, as a reminder, a copy of the schedule confirming that Resources is canceled for Friday, January 19.



Alaska State Legislature

Please enter into the record my testimony to the Sen. Resources
committee name
 committee on SB162, dated Jan. 17, 1996
bill/subject

Sen. L. Lehman,

Please oppose SB162. The solution to poor past farm
 plan requirements by ADNR should become more discretion
 by the farmers, not by fee title. The ag land program
 was originally to protect farming as a land use, not to
 transfer public land to private lands.

I oppose CS SB 162 (Re) § 1 fee title; § 3 no need
 for regional land plan; § 11 for improvements incidental to
 farming, and subdivision/sales rights.

We can't afford the costs of subsidizing the
 loans, schools, roads and extra services folks get
 in remote sites when they expect something for nothing.

Signed: Mike Bronson
Testifier

Representing (Optional)
2229 Turnagain Parkway, Anchorage
Address

Phone No. _____

DEPARTMENT OF NATURAL RESOURCES

3301 C STREET, SUITE 1122
ANCHORAGE, ALASKA 99503-5947
PHONE: (907) 762-2942
FAX: (907) 762-2529

DIVISION OF LAND

November 13, 1995

The Honorable Loren Leman
Chairman, Senate Resources Committee
716 W. 4th, Suite 540
Anchorage, Alaska 99501-2133

*File to
(S) Resources
from Mr. Swanson
DNK*

Re: SB 162

Dear Senator Leman:

At the October 24, 1995 Senate Resource Committee hearing, the committee asked that we provide additional information on two subjects: is there added value if fee simple title is issued with only an agricultural covenant; and, was the cost as indicated on the fiscal note accurate for issuing new patents.

I discussed the added value with my appraisal staff. Their conclusion was that the bill as written provides a combination of factors that adds a value of between 25% to 200%, depending on the size of the farm. The first factor that led them to this conclusion was that fee simple title would be issued with an agricultural covenant which is different than the current law of conveying only the agricultural interest. The appraisers felt that this factor added a value but it was minimal. I have enclosed a recent Attorney General's Opinion on the restricted title issue for your information.

The factors that provided the most added benefit was the ability to subdivide (Section 9), being able to do additional construction anywhere on the parcel, and not requiring a development plan (Section 11). These factors were considered when making the original appraisal, and each was considered a discounting factor from true fair market value. We feel the committee should directly address how we should deal with this retro-active increased value concern.

The next concern of the committee was the requirement that the commissioner issue a new instrument of conveyance for agricultural parcels and what that would cost. The following is based on the assumption that there are approximately 230 deeds that will have to be issued.

The State of Alaska is a non-mandatory recordation State. This generally means that a prudent person would normally record a deed or patent to establish themselves in line in the Chain of Title. Alaskans have the tendency to not record their ownership deeds. Alaska landowners often

forbear recording the deed or patent until they want to do something with the land. Determining the current legal owner of a parcel of land is often difficult. One uses a combination of Recorder's Office, Tax Assessor's information and Court records.

There are several options on how to accomplish the issuance of a new instrument of conveyance. Since the state has conveyed the agricultural interest, the remaining interest to be conveyed is the land estate interest retained by the state (note by Alaska Statue AS 38.05.125 the mineral estate is retained by the state). The state can not issue a conveyance document for the entire land estate unless the current owner quit claims their agricultural interest to the state. Obtaining this deed would be extremely cumbersome.

Of particular concern is conveying the remaining land estate interest to the proper legal entity. agricultural interest only patents have been issued for over fifteen (15) years.

Who has the right to this interest? The normal activities involving land occurred; sales, leases, death, divorce, probate, partnerships, foreclosures, bankruptcy, litigations, liens, and security interests (using the land as collateral for loans). In a non-mandatory recordation state finding a proper legal entity is difficult.

