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COMMITTEE REPORT
SENATE

3/5/82

FURTHER: Finance

Date: 3/12/82

Mr. President:

The Committee on RESOURCES has had SB 710
state trust funds and their administration

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 710 same title
- new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Notes
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

CHAIRMAN



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

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

April 12, 1982
1:05 p.m.

Beltz Room
Capitol - Room 211

Hearing:

SB 710 Relating to state trust funds and their administration.
SB 806 Relating to the issuance of citations for fish and game violations.

SB 710

Senator Parr expressed support for SB 710, explaining that the State has a moral and a legal obligation to resolve the issue of the mental health lands. Although a bill was passed in 1978 providing for funds to be appropriated to the Mental Health Trust Fund, no money was ever appropriated. He stated that the Mental Health Association is prepared to sue the State if the issue is not resolved this session. Although Parr has no objection to CSSB 710 (Res), he does not see the need for a \$50,000 appropriation to the Department of Revenue, Mental Health Advisory Board, for the needs assessment.

Senator Gilman reminded the Committee that the 1978 law was put into effect because the mental health lands were the only ones available for municipal land selections. This law changed the status so the lands were available for general selection.

Senator Fahrenkamp stated that she spoke to Natalie Gottstein, Executive Director, Alaska Mental Health Association, just prior to today's meeting. Natalie urged the passage of CSSB 710 (Res).

Senator Mulcahy moved the Resources Committee Substitute and asked unanimous consent. He then moved CSSB 710 (Res) with individual recommendations.

Senator Sturgulewski asked that the three fiscal notes be sent forward with the bill.

SB 806

Senator Mulcahy stated that testimony on SB 806 had been taken in the Fisheries Subcommittee. He explained that this bill allows citations

Senate Resources Committee

April 12, 1982

Page 2

to be written for minor fish and game violations, with fines ranging from \$25 to \$100. The Committee Substitute allows a 15-day period for payment of a fine (rather than the 5 days in the original bill), and adds a statement to the effect that a person who contests a citation cannot be charged a larger fine than a person who doesn't contest it.

Senator Gilman expressed support for SB 806, explaining that it allows people to send in fines rather than having to appear in court.

Senator Gilman moved the Committee Substitute and asked unanimous consent. He then moved CSSB 806 with individual recommendations.

The meeting was adjourned at 1:40 p.m.

CSSB 710(Res)

The federal Alaska Mental Health Enabling Act of 1956 authorized the Territory of Alaska to select one million acres of land "as a public trust," the proceeds and income of which were "first be applied to meet the necessary expenses of the mental health program of Alaska." Amounts not needed for mental health program purposes were to be used for other public purposes determined by the legislature.

The 1958 Alaska Statehood Act confirmed and transferred the land grant to the new State of Alaska.

The "mental health trust lands" were received by the state and managed by the Department of Natural Resources.

In 1978 the legislature redesignated the mental health lands as general grant lands and established a mental health trust fund which was to receive one and one-half percent of the total receipts derived from the management of state land. This percentage was to be appropriated by the legislature on an annual basis. To date, no appropriation has been made to the Mental Health Trust Fund.

An Attorney General's opinion indicates, among other items, that a public trust exists and that funds may be transferred into the trust fund without appropriation.

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

BILL NUMBER SB 710

IDENTIFICATION:

BILL NAME: "An Act relating to state trust funds and their administration; and providing for an effective date."

