

ALASKA LEGISLATURE COMMITTEE FILES

1995-1996 8672

9003 SENATE RESOURCES

499

HB

141

FISCAL NOTE

No. 1
 Bill Vers 1 HB 141
 (H) Publish Date: 3/1/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Terms of Fish and Game Board members BRU: Boards of Fisheries and Game
 Component: Board Services
 Sponsor: Rep. Austerman
 Requester: House Fisheries COMPONENT SERIAL NO. 482

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Garon Bruce 108 Phone: 465-8143
 Division: Commissioner's Office Date: 5/12/95
 Approved by Commissioner: [Signature] Date: 5.15.95
 Agency: _____

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Fisheries

Alaska's fishery resources are critical to the local and statewide economies of the state and to the personal lives of Alaskans. Besides providing more jobs than any other resource or industry in the state, our fishery resources are central to the very sustenance and lifestyle of most Alaskans. Because fish play such a vital role in our lives, and because fisheries in Alaska are biologically complex, the management of this resource naturally generates widespread interest and debate.

RECOMMENDATIONS

BOARD OF FISHERIES

- Retain the basic structure of the existing Board of Fisheries (BOF).
 - Maintain a BOF comprised of lay citizens.
 - Ensure broad geographic interest and expertise by members so that the BOF represents the diversity of interests and regions of the state.
 - Provide that individual BOF seats should not be designated for specific interest groups.
- Consider whether to establish additional Boards, such as a separate BOF for management of groundfish and shellfish and/or separate regional Boards in addition to a statewide Board.
- Make statutory changes regarding BOF member terms in order to depoliticize the confirmation process.
 - Appoint full term BOF members during the first ten days of April, with confirmation by the end of the legislative session.
 - Seat newly confirmed BOF members on July 1 each year.
 - Provide for 3-year staggered terms as currently is done.
 - Fill vacancies for unexpired terms within 30 days.
- Fine tune the current process for reviewing BOF proposals.
 - Retain the current 3 year cycle for review of agenda topics.
 - Improve the agenda change and petition criteria and the process for out-of-cycle issues of importance.
- Reduce the number of proposals reviewed by the BOF by streamlining the proposal process. Consider methods to reduce the number of proposals taken up by the BOF, but do not restrict the public from offering proposals.
- Conduct BOF meetings more effectively through:
 - Management of testimony according to topic.
 - Making all proposal information available to the public 30 days before the meeting.
 - Strictly prohibiting personal advocacy by ADF&G employees at BOF meetings.
 - Increasing use of electronic bulletin boards for information about meetings.
- Consider moving the BOF administratively out of ADF&G and into the Governor's Office or another administrative unit.

STATE OF ALASKA - OFFICE OF THE GOVERNOR
Boards and Commissions Office

Membership Roster

(037) FISHERIES

Member	Appointed	Reappointed	Term Exp.
Trefon Angasan Public Bristol Bay Native Corporation P.O. Box 100220 Anchorage, AK 99510 Work Phone - (907) 278-3602 FAX - (907) 276-3924	01/31/92	02/09/95	01/31/98
Dick H. Bower, Sr. Public P.O. Box 3662 Soldotna, AK 99669 Home Phone - (907) 262-7132 FAX - (907) 262-7132	02/04/94		01/31/97
Larry Edfelt Public 1212 Pike Court Juneau, AK 99801 Home Phone - (907) 780-4780 FAX - (907) 463-3475	07/23/91	01/31/93	01/31/96
Larry J. Engel Public -- Vice-Chair P.O. Box 197 Palmer, AK 99645 Home Phone - (907) 745-4132	02/04/94		01/3 7
Dick Jacobsen Public P.O. Box 54 Sand Point, AK 99661 Home Phone - (907) 383-2042 FAX - (907) 383-5370	01/31/93		01/31/96
Frank Rue Commissioner/Fish and Game/ex officio secretary Acting Commissioner Department of Fish & Game P.O. Box 25526 Juneau, AK 99802-5526 Work Phone - (907) 465-4100	01/13/95		
Virgil L. Umphenour Public 2400 Davis Road Fairbanks, AK 99701 Work Phone - (907) 456-3885 FAX - (907) 456-3889	07/22/94		01/31/96
John R. White Public P.O. Box 190 Bethel, AK 99559	02/09/95		01/31/98

SENATE COMMITTEE REPORT

DATE: 3/28/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 5-6-95

Resources Committee considered CS FOR HOUSE BILL NO. 141(FSH)

"An Act relating to the appointment of members of the Board of Fisheries."

and recommends:

- be replaced with SEN CS ^{for} CS HB 141 (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 change
- new: SCR* _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
CHAIR: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>[Handwritten]</i>	<i>[Handwritten]</i>	<i>[Handwritten]</i>	<i>[Handwritten]</i>

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

AMENDMENT #2

OFFERED IN THE SENATE
TO: CSHB 141(FSH)

- 1 Page 1, line 14:
- 2 Delete "a vacancy"
- 3 Insert "the vacancy that will arise"

- 4 Page 2, line 1:
- 5 Delete "other than by the expiration of a term"

AMENDMENT # 1

OFFERED IN THE SENATE

TO: CSHB 141(FSH)

1 Page 1, line 11:

2 Delete "and until a successor is appointed and the successor's term begins"



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

March 24, 1995

The Honorable Alan Austerman
Alaska State House of Representatives
State Capitol, Room 434
Juneau, Alaska 99801-1182

Representative Austerman:

UNITED FISHERMEN OF ALASKA SUPPORTS CS HB 141.

UFA feels that moving the appointment date closer to the confirmation date will help the process and we believe many more potential citizens will put their names forward to the Board of Fish under the new confirmation bill.

As you know, CS HB 141 was one of the recommendations made by the Governor's Fisheries Transition Team which was comprised of sport fish, charter, sport guide, subsistence, and commercial users.

United Fishermen of Alaska is requesting your support of CS HB 141.

Sincerely,

Jerry McCune
Jerry McCune
President

cc: UFA Board of Directors

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Area K Seiners Association
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cape inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Commercial Crab Association • Unalaska Seiners Association



Cordova District Fishermen United

P.O. Box 838
Cordova, Alaska 99574
(907) 424-3447 FAX (907) 424-3430

March 22, 1995

House of Representatives
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Legislator:

On behalf of Cordova District Fishermen United (CDFU), I am pleased to support House Bill 141 - *An Act relating to the appointment of members of the Board of Fisheries*. CDFU is a basic supporter of the lay Board of Fish process as it exists today. We do not believe that the Board of Fish requires extensive modifying - as some other bills in the legislature seek to do. On the contrary, we believe the process requires only some comparably minor periodic adjustments to meet changing resource management needs.

HB141 presents the opportunity to make some of those adjustments. In fact, HB141 will make some adjustments we've been seeking for years such as requiring confirmation before participation.

We urge you to support this bill and thank you for your consideration.

Sincerely,

CORDOVA DISTRICT FISHERMEN UNITED


John Bicer, Legislative Committee Chair

cc: Full House of Representatives
Senator Georgianna Lincoln

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REP KUBIJA

Fisheries

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Ketchikan Office:
P.O. Box 9579
Ketchikan, AK 99901
Phone: 907-225-5156
Fax: 907-225-5258

Juneau Office:
P.O. Box 23081
Juneau, AK 99802
Phone: 907-463-5030
Fax: 907-463-5080

April 18, 1995

Senator Loren Leman, Chairman
Senate Resources Committee
State Capitol
Juneau, Alaska 99801-1182

Dear Chairman Leman and Committee Members,

We would like to take this opportunity to express our support for House Bill 141. This bill seeks to change the dates that Board of Fish appointments and terms would begin.

In the last few years, we have watched two Board of Fish members serve part of their terms, voting on hundreds of fisheries proposals, only to be removed from the Board for failure to receive legislative confirmation. This is extremely disruptive and needs to be changed.

The Governor's Transition Team on Fisheries, representing a very broad and diverse group of Alaskans, recognized this problem with our current process and recommended that it be changed. We believe House Bill 141 is the solution to this problem. This bill would help to de-politicize the confirmation process by holding confirmation hearings prior to the appointee making any Board decisions. We feel such a change would be extremely beneficial.

We urge you to support HB 141. Thank you for this opportunity to comment.

Sincerely,

Kris Norosz
Kris Norosz
Executive Director

cc: Senators Taylor, Duncan, and Zharoff



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

PO. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT

CSHB 141

CS House Bill 141 shifts the appointment and term dates of the Board of Fish members in an effort to depoliticize the confirmation process. The appointment date is moved closer to the confirmation date to help ensure that appointees are confirmed by the legislature prior to having participated at a Board of Fish meeting. Accordingly, the term date is moved from January 31 to July 1st. With CSHB 141, legislators will confirm an appointee based on qualifications, not voting record.

There are instances where changing the term cycle, as in CSHB 141, will not insulate Board of Fish appointees from the confirmation process: where a vacancy occurs before a term expires or the legislature has not confirmed an appointee of the Governor. In these cases, the Governor makes a new appointment within 30 days and those individuals serve on the board until possible confirmation during the next legislative session.

The transition to the new term cycle is addressed in Section 3 of CSHB 141. As presently written, CSHB 141 will extend the terms (to 3 years 5 months) of whichever members are appointed after January 1, 1995. Mr. Utermohle, our drafting attorney, advised against shortening the terms to 2 years, 5 months in this transitory period.



UNITED FISHERMEN CF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

March 24, 1995

The Honorable Alan Austerman
Alaska State House of Representatives
State Capitol, Room 434
Juneau, Alaska 99801-1182

Representative Austerman:

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As you know, CS HB 141 was one of the recommendations made by the Governor's Fisheries Transition Team which was comprised of sport fish, charter, sport guide, subsistence, and commercial users.

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Sincerely,


Jerry McCune
President

cc: UFA Board of Directors

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Cook Inlet Aquaculture Association • Cordova District Fishermen United • Ketchikan Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Puget Sound Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association



Cordova District Fishermen United

P.O. Box 939
Cordova, Alaska 99574
(907) 424-3447 FAX (907) 424-3430

March 22, 1995

House of Representatives
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

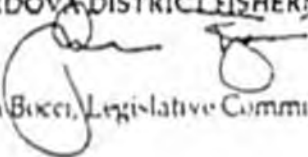
Dear Legislator:

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We urge you to support this bill and thank you for your consideration.

Sincerely,
CORDOVA DISTRICT FISHERMEN UNITED


John Bucci, Legislative Committee Chair

cc: Full House of Representatives
Senator Georgianna Lincoln

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HB

169

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB169(Res)

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Defining the scope of the responsibility of DNR for BRU: Natural Resources
regulating the development of the mineral resources of the state. Component: Habitat and Restoration
 Sponsor: Rep.(s) Kott, Williams, Kelly, MacLean, James, Brice
 Requester: Senate Resources COMPONENT SERIAL NO. 486

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	52.0	28.0	28.0	28.0	28.0	28.0
TRAVEL	5.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	10.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	87.0	31.0	31.0	31.0	31.0	31.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	67.0	31.0	31.0	31.0	31.0	31.0
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	67.0	31.0	31.0	31.0	31.0	31.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Ellen Fritts
 Division: Habitat and Restoration
 Approved by Commissioner: Frank
 Agency: _____

Phone: 465-4105
 Date: 4/14/95
 Date: 4.14.95

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BILL NO. CSHB169
Title: Defining the scope of the responsibility
of DNR for regulating the mineral resources of the state.
Sponsor: Rep.(s) Kott, Williams, Kelly, MacLean, James, Brice
Requester: Resources

ANALYSIS Continued:

This measure designates DNR as lead agency for all matters relating to the exploration, development, and management of mining and vests it with final regulation, management and enforcement authority. It is unclear whether (1) actual statutory authority or (2) authority to veto or overrule another agency's proposed actions would be transferred. Assuming the latter, the measure significantly increases ADF&G's workload and procedural timelines for issuance of Fish Habitat Permits for mining operations.

In FY 94, ADF&G reviewed over 700 placer mining operations in addition to numerous major hard rock mine proposals and several dozen mining-related applications (e.g., cross-country access, water withdrawals). The average review time for all applications was 8 days. Approximately 400 Fish Habitat permits were issued for these activities. At a minimum, the proposed measure would require ADF&G to forward all of the draft Fish Habitat Permits to ADNR for comment and approval before issuance of the permits. In light of ADNR's already critical staffing shortage, we estimated the additional review loop will add 2 to 4 weeks to each permit's review time. Since a large number of applications are not received until just prior to the summer field season, the increased review time could delay start-up for many applicants. An estimated 2 weeks annually of staff time will be dedicated to additional copying and mail out.

During the first year of implementation, it will be necessary for ADF&G to commit significant staff resources simply to bring DNR up to speed on ADF&G permitting requirements and the rationale for specific permit conditions. We estimate this will require four to six additional staff months statewide. Joint field reviews will be needed in many instances to fully communicate permitting needs to DNR.

In subsequent years, some additional time (two months annually) will be needed for further discussions as (1) permit conditions change, (2) new site considerations require modified approaches and (3) to help defend DNR from final permit challenges and appeals. Annually, we estimate that 10 to 20 applications will be sufficiently controversial to be elevated to the directors and/or resource cabinet for final resolution. Annual staff commitments to fully prepare and brief these elevations may total one month.

We support establishment of integrated project review teams for large, complex developments. Similar approaches in the past have benefited both the state and mine proponents. It must be recognized, however, that all previous successful project review teams simply integrated the statutory functions of each resource agency -- they did not consolidate final authority in a single agency.

It must also be recognized that establishment of joint project review teams will result in increased agency staff commitments and costs to the applicant and the state. For major, complex projects, these additional costs and staff requirements may be warranted. For routine placer mining applications, however, establishment of joint review teams will significantly increase the cost and timeline for obtaining necessary authorizations, with no known benefit for either the applicant or the state.