Option 1 - Owner Applies for Retained Land Estate

Require the current owner of agricultural interest to come forward and apply for the remaining land interest. A public notice would be published in newspapers of general circulation in the Fairbanks, Delta, Palmer, Wasilla and Anchorage area stating that the owner has 120 days within which to apply to DNR, Division of Land, for the remaining land interest. The owner would need an Abstract of Title from a title company or attorney showing the complete chain-of-title with copies of any and all documents affecting the chain including liens and judgements, from the issuance of the agricultural interest only patents until the present. The current owner would provide an affidavit attesting to ownership. The owner would pay a \$100.00 application fee to help defray the administration costs. Staff would review the documents provided and approve/disapprove the issuance of the conveyance document without further verification. Public notice would be given at the beginning of the 120 day period and at the end of the period with 15 days remaining.

Process for fiscal impact:

1. Determine all agricultural patents with legal descriptions issued by the state and make copies of document - approximately 230 patents.

A. Create a data base and spreadsheet for tracking individual patents and legal descriptions.

B. Create hand copy file of patents. Process will take approximately 6 weeks.

NROI	\$4.6 per month x 1.5	\$6.9
Admin Clerk	\$3.1 per month x 1.5	\$4.65
Computers/software and hookups		
2 @ \$4500		\$9.0
	Total	\$20.55

2. Prepare and publish a public notice (2 week time frame)		
NROI	\$4.6 per month x .5	\$2.3
Admin Clerk	\$3.1 per month x .5	\$1.55
	Total	\$3.85
2 public notices in 5 newspapers at an average cost of \$350.00		
2 x \$350 x 5	= \$3.5	\$3.5
3. Accept applications and adjudicate (12 month time frame. (230/12 = 20/mo))		
NROI	\$4.6 per month x 12	\$55.2
Admin Clerk	\$3.1 per month x 12	\$37.2
	Total	\$92.4
4. Issue conveyance documents after determination is made and transmitted to owner - 3 month time frame.		
NROI	\$4.6 per month x 3.	\$13.8
Admin Clerk	\$3.1 per month x 3	\$9.3
	Total	\$23.1
TOTAL Option I		\$143.4

Option II Division of Land determines who is the current owner.

Staff would develop data base of all agricultural interest only patents, legal descriptions and name and address of patentees. We would then contract with title companies and attorneys to determine the current owner of the land, providing staff with an abstract of title/litigation report documenting the complete chain of title since the state patent was issued, including a diligent search of liens, judgments and tax assessors records. Upon receipt of report determining the current owner on the effective date of the bill, staff would issue a document conveying the remaining land estate interest. An application fee of \$500.00 could be charged to help defray the administrative costs which could provide \$115.0.

Process for Fiscal Impact:

1. Determine all agricultural patents with legal descriptions issued by the State and make copies of documents - approximately 230 patents.

A. Create a data base and spreadsheet for tracking individual patents and legal descriptions.

B. Create hard copy file of patents. Process will take approximately six weeks.

NROI	\$4.6 per month x 1.5	\$6.9
Admin Clerk	\$3.1 per month x 1.5	\$4.65
Computers/software and 2 hookups @ 4500		\$ 9.0
	Total	\$20.55

2. Develop bid package and contract for private sector title industry to determine current owner for the 230 agricultural patents - time frame 3 weeks.

NRMI	\$6.0 per month x .75	\$4.5
Admin Clerk	\$3.1 per month x .5	\$1.55
	Total	\$6.05

3. Contract to private sector to do title work

A. Title Abstract/Litigation Report plus all backup documents to determine current owner - copy of current owner's title document with recording information. Abstract runs from date agricultural patent was issued from the State until current.

B. Since this is a non-mandatory recordation state-check against tax assessors records as to who is current owner and identify any differences.

C. Check for liens, partnerships, security interests, etc.

Assumptions - one-half of original patents have one or more owners from the date of issuance, sale, bankruptcy, foreclosure, divorce, death, (heirs, etc.).

Average cost for multi-owner parcels - \$850.00 per patent.

