

**MATANUSKA-SUSITNA BOROUGH
FISH & WILDLIFE COMMISSION RESOLUTION SERIAL NO. FWC 21-02**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH FISH AND WILDLIFE COMMISSION EXPRESSING ITS SUPPORT FOR NOMINEES TO BE CONFIRMED FOR SERVICE ON THE ALASKA STATE BOARD OF FISHERIES.

WHEREAS, the Matanuska-Susitna Borough Fish and Wildlife Commission was created in 2007 to represent the interests of the borough in the conservation and allocation of fish, wildlife, and habitat; and

WHEREAS, the Fish and Wildlife Commission has been effective in representing these interests to political leaders, government regulators, and boards of fish and game; and

WHEREAS, a key component in the Commission's advocacy has been effective dialogue with the Board Of Fisheries and other stakeholders interested in the conservation and management of a robust local fishery; and

WHEREAS, the citizens of the Matanuska-Susitna Borough are best served by a Board Of Fisheries that is staffed by high quality nominees who are thoughtful, open minded, and data driven; and

WHEREAS, the Commission has actively engaged the Board Of Fisheries during the Upper Cook Inlet meeting cycle in 2011, 2014, 2017, and 2020; and

WHEREAS, the Commission has worked with many Board Of Fisheries members and has developed a good sense of the qualities

a good Board Of Fisheries member exhibits; and

WHEREAS, the Commission has two former Board Of Fisheries members serving on it and brings their experience and knowledge to bear.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Fish and Wildlife Commission recommends the following nominees for confirmation to the Alaska Board of Fisheries: John Jensen, Marit Carlson-Van Dort, John Wood, McKenzie Mitchell, Abe Williams.

ADOPTED by the Matanuska-Susitna Fish and Wildlife Commission this 22nd day of April, 2021.

MIKE WOOD, Chair

ATTEST:

TED EISCHEID, Staff

(SEAL)

**MATANUSKA-SUSITNA BOROUGH
FISH & WILDLIFE COMMISSION RESOLUTION SERIAL NO. FWC 21-03**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH FISH AND WILDLIFE COMMISSION EXPRESSING ITS CONCERN ABOUT THE REPEAL OF THE RECREATONAL RIVERS ACT IN ALASKA SENATE BILL 97 AND HOUSE BILL 120.

WHEREAS, the Matanuska-Susitna Borough Fish and Wildlife Commission was created in 2007 to represent the interests of the borough in the conservation and allocation of fish, wildlife, and habitat; and

WHEREAS, the Fish and Wildlife Commission has been effective in representing these interests to political leaders, government regulators, and boards of fish and game; and

WHEREAS, a key component in the Commission's advocacy has been effective dialogue with stakeholders interested in the conservation and management of a robust local fishery; and

WHEREAS, the Matanuska-Susitna Borough has a vested interest in utilizing science-based standards and forward looking policies to help ensure a balance between the critical fish and wildlife resources of the region with other needs of the population, including responsible resource development; and

WHEREAS, the Matanuska-Susitna Borough is home to roughly 15% of the state's population and covers over 25,000 square miles. In addition to encompassing the two major river systems, the Matanuska and the Susitna, the borough also contains a multitude of lakes,

rivers, and streams; and

WHEREAS, the Matanuska-Susitna Borough has spent over \$20 million on fish habitat restoration in the borough, replacing more than 100 culverts that have restored 67 streams miles and 6,2224 lake acres of anadromous fish habitat; and

WHEREAS, healthy habitat not only supports our fish and wildlife, but ensures clean water for our communities and key economic opportunities for Alaskans; and

WHEREAS, the Matanuska-Susitna Borough Fish and Wildlife Commission was successful in convincing the Alaska Board of Fisheries at their February 2020 meeting to adopt a number of policies that will enhance returns of salmon to area waters; and

WHEREAS, economic studies in our region in 2007 and 2017 show the significant positive economic impact returning salmon have on the economy of the Matanuska-Susitna Borough; and

WHEREAS, in 1991 the Matanuska-Susitna Borough approved the Susitna Basin Recreation Rivers Management Plan that had been developed with extensive public input, which was produced under the authority of the 1988 Alaska Recreational Rivers Act; and

WHEREAS, maintaining Alaska's aquatic habitat laws and Matanuska-Susitna Borough regulations and standards can help us avoid the long-term costs of restoration and mitigation, while supporting returning salmon and the economic and cultural benefits they bring to the citizenry of the Matanuska-Susitna Borough.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Fish and Wildlife Commission recommends that the Matanuska-Susitna Assembly support a resolution opposing the sections in both Senate Bill 97 and House Bill 120 that would repeal the establishment of recreation rivers and recreation river corridors under the Alaska Recreational Rivers Act.

ADOPTED by the Matanuska-Susitna Fish and Wildlife Commission this 22nd day of April, 2021.

MIKE WOOD, Chair

ATTEST:

TED EISCHEID, Staff

(SEAL)

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32-GS1634\A

SENATE BILL NO. 97

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/3/21

Referred: Resources, Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to state land; relating to the authority of the Department of Education
2 and Early Development to dispose of state land; relating to the authority of the
3 Department of Transportation and Public Facilities to dispose of state land; relating to
4 the authority of the Department of Natural Resources over certain state land; relating to
5 the state land disposal income fund; relating to the leasing and sale of state land for
6 commercial development; **repealing establishment of recreation rivers and recreation
7 river corridors;** and providing for an effective date."

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

9 * **Section 1.** AS 14.07.030 is amended to read:

10 (a) The department may

11 (1) establish, maintain, govern, operate, discontinue, and combine area,
12 regional, and special schools;

13 (2) enter into contractual agreements with the Bureau of Indian Affairs

1 or with a school district to share boarding costs of secondary school students;

2 (3) provide for citizenship night schools when and where expedient;

3 (4) provide for the sale or other disposition of abandoned or obsolete
4 buildings and other state-owned school property;

5 (5) prescribe a classification for items of expense of school districts;

6 (6) acquire and transfer personal property, acquire real property, and
7 transfer an interest in real property according to terms, standards, and conditions
8 established by the commissioner [TO FEDERAL AGENCIES, STATE AGENCIES,
9 OR TO POLITICAL SUBDIVISIONS];

10 (7) enter into contractual agreements with school districts to provide
11 more efficient or economical education services; reasonable fees may be charged by
12 the department to cover the costs of providing services under an agreement, including
13 costs for professional services, reproduction or printing, and mailing and distribution
14 of educational materials;

15 (8) provide for the issuance of elementary and secondary diplomas to
16 persons not in school who have completed the equivalent of an 8th or 12th grade
17 education, respectively, in accordance with standards established by the department;

18 (9) apply for, accept, and spend endowments, grants, and other private
19 money available to the state for educational purposes in accordance with AS 37.07
20 (Executive Budget Act);

21 (10) set student tuition and fees for educational and extracurricular
22 programs and services provided and schools operated by the department under the
23 provisions of (1) of this section and AS 14.07.020(a)(9), (11), and (12);

24 (11) charge fees to cover the costs of care and handling with respect to
25 the acquisition, warehousing, distribution, or transfer of donated foods;

26 (12) establish and collect fees for the rental of school facilities and for
27 other programs and services provided by the schools;

28 (13) develop a model curriculum and provide technical assistance for
29 early childhood education programs;

30 (14) notwithstanding any other provision of this title, intervene in a
31 school district to improve instructional practices under standards established by the

1 department in regulation, including directing the

2 (A) employees identified by the department to exercise
3 supervisory authority for instructional practices in the district or in a specified
4 school;

5 (B) use of appropriations under this title for distribution to a
6 district;

7 (15) notwithstanding any other provision of this title, redirect public
8 school funding under AS 14.17 appropriated for distribution to a school district, after
9 providing notice to the district and an opportunity for the district to respond, when

10 (A) necessary to contract for services to improve instructional
11 practices in the district; or

12 (B) the district has failed to take an action required by the
13 department to improve instructional practices in the district; if funding is
14 redirected under this subparagraph, the department shall provide the redirected
15 funding to the district when the department has determined that the required
16 action is satisfactorily completed.