FISCAL NOTE

J. 4
 Bill Version: CS HB 169(RES)
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Defining the scope of the responsibility of DNR for BRU: Habitat and Restoration
regulating the development of the mineral resources of the state. Component: Habitat
 Sponsor: Rep(s) Kott, Williams, Kelly, MacLean
 Requester: Resources COMPONENT SERIAL NO. 488

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

If amended as proposed by ADF&G, the legislation simply confirms by law ADF&G's established practice of consulting with other state agencies prior to adopting, repealing, or modifying regulations. Traditionally, ADF&G also has consulted with other affected agencies and constituencies prior to adopting major policy revisions. Confirming this consultation by law will not increase ADF&G's fiscal costs.

If the intent of the legislation, however, is to require ADF&G to coordinate each and every permitting decision with the DNR prior to permit issuance, the department will incur additional time delays and staffing requirements. A revised fiscal note will need to be prepared once the intent of this legislation is clarified.

Prepared by: Ellen Fritts, Acting Director
 Division: Habitat and Restoration
 Approved by Commissioner: Simon Bruce for Frank Rue
 Agency: _____

Phone: 465-4105
 Date: 2/23/95
 Date: 2/24/95

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FISCAL NOTE

2.3
 Bill Version: CS HB 169(RES)
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: Relating to the scope of responsibility of the Dept. of Natural Resources for regulating development of mineral resources BRU: Office of Management and Budget
 Component: Governmental Coordination
 Sponsor: Representative Kott
 Requester: _____ COMPONENT SERIAL NO. 18

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0	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)

The Division of Governmental Coordination (DGC) coordinates the consistency review of projects that require federal permits or permits from 2 or more State agencies. If a proposed mining project required these type of permits, DGC would coordinate the State's consistency review. For mining projects, DGC routinely seeks the input from the Department of Natural Resources, as required by this bill. Current review procedures meet the intent of the bill, therefore DGC anticipates no fiscal impact.

Prepared by: Kerry Howard, Acting
 Division: Governmental Coordination
 Approved by Commissioner: [Signature]
 Agency: [Signature]

Phone: 465-3562
 Date: 2/24/95
 Date: 2/24/95

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FISCAL NOTE

No. 2

Bill Version: CS HB 169(RES)

BILL NO.

(H) Publish Date: 2/27/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
Title: ...responsibility of DNR for regulating
the development of mineral resources...
Sponsor: Rep Kott
Requestor: Hs (RES)

Department Affected: Environmental
Conservation
BRU: Administration
Component: Commissioner's Office

COMPONENT SERIAL NO. 633

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	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
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHT:A	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS:

FULL-TIME	0	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.)

Prepared by: Larry Jones
Division: Director, Information and Administrative Services

Phone: 465-5010
Date: 2/24/95

Approved by Commissioner: Lawrence Jones
Agency: Department of Environmental Conservation

Date: 2/27/95

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FISCAL NOTE

No. 1
 Bill Version: CS HB 169(RES)
 (H) Publish Date: 2/27/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: An Act defining the scope of the responsibility of the BRU: Resource Development
 Department of Natural Resources for regulating ... mineral resources... Component: Mining Development
 Sponsor: Representative(s) Kott, Williams
 Requestor: _____ Component Serial No. 442

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	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

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ None

POSITIONS	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME	0	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)

There is no anticipated fiscal impact for the Department of Natural Resources with implementation of this legislation.

Prepared by: Jules Treston, Director Phone: 745-2165
 Division: Mining & Water Management Date: 16-Feb-95
 Approved by Commissioner: [Signature] Date: 2-16-95
 Agency: Natural Resources

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SENATE COMMITTEE REPORT

DATE: 3/6/95

FURTHER:

DATE TURNED INTO OFFICE: 4-10-95

True

Resources Committee considered CS FOR HOUSE BILL NO. 169(RES)

"An Act defining the scope of the responsibility of the Department of Natural Resources for regulating the mineral resources of the state."

and recommends:

- be replaced with SENATE CS HB 169 (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 change
- new: SCR _____



SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>was passed?</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			
<i>Adrian Taylor</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Arew A Lewis</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
DF-G	3/27	<input checked="" type="checkbox"/>	
OMB	2/27	<input checked="" type="checkbox"/>	
DCC	2/27	<input checked="" type="checkbox"/>	
DNR - MINING	2/27	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

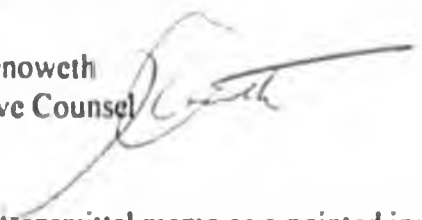
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 8, 1995

SUBJECT: SCS CSHB 169 (Resources), relating to lead agency status for the Department of Natural Resources (Work Order No. 9-LS0679\K)

TO: Senator Loren Leman, Chair
Senate Resources Committee
ATTN: Annette Kreitzer

FROM: Jack Chenoweth
Legislative Counsel 

I take the last sentence of your transmittal memo as a pointed indication that the bill title is not to be changed.

For that reason, I will advise you, as I did the amendment sponsor:

In light of the material included in the amendment, we could probably fence over the necessity of changing the bill title until the cows come home and not come to agreement. However, the notice requirement for bills is, as you know, a constitutional requirement, not to be lightly trifled with. Bill titles serve the purpose of ensuring that reasonable notice is given, to legislators and to the general public, of a measure's content. Where, as here, the amendment proposes what, I think you would have to agree, would be extraordinarily significant changes in the operation of state laws relating to mining and management of mineral resources by assigning the final role, in all cases ("notwithstanding any other provision of state law"), to the Department of Natural Resources, without any attempt to identify or show other specific statutory changes that the amendment affects, then the bill title is the sole source of general notice about the content of the amendment. This bill has potentially far reaching consequences, and I would suggest the need for an appropriate title change to reflect that.

As you know, title changes necessitated by amendments (other than clerical or technical amendments) made or proposed to a bill in the second house--the house not of the bill's origin--are prohibited under the legislature's Uniform Rule 24(c) unless a concurrent resolution suspending operation of this and other related rules accompanies the measure.

Senator Loren Leman

April 8, 1995

Page 2

JBC:lmb

95-167.lmb

Enclosure



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Memo

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

TO: Legal Services
Via Fax: 2029 *2 pages*

FROM: Annette E. Kreitzer, Aide to *AK*
Senate Resources Committee

DATE: April 8, 1995

RE: Committee Substitute for HB 169

Please draft a FINAL Committee Substitute for CS HB 169(RES) incorporating the attached amendment LS0679\G.2 by Chenoweth dated 4/4/95.

Deliver the final to Senator Leman's office, Capitol Room 115. There are no other changes to this bill.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 169(RES)

1 Page 1, lines 5 - 11:

2 Delete all material and insert:

3 "(b) The department is the lead agency for all matters relating to the
4 exploration, development, and management of mining and, notwithstanding any other
5 provision of state law, shall make the final determination on all regulatory matters
6 concerning mineral resource exploration and development and the management of
7 mining and associated activities. Another state agency may advise or consult with the
8 department in making its determination."

Alaska State Legislature House of Representatives

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SECTIONAL ANALYSIS CSHB 169(RES) - 9-LS0679\G

- Section 1. Adds a new section to AS 27.05.010, the statutes defining the Department of Natural Resources' role in mining resource development and mining regulation. It designates the Department as the lead agency or coordinator in all regulatory matters concerning mineral exploration.



Representative Pete Kott



Mr. Chairman, I am Jules Tileston, Director of Mining and Water Management for the Department of Natural Resources. The Administration has not yet finished its evaluation of some of the aspects of HB 169. Accordingly, my comments will be of a technical nature.

HB 169 would establish DNR as lead agency for all matters relating to the exploration, development, and management of mining. This includes coordination of all regulatory matters concerning mineral resources and associated activities. Other state agencies that have regulatory authority over mining actions would consult with and drawn upon the mining expertise of the department. These actions would be accomplished by adding a new paragraph to AS 27.05.010. That paragraph designates DNR as the lead agency and requires other State and local entities to consult with the department on matters dealing with the exploration, development, and production of mineral resources.

HB 169 implements a January 1995 Finding of the Minerals Policy Commission that there are several State agencies asserting management authority over State lands. The administration of multiple mandates that impact prudent mining activity in Alaska has created a complex bureaucracy with multiple agencies having at least some regulatory input on the variety of permits that must be obtained to search for and develop mines that provide local jobs and enhance the local economy. The Commission concluded that the number of permits, the time required to secure those permits, the number of agencies, and the costs to obtain the permits has become excessive. The Commission also found that the recent experiences associated with the DNR led permitting for the Fort Knox Mine at Fairbanks demonstrates the benefit of having a coordinated State approach to permitting a mine. The DNR coordination was effective because all of the permitting agencies agreed to work together on a common schedule that was mutually developed by the State and Federal permitting agencies and the applicant. Further, a cooperative agreement was developed by the State agencies and the applicant whereby the applicant funded major permit work. This funding was handled through DNR and made available to the participating State agencies in accord with their commitment to complete defined work within the agree-to schedule. This DNR coordination resulted in the issuance of permits in an expedited, yet thorough manner with full

public involvement. After review of the strengths and successes of the coordination process used by DNR on the Fort Knox Mine, USMX has requested

DNR to implement a similar coordinated permit process for the proposed Illinois Creek Mine on CIRI held State mineral leases.

169 would create a consistent approach to evaluating and permitting mineral exploration, development, and management of mining which is not now present. DNR has the in-house expertise in the Division of Mining and Water Management, Division of Geological and Geophysical Surveys, Division of Agriculture Plant Materials Center, and Division of Land to act as the lead coordinating agency for mining in Alaska. The Division of Mining and Water Management is responsible under AS 27.19 for state-wide mine reclamation regardless of ownership and for all mining conducted on State owned land and for mining where the surface has been transferred to local governments under Municipal entitlements or to private individuals. Other state-wide decisions, regardless of land ownership, in support of mining by the division include dams, temporary water use, and water rights. The Division of Land is frequently involved in mine decisions for access to the mine across State-owned uplands and for use of State-owned tide lands. Both DGGs and the Plant Material Center have technical expertise that provide valuable input to some mineral activities.

The DNR approach to "coordination" in both the Fort Knox Mine and the Illinois Creek Project is to provide a senior DNR project manager that has a demonstrated ability to work well with other agencies, ability to identify potential problems and facilitate workable solutions, ability to meet long-term schedules that have intermediate key dates, and ability maintain project budgets within established limits.

"Coordination" does not mean that DNR takes on the permitting or regulatory authorities of other entities. Likewise, the requirement to "consult with" and "draw upon the mining expertise" of the department does not mean that DNR can arbitrarily or capriciously direct another entity to do something that is against that

entities law or regulation. These terms, however, do imply that the evaluation and decision processes associated with mining in Alaska be consistent and uniformly applied.

Accordingly, it is recommended that HB 169 make it very plain that existing state and local responsibilities and authorities are not diminished or relocated to DNR. In 1990 when the Legislature was determining how to develop an effective reclamation program this issue was addressed in AS 27.19.010(d) as follows:

"This chapter does not alter or diminish the authority of another state agency, a state corporation, the University of Alaska, or a municipality under its laws and regulations."

This provision has now been effect for approximately four years and I am unaware that agency jurisdiction or authority for handling reclamation issues on mining properties has been an issue. Reclamation projects that are routinely reviewed and approved include small and large placer mines on State and Federal lands or for large mining projects such as the Red Dog Mine which is entirely on NANA holdings or the Fort Knox Mine which has a combination of entities, including Mental Health land. Similarly, DNR has been the lead agency for one-stop permitting for the Annual Placer Mine Application for State and Federal ownerships that are within and outside the boundaries of Coastal Zone Districts.

Therefore, it is recommended that language similar to that of AS 27.19.010 be added after the last word on line 11 of the HB 169.

Mr. Chairman that concludes my prepared statement.

Alaska State Legislature House of Representatives

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PHONE (907) 465-3777
FAX (907) 465-2819

TO: Senator Loren Leman, Chair
Senate Resources Committee

FROM: Representative Pete Kott

DATE: March 6, 1995

RE: HB 169

Please schedule CSHB 169(RES) for a hearing in the Senate Resources Committee.

This legislation amends AS 27.05 to make the Department of Natural Resources the lead agency for regulations that affect the development or management of mineral resources.

By appointing a single department, the one that houses the Division of Mining & Water Management, as the coordinating agency for regulations that affect the management of mineral resources in Alaska, consistency of policy and regulatory interpretation should result. It should also simplify input and comment by private citizens during the regulation adoption process. This legislation does not alter the statutory or regulatory authority of the other agencies involved with the mining industry; Fish & Game, Environmental Conservation and the Division of Governmental Coordination in the Governor's Office.

I have enclosed a copy of the sectional analysis and sponsor statement for the committee's bill files.

Thank you in advance for scheduling HB 169 for a hearing in the Senate Resources Committee.



Representative Pete Kott



Alaska State Legislature House of Representatives

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SPONSOR STATEMENT HB 169

One of the toughest problems the Alaskan public faces when dealing with state government is knowing which agency to contact.

HB 169 would designate the Department of Natural Resources(DNR) as the lead agency for regulations dealing with mining development and regulation. Three and some times four agencies of the Executive Branch are involved in the regulation of mining. By designating DNR as the lead agency an individual who contacts the state in regard to mining will know to contact DNR and they will coordinate the interface with other state agencies. It should also mean that a single agency has complete knowledge of the program.

I urge your support for this legislation.

Sponsor Statement

Representative Pete Kott



Alaska State Legislature House of Representatives

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SECTIONAL ANALYSIS CSHB 169(RES) - 9-LS0679\G

- Section 1. Adds a new section to AS 27.05.010, the statutes defining the Department of Natural Resources' role in mining resource development and mining regulation. It designates the Department as the lead agency or coordinator in all regulatory matters concerning mineral exploration.