One owner	\$2.250 x 115 patents	\$28.75
Multi-owner	\$8.50 x 115 patents	\$97.75
	Total	\$126.5

4. Administering contract - accepting litigation reports - review - four weeks.

NRMI \$6.0 per month x 1 month \$6.0

5. Public notice of a disposal of interest - change of covenant. Statewide newspapers - publication costs. \$3.5

6. Issue actual conveyance documents. Approximately 20 per week.

Contracts - NROI	\$4.6 per month x 6 mo.	\$27.6
Titles - NROI	\$4.6 per month x 6 mo.	\$27.6
Admin Clerk	\$3.1 per month x 6 mo.	\$18.6
Review NRMI	\$6.0 per month x 1 mo.	\$6.0
	Total	\$79.8

TOTAL Option II \$242.4

The following are a couple of other general comments. For most agricultural purchasers using the moratorium program, the end of the moratorium period represents the creation of a long-term financial obstacle. They are faced not only with renewed contract installment payments, but the burden of repaying all of the interest accrued during the moratorium period. To date, this represented an average of \$10,000 in accrued interest charges for each agricultural purchaser using the program. Because the principal is not reduced during the moratorium period, the purchaser also pays interest on a higher principal balance for a longer period of time, resulting in a large balloon payment at the end of the contract.

To accommodate these problems, DNR created a non-interest bearing repayment agreement that provides the purchaser with the option of setting aside the interest accumulated during the moratorium period and repaying it over the life of the original contract. DNR provides the purchaser with the option of reamortizing their original contract and extending the life of the contract for a period equal to the number of years for which there was an approved payment moratorium, thus avoiding a balloon payment at the end of the original contract period.

If either the original contract or the repayment agreement goes into default, they are both in

default.

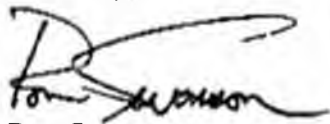
An agricultural purchaser may derive a benefit from this program by making principal reduction payments during the moratorium period. This reduces the total amount of interest paid over the life of the original contract. Unfortunately, most purchasers are financially unable to take advantage of this option and postpone their debt for the duration of the moratorium period. They do not fully understand the consequences of participating in this program and end up facing a significant additional economic burden. If the intent of this bill is to aid agricultural development in Alaska, you may want to re-visit this provision.

We also assume that the interest rate Section 8 of the bill goes into effect on the effective date of the bill and is not to be retroactive to any previously existing agricultural land sale contract. If this is the wrong assumption then we will have to modify our fiscal note substantially upward.

My last comment is that Section 11 of the bill should explicitly state that land classified for agricultural purposes is considered as commercial property and AS 38.05.067 (Veterans Preference) does not apply.

Please feel free to contact us if you would like additional information.

Sincerely,



Ron Swanson
Director

cc: John Shively
Pat Pourchot
Jalmar Kertulla
Patty Bielawski

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

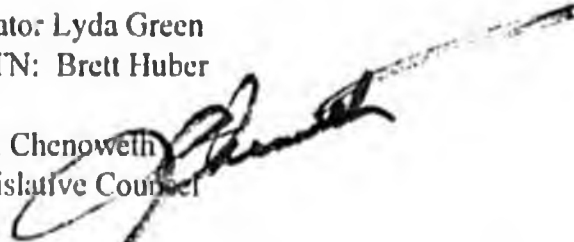
MEMORANDUM

January 17, 1996

SUBJECT: Authority of Department of Natural Resources to require prequalification of persons who apply to participate in an agricultural development project under AS 44.33.475 and to qualification to acquire agricultural interests in state land (Work Order No. 9-LS1021\F)

TO: Senator: Lyda Green
ATTN: Brett Huber

FROM: Jack Chenoweth
Legislative Counsel



Section 4 of the work draft for CSSB 162 (Resources) deletes from AS 38.05.020(b)(6) a reference to "prequalification . . . of persons who apply to participate in an agricultural development project under AS 44.33.475." Explicit authority for agricultural development projects was revoked when AS 44.33.475 was repealed by sec. 4, ch. 75, SLA 1979. Imposing a prequalification requirement with reference to a program that was repealed nearly 20 years ago is arguably no more than deletion of obsolete material.