17 * **Sec. 2.** AS 19.30.080 is amended to read:

18 **Sec. 19.30.080. Construction standards and maintenance.** An access road
19 constructed under AS 19.30.060 - 19.30.100 shall be of low standard, not necessarily
20 suitable for all weather use. The state is not under obligation to maintain an access
21 road constructed under AS 19.30.060 - 19.30.100. If an access road is constructed
22 outside a municipality that has zoning ordinances, the right-of-way width for the road
23 shall be determined by the division of lands and the Department of Transportation and
24 Public Facilities. If an access road **under AS 19.30.060 - 19.30.100** is constructed
25 within the boundaries of a municipality that has zoning ordinances, the right-of-way
26 width **for the road** shall **be consistent with, but not in excess of, a municipal road**
27 **project's right-of-way** [CONFORM TO THE SUBDIVISION CONTROL
28 ORDINANCES OF THE MUNICIPALITY]. Contracts for the work on an access road
29 are governed by AS 36.30 (State Procurement Code).

30 * **Sec. 3.** AS 35.20.070 is repealed and reenacted to read:

31 **Sec. 35.20.070. Vacating and disposing of land; rights in land.** (a) The

1 department may vacate easements acquired for public works purposes by executing
2 and filing a deed in the appropriate recording district. Upon filing, title to the vacated
3 rights in land inures to the underlying real property owner in the manner and
4 proportion considered equitable by the commissioner and set out in the deed.

5 (b) If the department determines that land or rights in land acquired by the
6 department are no longer necessary for public works purposes, the department may

7 (1) sell, contract to sell, lease, or exchange the land according to terms,
8 standards, and conditions established by the commissioner; or

9 (2) at the request of the commissioner of natural resources, transfer the
10 land to the Department of Natural Resources.

11 (c) Proceeds received from the sale or lease of land as authorized by this
12 section shall be credited to the funds from which the purchase of the land was made
13 originally.

14 * **Sec. 4.** AS 38.04.022 is amended to read:

15 **Sec. 38.04.022. State land disposal income fund.** (a) The revenue from the
16 state land disposal program shall be deposited in the state land disposal income fund in
17 the state treasury. On June 30 of each fiscal year, the portion of that fund that exceeds
18 **\$12,000,000** [\$5,000,000] shall be deposited in the state general fund. The legislature
19 may appropriate money from the state land disposal income fund for expenditure by
20 the Department of Natural Resources for necessary costs incurred by the
21 commissioner in the implementation of state land disposal programs authorized under
22 this title or for any other public purpose.

23 (b) Within five days after the legislature convenes in regular session, the
24 Department of Natural Resources shall notify the legislature that a report reflecting all
25 money deposited in the fund established under (a) of this section during the prior fiscal
26 year is available. **The report may include a recommendation to amend the deposit**
27 **limit established in (a) of this section.**

28 * **Sec. 5.** AS 38.05.055 is amended to read:

29 **Sec. 38.05.055. Auction sale or sealed bid procedures.** (a) Unless another
30 method of sale is **allowed** [REQUIRED] under this chapter, AS 38.08, or AS 38.09,
31 the sale of state land shall be made at public auction or by sealed bid, at the discretion

1 of the director, to the highest qualified bidder as determined by the director. The
2 director may accept bids and sell state land under this section at not less than 70
3 percent of the appraised fair market value of the land.

4 **(b)** To qualify to participate under this section in a public auction or sale by
5 sealed bid of state land that is other than commercial, industrial, or agricultural land, a
6 bidder shall have been a resident of the state for at least one year immediately
7 preceding the date of the sale and submit proof of that fact, as the commissioner
8 requires by regulation. A bidder may be represented by an attorney or agent at a public
9 auction.

10 **(c)** An aggrieved bidder may appeal to the commissioner within five days after
11 the sale for a review of the director's determination [. THE SALE SHALL BE
12 CONDUCTED BY THE DIRECTOR, AND, AT THE TIME OF SALE, THE
13 SUCCESSFUL BIDDER SHALL DEPOSIT AN AMOUNT EQUAL TO FIVE
14 PERCENT OF THE PURCHASE PRICE. THE DIRECTOR SHALL
15 IMMEDIATELY ISSUE A RECEIPT CONTAINING A DESCRIPTION OF THE
16 LAND OR PROPERTY PURCHASED, THE PRICE BID, AND THE AMOUNT
17 DEPOSITED. THE RECEIPT SHALL BE ACKNOWLEDGED IN WRITING BY
18 THE BIDDER].

19 * **Sec. 6.** AS 38.05.055 is amended by adding a new subsection to read:

20 (d) The sale shall be conducted by the director. The successful bidder at a
21 public action or all bidders at the time they submit their sealed bid, shall provide an
22 earnest money deposit in the amount of at least five percent of the bid amount. Not
23 later than 10 days after the public auction or sale by sealed bid, the director shall issue
24 a receipt to the successful bidder. The director's receipt shall contain a description of
25 the land or property purchased, the bid price, and the amount deposited. If the bidder
26 fails to enter into a contract to purchase or defaults in the payment of the bid amount,
27 five percent of the bid amount shall be forfeited to the state.

28 * **Sec. 7.** AS 38.05.065(a) is amended to read:

29 (a) A [THE] contract of sale for land, **an interest in land, or property** sold
30 **under this chapter may be issued for** [AT PUBLIC AUCTION OR BY SEALED
31 BID UNDER AS 38.05.055 SHALL REQUIRE] the remainder of the purchase price

1 to be paid in monthly, quarterly, or annual installments over a period of not more than
2 **30** [20] years, with interest at the rate provided in (i) of this section. Installment
3 payments plus interest shall be set on the level-payment basis.

4 * **Sec. 8.** AS 38.05.065(b) is amended to read:

5 (b) The contract of sale for land sold under AS 38.05.057 or under former
6 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
7 quarterly, or annual installments over a period of not more than **30** [20] years.
8 Installment payments plus interest shall be set on the level-payment basis. The interest
9 rate to be charged on installment payments is the rate provided in (i) of this section.