Rej Sectional Analysis tt





ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone (907) 276-0347

February 24, 1995

Honorable Joe Green
Co-Chairman
House Natural Resources Committee
State Capitol
Juneau, AK 99801

RE: HB-169, DNR as Lead Agency

Dear Representative Green,

On behalf of the Alaska Miners Association I wish to go on record in support of House Bill 169 which would designate the Department of Natural Resources as the lead agency in mining projects.

House Bill 169 will insure that the Department of Natural Resources, the State's land management agency, will be the lead agency for "all matters relating to the development and regulation of mining". The DNR is the only department with the expertise to deal with the full range of issues that must be addressed for mining projects. This lead agency status will not affect the statutory authorities of other departments but will provide a single focal point for mining issues.

The permitting of the Fort Knox Mine is a prime example of how this lead agency approach can work. This was the first major mine to be permitted with a lead agency "project" approach and this greatly increased the efficiency of all the agencies involved. Everyone within the various state agencies, as well as within the industry, knew exactly where to go when they had questions. The DNR was able to bring the necessary mining, land, water, etc. expertise to the discussion as needed and in the most efficient manner.

The use of the DNR as lead agency will be of value to both the State and the industry. For the State it will result in lower costs and less confusion and duplication of effort for permitting or other work with mining projects. For the mining industry it will mean clearer lines of communication and less duplication of effort and a more orderly, and hopefully less time-consuming permitting process.

We urge passage of this bill.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Representative Pete Kott

DAVID E. ROGERS, ESQUIRE

211 FOURTH STREET, SUITE 104

P.O. BOX 33092

JUNEAU, ALASKA 99803

TELEPHONE (907) 586-1107

FAX (907) 586-1007

February 27, 1995

House Resources Committee
Capitol Building
Juneau, Alaska 99811

Dear Committee Members:

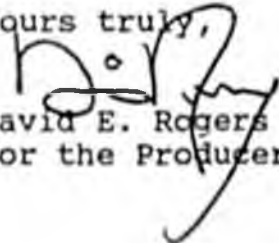
This letter is submitted on behalf of the Council of Alaska Producers (Producers Council) in conceptual support of HB 169. This bill, which was recommended by the Alaska Minerals Commission in its January 1995 Report, would designate the Department of Natural Resources as the "lead agency" in all "matters relating to the development and regulation of mining."

As you probably know, the permitting process for mining projects can be quite a challenge. It involves multiple agencies and is often extremely complicated, cumbersome and expensive. Based on the recent experience with the Fort Knox operation in Fairbanks, we believe that this commonsense idea of permanently establishing a single source for providing information and coordinating mining regulatory programs will result in a more manageable public process saving both the state and the regulated community precious time and money.

We understand and acknowledge that this is a procedural measure only; there is no intention to tinker with existing regulatory powers, duties or jurisdiction of other departments and agencies.

Our sincere thanks to bill sponsor Rep. Kott for introducing this legislation and to the House Resources Committee for giving it early attention.

Yours truly,


David E. Rogers
For the Producers Council

HB

191

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSHB 191(FIN)

Revision Date: Original Dept Affected Natural Resources
 Title: "An Act relating to the management and disposal of state land and resources; ..." BRU: Management and Administration
 Sponsor: Reps. Theriault, James and Brice Component: Information Resource Management
 Requester: Senate Resources Component Serial No. 427

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	65.0					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	65.0	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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	65.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	65.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

HB191 revises the current land disposal program and adds a new Remote Cabin Site/Lease program. The Department of Natural Resources is responsible for tracking all resource activity on state land. The programs introduced in this bill require the department's current land record systems to be modified to track this new information. Modifications must be made in the Revenue and Billing System to track new lease rentals, homesite permit fees, and remote cabin site revenue. Modifications must be made in the Land Administration System to track the new programs, which requires setting up case types and transactions. And, modifications must be made in the Land Status GIS system to map the new activities on state status plats, the state's graphic land record maps of land ownership and resource activity. The costs for these modifications is \$18.0.

Section 4 changes the department's classification reporting requirement to the legislature. To accurately report total acres in selected classification categories, the department must enter all outstanding classification

Prepared by: Marco Elias, Acting Director Phone: 465-2406
 Division: Support Services Date: 28-Feb-98
 Approved by Commissioner: [Signature] Date: 28-Feb-98
 Agency: Natural Resources

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Fiscal Note for CSSH B 191 (FIN)

orders on the department's computer database, the Land Administration System, then develop a report that can be generated every other year. Once all the classifications have been entered, the department will maintain that information and the report will be automatically generated without additional labor costs. The one time cost to bring the department's records up to date and develop the report is \$47.0. Without this funding, the report must continue to be manually created by staff researching two years of classification orders, tallying the acres by classification, determining which classifications supersede previous classifications, and estimating the remaining acreage in each classification category. This information is then compiled with the historic classification report, which may or may not accurately account for the total acres in each classification category being requested. By using the computer to track the classification acres, the department will be able to report this information at a fraction of the cost it takes to do it manually.

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSSHB 191 (Fin)

1996 LEGISLATIVE SESSION

Revision Date: 16-Jan-98 Dept Affected Natural Resources
 Title: An Act relating to the management and disposal of state land and resources... BRU: Resource Development
 Component: Land Development
 Sponsor: Representative Therriault
 Requestor: Senate Resources Component Serial No. 431

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02	
PERSONAL SERVICES	125.0	125.0	125.0	125.0	125.0	125.0	
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0	
CONTRACTUAL SUPPLIES	20.0	20.0	20.0	20.0	20.0	20.0	
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	150.0	150.0	150.0	150.0	150.0	150.0	
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	
CHANGE IN REVENUES (1005)	213.8	289.0	383.0	488.0	552.0	610.0	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts	150.0	150.0	150.0	150.0	150.0	150.0	
1008 GF/MHTIA							
Other							
TOTAL	150.0	150.0	150.0	150.0	150.0	150.0	

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

POSITIONS		FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME		2	2	2	2	2	2
PART-TIME		0	0	0	0	0	0
TEMPORARY		0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The operating expenditures are necessary to offset the elimination of the positions in the FY 97 proposed budget. The program was reduced based on the current law that says that shore fishery leases are non-mandatory and that only reasonable administrative costs to cover the expenses of the program can be charged. With passage of HB 191 fair market value for the leases may be charged when they come up for renewal. The two positions that administer the program need to be funded so that the additional revenue to the state can be realized.

The changes proposed in this bill will generate more revenues for the state based on increased revenues for aquatic farm and shore fishery leases; increased applications and service fees for land disposals; and a requirement that all land disposals be for at least fair-market value.

Prepared by: Ron Swanson Phone: 289-8503
 Division: Land Date: 16-Jan-98
 Approved by Commissioner: [Signature] Date: _____
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSS HB 191 (FIN)

Revision Date: _____ Dept. Affected: Department of Law
 Title: *An Act relating to the management and disposal BRU: Civil Division
of state land and resources . . . Component: General Legal Services
 Sponsor: Representative Theriault
 Requester: House Resources Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill substantially revises Title 38, relating to the disposal of state land and resources, particularly remote parcel and homestead entry land purchase transactions. Most of the revisions have the effect of clarifying existing law and make the disposal process more efficient and up-to-date. Consequently, the bill will not have a fiscal impact for the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/12/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/12/96
 Agency: Department of Law

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**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/11/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 1-30-96

The Resources Committee considered CS SSB 191(FIN)

Management and disposal of state land and resources; relating to certain remote parcel and homestead entry land purchase contracts and patents; efd.

and recommends:

- be replaced with SEN CS HB 191 (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^e

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Adrian Taylor</i>	<input checked="" type="checkbox"/>	<i>Rick Halford</i> <i>Kealce</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Loren D. Selman</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Secret</i> <i>trans to</i> <i>Committee</i> <i>1/11/96</i>			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 191(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, James, Brice

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the management and disposal of state land and resources;
2 relating to certain remote parcel and homestead entry land purchase contracts
3 and patents; and providing for an effective date."

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

5 ▪ Section 1. AS 09.10.120 is amended by adding a new subsection to read:

6 (b) Notwithstanding (a) of this section or any other provision of law, the state
7 may bring an action in the name of or for the benefit of the state to (1) quiet or
8 confirm the state's interests in real property, or (2) protect resources held in trust for
9 the public, at any time.

10 ▪ Sec. 2. AS 38.04.010(b) is amended to read:

11 (b) State land that is located beyond the range of existing schools and other
12 necessary public services, or that is located where development of sources of
13 employment is improbable, may be made available for seasonal recreational purposes
14 or for low density settlement. The seasonal recreation use or low density settlement

1 shall have sufficient separation between residences so that public services will not be
2 necessary or expected. The availability of timber, firewood, and water resources shall
3 be considered in determining separation between residences. By considering the
4 availability of timber, firewood, and water under this subsection or in making any
5 disposal decision, the state does not by virtue of that consideration imply any
6 right of the person receiving the disposal to an exclusive or other right to the
7 timber, firewood, or water, that the state will not make any other disposals in the
8 area, or that any disposals made will be limited in type or any other manner.

9 * Sec. 3. AS 38.04.020(a) is amended to read:

10 (a) State [THE COMMISSIONER SHALL ESTABLISH A] land disposals
11 must include [DISPOSAL BANK CONTAINING] state land identified and classified
12 under adopted regional land use plans for disposal into private ownership.

13 * Sec. 4. AS 38.04.020(b) is amended to read:

14 (b) State [THE] land disposals may [DISPOSAL BANK DOES] not include
15 (1) land nominated for selection or selected by a municipality to satisfy
16 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;
17 (2) land retained in state ownership for multiple-use management;
18 (3) land where less than a fee simple title has been conveyed;
19 (4) land retained in state ownership under an enactment of the
20 legislature or by the governor or a state agency under authority of law.

21 * Sec. 5. AS 38.04.020(d) is repealed and reenacted to read:

22 (d) By January 15 of the first regular session of each legislature, the
23 commissioner shall notify the legislature that the commissioner has available a report
24 on the total acreage of land planned and classified as suitable under this title for

25 (1) settlement purposes, including homestead, commercial, or industrial
26 disposal;

27 (2) agricultural disposal; and

28 (3) grazing leases.

29 * Sec. 6. AS 38.04.020(e) is repealed and reenacted to read:

30 (e) The commissioner may annually submit to the governor an appropriation
31 request for the entire amount of funding estimated to be necessary for each project

1 proposal to allow survey and disposal of land proposed to be offered for (1) homestead
2 staking under AS 38.09; (2) agricultural, commercial, industrial, or other uses under
3 AS 38.05.055 or 38.05.057; or (3) other subdivisions. Each project proposal shall
4 include the general location of the land and the estimated cost of preliminary feasibility
5 studies, engineering design work, right-of-way acquisition, and construction of access
6 roads and capital improvements required by municipal subdivision ordinance or
7 regulation of the platting authority or otherwise necessary to develop and market the
8 land.

9 * Sec. 7. AS 38.04.020(g) is amended to read:

10 (g) The [AFTER JULY 1 OF EACH YEAR, THE] commissioner shall direct
11 the expenditure of money appropriated for the disposal of land in response to requests
12 made under (e) [AND (f)] of this section for the following:

13 (1) land [LAND] designated as suitable for homestead disposal shall
14 be [CLASSIFIED AND] surveyed under this chapter and AS 38.05 and made available
15 for entry [STAKING AND LEASE] under AS 38.09; [.]

16 (2) land [LAND] designated as suitable for subdivision and homesite
17 disposal shall be surveyed, subdivided, [CLASSIFIED,] and disposed of under this
18 chapter, AS 38.05, and AS 38.08; [.]

19 (3) land [LAND] designated agricultural, commercial, industrial, or
20 suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

21 * Sec. 8. AS 38.04.020(h) is amended to read:

22 (h) Individual parcels disposed of in subdivisions intended for private
23 residential or recreational use may not exceed five acres unless the commissioner
24 determines that a larger size is necessary to comply with municipal ordinances; [.] to
25 permit the design of a viable subdivision because of topographical features, soil
26 conditions, on-site sewage disposal requirements, or water drainage or supply
27 considerations that are unique to the subdivision; to increase the return to the state
28 from the sale of the parcels; [.] to minimize adverse effect on wildlife, fishery, public
29 recreation, timber, or other significant resources in the area; [.] or to minimize adverse
30 effect on other residential uses in the area.

31 * Sec. 9. AS 38.04.020(i) is amended to read:

1 (i) Nothing in this section prevents the disposal of other land by the
2 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of
3 remote recreational cabin site leases or sales [PERMITS] under AS 38.05.600
4 [AS 38.05.079], AS 38.08, AS 38.09, or other law.

5 * Sec. 10. AS 38.04.021(a) is amended to read:

6 (a) A municipality may apply for financial assistance for the execution of a
7 land disposal program of general grant land entitlements received from the state under
8 AS 29.65 or former AS 29.18.201 - 29.18.213 by submitting a request to the
9 commissioner for inclusion in the request submitted to the governor [LEGISLATURE]
10 under AS 38.04.020(e). A municipality may request financial assistance for expenses
11 of surveying land, designing subdivision plats, installing improvements required by
12 municipal ordinance or regulation of the local platting authority, and other reasonable
13 direct costs of land disposal.

14 * Sec. 11. AS 38.04.021(b) is amended to read:

15 (b) A request by a municipality under this section must be accompanied by
16 (1) a schedule for the disposal of municipal land for the next five years:
17 the schedule shall be based on an assessment of the demand for private land within the
18 municipality [AND INCLUDED IN THE ASSESSMENT SUBMITTED UNDER
19 AS 38.04.020(f)];
20 (2) an estimate of the number of acres of municipal land that the
21 municipality plans to dispose of during each fiscal year of the five-year period;
22 (3) a description of the methods to be used for the disposal of
23 municipal land and the terms under which it will be offered to the public; and
24 (4) a description of the municipal land that the municipality plans to
25 dispose of each fiscal year during the five-year period.