By regulation, the Department of Natural Resources may require prospective purchasers of agricultural interests in state land to qualify. The requirement is imposed by regulation, 11 AAC 67.172. The regulation cites a number of statutes, some of which are being proposed for amendment in the bill, as the legal basis for its authority. Qualification under 11 AAC 67.172 looks to be a more general requirement, not necessarily limited, as was "prequalification," to situations involving participation "in an agricultural development project under AS 44.33.475."

In its section 14, the bill proposes to annul 11 AAC 67.172.

JBC:klb
96-008.klb

Ken Swanson Jr Attorney
to (S) Re 1-17-96

SB 162 relating to agricultural land
Sectional Analysis

section one: States the intent of the Legislature is to convey fee simple title to agricultural land subject to an agricultural only covenant.

This language may make it easier for owners of agricultural parcels to obtain financing from other than the state. Currently we convey only the agricultural interest and retain all other interests to the state. If adopted, section 12 of this bill would require us to issue new conveyance documents for all patents issued since August 15, 1976. We should also point out that if the state wants to use the land for another use (pipeline, telephone, etc.) we would have to buy those rights back.

Section two: removes survey requirements for agricultural land sales

We oppose. All disposals of state land (sales or leases) are presently required to be surveyed. We have had numerous problems with unsurveyed land and paper plats to a point that legislation (HB80) to make DNR the platting authority within the unorganized borough is likely to pass this legislature. This provision would not be supported by many municipal platting authorities.

Section three: removes requirement that agricultural land be included in an area plan and classified prior to disposal.

We oppose excluding agricultural land from the land use planning and classification process. The planning and classification statutes (AS38.04) are the result of a 1986 Supreme Court case Alaska Survival v. State where it was found that disposals of state land cannot occur unless the land has been classified as a result of an area or regional planning process. There is no reason to exempt just agricultural land from this requirement.

Section four: removes authority to require pre-qualifications of agricultural land buyers and allows the commissioner to waive development requirements based on economics

We oppose. Pre-qualification enables the state to try to limit sales to those people who are most likely to pursue actively the development of agriculture. We are supportive of the ability of the commissioner to waive, postpone or modify contract terms based on economic considerations. While it would be helpful to have this authority we also foresee a possible increase in workload due to requests and appeals.

Section five: restricts the lottery application process on land sales that involve land from former agricultural land disposal projects such as Delta I-II and Pt. MacKenzie

We do not see the need for this provision but do not oppose.

Section six: allows sale of agricultural parcels described by aliquot parts

We oppose. We prefer survey requirements as noted in the discussion in Section two.

Section seven: adds reference to section h

This is clerical in nature to recognize addition of (h)

Section eight: sets agricultural land sale interest rate at 8% and makes interest payments also subject to a moratorium.

We do not support lowering of the interest rate to 8% for only agricultural purposes. HB 191, which is before (s) RES, establishes an interest rate for all land loans at the prime rate plus 4% (this is currently 12.2%) and not to exceed 13.5%. We do support the change that would ensure that interest payments are to be considered as part of any payment moratorium.

Section nine: a covenant running with the land that restricts or limits the use to agricultural purposes and allowing subdivision to a certain extent as long as the covenant runs with the subdivided land and as long as the resulting subdivision is not less than 40 acres in size

We believe that the state should be reimbursed by landowners when the land is subdivided and the added rights to the land that are conveyed in this bill. We believe that the land values will increase from 25% to 200%, based on the size of the parcel.

Section ten: Provides that land classified for agriculture may be conveyed to municipalities without any restrictions. Currently only the agricultural interest in the land may be conveyed to municipalities

Current law allows for transfer of other interests if it is in the best interest of the state

Section eleven: requires

(d) (1) cooperation by land owner with appropriate soil and water conservation district when implementing soil conservation plans

We support

(2) as a condition of the conveyance, the commissioner may not require a development plan unless the commissioner permits modification of a plan based on economic hardship or other extenuating circumstances

We are supportive of this however see an increase in workload to perform the task of analyzing economic hardship claims and appeals.