SPONSOR(S): HESS

RELATED BILLS PENDING: SB 711
HB 151

DATE INTRODUCED: 2/3/82

REFERRALS HESS
Resources
Finance

INITIAL RESEARCH:

INITIAL BILL SUMMARY COMPLETED ✓

SUMMARY BY LEGAL DIVISION: *Letter R. Smith*
DEPT. OF LAW SUMMARY:

SPONSOR CONTACTED FOR BACKUP

FISCAL NOTE: *Dept. HSS*

MATERIALS: *✓ yes - formulated file - proposed CS (HESS)
proposed amend - Tom Branton*

PR - CS SB 710 (HESS)

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR REPS. NOTIFIED:

Dept. HSS position paper / ~~Final~~ note in support - amended

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS:

1/17 check with joint
no resolution in support - J. Claudopolis - 1.8 standards health co. out. Council
OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPRATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE

BACKGROUND MATERIAL DISTRIBUTED

PSA/PRESS RELEASE

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/CS DRAFTED:

*called Thomas Branton - proposed amend. ~3370
called Tom Branton Colletta 3752
" Parr
called Rep. Malone
Marino*

*CS SB 710 (HESS)
Do HSS amend - Tom Branton, ser ~3370*

LEGISLATION SUMMARY

- CSSB 710 (Res): "An Act relating to the mental health trust fund and its administration; and providing for an effective date."
- Sec. 1: Amends existing law regarding the powers and duties of the Mental Health Fund Advisory Board, adding new language requiring the Board to annually report to the legislature by the 15th day of each session, providing an assessment of the state's mental health services needs, the degree to which those needs are being met, and providing recommendations for use of income from the Fund.
- Sec. 2: Amends existing law regarding utilization of the Mental Health Fund to allow income from the fund not used for the support of the state mental health program to be appropriated to any other public purpose.
- Sec. 3: Amends existing law regarding state contributions to the Mental Health Fund, requiring that the commissioner of revenue annually transfer an amount equal to 1½% of certain state receipts to the Fund. The relevant receipts are those received from state land management and the sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sales proceeds, and federal mineral revenue-sharing payments or bonuses. The amendment eliminates receipts from state land management and the sale or annual rent of surface rights from the total from which the 1½% annual transfer is derived.
- Sec. 4: Amends the Public Finance Code Trust Funds Chapter, adding new language requiring the Legislative Budget and Audit Committee to annually review the performance of the commissioner of revenue regarding the custody, management and investment of the Fund, and to report its findings to the legislature and Governor.
- Sec. 5: July 1, 1982 effective date.

LEGISLATION SUMMARY

- CSSB 710 (HESS): "An Act relating to state trust funds and their administration; and providing for an effective date."
- Sec. 1: Amends existing law regarding utilization of the Mental Health Fund to allow income from the Fund not used for the support of the state mental health program to be appropriated to any other public purpose.
- Sec. 2: Amends existing law regarding state contributions to the Mental Health Fund and the Public School Fund requiring that
- Sec. 3: the commissioner of revenue annually transfer an amount equal to 1½% of certain state receipts to each Fund. The relevant receipts are those derived from state land management and the sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses. The amendment eliminates receipts from state land management and the sale or annual rent of surface rights from the total from which the 1½% annual transfer is derived.
- Sec. 4: Amends existing law regarding state trust funds, adding new language requiring annual review of the commissioner of revenue's performance regarding the custody, management and investment of the Mental Health, University and Public School Funds by the Legislative Budget and Audit Committee. Requires the Committee to annually report its findings to the legislature and governor.
- Sec. 5: Repeals existing law establishing the Advisory Boards for the Mental Health and Public School Funds, and existing law regarding the Board's powers and duties.
- Sec. 6: July 1, 1982 (effective date).

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CSSB 710 (D.C.)
 Title: Relating to state trust funds and their administration
 Requested by: _____ Date: 4/12/82

II. FISCAL DETAIL

Agency Affected: General Fund Unrestricted Revenue
 Program Category Affected: _____
 BRU, Program, or Subprogram(s) Affected: _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING

IN MILLIONS OF DOLLARS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	(16.2)	(17.7)	(21.1)	(24.6)	(28.8)
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Above is in terms of reduction of General Fund unrestricted revenue now to be contributed to Mental Health Fund at one and one-half percent contribution rate of mineral lease rentals, royalties, royalty sale proceeds. Based on latest revenue estimates as of date of preparation of fiscal note.