26 * Sec. 12. AS 38.04.030 is amended to read:

27 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs that may
28 be used by the director to make the state's land surface available for private use under
29 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple
30 estate, including conveyance of agricultural use rights; leasing; [OPEN-TO-ENTRY;]
31 homesiting; homesteading; permitting for construction and occupation of cabins in

1 isolated locations on land retained in state ownership; and other methods as provided
2 by regulation or other law. Notwithstanding a contrary provision of this title, a
3 land availability program adopted by regulation must provide for competitive
4 disposal, based on no less than fair market value, to serve the best interests of the
5 state.

6 * Sec. 13. AS 38.04.035 is amended to read:

7 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
8 which land availability program is appropriate for state land in different locations, the
9 director shall be guided by the following criteria:

10 (1) to cover public costs associated with private land use and to provide
11 the public with a fair return for publicly owned property, conveyance of state land to
12 private parties shall [SHOULD] be at fair market value except where otherwise
13 authorized by statute, or by an administrative regulation the adoption of which is
14 specifically permitted by statute:

15 (2) sale or lease programs should be used where land is readily
16 accessible to a major community center or where, because of a prime location on
17 waterfront or a transportation route or some other location characteristic, land has
18 relatively high real estate value;

19 (3) sale programs are preferred but lease programs may [SHOULD] be
20 used

21 (A) where special land use controls are required and there is a
22 high public interest in having certain types of land used for particular purposes;

23 (B) when the intended use is a temporary one;

24 (C) in commercial or industrial situations when a leasehold can
25 provide cash flow advantages to the lessee;

26 (D) when a unique location with special public values is
27 involved, as in a deep water port, hydroelectric site, or aquaculture facility;

28 (E) where current demand for private use is high, but
29 projections suggest that, in the future, the land may be more valuable for public
30 use, as in accessible waterfront recreation areas;

31 (4) [FOR ENABLING ISOLATED CABIN DEVELOPMENT IN

1 REMOTE LOCATIONS WHERE SURVEY AND CONVEYANCE IS
2 IMPRACTICAL, OR WHERE DISPOSAL OF LAND WOULD CAUSE POTENTIAL
3 CONFLICTS WITH OTHER RESOURCES AND USES, OR WHERE A LONG-
4 RANGE INTEREST IN PUBLIC OWNERSHIP AND USE EXIST, A SYSTEM FOR
5 CABIN PERMITS ON PUBLIC LAND MAY BE USED;

6 (5) limited or conditional title may be granted when the state's best
7 interest so dictates; among other things, title limitations may include grants of
8 agricultural interest only, retention of development rights, and retention of scenic or
9 other easements; a conditional title may be tied to a development schedule or other
10 standards of performance.

11 * Sec. 14. 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,
14 approved survey exists that has been conducted by the federal Bureau of Land
15 Management. Before land may be offered under [AS 38.05.055, 38.05.057,] AS 38.08
16 [.] or AS 38.09, or before land may be offered under AS 38.05.055 or 38.05.057,
17 except land that is classified for agricultural uses, an official rectangular survey grid
18 shall be established. The rectangular survey section corner positions shall be
19 monumented and shown on a cadastral survey plat approved by the state. For those
20 areas where the state may wish to convey surface estate outside of an official
21 rectangular survey grid, the commissioner may waive monumentation of individual
22 section corner positions and substitute an official control survey with control points
23 being monumented and shown on control survey plats approved by the state. The
24 commissioner may not issue more than one conveyance for each section within a
25 township outside of an official rectangular survey grid. Land [NO PORTION OF
26 LAND] to be conveyed may not be located more than two miles from an official
27 survey control monument except that the commissioner may waive this requirement
28 on a determination that a single purpose use does not justify the requirement if the
29 existing status of the land is known with reasonable certainty. The lots and tracts in
30 state subdivisions shall be monumented and the cadastral survey and plats for the
31 subdivision shall be approved by the state. Where land is located within a

1 municipality with planning, platting, and zoning powers, plats for state subdivisions
2 shall comply with local ordinances and regulations in the same manner and to the same
3 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
4 and recorded in the district recorder's office. The requirements of this section do not
5 apply to land made available [THROUGH A CABIN PERMIT SYSTEM,] for material
6 sales, for short-term leases, or for parcels adjoining a surveyed right-of-way, [OR FOR
7 LAND THAT HAS BEEN OPEN TO RANDOM STAKING UNDER THE REMOTE
8 PARCEL PROGRAM OR HOMESTEAD PROGRAM IN THE PAST]; however, for
9 short-term leases, the lessee shall [MUST] comply with local subdivision ordinances
10 unless waived by the municipality under procedures specified by ordinance. In this
11 subsection, "a single purpose use" includes a communication site, an aid to navigation,
12 and a park site.

13 * Sec. 15. AS 38.05.050 is amended to read:

14 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
15 commissioner shall determine the land to be disposed of for private use. The
16 commissioner shall determine the time and place of disposal. An auction sale, a
17 lottery sale, or a disposal of land for homesites may [SHALL] be held in a community
18 that is near the land to be sold or disposed of.

19 * Sec. 16. AS 38.05.055, as amended by sec. 1, ch. 3, SLA 1996, is amended to read:

20 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of
21 sale is required under this chapter, [AS 38.07, OR] AS 38.08, or AS 38.09, the sale
22 of state land shall be made at public auction to the highest qualified bidder as
23 determined by the director. The director may accept bids and sell state land under this
24 section at no less than 70 percent of the appraised fair market value of the land. To
25 qualify to participate under this section in a public auction of state land that is other
26 than commercial, industrial, or agricultural land, a bidder shall have been a resident
27 of the state for at least one year immediately preceding the date of the auction and
28 submit proof of that fact, as the commissioner requires by regulation. [A BIDDER
29 MUST APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL REASONS,
30 ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE THE STATE
31 PREVENT ATTENDANCE.] A bidder may be represented by an attorney or agent

1 at the auction [IF THE LAND OFFERED FOR DISPOSAL IS COMMERCIAL,
2 INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved bidder may appeal to
3 the commissioner within five days after the sale for a review of the director's
4 determination. The sale shall be conducted by the director and at the time of sale the
5 successful bidder shall deposit an amount equal to five percent of the purchase price.
6 The director shall immediately issue a receipt containing a description of the land or
7 property purchased, the price bid, and the amount deposited. The receipt shall be
8 acknowledged in writing by the bidder.

9 * Sec. 17. AS 38.05.057(a) is amended to read:

10 (a) The commissioner may dispose of land, including land limited to use for
11 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
12 the fair market value of the land as determined by the commissioner. The
13 commissioner may sell land by lottery for less than the fair market value of the land
14 on a determination that scarcity of land for private use in the area of the land to be
15 sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL
16 CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE
17 DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN
18 THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The
19 lottery shall be conducted in public by the commissioner. A [AN APPLICANT MAY
20 NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS
21 PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS
22 CONDUCTED UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
23 MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN
24 APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE
25 LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL,
26 INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY
27 A] purchaser selected by lot shall deposit an amount equal to five percent of the
28 purchase price within 30 days after receiving notification of the selection.

29 * Sec. 18. AS 38.05.065(a) is amended to read:

30 (a) The contract of sale for land sold at public auction under AS 38.05.055
31 shall require the remainder of the purchase price to be paid in monthly, quarterly, or

1 annual installments over a period of not more than 20 years, with interest at the
2 [PREVAILING] rate provided in (i) of this section [FOR REAL ESTATE
3 MORTGAGE LOANS MADE BY THE FEDERAL LAND BANK FOR THE FARM
4 CREDIT DISTRICT FOR ALASKA AT THE TIME THE CONTRACT IS SIGNED].

5 Installment payments plus interest shall be set on the level-payment basis.

6 * Sec. 19. AS 38.05.065(b) is amended to read:

7 (b) The contract of sale for land sold under AS 38.05.057 or under former
8 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
9 quarterly, or annual installments over a period of not more than 20 years. Installment
10 payments plus interest shall be set on the level-payment basis. The interest rate to be
11 charged on installment payments is the [PREVAILING] rate provided in (i) of this
12 section [FOR REAL ESTATE MORTGAGE LOANS MADE BY THE FEDERAL
13 LAND BANK FOR THE FARM CREDIT DISTRICT FOR ALASKA AT THE TIME
14 THE CONTRACT IS SIGNED].

15 * Sec. 20. AS 38.05.065 is amended by adding a new subsection to read:

16 (i) The interest rate for contracts under this section is the prime rate as
17 reported in the Wall Street Journal on the first business day of the month in which the
18 contract is sent to the purchaser for signature, plus 4 percent; however, the total rate
19 of interest may not exceed

20 (1) 9.5 percent, in contracts for the sale of land classified under
21 AS 38.05.020(b)(6) for agricultural uses; or

22 (2) 13.5 percent, in other contracts for the sale of land.

23 * Sec. 21. AS 38.05.067(d) is amended to read:

24 (d) This section does not apply to the sale of state land under AS 38.05.057,
25 AS 38.08, or [AS 38.04.020(g)(2) AND] AS 38.09.

26 * Sec. 22. AS 38.05.069(a) is amended to read:

27 (a) On a determination that the highest and best use of unoccupied land is for
28 agricultural purposes and that it is in the best interests of the state to sell or lease the
29 land, the commissioner shall grant to an Alaska [ALASKAN] resident owning and
30 using or leasing and using land for agricultural purposes a first option at the auction
31 to purchase or lease the unoccupied land situated adjacent to land presently held by the

1 Alaska [ALASKAN] resident for the amount of the high bid received at public
2 auction. If more than one Alaska [ALASKAN] resident qualifies for a first option
3 under this section, eligibility for the first option shall be determined by lot and the
4 option must be exercised on the conclusion of the public auction. A parcel of
5 agricultural land sold under this section may not be less than 20 acres and a parcel of
6 agricultural land that is acquired by exercise of the option granted in this subsection
7 may not exceed 320 acres. Agricultural land that is acquired under this section must
8 be used for agricultural purposes as required by law.

9 * Sec. 23. AS 38.05.069(e)(2) is repealed and reenacted to read:

10 (2) "adjacent" means that a tract of land has one common boundary
11 point with presently held land or is separated from the presently held land only by a
12 physical barrier such as a road or stream.

13 * Sec. 24. AS 38.05.075(a) is amended to read:

14 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, [38.05.079,]
15 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.600, 38.05.810, and this section,
16 leasing shall be made at public auction to the highest qualified bidder as determined
17 by the commissioner. In the public notice of a lease to be offered at public auction,
18 the commissioner shall specify a minimum acceptable bid and the lease compensation
19 method. The lease compensation method shall be designed to maximize the return on
20 the lease to the state and shall be a form of compensation set out in AS 38.05.073(m).
21 An aggrieved bidder may appeal to the commissioner within five days for a review of
22 the determination. The leasing shall be conducted by the commissioner and the
23 successful bidder shall deposit at the auction the first year's rental or other lease
24 compensation as specified by the commissioner, or that portion of it that the
25 commissioner requires in accordance with the bid. The commissioner shall require,
26 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or
27 appraisal costs reasonably incurred by another qualified bidder acting in accordance
28 with the regulations of the commissioner or incurred by the department under
29 AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal
30 costs is determined by the commissioner to be the highest qualified bidder under this
31 subsection, the deposit shall be paid to the unsuccessful bidder who incurred those

1 costs or to the department if the department incurred the costs. All costs for survey
2 and appraisal shall be approved in advance in writing by the commissioner. The
3 commissioner shall immediately issue a receipt containing a description of the land or
4 interest leased, the price bid, and the terms of the lease to the successful qualified
5 bidder. If the receipt is not accepted in writing by the bidder under this subsection,
6 the commissioner may offer the land for lease again under this subsection. A lease,
7 on a form approved by the attorney general, shall be signed by the successful bidder
8 and by the commissioner within the period specified in the auction notice.

9 * Sec. 25. AS 38.05.082(b) is amended to read:

10 (b) The director may classify land as subject to leases for fisheries
11 development. In an area or region of the state for which a land use plan has not been
12 adopted under AS 38.04.065, the director may classify land for lease under this section
13 after notice under AS 38.05.945. The director may [SHALL] publicly invite
14 applications for lease of the selected areas. Each application shall be accompanied by
15 an affidavit to the effect that the applicant presently intends to personally utilize the
16 leased area for fishing purposes throughout the term of the lease. If only one
17 application is received, the commissioner may issue a lease at the rental rate
18 established under (c) of this section [THE FOLLOWING SEASON]. If two or more
19 applications are received for the same shore area, the director may offer [SHALL
20 AWARD] the lease to the most qualified applicant. In determining the qualifications
21 of applicants, the director shall consider the length of time during which the applicant
22 has been engaged in set netting, the proximity of the past fishing sites of the applicant
23 to the land to be leased, the present ability of the applicant to utilize the location to
24 its maximum potential, and other factors relevant to the equitable assignment of the
25 disputed area. If the director cannot determine a preference between conflicting
26 applicants for the same lease site on the basis of qualifications, the director shall select
27 between the applicants by lot. An aggrieved applicant may appeal to the commissioner
28 within 30 days for a review of the director's determination.

29 * Sec. 26. AS 38.05.082(c) is amended to read:

30 (c) A lease for set net fishing may be issued for any period not exceeding 10
31 years. If the commissioner determines that the land is not being utilized for the

1 purpose for which the lease is issued, the lease may be declared void. The annual
2 [DIRECTOR SHALL ESTABLISH A REASONABLE] rental rate for the lease is
3 \$300 [EQUAL TO THE ADMINISTRATIVE COSTS INVOLVED IN
4 PROCESSING THE LEASEHOLD APPLICATIONS].