- (3) The commissioner may not limit
- (a) right to construct improvements related to agricultural use
 - (b) right to use the land and improvements for purposes that are incidental to and not inconsistent with the primary use
 - (c) right to subdivide and sell if the resulting parcels are not in violation of the minimum parcel size

We believe that the State should be reimbursed for lost revenue if agricultural land is subdivided. The difference between the original price of the agricultural right compared to the increased value of fee title for subdivision purposes should be returned to the state. We do not oppose incidental gravel use or disposal of timber incidental to clearing for agricultural production.

(e) A covenant described in (a) of this section may be enforced only by a civil action

This puts the burden of proof in these cases on the state. We will still have the administrative procedures to follow and will have the additional workload of unnecessary civil litigation. Administrative appeals provide the applicant the ability to go to court if they so chose. We oppose this section

(f) agricultural purposes defined

We do not oppose the definitions

Section twelve: requires commissioner to issue new conveyance documents to all agricultural parcels sold since 8/15/76

We very strongly oppose. This is a major workload and not fair to those who chose not to purchase agricultural property because of the deed restrictions. There is also a very good chance of title problems as "wild deeds" will result because of dual title interests being conveyed by the state. Further, there are fair market value issues, as discussed above (Section 11, 3(c)).

Section thirteen: requires conveyance documents for municipalities

We oppose based on workload and title problems as noted above. We currently have the ability to remove restrictions if it is in

the best interest of the state.

**Section fourteen: repeals current regulations affecting
agricultural land disposals since 8/78**

We oppose repeal of executive branch regulations



United States
Department of
Agriculture

Farm
Service
Agency

Alaska State FSA Office
800 W. Evergreen, Suite 216
Palmer, Alaska 99645
Telephone: (907) 745-7982

January 16, 1996

Senate Resources Committee
Alaska State Senate
Juneau, Alaska

To the Members:

I would like to urge your favorable consideration for modification of the state's "agricultural-rights only" provisions, along the lines proposed in Senate Bill 162.

As it stands now, this agency is unable to lend money through our farm ownership programs against agricultural-rights-only land. This is true for commercial banks as well. This is due to the nature and specific reversionary language of the deeds, whereby the state retains the right to throw an owner off the land when a non-agriculture use is alleged. This clause overrides any mortgage or lien and is very foreboding to a non-state lender.

The effect of this has been that the federal farm loan program has been practically dead in Alaska since the 1970's. Each year, nearly \$2 million has been earmarked for this program in Alaska. Each year, the money sits for half a year and is then transferred to one of the other 49 states with reasonable land titles. Well over \$20 million intended and available to Alaska has been diverted in this way.

This agency took over the federal farm loan programs in 1995. We are now actively making farm loans. However, we are restricted to "movable" collateral for farms on the 500,000 acres the state has sold. Farm ownership loans are restricted to fee simple lands, such as those acquired under the old federal homestead laws.

Another interesting anomaly caused by the restrictive deeds is that we have a loan program to help farmers pursue a non-agriculture business on their farms to supplement agriculture income. This program acknowledges the huge shift of income experienced by family farms in the last two decades nationwide. In 1994, over 90 per cent of farms were at least somewhat dependent on off-farm income. However, the ag-rights restrictions mean such supplementary income-producing enterprises are actually illegal in Alaska, even though they may mean the difference between success and failure.

I have worked for almost three years on a solution on narrow procedural grounds which would not require legislative action. To date, the Department of Natural Resources has not signed off on such an agreement. It would appear that legislative action will be required.

In closing, I would like to say that it is long-accepted economic theory that one places tight restrictions on the operation of activities which one would like to discourage. This has certainly been borne out in Alaska. Those who would encourage agriculture should begin to follow successful patterns elsewhere.