10 * **Sec. 9.** AS 38.05.065(c) is amended to read:

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

20 * **Sec. 10.** AS 38.05.065(d) is amended to read:

21 (d) If a contract for a sale of state land has been breached, the director may
22 issue a decision to [FORECLOSE AND] terminate the contract at any time 31 days
23 after delivering by certified mail a written notice of the breach to the address of record
24 of the purchaser. A breach caused by the failure to make payments required by the
25 contract may be cured within 30 days after the notice of the breach has been received
26 by the purchaser by payment of the sum in default together with the larger of a fee of
27 \$50 or five percent of the sum in default. If there are material facts in dispute between
28 the state and the purchaser, the purchaser may submit a written request for a public
29 hearing for the review of the facts within 30 days after the notice of the breach has
30 been received.

31 * **Sec. 11.** AS 38.05.065(e) is amended to read:

1 (e) On a determination that there has been a breach of the contract based on
2 the administrative record and the evidence presented at a hearing, if requested, the
3 director shall issue a decision foreclosing the interest of the purchaser and terminating
4 the contract. The obligation to make payments under the contract continues through
5 the date of the director's decision to terminate the contract [FORECLOSE BY THE
6 DIRECTOR].

7 * **Sec. 12.** AS 38.05.065(f) is amended to read:

8 (f) The director shall deliver the decision to [FORECLOSE AND] terminate
9 the contract personally to the purchaser or send it certified mail, return receipt
10 requested, to the address of record of the purchaser. If the breach is a failure to make
11 payments required by the contract, the decision shall include a notice to the purchaser
12 that if within 30 days the purchaser pays to the state the full amount of the unpaid
13 contract price, including all accrued interest, and any fees assessed under (d) of this
14 section, the department shall issue to the purchaser a deed to the land. If full payment
15 is not made within 30 days or the breach is for other than failure to make payment, the
16 decision [FORECLOSES AND] terminates all legal and equitable rights the purchaser
17 has in the land.

18 * **Sec. 13.** AS 38.05.065 is amended by adding a new subsection to read:

19 (j) If a sale of state land is to be made by means other than a means prescribed
20 by AS 38.05.055, the director shall require a person applying to purchase land, an
21 interest in land, or property, to submit an earnest money deposit of at least five percent
22 of the purchase price with the application for a contract to purchase land, an interest in
23 land, or property. This earnest money deposit shall be applied towards the purchase
24 price. If the applicant fails to enter into a contract to purchase or defaults in the
25 payment of the purchase price, five percent of the purchase price shall be forfeited to
26 the state.

27 * **Sec. 14.** AS 38.05 is amended by adding a new section to read:

28 **Sec. 38.05.086. Leases and sales of land for commercial development.** (a)
29 For purposes of stimulating economic development in the state, the commissioner may
30 lease and sell land that is identified in this section as appropriate for commercial
31 development. As provided in this section, if the lease is in good standing and the

1 development requirements of the lease have been satisfied, the lessee may purchase
2 the leased land.

3 (b) The department may identify land appropriate for commercial
4 development from any or all of the following categories:

5 (1) state land identified or nominated as Qualified Opportunity Zones
6 under 26 U.S.C. 45D, 26 U.S.C. 1400Z-1 and 1400Z-2, and 26 C.F.R. 601.601;

7 (2) state land nominated by the public; public nominations under this
8 paragraph are limited to one for each person and may not exceed 640 acres in size;

9 (3) any other state land the department deems appropriate for
10 commercial development.

11 (c) If land identified in (b) of this section is classified in a manner that does
12 not allow disposal of the land, the commissioner may classify or reclassify the land
13 through a classification order under AS 38.05.300 and a written decision by the
14 director under AS 38.05.035(e).

15 (d) The commissioner may open certain areas of land identified in (b) of this
16 section for leasing and sale, and issue a request for proposals to develop land within
17 the areas. Before proposals may be requested, the commissioner shall issue a decision
18 under AS 38.05.035(e) that the lease and sale of the land within the areas opened is in
19 the state's best interest. The commissioner's request for proposals must be in writing.

20 (e) A person may apply to develop land within the areas by responding to the
21 commissioner's request for proposals and paying an application fee as provided by
22 regulation. In addition to any information requested by the commissioner in the
23 request for proposals, a response to the request for proposals must include

24 (1) the specific type of commercial development proposed; and

25 (2) the specific location and description, including amount, of land
26 requested for the proposed commercial development; the amount of land requested in
27 a response to request for proposals may not exceed 20 acres and must be reasonably
28 compact.

29 (f) The commissioner's request for proposals must be posted on the Alaska
30 Online Public Notice System (AS 44.62.175) for at least 30 consecutive days and must
31 be furnished by electronic format or mail to a person who received notice of the

1 decision issued under (d) of this section.

2 (g) A response to the commissioner's request for a proposal must be in writing
3 and submitted by the deadline set by the commissioner. The commissioner may reject
4 any proposal that does not meet the requirements of this section or that the
5 commissioner determines, in writing, is not in the best interests of the state. The
6 commissioner's decision to reject a proposal is subject to appeal or a petition for
7 reconsideration under AS 44.37.011.

8 (h) If the commissioner determines that only one suitable proposal for a
9 specific area of land exists, the commissioner may issue a lease to that person as
10 provided in this section if it is in the best interests of the state. If the commissioner
11 determines that there are two or more suitable proposals for the same land or
12 overlapping land, the commissioner shall award the lease to the highest bidder as
13 determined by the commissioner at a public auction or by sealed bid if it is in the best
14 interests of the state. Participation in the public auction or sealed bid under this
15 subsection is limited to the persons who submitted proposals for the same land or
16 overlapping land.

17 (i) The annual fee for a commercial land lease under this section shall be set
18 by the commissioner so as to ensure that the state receives a fair return for the use
19 granted by the lease for the term of the lease and shall be a form of compensation set
20 out in AS 38.05.073(m). A lease must be for a term of not more than five years. A
21 lease in good standing may be renewed for one additional five-year period. The lease
22 may not be assigned by the original lessee during the term of the lease or any renewal
23 without the approval of the director.

24 (j) A commercial land lease under this section may be terminated by the
25 commissioner before the expiration of the term of the lease for a breach of the terms of
26 the lease, including a failure to use the land in a manner required by the terms of the
27 lease. After expiration of the lease term or termination of the lease before it expires,
28 improvements or personal property on the land subject to the lease shall be managed
29 in the manner required by AS 38.05.090.

30 (k) At any time during the lease, a lessee in good standing may submit an
31 application to the department to purchase all or a portion of the land leased under this

1 section for its fair market value at the time of purchase, if the lessee

2 (1) has completed the development requirements of the land leased
3 consistent with the proposal submitted under (g) of this section and as provided by the
4 terms of the lease;

5 (2) has appraised and surveyed the site in a manner acceptable to the
6 department, at the lessee's expense; and

7 (3) pays an application fee as provided by regulation.

8 (l) A lessee who purchases the land under (k) of this section may apply the
9 amount of the lease payments made under the lease to the purchase price of the land.
10 Other amounts paid, including fees, penalties, survey costs, and appraisal costs, may
11 not be applied to the purchase price of the land.