5 • Sec. 27. AS 38.05.082(d) is amended to read:

6 (d) Subleasing and renewals of leases are governed by AS 38.05.095 and
7 38.05.102. Notwithstanding (b) of this section, a lease held under this section on
8 the effective date of this bill section may be renewed by the lessee if the lessee is
9 not in default under the lease and is not in violation of the terms and conditions
10 of the lease.

11 • Sec. 28. AS 38.05.083 is repealed and reenacted to read:

12 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES.

13 (a) The commissioner may offer to the public for lease at public auction under
14 AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or
15 related hatchery operations. Before a final decision to issue or renew a lease under
16 this section, the commissioner shall give notice and allow opportunity for comment in
17 accordance with AS 38.05.945, and may hold a hearing to take testimony. Before a
18 final decision to issue or renew a lease under this section, the commissioner shall
19 consider all relevant comment or testimony submitted under this section, AS 38.05.945,
20 or 38.05.946.

21 (b) The commissioner, for good cause, may deny an application for issuance
22 or renewal of a lease under this section, but shall provide the applicant with written
23 findings that explain the reasons for the denial.

24 (c) A site may be leased under this section for not less than the appraised fair
25 market value of the lease. The value of the lease shall be reappraised every five years.

26 (d) A lease under this section may be assigned, but if the assignee changes the
27 use of the site the lease reverts to the state.

28 (e) Before entering into a lease under this section, the commissioner shall
29 require the lessee to post a performance bond or provide other security to cover the
30 costs to the department of restoring the leased site in the event the lessee abandons the
31 site.

1 (f) The commissioner shall adopt regulations establishing criteria for the
2 approval or denial of leases under this section and for limiting the number of sites for
3 which leases may be issued in an area in order to protect the environment and natural
4 resources of the area. The regulations must provide for the consideration of upland
5 management policies and whether the proposed use of a site is compatible with the
6 traditional and existing uses of the area in which the site is located.

7 • Sec. 29. AS 38.05.090 is repealed and reenacted to read:

8 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON
9 TERMINATION OF LEASES. (a) Unless otherwise agreed to in writing by the
10 commissioner, a lessee shall remove from a former leasehold all personal property,
11 including above-ground and below-ground tanks, transportable buildings, equipment,
12 machinery, tools, and other goods, not belonging to the state, within 30 days after
13 termination of the lease.

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

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

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

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

29 (f) Improvements of a lessee that have become fixtures of the land and that
30 are not removed by that lessee upon termination of the lease shall be leased or
31 purchased by the subsequent lessee or purchaser of the land if the improvements were

1 authorized in the former lease or by permit from the director and if they have a net
2 value of more than \$10,000. The net value is the value of the improvements as
3 determined by an appraisal approved by the commissioner, less all rents due the
4 department, all costs of restoration under (d) of this section, and all department
5 expenses estimated to be incurred in making the lease or sale. After termination of the
6 former lessee's lease, and at additional times as determined necessary by the
7 commissioner, the value of the authorized fixtures shall be determined by an
8 independent appraisal made at the cost of the former lessee. A notice or offer by the
9 state to lease or sell formerly leased land under this subsection must state (1) the
10 appraised value of authorized fixtures remaining on the land that must be purchased,
11 and (2) that that cost is included in the lease or purchase price. Out of the proceeds
12 of the lease or sale, the department shall pay to the former lessee the appraised value
13 of the improvements, less all rents due the department, all costs of restoration due the
14 department under (d) of this section, and all department expenses incurred in making
15 the lease or sale.

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

18 • Sec. 30. AS 38.05.130 is amended to read:

19 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. Except for entry
20 to post mining location corners under AS 38.05.195, 38.05.205, or 38.05.245 upon
21 state or municipal land, rights [RIGHTS] may not be exercised by the state, its
22 lessees, successors, or assigns under the reservation as set out in AS 38.05.125 until
23 the state, its lessees, successors, or assigns make provision to pay the owner of the
24 land full payment for all damages sustained by the owner [,] by reason of entering
25 upon the land. If the owner for any cause refuses or neglects to settle the damages,
26 the state, its lessees, successors, assigns, or an applicant for a lease or contract from
27 the state for the purpose of prospecting for valuable minerals, or option, contract, or
28 lease for mining coal or lease for extracting geothermal resources, petroleum, or
29 natural gas, may enter upon the land in the exercise of the reserved rights after posting
30 a surety bond determined by the director, after notice and an opportunity to be heard,
31 to be sufficient as to form, amount, and security to secure to the owner payment for

1 damages, and may institute legal proceedings in a court where the land is located, as
2 may be necessary to determine the damages that [WHICH] the owner may suffer.

3 • Sec. 31. AS 38.05.131(a) is amended to read:

4 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
5 provisions of AS 38.05.005 - 38.05.037 [AS 38.05.005 - 38.05.040], 38.05.140(f),
6 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of
7 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

8 • Sec. 32. AS 38.05.185(a) is amended to read:

9 (a) The acquisition and continuance of rights in and to deposits on state land
10 of minerals, which on January 3, 1959, were subject to location under the mining laws
11 of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in
12 AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to
13 mineral deposits owned by any other person or government. The director, with the
14 approval of the commissioner, shall determine that land from which mineral deposits
15 may be mined only under lease, and, subject to the limitations of AS 38.05.300, that
16 land that shall be closed to location under AS 38.05.185 - 38.05.275 [MINING].
17 State land may not be closed to [MINING OR MINERAL] location under
18 AS 38.05.185 - 38.05.275 except as provided in AS 38.05.300 and unless the
19 commissioner makes a finding that mining would be incompatible with significant
20 surface uses on the state land. State land may not be restricted to mining under lease
21 unless the commissioner determines that potential use conflicts on the state land
22 require that mining be allowed only under written leases issued under AS 38.05.205
23 or the commissioner has determined that the land was mineral in character at the time
24 of state selection. The determinations required under this subsection shall be made in
25 compliance with land classification orders and land use plans developed under
26 AS 38.05.300.

27 • Sec. 33. AS 38.05.190(a) is amended to read:

28 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
29 38.05.275 may be acquired or held only by

30 (1) citizens of the United States at least 18 years of age;

31 (2) legal guardians or trustees of citizens of the United States under 18

1 years of age on behalf of the citizens;

2 (3) persons at least 18 years of age who have declared their intention
3 to become citizens of the United States;

4 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF
5 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED
6 STATES;

7 (5)] corporations organized under the laws of the United States or of
8 any state or territory of the United States and qualified to do business in this state [,
9 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A
10 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT
11 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD
12 THE RIGHTS];

13 (5) [(6)] associations of persons described in (1) - (4) [(1) - (5)] of this
14 subsection.

15 • Sec. 34. AS 38.05.211(d) is repealed and reenacted to read:

16 (d) The rental amount established under this section shall be revised by the
17 commissioner as provided in this section based on changes in the Consumer Price
18 Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average)
19 compiled by the Bureau of Labor Statistics, United States Department of Labor, as
20 revised, rebased or replaced by that bureau. The reference base index is the index for
21 January - June, 1989, as revised or rebased by that bureau. The rental amount shall
22 be revised by the commissioner if the change between the index for the first six
23 months of the current year and the most recent index used to revise the rental, or the
24 reference base index if the rental amount has never been revised, equals or exceeds \$5.
25 The rental amount shall be increased or decreased, as appropriate, by an amount equal
26 to the change in the index described in this subsection rounded to the nearest whole
27 \$5 unit. The commissioner shall calculate the change in the index annually and, if the
28 rental amount must be revised, shall adopt a regulation establishing the revised rental
29 amount. A revised rental amount applies to a rental payment if the regulation
30 establishing the revised rental amount took effect at least 90 days before the date the
31 rental payment is due.

1 * Sec. 35. AS 38.05.255 is amended to read:

2 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of
3 land or water included within mining properties by owners of those properties shall be
4 limited to those necessary for the prospecting for, extraction of, or basic processing of
5 mineral deposits and shall be subject to reasonable concurrent uses. Leases
6 [PERMITS] for millsites and tailings disposal may be issued [GRANTED] by the
7 director. The leases [PERMITS] shall be conditioned upon payment of a reasonable
8 annual rent [CHARGE] for the lease [USE] and restriction to [CONTINUANCE OF]
9 the limited use. Timber from land open to mining without lease, except timberland,
10 may be used by a mining claimant or prospecting site locator for the mining or
11 development of the location or adjacent claims under common ownership. On other
12 land, timber may be acquired as provided in this chapter. Use of water shall be made
13 in accordance with AS 46.15.

14 * Sec. 36. AS 38.05.255 is amended by adding a new subsection to read:

15 (b) A lease issued under this section is exempt from the provisions of
16 AS 38.05.075 - 38.05.080. The commissioner, by regulation, shall establish
17 appropriate leasing procedures and annual rent amounts for leases under this section.

18 * Sec. 37. AS 38.05.265 is amended to read:

19 Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of
20 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE
21 TIME PRESCRIBED A LEASE APPLICATION,] pay any required annual rental, pay
22 any required production royalty, or keep location boundaries clearly marked as
23 required by AS 38.05.185 - 38.05.200, 38.05.207 - 38.05.245, 38.05.252 - 38.05.275,
24 [AS 38.05.185 - 38.05.275] and by regulations adopted under these sections constitutes
25 abandonment of all rights acquired under the mining claim, leasehold location,
26 [LEASE,] or site involved, and the claim, location, [LEASE,] or site is subject to
27 relocation by others. A locator or claimant of an abandoned location or a successor
28 in interest may not relocate the location until one year after abandonment. A statement
29 of annual labor that does not accurately set out the essential facts is void and of no
30 effect. If an annual rental or a royalty payment is deficient but is otherwise timely
31 paid, abandonment does not result if full payment is made within

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(1) the period prescribed by a deficiency notice from the commissioner;
or

(2) 30 days after a final judgment establishing the amount due if the
deficiency amount due was contested.

* Sec. 38. AS 38.05 is amended by adding a new section to read:

ARTICLE 12A. REMOTE RECREATIONAL CABIN SITE SALES AND LEASES.

Sec. 38.05.600. REMOTE RECREATIONAL CABIN SITES. (a) The
commissioner may provide for the sale or lease of state land for remote recreational
cabin sites in areas of the state with dispersed populations if the land is classified for
that purpose under the procedures required by AS 38.05.300 and 38.05.945. Sales
under this section shall be at fair market value and the purchaser shall reimburse the
state for the appraisal, survey, and platting costs for the recreational cabin site.

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

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

* Sec. 39. AS 38.05.810(a) is amended to read:

(a) Except as otherwise provided in AS 38.05.183(h), the (1) lease, sale, or
other disposal of state land or resources may be made to a state or federal agency or

1 political subdivision, (2) [THE] lease, sale, or disposal of coal deposits suitable for
2 mining may be made to a utility owned and operated by a government agency or
3 nonprofit cooperative association organized to participate under the Federal Rural
4 Electrification Act for the purpose of generating electric power and energy or the
5 production of process steam, or both, (3) [OR THE] sale or other disposal of state land
6 may be made to a tax-exempt, nonprofit corporation, association, club, or society
7 organized and operated [EXCLUSIVELY] for the management of a cemetery or a solid
8 waste or other public facility, or (4) sale or other disposal of land within a state
9 subdivision may be made to that subdivision's nonprofit, tax-exempt homeowners'
10 association, for less than the appraised value as determined by the director and
11 approved by the commissioner to be fair and proper and in the best interests of the
12 public, with due consideration given to the nature of the public services or function
13 rendered by the applicant [AGENCY, SUBDIVISION, TAX-EXEMPT, NONPROFIT
14 CORPORATION, ASSOCIATION, CLUB, OR SOCIETY, OR UTILITY MAKING
15 APPLICATION], and of the terms of the grant under which the land was acquired by
16 the state. The commissioner shall ensure, by regulation, deed restriction, covenant,
17 or otherwise, that disposals of land under this subsection serve a public purpose
18 and are in the public interest.

19 * Sec. 40. AS 38.05.850(a) is amended to read:

20 (a) The director, without the prior approval of the commissioner, may issue
21 permits, rights-of-way or easements on state land for roads, trails, ditches, field
22 gathering lines or transmission and distribution pipelines not subject to AS 38.35,
23 telephone or electric transmission and distribution lines, log storage, oil well drilling
24 sites and production facilities for the purposes of recovering minerals from adjacent
25 land under valid lease, and other similar uses or improvements, or revocable,
26 nonexclusive permits for the [LIMITED] personal or commercial use or removal of
27 resources that the director has determined to be of limited value [OF TIMBER OR
28 MATERIALS]. The commissioner, upon recommendation of the director, shall
29 establish a reasonable rate or fee schedule to be charged for these uses, subject to the
30 exception for nonprofit cooperative associations specified in (b) of this section. In the
31 granting, suspension or revocation of a permit or easement of land, the director shall

1 give preference to that use of the land which will be of greatest economic benefit to
2 the state and the development of its resources. However, first preference shall be
3 granted to the upland owner for the use of a tract of tideland, or tideland and
4 contiguous submerged land, which is seaward of the upland property of the upland
5 owner and which is needed by the upland owner for any of the purposes for which the
6 use may be granted.

7 * Sec. 41. AS 38.05.945(a) is amended to read:

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

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

12 (2) zoning of land under applicable law;

13 (3) issuance of a

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

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

20 (C) written finding for the sale, lease, or disposal of an interest
21 in state land or resources under AS 38.05.035(e)(6);

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

24 (5) [A PUBLIC HEARING UNDER AS 38.05.856(b);

25 (6)] a preliminary finding under AS 38.05.035(e) [AND 38.05.855(c)]
26 concerning sites for aquatic farms and related hatcheries;

27 (6) [(7)] a decision under AS 38.05.132 - 38.05.134 regarding the sale,
28 lease, or disposal of an interest in state land or resources.