AN EQUAL OPPORTUNITY EMPLOYER

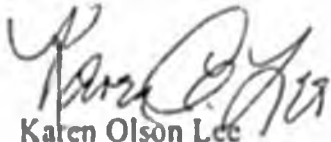
There are really only two things that a traditional government can do to help an industry. One is research, such as high-latitude plant properties investigation. The other is income enhancement.

In Alaska, where the land ownership pattern is so skewed away from the private sector, there is a third. That is to convert some of the lands bequeathed to the state by the federal government for the purpose of economic development to private use with as few strings as possible. Over 100 million acres were given to the state upon statehood to build an economic base. Almost 30 years later, only one million has been sold, and half of that is in the ambiguous ag-rights category.

Agricultural-rights-only has failed in its purpose in Alaska. In the two semi-urban counties where it has been tried in Washington and Maryland, it has worked as an open-space measure but has failed to help agriculture as an industry. It is time to modify Title 38 to reflect reality.

In a state where we are willing to negotiate royalties down to almost nothing to stimulate the development of nonrenewable resources, the restrictions on a renewable resource like agriculture are unconscionable.

Sincerely,



Karen Olson Lee
State Director

○ Senator Leman
Chairman House Resource Committee.

Dear Sir:

Less than one half of a percent of all the land the state owns is fit to be classified as agriculture. This I believe should be of the highest priority for State Legislature and the Governor to protect for future generations. So far the best way to protect this is with ag rights only. When this restriction was placed on ag lands, hearings were held throughout the State. The only objection to this covenant was by those who received tracts of land.

I have listened to some of the tract owners complain that they cannot get financing, and they cannot get clear title to their land. The main reason they cannot get financing from other financial organizations is because the State holds first mortgage, and the other lending institutions do not want to take second position. I believe the State should keep the first position.

This bill addresses more than just the title to the land. It takes away the authority to reclassify agriculture land. With so little to begin with this is wrong, all of you eat lets keep the source of supply.

When any lands are sold in the State there should be a survey. you are just putting off a problem if you remove the survey requirements on ag land.

If the legislature would like to take the pressure off of agriculture lands, insist the one hundred thousand acres of utility lands be made available to the citizens of Alaska that is near the population centers.

Paul A. Huppert.

ALASKA STATE LEGISLATURE



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(907) 465-6600
Fax 465-3905

SENATOR LYDA GREEN

MEMORANDUM

SENATE DISTRICT N

TO: Annette Kreitzer, Resource Committee Aide
FROM: Brett Huber, Aide to Senator Green *BH*
DATE: January 12, 1996
SUBJECT: SB 162 testimony for committee

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The following is a list of people to testify on SB 162 at your hearing Wednesday. They are listed somewhat in the order of importance:

John Cramer	past director of Division of Ag	Palmer
Mark Weaver	past director of Division of Ag	Palmer
Karen Lee	Director, Farm Service Agency	Juneau
Bob Franklin	President, Alaska Farm Bureau	Fairbanks
Charles Forck	ARLF member, Creamery Corp.	Delta Junction
Bill Ward	Ward Farms-ARLF	Wasilla
Don Quarberg	Delta Coop. Extension	Delta Junction
Herb Simon	Little Nelchina Farms	Glennallen
Don Kratzer	Ag owner	Nenana
Scott Miller	Ag owner	Delta Junction
Tim Green	Ag owner - Trapper Creek	Juneau
Harvey Baskin	Point Mac Dairyman	Anchorage
Ron Sexton	Ag owner	Kenai
Diane McCain	Ag owner - Talkeetna	Wasilla
Larry DeVilbiss	Mat-Su Assemblyman - Ag owner	Wasilla
Gary Stromberg	Ag owner - Palmer	Wasilla
Ed Bostrum	Ag owner	Fairbanks
Mike Schultz	Schultz Farms	Delta Junction
Scott Schultz	Schultz Farms	Delta Junction

I believe there will probably be more than the above wishing to testify. The Ag people really like this bill. I also wanted to let you know that Steve Sims will likely testify in favor of this bill and may also bring up the Point Mackenzie issue in regard to the Project Hope corrections facility. Steve is