12 (m) If an application to purchase land is denied, the lessee may continue to
13 hold the lease according to the terms of the lease, and may apply again to purchase the
14 land. Any subsequent application must address the reasons the previous application
15 was denied.

16 (n) The commissioner shall adopt regulations under AS 44.62 (Administrative
17 Procedure Act) to implement this section. Regulations adopted under this subsection
18 shall, at a minimum, address

19 (1) the application procedures for a commercial land lease or sale
20 under this section;

21 (2) the auction or sealed bid process, if necessary, under (h) of this
22 section;

23 (3) the terms and conditions that may be included in a commercial land
24 lease under this section;

25 (4) resolving any and all competitive bidding disputes and issues;

26 (5) the procedure for requesting proposals;

27 (6) the criteria for assessing proposals; and

28 (7) any administrative fees.

29 * **Sec. 15.** AS 38.05.321(a) is amended to read:

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

1 (1) a perpetual covenant for the benefit of all Alaska residents and
2 running with the land that restricts or limits the use of the land for agricultural
3 purposes; and

4 (2) one of the following, as appropriate:

5 (A) a perpetual covenant for the benefit of all Alaska residents
6 and running with the land permitting the owner of land that had been obtained
7 under homestead entry to subdivide and convey the land in parcels of not less
8 than 20 [40] acres each; or

9 (B) a perpetual covenant for the benefit of all Alaska residents
10 and running with the land permitting the owner of land that had been obtained
11 by purchase to subdivide and convey not more than eight [FOUR] parcels of
12 the land of not less than 20 [40] acres each, subject to the restriction that a
13 subdivided parcel may not be further subdivided.

14 * **Sec. 16.** AS 38.05.321(d) is amended to read:

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

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

20 (2) as a condition of the conveyance, the commissioner may not
21 require preparation and implementation of a schedule of planned agricultural
22 development or a farm development plan specified in a land purchase contract unless
23 the commissioner permits modification of a plan in cases of economic hardship or
24 other extenuating circumstances;

25 (3) the commissioner may not

26 (A) limit the right of the landowner to use the land and
27 improvements for purposes that are [INCIDENTAL TO AND] not inconsistent
28 with and do not limit the primary use of the land for agricultural purposes;

29 (B) except as provided by (i) of this section, limit the right of a
30 landowner to construct housing for the landowner and farm laborers, to
31 construct improvements for animals, or to construct improvements that are

1 reasonably required for or related to agricultural use on the original parcel and
2 on additional subdivided parcels, not to exceed the limits and restrictions set by
3 (a)(2) of this section; and

4 (C) limit the right of the landowner to subdivide and convey
5 the land if the resulting parcels are not in violation of the limits and restrictions
6 set out in (a)(2) of this section.

7 * **Sec. 17.** AS 38.05.321(j) is amended to read:

8 (j) In this section, "agricultural purposes" means

9 (1) the production, storage, and sale, for commercial or personal use,
10 of useful plants and animals;

11 (2) the construction of

12 (A) housing for landowners and farm laborers;

13 (B) improvements for animals; or

14 (C) improvements that are reasonably required for or related to
15 agricultural use;

16 (3) the use of gravel reasonably required or related to agricultural
17 production on the parcel conveyed; and

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

20 * **Sec. 18.** AS 38.05.965 is amended by adding a new paragraph to read:

21 (29) "public auction" means a public oral outcry auction or a public
22 online auction.

23 * **Sec. 19.** AS 41.23.400, 41.23.410, 41.23.420, 41.23.430, 41.23.440, 41.23.450, 41.23.460,
24 41.23.470, 41.23.480, 41.23.490, 41.23.500, and 41.23.510 are repealed.

25 * **Sec. 20.** Section 1, ch. 122, SLA 1988 is repealed.

26 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 TRANSITION: REGULATIONS. The commissioner of natural resources, the
29 commissioner of education and early development, and the commissioner of transportation
30 and public facilities may adopt or amend regulations as necessary to implement the changes
31 made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),

- 1 but not before the effective date of the law implemented by the regulations.
- 2 * **Sec. 22.** This Act takes effect immediately under AS 01.10.070(c).

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32-GH1634\A

HOUSE BILL NO. 120

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/1/21

Referred: Resources, Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to state land; relating to the authority of the Department of Education
2 and Early Development to dispose of state land; relating to the authority of the
3 Department of Transportation and Public Facilities to dispose of state land; relating to
4 the authority of the Department of Natural Resources over certain state land; relating to
5 the state land disposal income fund; relating to the leasing and sale of state land for
6 commercial development; **repealing establishment of recreation rivers and recreation**
7 **river corridors;** and providing for an effective date."

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13 (2) enter into contractual agreements with the Bureau of Indian Affairs

1 or with a school district to share boarding costs of secondary school students;

2 (3) provide for citizenship night schools when and where expedient;

3 (4) provide for the sale or other disposition of abandoned or obsolete
4 buildings and other state-owned school property;

5 (5) prescribe a classification for items of expense of school districts;

6 (6) acquire and transfer personal property, acquire real property, and
7 transfer **an interest in** real property **according to terms, standards, and conditions**
8 **established by the commissioner** [TO FEDERAL AGENCIES, STATE AGENCIES,
9 OR TO POLITICAL SUBDIVISIONS];

10 (7) enter into contractual agreements with school districts to provide
11 more efficient or economical education services; reasonable fees may be charged by
12 the department to cover the costs of providing services under an agreement, including
13 costs for professional services, reproduction or printing, and mailing and distribution
14 of educational materials;

15 (8) provide for the issuance of elementary and secondary diplomas to
16 persons not in school who have completed the equivalent of an 8th or 12th grade
17 education, respectively, in accordance with standards established by the department;

18 (9) apply for, accept, and spend endowments, grants, and other private
19 money available to the state for educational purposes in accordance with AS 37.07
20 (Executive Budget Act);

21 (10) set student tuition and fees for educational and extracurricular
22 programs and services provided and schools operated by the department under the
23 provisions of (1) of this section and AS 14.07.020(a)(9), (11), and (12);

24 (11) charge fees to cover the costs of care and handling with respect to
25 the acquisition, warehousing, distribution, or transfer of donated foods;

26 (12) establish and collect fees for the rental of school facilities and for
27 other programs and services provided by the schools;

28 (13) develop a model curriculum and provide technical assistance for
29 early childhood education programs;

30 (14) notwithstanding any other provision of this title, intervene in a
31 school district to improve instructional practices under standards established by the

1 department in regulation, including directing the

2 (A) employees identified by the department to exercise
3 supervisory authority for instructional practices in the district or in a specified
4 school;

5 (B) use of appropriations under this title for distribution to a
6 district;

7 (15) notwithstanding any other provision of this title, redirect public
8 school funding under AS 14.17 appropriated for distribution to a school district, after
9 providing notice to the district and an opportunity for the district to respond, when

10 (A) necessary to contract for services to improve instructional
11 practices in the district; or

12 (B) the district has failed to take an action required by the
13 department to improve instructional practices in the district; if funding is
14 redirected under this subparagraph, the department shall provide the redirected
15 funding to the district when the department has determined that the required
16 action is satisfactorily completed.