29 * Sec. 42. AS 38.08.030(b) is amended to read:

30 (b) Fees for filing an application may not exceed \$25 [S10].

31 * Sec. 43. AS 38.08.040(a) is amended to read:

1 (a) An applicant meeting the qualifications for homesite entry under
2 AS 38.08.030 and selected under (f) of this section shall be issued a revocable permit
3 to occupy and improve the homesite in order to qualify for issuance of patent as
4 provided in this chapter. The holder of a homesite entry permit shall pay, in
5 advance, an annual rental fee of \$100. [THE APPLICATION FEE IS THE SOLE
6 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

7 * Sec. 44. AS 38.08.040 is amended by adding a new subsection to read:

8 (f) If only one application for a homesite parcel is received, the commissioner
9 shall offer an entry permit for the parcel to the applicant provided the applicant is
10 otherwise qualified. If more than one application is received for a parcel, the
11 commissioner shall select by lottery the applicant who is entitled to receive the permit
12 for the parcel. The lottery shall be conducted under regulations adopted by the
13 commissioner that are to the maximum extent practicable consistent with the provisions
14 of AS 38.05.057 and the regulations adopted under that section.

15 * Sec. 45. AS 38.09.010(g) is amended to read:

16 (g) The commissioner may limit the number of persons permitted to obtain
17 [STAKE] homestead entries within an area designated under (a) of this section by a
18 lottery of qualified applicants. [THE COMMISSIONER MAY CONDUCT A
19 LOTTERY HELD UNDER THIS SUBSECTION IN THE COMMUNITY THAT IS
20 CLOSEST TO THE AREA DESIGNATED FOR HOMESTEAD ENTRY. THE
21 COMMISSIONER MAY REQUIRE THAT EACH PARTICIPANT IN THE
22 LOTTERY BE PRESENT UNLESS ATTENDANCE AT THE LOTTERY IS
23 PREVENTED BY

24 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
25 MILITARY SERVICE OUTSIDE THE STATE; OR

26 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT
27 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE
28 SALE.]

29 * Sec. 46. AS 38.09.030(a) is amended to read:

30 (a) An applicant for a homestead entry permit shall

31 (1) submit proof acceptable to the commissioner that the applicant is

1 at least 18 years of age and has been a resident of the state for not less than one year
2 immediately before the date of application;

3 (2) pay a fee of \$5 per acre according to the description provided by
4 the applicant if the entry is on land classified agricultural, or \$20 per acre if the
5 entry is on land not classified agricultural; and

6 (3) agree to comply with the requirements of AS 38.09.050 [;

7 (4) CERTIFY THAT THE CORNERS OF THE LAND ENTERED
8 HAVE BEEN STAKED AND THE BOUNDARIES HAVE BEEN FLAGGED; OR

9 (5) ASSUME FULL RESPONSIBILITY FOR THE ACCURACY OF
10 THE DESCRIPTION OF THE LAND FILED WITH THE COMMISSIONER UNDER
11 AS 38.09.020(b)].

12 * Sec. 47. AS 38.09.050(a) is amended to read:

13 (a) The commissioner shall issue a patent to homestead entry land if the permit
14 holder

15 (1) either

16 (A) resides and lives on the homestead entry land for not less
17 than 25 months within five years after the issuance of the homestead entry
18 permit and reimburses the state for the survey and platting of the
19 homestead parcel;

20 (B) within five years pays the state the fair market value of
21 the homestead parcel at the time of patent and reimburses the state for the
22 survey and platting of the homestead parcel; or

23 (C) pays to the state the fair market value of the homestead
24 parcel under the terms of a contract under AS 38.05.065 to purchase the
25 parcel, entered into within five years of the issuance of the permit, and
26 reimburses the state for the survey and platting of the parcel; under this
27 subparagraph, the fair market value of the homestead parcel shall be
28 determined as of the date of the contract; and

29 (2) [SUBMITS AN ALIQUOT PARTS DESCRIPTION OR
30 COMPLETES AN APPROVED SURVEY OF THE LAND IN AN AREA WHERE
31 THE COMMISSIONER WAIVES THE RECTANGULAR SURVEY GRID WITHIN

1 FIVE YEARS AFTER THE ISSUANCE OF THE PERMIT;

2 (3) ERECTS A HABITABLE, PERMANENT DWELLING ON THE
3 HOMESTEAD WITHIN THREE YEARS AFTER THE ISSUANCE OF THE
4 HOMESTEAD ENTRY PERMIT;

5 (4) BRUSHES THE BOUNDARIES OF THE LAND NOT
6 DESCRIBED BY ALIQUOT PARTS OR AS A LOT OF RECORD WITHIN 90
7 DAYS AFTER THE ISSUANCE OF THE PERMIT;

8 (5) clears and either puts into production or prepares for cultivation
9 either 25 percent of the land classified for agricultural use or 50 percent of the
10 cropland soils, whichever is less, within five years after issuance of the permit.

11 * Sec. 48. AS 38.09.050(b) is amended to read:

12 (b) Nothing in this chapter prohibits a homestead entry permit holder from
13 residing in a temporary dwelling on the homestead [BEFORE ERECTION OF THE
14 PERMANENT DWELLING].

15 * Sec. 49. AS 38.09 is amended by adding a new section to read:

16 Sec. 38.09.105. REMOVAL OF CONDITIONS ON REMOTE PARCEL AND
17 HOMESTEAD ENTRY LAND. (a) The commissioner may not include the
18 conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued on
19 or after the effective date of this section.

20 (b) The commissioner shall amend a remote parcel or homestead entry land
21 purchase contract or patent issued before the effective date of this section to remove
22 the conditions of former AS 38.05.078(d) or former AS 38.09.050(e) if the holder of
23 the purchase contract or patent

24 (1) requests the amendment;

25 (2) pays the reasonable administrative costs of the amendment as
26 determined by the commissioner; and

27 (3) pays the difference, as established by the commissioner, between
28 the land's fair market value before the amendment and the estimated fair market value
29 after the amendment.

30 * Sec. 50. AS 38.95 is amended by adding a new section to read:

31 ARTICLE 7. NO OBLIGATION TO PROVIDE SERVICES TO DISPOSALS

1 OF STATE LAND; NO LIMITATION ON FURTHER DISPOSALS.

2 Sec. 38.95.300. DISCLAIMER APPLICABLE TO STATE DISPOSALS.

3 Except as otherwise specifically provided, nothing in this title

4 (1) obligates the state to provide services to land that is disposed of by
5 the state, or any grantee of the state, or is the subject of any disposal program;

6 (2) limits the authority of the state to dispose of land or any interest
7 in land or resources in the area of the current disposal, provides any exclusive right
8 or interest in the area of the disposal, or implies or requires that any disposals made
9 will be limited in type or any other manner.

10 * Sec. 51. AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k);
11 AS 38.05.035(e)(G)(F), 38.05.040, 38.05.057(g), 38.05.057(j), 38.05.079, 38.05.207, 38.05.855,
12 38.05.856, 38.05.945(g), 38.05.946(b); AS 38.08.090; AS 38.09.010(e), 38.09.020,
13 38.09.040(a)(2), 38.09.040(a)(3), 38.09.040(a)(4), 38.09.050(d), 38.09.050(e), 38.09.060,
14 38.09.070, 38.09.090, 38.09.900(1), 38.09.900(3), and 38.09.900(4) are repealed.

15 * Sec. 52. Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range
16 1 East, Seward Meridian, the commissioner of natural resources may

17 (1) convey a property interest in land to the Alaska Railroad Corporation for
18 the purpose of realigning the railroad in conjunction with the relocation of the Seward
19 Highway, provided that the property interest conveyed must be equivalent to that conveyed
20 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
21 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

22 (2) grant a 300 foot wide highway easement to the Department of
23 Transportation and Public Facilities for the relocated Seward Highway;

24 (3) grant a 100 foot wide utility easement to Chugach Electric Association,
25 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power
26 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line
27 (A-029885) located within the Chugach State Park.

28 * Sec. 53. A disposal by the Department of Natural Resources of a homesite under
29 AS 38.08 by lottery, on or after July 6, 1984, and before the effective date of this section, is
30 valid and effective, notwithstanding the fact that the disposal was by lottery, if the disposal
31 otherwise complied with the requirements of AS 38.08.

1 * Sec. 54. APPLICABILITY. The change to the interest rate to be charged on contracts
2 for the sale of land under AS 38.05.065, made by secs. 18 - 20 of this Act, applies to all
3 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for
4 signature on or after the effective date of secs. 18 - 20 of this Act.

5 * Sec. 55. REVISOR'S INSTRUCTION. The amendments to AS 38.05.082(b), made by
6 sec. 25 of this Act, do not affect the amendments made to that subsection by sec. 3, ch. 27,
7 SLA 1991, effective January 1, 1997. Unless amended or repealed by Act of the legislature
8 after the effective date of this section, the amendments to AS 38.05.082(b), made by sec. 25
9 of this Act, continue in effect after the amendments made by sec. 3, ch. 27, SLA 1991, take
10 effect January 1, 1997.

11 * Sec. 56. TRANSITIONAL PROVISIONS: REGULATIONS. (a) Notwithstanding
12 sec. 58 of this Act, the Department of Natural Resources may proceed to adopt regulations
13 necessary to implement the changes made by this Act. The regulations take effect under
14 AS 44.62 (Administrative Procedure Act), but not before July 1, 1996.

15 (b) To the extent they are consistent with AS 38.08, regulations governing the
16 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of
17 secs. 43 and 44 of this Act remain in effect notwithstanding the amendment to AS 38.08.040,
18 made by secs. 43 and 44 of this Act, until the regulations are amended, repealed, or
19 superseded.

20 * Sec. 57. RETROACTIVE EFFECT. (a) To the maximum extent constitutionally
21 permissible, sec. 1 of this Act is retroactive to January 3, 1959.

22 (b) The amendment made by sec. 30 of this Act is retroactive to May 2, 1959, the
23 effective date of ch. 169, SLA 1959, and applies to exempt the state, its lessees, successors,
24 and assigns, including but not limited to an applicant for a lease or contract from the state for
25 the purpose of prospecting for valuable minerals, or an applicant for an option, contract, or
26 lease for mining coal or lease for extracting geothermal resources, petroleum, or natural gas,
27 from liability for damages sustained by the state or a municipality by reason of an entry upon
28 the land under AS 38.05.130 to post mining location corners when the entry on the land is
29 authorized by AS 38.05.195, 38.05.205, or 38.05.245 and the entry on the land was made on
30 or after May 2, 1959.

31 * Sec. 58. Except for secs. 1, 30, 56, and 57 of this Act, this Act takes effect July 1, 1996.

1 * Sec. 59. Sections 1, 30, 56, and 57 of this Act take effect immediately under
2 AS 01.10.070(c).

SHORE FISHERY LEASES

District	Commercial Entry Commissaion Reported 1995 Permit Value	.6% of Value	FLOOR	CAP	Leases Issued	Total Revenue at .6%
Alaska Peninsula	\$109,300	\$655		\$600	86	\$51,600
Bristol Bay	\$42,200	\$253	\$300		616	\$184,800
Cook Inlet	\$30,300	\$182	\$300		478	\$143,400
Kodiak	\$92,600	\$556			129	\$71,724
Prince William Sound	\$63,000	\$378			35	\$13,230
Totals					1,344	\$464,754

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSSHB 191 (Fin)
Sen Res Work Draft

Revision Date: 23-Apr-98 Dept Affected: Natural Resources
Title: An Act relating to the management and disposal of state land and resources... BRU: Resource Development
Sponsor: Representative Therriault Component: Land Development
Requestor: Senate Resources Component Serial No. #431

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	140.0	140.0	140.0	140.0	140.0	140.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	150.0	150.0	150.0	150.0	150.0	150.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1005)	203.5	205.3	207.5	210.0	215.0	220.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	150.0	150.0	150.0	150.0	150.0	150.0
1008 GF/MHTIA						
Other						
TOTAL	150.0	150.0	150.0	150.0	150.0	150.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The operating expenditures are necessary to offset the elimination of the positions in the FY 97 proposed budget. The program was reduced based on the current law that says that shore fishery leases are non-mandatory and that only reasonable administrative costs to cover the expenses of the program can be charged. With passage of HB 191 fair market value for the leases may be charged when they come up for renewal. The two positions that administer the program need to be funded so that the additional revenue to the state can be realized.

The changes proposed in this bill will generate more revenues for the state based on increased revenues for aquatic farm and shore fishery leases; increased applications and service fees for land disposals; and a requirement that all land disposals be for at least fair-market value.

FY 97

Shore Fish + \$150.0	Homestead Application Fees + \$1.5
Aquatic Farm + \$24.0	Homestead Entry Permits + \$28.0
Total - \$203.5	

Prepared by: Ron Swanson Phone: 269-8503
Division: Land Date: 16-Jan-98
Approved by Commissioner: _____
Agency: Natural Resources Date: _____

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

Sectional Analysis of CSSSHB 191(Fin)

Secs. 1-30, 33-34, and 36-54 affect the Division of Land. Secs. 30-35 affect the Division of Mining and Water Management. Sec. 29 affects the Division of Oil and Gas. Sec. 50 affects the Division of Parks and Outdoor Recreation.

