

## CS FOR SENATE BILL NO. 67(FIN)

## IN THE LEGISLATURE OF THE STATE OF ALASKA

## EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/7/93  
 Referred: Today's Calendar

Sponsor(s): SENATE RESOURCES COMMITTEE

## A BILL

## FOR AN ACT ENTITLED

1 "An Act amending provisions of ch. 66, SLA 1991, that relate to reconstitution  
 2 of the corpus of the mental health trust and to the manner of enforcement of  
 3 the obligation to compensate the trust; and providing for an effective date."

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

5 \* Section 1. Section 55(g), ch. 66, SLA 1991, is amended to read:

6 (g) Except for public notice as provided under AS 38.05.945(b) and (c), the  
 7 [THE] provisions of AS 38.04, AS 38.05, and AS 38.50 do not apply to exchanges  
 8 under this section.

9 \* Sec. 2. Section 55(h), ch. 66, SLA 1991, is amended to read:

10 (h) If agreement cannot be reached between the plaintiffs in Weiss v. State of  
 11 Alaska, 4FA-82-2208 Civil, and the commissioner of natural resources under (f) of this  
 12 section as to appropriate lands to be conveyed to the trust as compensation or as to the  
 13 value of the original lands taken or of replacement lands, the Alaska Supreme Court  
 14 shall resolve the disagreements using the criteria set out in this section. IN A

1 proceeding under this subsection, the Alaska Supreme Court may not give  
2 deference to the finding of the commissioner of natural resources made under  
3 (i)(2) of this section. The Alaska Supreme Court may order the commissioner of  
4 natural resources to convey appropriate state land to the trust without further legislative  
5 authorization.

6 \* Sec. 3. Section 55, ch. 66, SLA 1991, is amended by adding new subsections to read:

7 (i) The provisions of this subsection apply to proposed land exchanges  
8 negotiated under (f) of this section, and to land exchanges proposed under (h) of this  
9 section by either the plaintiffs in Weiss v. State of Alaska, 4FA-82-2208 Civil, or the  
10 commissioner of natural resources:

11 (1) the commissioner of natural resources shall give public notice as  
12 provided under AS 38.05.945(b) and (c) of a proposed land exchange; in the notice,  
13 the commissioner shall provide for a written comment period of at least 30 days; the  
14 commissioner shall also hold a public hearing in the area of the land proposed to be  
15 conveyed to the trust under the proposed land exchange; and

16 (2) following public notice of a proposed exchange under this  
17 subsection and the public hearing, the commissioner shall make, and give notice of,  
18 a written finding as to whether the proposed land exchange meets the criteria of (b) -  
19 (e) of this section.

20 (j) A person other than a plaintiff in Weiss v. State of Alaska, 4FA-82-2208  
21 Civil, may obtain judicial review of the finding of the commissioner of natural  
22 resources under (i)(2) of this section and of the proposed land exchange only if the  
23 person

24 (1) had submitted written or oral comment in response to a notice  
25 published under (i) of this section;

26 (2) demonstrates that the person has an interest that will be adversely  
27 affected by the proposed land exchange if the exchange becomes final; and

28 (3) files a notice of appeal within 30 days after the commissioner of  
29 natural resources gives notice of the commissioner's finding; the notice of appeal must  
30 be filed with the court having jurisdiction to hear and determine any dispute arising  
31 under secs. 54 - 56 of this Act.

1                   (k) In a proceeding under (j) of this section, the Alaska Supreme Court shall  
2                   give appropriate deference to the findings of the commissioner of natural resources  
3                   made under (i)(2) of this section as a matter committed to the commissioner's  
4                   discretion.

5                   \* Sec. 4. Sections 56(a) and (b), ch. 66, SLA 1991, are repealed.

6                   \* Sec. 5. **HYPOTHECATION OF STATE LAND TO SECURE RECONSTITUTION OF**  
7                   **MENTAL HEALTH TRUST.** (a) To secure the reconstitution of the trust as provided in  
8                   secs. 54 and 55, ch. 66, SLA 1991, the following land is hypothecated to the trust established  
9                   by the Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709:

10                   (1) the land to be returned to the trust corpus

11                                   (A) under sec. 54(1) - (5) ch. 66, SLA 1991; and

12                                   (B) under sec. 54(6), ch. 66, SLA 1991, if that land is acceptable to the  
13                   plaintiffs in Weiss v. State of Alaska, 4FA-82-2208 Civil; and

14                   (2) in addition to the land described in (1) of this subsection, not more than  
15                   1,500,000 acres of other state land that is identified in an agreement negotiated between the  
16                   commissioner of natural resources and the plaintiffs in Weiss v. State of Alaska, 4FA-82-2208  
17                   Civil; under this paragraph, the commissioner of natural resources and the plaintiffs in Weiss  
18                   v. State of Alaska, 4FA-82-2208 Civil, shall negotiate the agreement for other state land for  
19                   hypothecation by using the criteria set out in sec. 55(d) and (e), ch. 66, SLA 1991, that are  
20                   applicable to proposed exchanges of land between the state and the Alaska Mental Health  
21                   Trust Authority as authorized by sec. 55, ch. 66, SLA 1991; the total amount of land  
22                   hypothecated to the trust in the land agreement negotiated under this paragraph shall, when  
23                   taken together with the land hypothecated to the trust under (1) of this section, be sufficient  
24                   to reconstitute the trust.

25                   (b) Title to the land specified in (a) of this section remains with the state and, so long  
26                   as no default exists under secs. 54 and 55, ch. 66, SLA 1991, and AS 37.14.036(c), added by  
27                   sec. 11, ch. 66, SLA 1991, any income from that land shall be deposited in the general fund  
28                   and considered unrestricted general funds of the state.

29                   \* Sec. 6. Section 5 of this Act is repealed and any hypothecation under that section is  
30                   terminated.

31                   \* Sec. 7. **CONDITIONAL RETROACTIVE APPLICATION.** If ch. 66, SLA 1991, takes

1 effect before the effective date of secs. 1 - 4 of this Act, secs. 1 - 4 of this Act are retroactive  
2 to the actual effective date of ch. 66, SLA 1991.

3 \* Sec. 8. Sections 1 - 4 and 7 of this Act do not take effect unless ch. 66, SLA 1991, takes  
4 effect.

5 \* Sec. 9. Sections 5 and 8 of this Act take effect immediately under AS 01.10.070(c).

6 \* Sec. 10. If secs. 1 - 4 and 7 of this Act take effect, they take effect on the effective date  
7 of ch. 66, SLA 1991.

8 \* Sec. 11. Section 6 of this Act takes effect upon entry of a final order holding ch. 66,  
9 SLA 1991, as amended by secs. 1 - 4 of this Act, invalid as a settlement of Weiss v. State of  
10 Alaska, 4FA-82-2208 Civil, and the expiration of any time for appeal of that order. The  
11 superior court shall advise the lieutenant governor and the revisor of statutes when that final  
12 order has been entered.