17 * **Sec. 2.** AS 19.30.080 is amended to read:

18 **Sec. 19.30.080. Construction standards and maintenance.** An access road
19 constructed under AS 19.30.060 - 19.30.100 shall be of low standard, not necessarily
20 suitable for all weather use. The state is not under obligation to maintain an access
21 road constructed under AS 19.30.060 - 19.30.100. If an access road is constructed
22 outside a municipality that has zoning ordinances, the right-of-way width for the road
23 shall be determined by the division of lands and the Department of Transportation and
24 Public Facilities. If an access road **under AS 19.30.060 - 19.30.100** is constructed
25 within the boundaries of a municipality that has zoning ordinances, the right-of-way
26 width **for the road** shall **be consistent with, but not in excess of, a municipal road**
27 **project's right-of-way** [CONFORM TO THE SUBDIVISION CONTROL
28 ORDINANCES OF THE MUNICIPALITY]. Contracts for the work on an access road
29 are governed by AS 36.30 (State Procurement Code).

30 * **Sec. 3.** AS 35.20.070 is repealed and reenacted to read:

31 **Sec. 35.20.070. Vacating and disposing of land; rights in land.** (a) The

1 department may vacate easements acquired for public works purposes by executing
2 and filing a deed in the appropriate recording district. Upon filing, title to the vacated
3 rights in land inures to the underlying real property owner in the manner and
4 proportion considered equitable by the commissioner and set out in the deed.

5 (b) If the department determines that land or rights in land acquired by the
6 department are no longer necessary for public works purposes, the department may

7 (1) sell, contract to sell, lease, or exchange the land according to terms,
8 standards, and conditions established by the commissioner; or

9 (2) at the request of the commissioner of natural resources, transfer the
10 land to the Department of Natural Resources.

11 (c) Proceeds received from the sale or lease of land as authorized by this
12 section shall be credited to the funds from which the purchase of the land was made
13 originally.

14 * **Sec. 4.** AS 38.04.022 is amended to read:

15 **Sec. 38.04.022. State land disposal income fund.** (a) The revenue from the
16 state land disposal program shall be deposited in the state land disposal income fund in
17 the state treasury. On June 30 of each fiscal year, the portion of that fund that exceeds
18 **\$12,000,000** [\$5,000,000] shall be deposited in the state general fund. The legislature
19 may appropriate money from the state land disposal income fund for expenditure by
20 the Department of Natural Resources for necessary costs incurred by the
21 commissioner in the implementation of state land disposal programs authorized under
22 this title or for any other public purpose.

23 (b) Within five days after the legislature convenes in regular session, the
24 Department of Natural Resources shall notify the legislature that a report reflecting all
25 money deposited in the fund established under (a) of this section during the prior fiscal
26 year is available. **The report may include a recommendation to amend the deposit**
27 **limit established in (a) of this section.**

28 * **Sec. 5.** AS 38.05.055 is amended to read:

29 **Sec. 38.05.055. Auction sale or sealed bid procedures.** (a) Unless another
30 method of sale is **allowed** [REQUIRED] under this chapter, AS 38.08, or AS 38.09,
31 the sale of state land shall be made at public auction or by sealed bid, at the discretion

1 of the director, to the highest qualified bidder as determined by the director. The
2 director may accept bids and sell state land under this section at not less than 70
3 percent of the appraised fair market value of the land.

4 **(b)** To qualify to participate under this section in a public auction or sale by
5 sealed bid of state land that is other than commercial, industrial, or agricultural land, a
6 bidder shall have been a resident of the state for at least one year immediately
7 preceding the date of the sale and submit proof of that fact, as the commissioner
8 requires by regulation. A bidder may be represented by an attorney or agent at a public
9 auction.

10 **(c)** An aggrieved bidder may appeal to the commissioner within five days after
11 the sale for a review of the director's determination [. THE SALE SHALL BE
12 CONDUCTED BY THE DIRECTOR, AND, AT THE TIME OF SALE, THE
13 SUCCESSFUL BIDDER SHALL DEPOSIT AN AMOUNT EQUAL TO FIVE
14 PERCENT OF THE PURCHASE PRICE. THE DIRECTOR SHALL
15 IMMEDIATELY ISSUE A RECEIPT CONTAINING A DESCRIPTION OF THE
16 LAND OR PROPERTY PURCHASED, THE PRICE BID, AND THE AMOUNT
17 DEPOSITED. THE RECEIPT SHALL BE ACKNOWLEDGED IN WRITING BY
18 THE BIDDER].

19 * **Sec. 6.** AS 38.05.055 is amended by adding a new subsection to read:

20 (d) The sale shall be conducted by the director. The successful bidder at a
21 public action or all bidders at the time they submit their sealed bid, shall provide an
22 earnest money deposit in the amount of at least five percent of the bid amount. Not
23 later than 10 days after the public auction or sale by sealed bid, the director shall issue
24 a receipt to the successful bidder. The director's receipt shall contain a description of
25 the land or property purchased, the bid price, and the amount deposited. If the bidder
26 fails to enter into a contract to purchase or defaults in the payment of the bid amount,
27 five percent of the bid amount shall be forfeited to the state.

28 * **Sec. 7.** AS 38.05.065(a) is amended to read:

29 (a) A [THE] contract of sale for land, **an interest in land, or property** sold
30 **under this chapter may be issued for** [AT PUBLIC AUCTION OR BY SEALED
31 BID UNDER AS 38.05.055 SHALL REQUIRE] the remainder of the purchase price

1 to be paid in monthly, quarterly, or annual installments over a period of not more than
2 **30** [20] years, with interest at the rate provided in (i) of this section. Installment
3 payments plus interest shall be set on the level-payment basis.

4 * **Sec. 8.** AS 38.05.065(b) is amended to read:

5 (b) The contract of sale for land sold under AS 38.05.057 or under former
6 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
7 quarterly, or annual installments over a period of not more than **30** [20] years.
8 Installment payments plus interest shall be set on the level-payment basis. The interest
9 rate to be charged on installment payments is the rate provided in (i) of this section.

10 * **Sec. 9.** AS 38.05.065(c) is amended to read:

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

20 * **Sec. 10.** AS 38.05.065(d) is amended to read:

21 (d) If a contract for a sale of state land has been breached, the director may
22 issue a decision to [FORECLOSE AND] terminate the contract at any time 31 days
23 after delivering by certified mail a written notice of the breach to the address of record
24 of the purchaser. A breach caused by the failure to make payments required by the
25 contract may be cured within 30 days after the notice of the breach has been received
26 by the purchaser by payment of the sum in default together with the larger of a fee of
27 \$50 or five percent of the sum in default. If there are material facts in dispute between
28 the state and the purchaser, the purchaser may submit a written request for a public
29 hearing for the review of the facts within 30 days after the notice of the breach has
30 been received.

31 * **Sec. 11.** AS 38.05.065(e) is amended to read:

1 (e) On a determination that there has been a breach of the contract based on
2 the administrative record and the evidence presented at a hearing, **if requested**, the
3 director shall issue a decision foreclosing the interest of the purchaser and terminating
4 the contract. The obligation to make payments under the contract continues through
5 the date of the **director's** decision to **terminate the contract** [FORECLOSE BY THE
6 DIRECTOR].