<u>Sec</u>	<u>House Version</u>	<u>S Res CS version "W"</u>
		new section 1, amends AS 09.10.120 lifts six year statute of limitations for the state to bring action to confirm the state's interests in real property or protect public resources, new section 56 - retroactive to 1/3/59 to the maximum extent constitutionally permissible
1	clarifies the department's consideration of timber, firewood, and water supplies before offering land for disposal does not imply that any person has exclusive use of those resources or constitutes a limitation on future state disposals. (AS 38.04.010(b))	section 2
2-3	merges the old "land disposal bank" into the existing state land disposal program. Under laws passed in the last decade, regional land use plans are used to identify land that will be offered for private ownership. More than 2,000,000 acres have been classified through this process, making the land bank obsolete. Related references to the land disposal bank are repealed in Sec. 49. (AS 38.04.020(a)-(b), plus repealers of (c), (f), (j), and (k))	secs 3-4 technical change to eliminate the term "program", the reason for the change still the same as house version
4	rewrites AS 38.04.020(d) to retain its substance--a biennial report to the legislature on the current inventory of state land available for disposal--without requiring a separate "land disposal bank." For efficiency, the report would be tailored to the way that inventory is catalogued: by its classification. land suitable for most commercial, industrial, residential, and private recreational use is grouped together in the "settlement" classification, but is separate from the "agricultural" and "grazing" classifications. (AS 38.04.020(d))	sec 5: amended to conform to HB 173 which passed last year
5	puts the state land disposal program on the same footing as other natural resource sale programs: whether to submit a budget request each year would be discretionary, not mandatory. But each budget proposal would be complete. It would request the full funding needed to get the land disposal projects ready for sale, including any access roads or other capital improvements that might be required. (AS 38.04.020(e))	Sec 6: same as house version
6	makes technical corrections, dropping an out-of-order classification reference (land must already be planned and classified for disposal before it is surveyed and platted), an erroneous reference to a homestead "lease," and a reference to homestead staking that would be made obsolete by Secs. 43-44 of this bill. (AS 38.04.020(g))	sec 7: same as house version

- | | | |
|----|--|---|
| 7 | clarifies the five-acre limit on subdivision lots applies to land sold for residential and recreational uses, not agricultural parcels, commercial parcels, etc. This clarification is needed because under current law, any division of a tract for purposes of sale constitutes a subdivision. The amendment would also allow larger lots if that would be a better marketing decision for the state. (AS 38.04.020(h)) | sec 8: same as house version |
| 8 | updates a list of state land disposal programs by adding the homestead law and the remote recreational cabin site lease/sale program enacted by Sec. 36 of the bill. (AS 38.04.020(i)) | sec 9: same as house version |
| 9 | corrects a missing item in the budget appropriation process, clarifying that the commissioner's disposal funding request must go to the governor first, not be sent straight to the legislature. (AS 38.04.021(a)) | sec 10: same as house version |
| 10 | deletes a cross-reference to an annual land demand study, repealed by this bill. (AS 38.04.021(b)) | sec 11: same as house version |
| 11 | allows the Department of Natural Resources create new land disposal programs by regulation, so long as they provide for competition and produce at least fair market value for the land. (AS 38.04.030) | sec 12: same as house version |
| 12 | clarifies the legislature's policy that sales of public land to private individuals should be at fair market value unless specifically exempted, and removes a reference to remote cabin permits (repealed by Sec. 49 of this bill). (AS 38.04.035) | sec 13: same as house version |
| 13 | deletes language exempting random-staked homesteads and remote parcels from cadastral survey requirements. The remote parcel program was repealed in 1983, effective 1984, and the homestead program was changed in 1988 to preclude random staking. (Remote recreational cabin site leases, as enacted by Sec. 36 of the bill, would be exempt from this statute because they are short-term leases. The statute would not apply until the remote recreational cabin site was ready to sell.) (AS 38.04.045(b)) | sec 14: technical changes to conform to SB 162 |
| 14 | allows discretion on where to hold land auctions and lotteries. (AS 38.05.050) | sec 15: same as house version |
| 15 | deletes the personal-appearance requirement for land auctions, allowing bidders to be represented by an agent. (AS 38.05.055) | sec 16: conforms to SB 190 to require Alaska residency, although retains the allowance for representation by an agent |
| 16 | along with a repealer in Sec. 49, deletes the requirement that purchasers appear in person at land lotteries and pay the down payment on the spot. Instead, they would have 30 days to make the payment. It also drops language about consulting with the local assessor to determine land values, which is unnecessary because AS 38.05.840 requires a formal appraisal before the land can be offered for sale. (AS 38.05.057(a), plus repeal of (g)) | sec 17: same as house version |

- 17-18 Secs. 17-18 would repeal the current system that relies on the old Federal Land Bank's "prevailing" rate. (The Federal Land Bank's successor now uses many different rate systems with multiple variables, rather than a single prevailing rate.) It would also change the point at which the rate is determined, solving the problem of the rate changing after the contract is mailed out for signature but before both parties have signed. (State land sale contracts are not signed in a face-to-face closing ceremony.) Sec. 17 would also let contracts for auction parcels be issued for less than 20 years, as already allowed for lottery parcels. (AS 38.05.065(a)-(b).)
- sec 18-19: same as house version
- 19 replaces the old Federal Land Bank interest rate with a new system for state land sale contracts. Interest would be based on the prime rate, the widely quoted market rate used for a bank's most credit-worthy corporate loan customers. A four percent add-on would adjust for the unique circumstances of state land sale contracts, which do not involve any credit check. The total would be capped at 13.5 percent. The rate would be computed monthly and would apply to all contracts prepared that month. (AS 38.05.065(i))
- sec 20: amended to conform with SB 162, allows for agricultural land to have a maximum interest rate of 9.5%
- 20 corrects a 1984 error, restoring the original intent of the veterans' preference auction law. It clarifies that although that law does not apply to the lottery, homesite, or homestead programs, a veterans' preference auction must be held before restricted residential lots can be sold at auction to the general public. A combination of amendments in 1984 had made veterans' preference sales inapplicable to all subdivision sales. (AS 38.05.067(d))
- sec 21: same as house version
- 21 would allow agricultural land to be sold at true market value by making it discretionary whether to grant a preference right to adjacent agricultural landowners. A mandatory preference right tends to depress competition or eliminate it altogether, while unaffected parcels are bid up beyond their appraised value. (AS 38.05.069(a))
- sec 22: returns to mandatory preference right
- 22 updates the agricultural preference right law (see Sec. 21) by defining the term "adjacent," instead of "approximate vicinity." The latter was removed from the body of the law in 1984. (AS 38.05.069(e)(2))
- sec 23: same as house version
- 23 updates programs exempt from the general standard that state land leases must be offered at auction. It removes a reference to remote cabin permits (repealed by Sec. 49 of this bill), and substitutes a reference to remote cabin site recreational leases (enacted by Sec. 36 of this bill)
- sec 24: same as house version
- 24 eliminates a unique leasing process for set-net sites, allowing standard state leasing laws to apply. Negotiated leases could be used up to the standard rental ceiling of \$5,000. Higher-value or contested leases could be awarded at auction, rather than making the director decide who is the "most qualified" applicant. (AS 38.05.082(b))
- sec 25: Removes reference to "auction", restores the original language requiring the director to attempt to determine who is the most qualified applicant. If one application is received the commissioner may issue a lease at the rental rate established in following section.

- 25 eliminates special provisions that prevent the state from obtaining fair market value rental for shore fishery leases. (AS 38.05.082(c))
- sec 26: Establishes a rental rate based on .6% of the year-end estimated monthly permit value report for the district as determined from the monthly permit value report or the administrative costs, whichever is greater but not to exceed \$600.
- The annual lease rate payment is adjusted based on the latest monthly report (value goes down in the 10 lease period, lease rate will go down too)
- 26 amends AS 38.05.082(d), which currently lets the director offer existing lessees a preference right to a renewal lease when it is in the state's best interests. The new language specifies that the commissioner may renew existing leases under terms and conditions prescribed by the commissioner. (AS 38.05.082(d))
- sec 27: additional clarification that the current valid lease holder may renew the lease
- 27 rewrites the aquatic farm site law to let standard state leasing laws be used. Sites could be offered directly at auction or by negotiated lease, rather than first being developed under a three-year permit process. As with other types of land disposals and leases, public hearings on the leasing decision would be held as needed, but would not be mandatory. (AS 38.05.083, plus repealers of AS 38.05.855, AS 38.05.856, AS 38.05.945(b))
- sec 28: same as house version
- 28 modernizes requirements to restore surface lease sites after lease termination, protecting the state against liability and high cleanup costs. Because other provisions of AS 38 apply this leasing statute to terminated homesites, homesteads, remote cabin sites, etc., special measures of the existing AS 38.05.090 would be retained to compensate individuals for authorized private residential improvements that are not removed from the site and are worth more than \$10,000 net value. (AS 38.05.090)
- sec 29: same as house version
- 29 technical amendment narrowing a reference to the "Administration" article of AS 38.05, whose last section (a bonding requirement for the director of the statutory Alaska Division of Lands) would be repealed by Sec. 49 of this bill. (AS 38.05.131(a))
- sec 30: same as house version
- 30 eliminates overly broad language that theoretically allows the department to close state land to "mining," not just to "mineral location" (the act of staking new mining locations). A valid mining claim includes the "exclusive right of ...extraction," i.e. mining rights. The department could not close off already-acquired mining rights without effecting a "taking" of valid existing rights, which would run afoul of Art. I, Sec. 18, and Art. VIII, Sec. 16, of the Alaska Constitution. This amendment would eliminate a potential pitfall. (AS 38.05.185(a))
- sec 31: same as house version

- 31 amends AS 38.05.190(a) to clarify the qualifications for ownership of mining rights by aliens and foreign corporations. Under the existing statute, an alien at least 18 years old from a country that grants "like privileges" to United States citizens may acquire or hold exploration and mining rights. A corporation in which more than 50 percent of the stock is owned or controlled by aliens whose country does not grant reciprocal rights to United States citizens may not acquire or hold exploration and mining rights. However, determinations of which countries grant "like privileges" to United States citizens have never been made or enforced in any consistent manner due to the number and complexity of mining laws worldwide. U.S. mining laws, upon which Alaska laws were initially based, allow an alien to form a domestic corporation that would be qualified to obtain mining rights, without inquiry into "like privileges." Amending AS 38.05.190(a) to delete these requirements would be consistent with modern business practices, similar federal laws, and state laws affecting other types of mineral rights. (AS 38.05.190(a)) sec 32: same as house version
- 32 simplifies the adjustments to be made in the annual rental amounts due on mining claims and leases. The existing statute requires the rental amounts to be adjusted every 10 years based on changes in the consumer price index for Anchorage. This statutory adjustment is likely to yield odd rental amounts that would make calculating, accounting, and collection more difficult. Additionally, adjusting rental amounts only at 10-year intervals could result in large changes at one time, possibly causing hardships to mining locators and lessees. The amendment would require the department to check the consumer price index each year and adjust the rate if the adjustment is \$5 or more. Changes could only be made in \$5 increments. The amendment also more clearly identifies the consumer price index on which changes are to be based. (AS 38.05.211(d)) sec 33: same as house version
- 33 authorizes surface leases for certain mineral development uses. Surface use needs for small mines are generally modest enough to meet with a simple land use permit, protected by the underlying "exclusive right of possession and extraction of the [locatable] minerals" acquired by a valid mining location. However, most major mines require large-scale, costly surface improvements such as dams, mills, and tailings impoundments. The mineral developer needs long-term security of tenure to protect this investment, something that cannot be provided by a revocable permit. Surface leases for millsites, tailings disposal sites, and similar purposes would require reasonable annual rental. (AS 38.05.255) sec 34: same as house version
- 34 new subsection to clarify mining developers' surface leases are not subject to competitive bidding statutes. Requiring the department to hold a lease auction would serve no purpose, as the mineral developer would be the only party in a position to bid for and use the lease. The department would be required to adopt regulations setting leasing procedures and annual rentals. (AS 38.05.255(b)) sec 35: same as house version

- 35 eliminates the failure to file a lease application on time as grounds for abandonment of a mining location. In areas open to mining only under lease, a locator must apply for and obtain a lease before gaining the right to mine. AS 38.05.205(a). After the department gives public notice of the proposed mining lease, it must promptly mail an application to the leasehold locator, who then has 90 days to file the application. But under the existing AS 38.05.265, failing to file on time automatically causes "abandonment" (voiding) of the leasehold locations involved, too harsh a penalty for a late application. (AS 38.05.265) sec 36: additional changes, same intent - add'l changes conform non-coal minerals leases being treated the same as coal
- 36 creates a remote recreational cabin site lease/sale program for land disposals in remote, lightly populated areas. At any time during a total term of ten years, the lessee could purchase the site after getting it appraised and surveyed, just as in the former "open-to-entry" and "remote parcel" programs (repealed in 1979 and 1993 respectively). (AS 38.05.600) sec 37: same as house version
- 37 allows the department to convey "common areas" in state subdivisions to the subdivision's homeowners' association for retention and management. Many state subdivisions were platted with certain lots reserved from disposal to provide open space and recreation for subdivision residents. The intention was eventually to transfer these reserved lots to local government. But where there is no local government or it does not want to assume management responsibility, conveyance to the homeowners' association is a logical substitute. The department would be required to ensure that the conveyance serves a public purpose. (AS 38.05.810(a)) sec 38: same as house version but also adds "or other public" facility, beyond cemetery or solid waste facility that may be disposed of to a tax-exempt, non-profit corporation, or other organization to operate for a public purpose
- 38 clarifies that the division may allow livestock grazing, commercial berry picking or mushroom harvesting, and similar minimal-value consumptive uses by issuing permits, an authority the Department of Law recently questioned. (AS 38.05.850(a)) sec 39: same as house version
- 39 deletes references in the public notice law to special aquatic farm site permit procedures repealed by Sec. 49 of the bill: mandatory public hearings and preliminary findings before issuing permits. (AS 38.05.945(a)(5)-(6)) sec 40: same as house version
- 40 raises the application fee for homesites from the current \$10 to a maximum of \$25, the same as for lottery parcels. (AS 38.08.030(b)) sec 41: same as house version
- 41 adds a cross-reference to the lottery process used to select the winner of a homesite entry permit (see Sec. 42). It would also require a token annual rental of \$100 until the permit holder "proves up" or purchases the lot. Because a homesite entry permit is a contract, the rental requirement would not apply to existing entry permits. (AS 38.08.040(a)) sec 42: same as house version
- 42 adds a new subsection directing that homesite entry permits be offered at lottery. Using the lottery procedures of AS 38.05.057 was formerly a statutory requirement, but a 1984 amendment left the connection unclear. The department would be required to adopt regulations as consistent as possible with AS 38.05.057. (AS 38.08.040(f)) sec 43: same as house version

- 43 deletes the authority to make applicants appear in person at a homestead lottery. (AS 38.09.010(g)) sec 44: same as house version
- 44 Raises the fee to receive a non-agricultural homestead entry permit to \$20 per acre. This is a one-time rental fee, lasting for the entry permit's five-year term. The rental fee for agricultural homesteads would remain at the current \$5 per acre. In addition, combined with repealers in Sec. 49 of the bill, it would eliminate staking and legal-description requirements that became obsolete in 1988. In that year, the homestead law was changed to require the department to do a cadastral survey before offering the parcels, instead of making the homesteader survey it five years later. (AS 38.09.030(a), plus repealers of AS 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1)) sec 45: same as house version
- 45-46 along with repealers in Sec. 49 of the bill, reduces and simplifies the ways to receive title to a homestead parcel. (Currently there are three methods. A homesteader may obtain the land for free by living on it and building a house, plus meeting clearing requirements applicable to agricultural homesteads only. Or he can buy the parcel at almost-current fair market value without building a house and living on it, if he applies within two years. Or he can buy the parcel at current fair market value without living on the parcel, if he builds a house and applies to purchase within five years.) The revised language in Sec. 45 eliminates the house-building requirement and the distinction between two-year and five-year purchase. Within five years the homesteader either "proves up" by living on the parcel for 25 months, or purchases the parcel at fair market value. (As with all state land sales, the purchaser may pay cash for the homestead, or enter into an installment contract under AS 38.05.065.) With either method, the homesteader must reimburse the state for survey and platting costs, and must meet agricultural clearing requirements if the land is classified agricultural. Sec. 46 is a conforming amendment eliminating a reference to a permanent dwelling. (AS 38.09.050(a)-(b), plus repealers of AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4)) sec 46-47: same as house version
- 47 along with repealers in Sec. 49 of the bill, affects both the remote parcel program and the homestead program. (The remote parcel law was repealed in 1983, effective in 1984, but the program will be alive until at least the year 2016. The last parcels were staked in 1984, and the last leases issued in 1985-1986. The lessees will have until 1996 or later to survey their parcels, and can then enter into 20-year purchase contracts.) This section would prohibit the department from imposing the conditions of the former AS 38.05.078(d) in new remote parcel purchase contracts. These conditions restricted the sale or subdivision of remote parcel land after it was conveyed into private ownership. It would also allow the department to amend existing remote parcel or homestead purchase contracts or patents to remove these restrictions if the holder consents and reimburses the state for the difference in value. (Each parcel's purchase price was cut by 50% to account for the resale restrictions.) (AS 38.09.105, plus repealers of AS 38.09.050(d)-(e)) sec 48: same as house version

48 transfers the homesite disclaimer language of AS 38.08.090 (to be repealed by Sec. 49 of this bill) to a general location applicable to all state land disposals: unless specifically provided, the state is not obligated to provide services to the grantee of a state land disposal. An additional disclaimer would make clear that the state is free to dispose of other land or resources in the future, without restrictions as to type, parcel density, etc. sec 49: same as house version

49 Repealers affecting the land disposal bank (AS 38.04.020) and down payments at land lotteries (AS 38.05.057(g)) see Secs. 2 and 16. sec 50: same as house version

Repealing AS 38.05.057(j) eliminates special lottery procedures for an agricultural project statute that was repealed in 1979.

Repealing AS 38.05.035(e)(6)(F), AS 38.05.207, and AS 38.05.945(g) would eliminate the mining production license program, an early attempt to solve the "6(i) problem" (the Statehood Act's mineral leasing requirement) that became moot when AS 38.05.211-.212 were enacted in 1989.

Repealing AS 38.05.040 would eliminate the requirement for a \$150,000 bond for the director of the state's Division of Lands, which was subsequently reorganized and subdivided into several different divisions.

Repealing AS 38.05.079 eliminates the remote cabin permit program which provided for 25-year leases for cabin sites.

Repealing AS 38.05.855, AS 38.05.856, and AS 38.05.946(b) eliminates requirements associated with aquatic farm site permits; see Secs. 28 and 39.

AS 38.08.090 is made unnecessary by Sec. 48, which broadens its language and expands it to other land disposals.

Repealing 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1) eliminates requirements related to staking, flagging, brushing, and filing a legal description on a homestead; see Sec. 44. Repealing AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4) eliminates homestead dwelling requirements and the distinction between two- and five-year purchase; see Sec. 45. Repealing AS 38.09.050(d) and (e) would remove restrictions on selling or subdividing land after it has been conveyed to a homesteader; see related changes under Sec. 47.

50 would authorize railroad, highway, and utility line rights-of-way within Chugach State Park necessitated by a Seward Highway relocation project at Bird Point (between Anchorage and Girdwood) sec 51: same as house version

- 51 adds a savings clause protecting homesite entry permits (and subsequent patents) granted by lottery after July 6, 1984. That was the effective date of an amendment that dropped a reference to the lottery statute, leaving no statutory guidance on how to issue homesite entry permits. See Sec. 42 sec 52: same as house version
- 52 specifies that the interest rate changes made by Secs. 17-19 of the bill apply to all contracts sent out to be signed after the bill's effective date. sec 53: same as house version
- 53 ensures that changes made to AS 38.05.082 by Sec. 24 of the bill will continue in effect after 1997, when unrelated changes enacted in 1991 take effect. sec 54: same as house version
- 54 allows the department to adopt regulations in advance of the bill's effective date, but may not take effect until July 1, 1995. Includes a savings clause for the existing homesite disposal regulations until they can be changed. sec 55: same as house version, amends to July 1, 1996
- 55-56 are effective date clauses new section 56: retroactive clause for sec 1
- sec 57-58: same as house version, Amends to July 1, 1996



Alaska State Legislature

Senate Resources Committee

Official Business

Memo

State Capitol
Juneau AK 99801

TO: Gerry Luckhaupt
Legal Services
via fax: 4 pages (including 2-page Amendment #2)

FROM: Annette Kreitzer, Aide to
Senate Resources Committee

DATE: April 29, 1996

RE: CS for HB 191(RES) - FINAL

Using LS0766W as the base document, create a FINAL Senate Resources Committee Substitute for HB 191 with the following amendments adopted today in committee:

- 1) Page 12, line 1:
following [REASONABLE], insert: annual
DELETE: [THE RENTAL RATE MAY NOT EXCEED \$600
AND SHALL BE, EQUAL TO THE GREATER OF.....ADJUSTMENT
FROM THE COMMERCIAL FISHERIES ENTRY COMMISSION.]

This amendment establishes an annual rental rate of \$300 for shore fisheries leases. The rest of the paragraph is deleted.

- 2) See attached Amendment #2 (Page 14, following line 24)
The committee further amended this amendment to apply to municipal and state lands only.
They left the drafting to you.
- 3) Amendment #3:
Page 18, Line 29:
Following "operated"
Delete: [EXCLUSIVELY]

4) Amendment #4:

Page 13, Lines 18-19:

**DELETE: [(2) ALL BUILDINGS AND FIXTURES,
INCLUDING GRAVEL PADS, FOUNDATIONS, AND SLABS, NOT
BELONGING TO THE STATE, WITHIN 60 DAYS AFTER
TERMINATION OF THE LEASE.]**

DELETE [BUILDINGS, AND FIXTURES] on lines 23, 25,
27 and 28

DELETE [PRIVATE RESIDENTIAL] from Page 14, Line 5
DELETE [RESIDENTIAL] where it appears in subsection (f) Page 14,
Lines 5-22

Insert: Page 14, Lines 6-7:

Following "lease shall be" Insert leased or purchased by the subsequent
lessor or purchaser of the land...

Make any other conforming changes necessary for this amendment.

5) Amendment #5:

Page 5, Line 19:

DELETE [SHOULD]

Insert: may

6) Amendment #6:

Make the technical changes outlined in your memo to Senator Leman dated
April 29.

4-29-96
Senate Resources
Committee

#3

Amendment

TO: SCS CSSSHB 191 (Res) **BY:** Lincoln

Page 18, line 29

After "operated"

Delete "exclusively"

Ken Sanderson dept supports amendment

Adopted
no objection

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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STATE OF ALASKA

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Changes*

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Mail Stop 3101

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

MEMORANDUM

April 29, 1996

SUBJECT: Drafting Error in DRAFT SCS CSSSHB 191(RES)
(Work Order No. 9-LS0766\W)

TO: Senator Loren Leman
Attn: Annette Kreitzer

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

I have discovered an error in the effective date provisions of SCS CSSSHB 191(RES), "W" version, dated 4/26/96. The following changes will be made to the final SCS (RES) unless you instruct me otherwise:

On page 25, line 13, following "Except for":

Delete "sec. 55"

Insert "secs. 1, 55, and 56"

On page 25, line 14, following "** Sec. 58.":

Delete "Section 1 and 55"

Insert "Sections 1, 55, and 56"

These changes are to properly give effect to your request to add sec. 1 to the bill and to give that section retrospective effect by sec. 56 of the bill. Both of these sections should have an immediate effective date. If you have any questions, please contact me at your convenience.

GPL:kib
96-317.kib

*adopted
no 13 vote
AM#2*

AMENDMENT

*only to apply to mineral rights
+ state land
Taylor ranch*

OFFERED IN THE SENATE

TO: SCS CSSH B 191(RES), "W" version, dated 4/26/96

1 Page 14, following line 24:

2 Insert a new bill section to read:

3 "* Sec. 30. AS 38.05.130 is amended to read:

4 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. Except for entry
5 to post mining location corners under AS 38.05.195, 38.05.205, or 38.05.245,
6 rights [RIGHTS] may not be exercised by the state, its lessees, successors, or assigns
7 under the reservation as set out in AS 38.05.125 until the state, its lessees, successors,
8 or assigns make provision to pay the owner of the land full payment for all damages
9 sustained by the owner [.] by reason of entering upon the land. If the owner for any
10 cause refuses or neglects to settle the damages, the state, its lessees, successors,
11 assigns, or an applicant for a lease or contract from the state for the purpose of
12 prospecting for valuable minerals, or option, contract, or lease for mining coal or lease
13 for extracting geothermal resources, petroleum, or natural gas, may enter upon the
14 land in the exercise of the reserved rights after posting a surety bond determined by
15 the director, after notice and an opportunity to be heard, to be sufficient as to form,
16 amount, and security to secure to the owner payment for damages, and may institute
17 legal proceedings in a court where the land is located, as may be necessary to
18 determine the damages that [WHICH] the owner may suffer."

19 Renumber the following bill sections accordingly.

20 Page 25, line 3:

21 Delete "sec. 56"

22 Insert "sec. 57"

1 Page 25, line 8:

2 Delete "secs. 42 and 43"

3 Insert "secs. 43 and 44"

4 Page 25, line 9:

5 Delete "secs. 42 and 43"

6 Insert "secs. 43 and 44"

7 Page 25, line 11, before "To the maximum":

8 Insert "RETROACTIVE EFFECT. (a)"

9 Page 25, following line 12:

10 Insert a new subsection to read:

11 "(b) The amendment made by sec. 30 of this Act is retroactive to May 2, 1959, the
12 effective date of ch. 169, SLA 1959, and applies to exempt the state, its lessees, successors,
13 and assigns, including but not limited to an applicant for a lease or contract from the state
14 for the purpose of prospecting for valuable minerals, or an applicant for an option, contract,
15 or lease for mining coal or lease for extracting geothermal resources, petroleum, or natural
16 gas, from liability for damages sustained by a landowner by reason of an entry upon the land
17 under AS 38.05.130 to post mining location corners when the entry on the land is authorized
18 by AS 38.05.195, 38.05.205, or 38.05.245 and the entry on the land was made on or after
19 May 2, 1959."

20 Page 25, line 13:

21 Delete "sec. 55"

22 Insert "secs. 1, 30, 56, and 57"

23 Page 25, line 14:

24 Delete "Section 55"

25 Insert "Sections 1, 30, 56, and 57"



APR 16 1996

ALASKA MINERS ASSOCIATION, INC.

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April 16, 1996

Honorable Loren Leman
Chairman, Senate Resources
Capitol Building
Juneau, AK 99801

RE: CSSSHB-191(FIN), Various Changes to Title 38

Dear Senator Leman,

The Alaska Miners Association wishes to go on record in support of CSSSHB-191(FIN) with the changes as described below. This bill makes several important changes to Title 38 that governs the management of State lands in general and mineral procedures in particular.

There are however two changes that we recommend be made to the bill:

1. In Sec. 35. AS 38.05.265 phrase in [BRACKETS] is already proposed for removal and our recommendation is that the underlined material be added and that the word [LEASE] be removed as shown. With both of these changes the section would read as follows:

"Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE TIME PRESCRIBED A LEASE APPLICATION], pay any required annual rentals, pay any required production royalty, or keep location boundaries clearly marked as required by AS 38.05.185-38.05.275, except for AS 38.05.205 and 38.05.250, and by regulations adopted under these sections constitutes abandonment of all rights acquired under the mining claim, leasehold location, [LEASE,] or site involved, and the claim, location, [LEASE,] or site is subject to relocation by others. A locator..."

The [BRACKETED] phrase creates an unnecessary and burdensome restriction on lease applicants to submit their completed application within 90 days of requesting the application form, or lose their mineral rights. There is no reason for such a restriction.

The new underlined material is needed to guard against the abandonment of a lease due to inadvertently missing a lease payment. The change will result in non-coal mineral leases being treated the same as already exists for coal leases. That is, if the rental is not timely paid, the lease is put in