7 * **Sec. 12.** AS 38.05.065(f) is amended to read:

8 (f) The director shall deliver the decision to [FORECLOSE AND] terminate
9 **the contract** personally to the purchaser or send it certified mail, return receipt
10 requested, to the address of record of the purchaser. If the breach is a failure to make
11 payments required by the contract, the decision shall include a notice to the purchaser
12 that if within 30 days the purchaser pays to the state the full amount of the unpaid
13 contract price, including all accrued interest, and any fees assessed under (d) of this
14 section, the department shall issue to the purchaser a deed to the land. If full payment
15 is not made within 30 days or the breach is for other than failure to make payment, the
16 decision [FORECLOSES AND] terminates all legal and equitable rights the purchaser
17 has in the land.

18 * **Sec. 13.** AS 38.05.065 is amended by adding a new subsection to read:

19 (j) If a sale of state land is to be made by means other than a means prescribed
20 by AS 38.05.055, the director shall require a person applying to purchase land, an
21 interest in land, or property, to submit an earnest money deposit of at least five percent
22 of the purchase price with the application for a contract to purchase land, an interest in
23 land, or property. This earnest money deposit shall be applied towards the purchase
24 price. If the applicant fails to enter into a contract to purchase or defaults in the
25 payment of the purchase price, five percent of the purchase price shall be forfeited to
26 the state.

27 * **Sec. 14.** AS 38.05 is amended by adding a new section to read:

28 **Sec. 38.05.086. Leases and sales of land for commercial development.** (a)
29 For purposes of stimulating economic development in the state, the commissioner may
30 lease and sell land that is identified in this section as appropriate for commercial
31 development. As provided in this section, if the lease is in good standing and the

1 development requirements of the lease have been satisfied, the lessee may purchase
2 the leased land.

3 (b) The department may identify land appropriate for commercial
4 development from any or all of the following categories:

5 (1) state land identified or nominated as Qualified Opportunity Zones
6 under 26 U.S.C. 45D, 26 U.S.C. 1400Z-1 and 1400Z-2, and 26 C.F.R. 601.601;

7 (2) state land nominated by the public; public nominations under this
8 paragraph are limited to one for each person and may not exceed 640 acres in size;

9 (3) any other state land the department deems appropriate for
10 commercial development.

11 (c) If land identified in (b) of this section is classified in a manner that does
12 not allow disposal of the land, the commissioner may classify or reclassify the land
13 through a classification order under AS 38.05.300 and a written decision by the
14 director under AS 38.05.035(e).

15 (d) The commissioner may open certain areas of land identified in (b) of this
16 section for leasing and sale, and issue a request for proposals to develop land within
17 the areas. Before proposals may be requested, the commissioner shall issue a decision
18 under AS 38.05.035(e) that the lease and sale of the land within the areas opened is in
19 the state's best interest. The commissioner's request for proposals must be in writing.

20 (e) A person may apply to develop land within the areas by responding to the
21 commissioner's request for proposals and paying an application fee as provided by
22 regulation. In addition to any information requested by the commissioner in the
23 request for proposals, a response to the request for proposals must include

24 (1) the specific type of commercial development proposed; and

25 (2) the specific location and description, including amount, of land
26 requested for the proposed commercial development; the amount of land requested in
27 a response to request for proposals may not exceed 20 acres and must be reasonably
28 compact.

29 (f) The commissioner's request for proposals must be posted on the Alaska
30 Online Public Notice System (AS 44.62.175) for at least 30 consecutive days and must
31 be furnished by electronic format or mail to a person who received notice of the

1 decision issued under (d) of this section.

2 (g) A response to the commissioner's request for a proposal must be in writing
3 and submitted by the deadline set by the commissioner. The commissioner may reject
4 any proposal that does not meet the requirements of this section or that the
5 commissioner determines, in writing, is not in the best interests of the state. The
6 commissioner's decision to reject a proposal is subject to appeal or a petition for
7 reconsideration under AS 44.37.011.

8 (h) If the commissioner determines that only one suitable proposal for a
9 specific area of land exists, the commissioner may issue a lease to that person as
10 provided in this section if it is in the best interests of the state. If the commissioner
11 determines that there are two or more suitable proposals for the same land or
12 overlapping land, the commissioner shall award the lease to the highest bidder as
13 determined by the commissioner at a public auction or by sealed bid if it is in the best
14 interests of the state. Participation in the public auction or sealed bid under this
15 subsection is limited to the persons who submitted proposals for the same land or
16 overlapping land.

17 (i) The annual fee for a commercial land lease under this section shall be set
18 by the commissioner so as to ensure that the state receives a fair return for the use
19 granted by the lease for the term of the lease and shall be a form of compensation set
20 out in AS 38.05.073(m). A lease must be for a term of not more than five years. A
21 lease in good standing may be renewed for one additional five-year period. The lease
22 may not be assigned by the original lessee during the term of the lease or any renewal
23 without the approval of the director.

24 (j) A commercial land lease under this section may be terminated by the
25 commissioner before the expiration of the term of the lease for a breach of the terms of
26 the lease, including a failure to use the land in a manner required by the terms of the
27 lease. After expiration of the lease term or termination of the lease before it expires,
28 improvements or personal property on the land subject to the lease shall be managed
29 in the manner required by AS 38.05.090.

30 (k) At any time during the lease, a lessee in good standing may submit an
31 application to the department to purchase all or a portion of the land leased under this

1 section for its fair market value at the time of purchase, if the lessee

2 (1) has completed the development requirements of the land leased
3 consistent with the proposal submitted under (g) of this section and as provided by the
4 terms of the lease;

5 (2) has appraised and surveyed the site in a manner acceptable to the
6 department, at the lessee's expense; and

7 (3) pays an application fee as provided by regulation.

8 (l) A lessee who purchases the land under (k) of this section may apply the
9 amount of the lease payments made under the lease to the purchase price of the land.
10 Other amounts paid, including fees, penalties, survey costs, and appraisal costs, may
11 not be applied to the purchase price of the land.

12 (m) If an application to purchase land is denied, the lessee may continue to
13 hold the lease according to the terms of the lease, and may apply again to purchase the
14 land. Any subsequent application must address the reasons the previous application
15 was denied.

16 (n) The commissioner shall adopt regulations under AS 44.62 (Administrative
17 Procedure Act) to implement this section. Regulations adopted under this subsection
18 shall, at a minimum, address

19 (1) the application procedures for a commercial land lease or sale
20 under this section;

21 (2) the auction or sealed bid process, if necessary, under (h) of this
22 section;

23 (3) the terms and conditions that may be included in a commercial land
24 lease under this section;

25 (4) resolving any and all competitive bidding disputes and issues;

26 (5) the procedure for requesting proposals;

27 (6) the criteria for assessing proposals; and

28 (7) any administrative fees.

29 * **Sec. 15.** AS 38.05.321(a) is amended to read:

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

1 (1) a perpetual covenant for the benefit of all Alaska residents and
2 running with the land that restricts or limits the use of the land for agricultural
3 purposes; and

4 (2) one of the following, as appropriate:

5 (A) a perpetual covenant for the benefit of all Alaska residents
6 and running with the land permitting the owner of land that had been obtained
7 under homestead entry to subdivide and convey the land in parcels of not less
8 than 20 [40] acres each; or

9 (B) a perpetual covenant for the benefit of all Alaska residents
10 and running with the land permitting the owner of land that had been obtained
11 by purchase to subdivide and convey not more than eight [FOUR] parcels of
12 the land of not less than 20 [40] acres each, subject to the restriction that a
13 subdivided parcel may not be further subdivided.

14 * **Sec. 16.** AS 38.05.321(d) is amended to read:

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

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

20 (2) as a condition of the conveyance, the commissioner may not
21 require preparation and implementation of a schedule of planned agricultural
22 development or a farm development plan specified in a land purchase contract unless
23 the commissioner permits modification of a plan in cases of economic hardship or
24 other extenuating circumstances;

25 (3) the commissioner may not

26 (A) limit the right of the landowner to use the land and
27 improvements for purposes that are [INCIDENTAL TO AND] not inconsistent
28 with and do not limit the primary use of the land for agricultural purposes;

29 (B) except as provided by (i) of this section, limit the right of a
30 landowner to construct housing for the landowner and farm laborers, to
31 construct improvements for animals, or to construct improvements that are

1 reasonably required for or related to agricultural use on the original parcel and
2 on additional subdivided parcels, not to exceed the limits and restrictions set by
3 (a)(2) of this section; and

4 (C) limit the right of the landowner to subdivide and convey
5 the land if the resulting parcels are not in violation of the limits and restrictions
6 set out in (a)(2) of this section.

7 * **Sec. 17.** AS 38.05.321(j) is amended to read:

8 (j) In this section, "agricultural purposes" means

9 (1) the production, **storage, and sale**, for commercial or personal use,
10 of useful plants and animals;

11 (2) the construction of

12 (A) housing for landowners and farm laborers;

13 (B) improvements for animals; or

14 (C) improvements that are reasonably required for or related to
15 agricultural use;

16 (3) the use of gravel reasonably required or related to agricultural
17 production on the parcel conveyed; and

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

20 * **Sec. 18.** AS 38.05.965 is amended by adding a new paragraph to read:

21 (29) "public auction" means a public oral outcry auction or a public
22 online auction.

23 * **Sec. 19.** AS 41.23.400, 41.23.410, 41.23.420, 41.23.430, 41.23.440, 41.23.450, 41.23.460,
24 41.23.470, 41.23.480, 41.23.490, 41.23.500, and 41.23.510 are repealed.

25 * **Sec. 20.** Section 1, ch. 122, SLA 1988 is repealed.

26 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 TRANSITION: REGULATIONS. The commissioner of natural resources, the
29 commissioner of education and early development, and the commissioner of transportation
30 and public facilities may adopt or amend regulations as necessary to implement the changes
31 made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),

- 1 but not before the effective date of the law implemented by the regulations.
- 2 * **Sec. 22.** This Act takes effect immediately under AS 01.10.070(c).

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APPENDIX B

Recreation Rivers Act

SECTION

400.	Purposes	460.	Acquisition of additional land
410.	Compatible activities	470.	Application of public land laws
420.	General management of recreation rivers and corridors	480.	Cooperative management agreements
430.	Advisory board	490.	Limitation on establishment
440.	Management plan	500.	Establishment of recreation rivers and recreation corridors
450.	Management of municipal land	510.	Definition

Sec. 41.23.400. Purposes. (a) The purpose of AS 41.23.400 - 41.23.510 is to establish as recreation rivers the land and water now owned by the state and the land and water acquired in the future by the state that lies within the recreation rivers and the river corridors described in AS 41.23.500.

(b) The primary purpose for the establishment of the six recreation rivers is the maintenance and enhancement of the land and water described in AS 41.23.500 for recreation.

(c) The primary purpose for the management of the six recreation rivers are:

- (1) the management, protection, and maintenance of the fish and wildlife populations and habitat on a sustained-yield basis;
- (2) continued recreation and economic use, including the uses described in (3) and (4) of this subsection, and enjoyment by the public and individuals of recreational activities that include hunting, fishing, trapping, camping, boating, hiking, snow-machining, skiing, dog mushing, and wildlife viewing, while ensuring the scenic and natural integrity of the recreation river;

(3) multiple use management of upland activities within the recreation river corridor to ensure that mitigation measures to alleviate potential adverse effects on water quality and stream flow will take place; and

(4) accommodation of access for resource uses, including recreation and tourism, within or adjacent to the river corridor. (§ 2 ch 122 SLA 1988)

Sec. 41.23.410. Compatible activities. The commissioner shall allow the following activities on a recreation river or within a recreation corridor when they are compatible with AS 41.23.400 and consistent with a management plan adopted under AS 41.23.440;

- (1) the use of aircraft, powerboats, snow-machines, all-terrain vehicles, motorized transportation, and transportation by animal;
- (2) the sale and harvest of wood products under AS 41.23.470(b);
- (3) sand and gravel extraction under AS 41.23.470(b);
- (4) the construction and operation of recreation facilities; and

Recreation Rivers Act

- (5) other uses permitted in the management plan required by AS 41.23.440, including mining and mineral development. (§ 2 ch 122 SLA 1988).

Sec. 41.23.420. General management of recreation rivers and corridors.

- (a) The state-owned land and water within the area established as a recreation river under AS 41.23.500, including the recreation river corridor, is assigned to the commissioner for management consistent with the purposes of AS 41.23.400.
- (b) The commissioner shall reserve to the state under AS 46.15.145 an instream flow or level for the water in the rivers described in AS 41.23.500 that is adequate to achieve the purposes of AS 41.23.400.
- (c) The commissioner may regulate boating, if necessary, under the management plan adopted under AS 41.23.440.
- (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of:
- (1) the Department of Fish and Game, the Board of Fisheries, the Board of Game, or the Guide Licensing and Control Board under AS 08.54, AS 16, or AS 41.99.010;
 - (2) the Department of Environmental Conservation under AS 46.03; or
 - (3) state agencies and municipalities under AS 44.19.145(a)(11) and AS 46.40.100.
- (e) The commissioner may not restrict the use of weapons, including firearms, within a recreation river and a recreation river corridor except in sites of high public use such as picnic areas, boat ramps, camping grounds, and parking areas when the commissioner determines that the use of weapons constitutes a threat to public safety. Except as provided in this subsection, the commissioner may not restrict fishing, hunting, or trapping with a recreation river and its recreation river corridor.
- (f) The authority of the commissioner under AS 41.23.400 - 41.23.510 ceases where the land and water established as a recreation river under AS 41.23.400 - 41.23.510 meets land and water that is not established as a recreation river. (§ 2 ch 122 SLA 1988)

Sec. 41.23.430. Advisory Board.

- (a) A thirteen-member Recreation Rivers Advisory Board is established. Board members serve without compensation and are not entitled to per diem and travel expenses authorized by law for boards and commissions under AS 39.20.180. The governor shall appoint members representing:
- (1) commercial fishing;
 - (2) sport fishing;
 - (3) sport hunting;
 - (4) conservation;
 - (5) subsistence;
 - (6) forest products;
 - (7) mining;
 - (8) powerboat users;
 - (9) recreationally-oriented commercial users;
 - (10) other recreational users;
 - (11) private property owners within the recreation river corridors;
 - (12) the Matanuska-Susitna Borough Planning Commission from the membership of the planning commission; and
 - (13) the mayor of the Matanuska-Susitna Borough or the designee of the mayor.
- (b) The commissioner shall consult with the advisory board in preparing, adopting, and revising the recreation river management plan and regulations affecting use and management of the recreation rivers. (§ 2 ch 122 SLA 1988)

- Sec. 41.23.440. Management Plan.** (a) The commissioner, in consultation with representatives of affected municipalities, shall prepare and adopt and may revise a management plan for each of the six recreation rivers and their recreation river corridors. In preparing or revising the plan, the commissioner and each affected municipality shall consult with the public and state agencies, including the commissioner of fish and game and the advisory board established under AS 41.23.430. In preparation or revision of the plan, the commissioner shall comply with the notice requirements of AS 38.05.945 and provide written

notice by first-class mail to private property owners in the recreation river corridors and shall hold at least two public hearings in municipalities and communities near the recreation river and the recreation river corridor. The management plan shall establish long-range guidelines and management practices consistent with AS 41.23.400 to:

- (1) establish guidelines and restrictions, if necessary, for an activity occurring under AS 41.23.410 to implement the purposes of AS 41.23.400;
 - (2) protect, maintain, or enhance the fish and wildlife habitat and the free-flowing nature of the river;
 - (3) identify special recreation values and manage the level of intensity and types of recreation uses;
 - (4) designate management guidelines for development activities;
 - (5) designate management guidelines for commercial recreation activities or development, including recreation services;
 - (6) provide for necessary public services, such as transportation and utility corridors, crossing or fording corridors, public safety, and law enforcement;
 - (7) allow reasonable access to public land and private inholdings, including municipal land that is offered for sale or lease, and to land beyond or adjacent to the recreation river and the recreation river corridor;
 - (8) establish criteria and expedient timelines to review future proposed uses for compatibility with AS 41.23.400.
- (b) The commissioner shall adopt regulations necessary to implement the management plan. The commissioner may not adopt regulations before a management plan takes effect. The commissioner may designate employees of the department as peace officers to enforce the provisions of AS 41.23.400 - 41.23.510.
- (c) A management plan proposed by the commissioner under (a) of this section shall be submitted to the legislature for review within the first 10 days of the first regular session of the

legislature to convene after completion of the plan by the commissioner. The plan takes effect 100 days after submission of the plan to the legislature unless rejected by an act of the legislature. (§ 2 ch 122 SLA 1988)

Sec. 41.23.450. Management of municipal land. If a municipality commits land for inclusion in a recreation river corridor described in AS 41.23.500, the commissioner shall obtain the concurrence of the municipality to the management plan proposed under AS 41.23.440 as it applies to municipal land. The commissioner shall cooperate, at the request of a municipality, in planning for municipal land adjacent to a recreation river corridor. Municipal land not committed by a municipality for inclusion in a recreation river corridor is excluded from the operation of the management plan. (§ 2 ch 122 SLA 1988)

Sec. 41.23.460. Acquisition of additional land

- (a) The commissioner may acquire in the name of the state land that is adjacent to or located within the land described in AS 41.23.500 by purchase, lease, gift, or exchange for inclusion within a recreation river corridor.
- (b) The commissioner may not acquire land for inclusion in a recreation river corridor by eminent domain. (§ 2 ch 122 SLA 1988)

Sec. 41.23.470. Application of public land laws.

- (a) The provisions of AS 38.04, AS 38.05, AS 38.35 and AS 38.95 apply to land described in AS 41.23.500 except to the extent that a provision of AS 41.23.400 - 41.23.510 is inconsistent.
- (b) The commissioner may conduct only a negotiated timber or material sale under AS 38.05.115 to provide for personal use, including house logs and firewood, or for a use incidental to the construction of access, or for habitat enhancement.
- (c) The commissioner may permit mining leasing under AS 38.05.205 on upland within a recreation river corridor if leasing is allowed under a management plan that has been adopted by the commissioner. The commissioner shall establish appropriate conditions for permits,

Recreation Rivers Act

operating plans, and leases to mitigate the effects of mineral development activities on the environment and to prevent to the extent practicable degradation of the recreation uses of the river.

(d) To enhance public use and enjoyment of a recreation river corridor under a management plan adopted under AS 41.23.440, the commissioner may provide for the construction and operation of commercial facilities such as lodges, campgrounds, and boat launches by:

- (1) leasing land under AS 38.05.070, including competitive leasing to a prequalified bidder; and
- (2) contracting for the construction and operation of a facility under AS 36.30 so long as the facility is not in competition with a private facility or enterprise.

(e) The commissioner of administration shall separately account for funds collected under this section and deposited in the general fund. The annual estimated balance in the account may be appropriated by the legislature to the department to carry out the purposes of AS 41.23.400 - 41.23.510. (§ 2 ch 122 SLA 1988)

Sec. 41.23.480. Cooperative management agreements.

(a) The commissioner may enter into a cooperative management agreement for the management of land and water described in AS 41.23.500 or of other adjacent land and water with a federal agency, a municipality, another agency of the state, or a private landowner.

(b) The commissioner may transfer the management of a specific site within a recreation river corridor described in AS 41.23.500 to a state agency, a municipality, or a private entity to carry out a program authorized by law or to enhance the objectives of the management plan adopted under AS 41.23.440.

(c) The commissioner may not manage a recreation river corridor described in AS 41.23.500 as a unit of the state park system or as a game refuge, game sanctuary, or a critical habitat. The commissioner may assign management of a recreation facility or site such as a campground or a boat launch to the division of parks. (§ 2 ch 122 SLA 1988)

Sec. 41.23.490. Limitation on establishment.

State-owned land and water may be established as a recreation river corridor only by the legislature. (§ 2 ch 122 SLA 1988)

Sec. 41.23.500. Establishment of recreation rivers and recreation river corridors.

Subject to valid existing rights, the state-owned land and water acquired by the state in the future, including shore and submerged land that lies within the following described parcels, is established as a recreation river and reserved as a special purpose area under art. VII, sec. 7, Constitution of the State of Alaska and shall be retained by the state and be managed under AS 41.23.400 - 42.23.510;

- (1) Alexander Creek State Recreation River
- (2) Kroto Creek and Moose Creek State Recreation River
- (3) Lake Creek State Recreation River
- (4) Little Susitna State Recreation River
- (5) Talachulitna State Recreation River
- (6) Talkeetna State Recreation River

Sec. 41.23.510. Definition. In AS 41.23.400 - 41.23.510. "recreation river corridor" means the uplands within a recreation river established under AS 41.23.500. (§ 2 ch 122 SLA 1988)