A. Staack

IV. DATE: April 12, 1982 PREPARED BY: Anselm C. Staack, Treasury Comptroller
 AGENC: Dept. of Revenue, Treasury Division
 PHONE: 65-2350
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 710 (Resources)
 Title Relating to the mental health trust fund
 Requested by Senate Resources Committee Date 4/12/82

II. FISCAL DETAIL

Agency Affected Menatl Health Fund Advisory Board - Dept. of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, Or Subprogram(s) Affected Treasury Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		50,000	-0-	50,000	-0-	50,000
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		50,000	-0-	50,000	-0-	50,000

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		50,000	-0-	50,000	-0-	50,000
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This analysis assumes that each needs assessment will be prepared on contract and that each will cost no more than \$50,000.

IV. DATE 4/12/82 PREPARED BY Senator Fahrenkamp, Chairman
 AGENCY Senate Resources Committee
 Original: Legislative Finance PHONE 465-3762
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

I. REQUEST

Bill/Resolution Number: CSSB 710 (HESS) (3/5/82)
 Title: Relating to state trust funds and their administration
 Requested by: Senate Resources Committee Date: 4/12/82

II. FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected: Treasury Management
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	15.7	17.3	19.0	41.7	45.3
200 TRAVEL	-	2.0	2.2	2.4	2.7	2.9
300 CONTRACTUAL	-	21.0	24.2	27.9	32.1	37.0
400 COMMODITIES	-	.5	.6	.7	.8	.8
500 EQUIPMENT	-	1.5	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	40.7	44.3	50.0	77.3	86.3

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	40.7	44.3	50.0	77.3	86.3
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	1/12MM	1/12MM
PART TIME	-	1/6MM	1/6MM	1/6MM	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
 Allows the Commissioner of Revenue to invest the Mental Health Fund

THIS ANALYSIS IS BASED ON ASSUMPTION COMPANION BILL SB 711, APPROPRIATION TO MENTAL HEALTH FUND, DOES NOT PASS.

Personal Services is one-half time Accounting Tech. II (R14,G) for associated trust accounting, proper allocation, monthly/quarter/annual reporting. Contractual Services: Comm. \$3.0; Print & Adv. \$3.0; Safekeeping and relating reporting/accounting \$10.0; Audit \$5.0. Equipment for new position.

Trust funds should pay for related expenses out of income for true rate of return and proper cost allocation.

A. Staack

IV. DATE: April 12, 1982 PREPARED BY: Anselm C. Staack, Treasury Controller
 AGENCY: Dept. of Revenue, Treasury Division
 PHONE: 465-2350
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

MAR 1 1982
JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 15, 1982

The Honorable Bettye Fahrenkamp
Chairwoman
Senate Resources Committee
Room 113 - Capitol Building
Juneau, Alaska

Dear Senator Fahrenkamp:

Re: CS for Senate Bill No. 710 (HESS)

CS for Senate Bill No. 710 (HESS), an Act relating to the state trust funds and their administration, was referred on March 5, 1982 by the Senate Health, Education and Social Services Committee to the Senate Resources and Finance Committees.

For the consideration of the Senate Resources Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Anselm Staack, Treasury Comptroller and Mr. Robert W. Elliott, Research Analyst, Research Section of the Department of Revenue concerning the Committee Substitute.

Sincerely,



R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

Robert W. Elliott, Research Analyst
Research Section
Department of Revenue

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 710 (HESS) (3/5/82)
 Title Relating to state trust funds and their administration
 Requested by Senate Resources Committee Date 3/12/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, Or Subprogram(s) Affected Treasury Management
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		84.2	92.6	101.9	112.1	123.3
200 TRAVEL		5.0	5.5	6.1	6.7	7.3
300 CONTRACTUAL		95.0	104.5	115.0	126.4	139.1
400 COMMODITIES		3.0	3.3	3.6	4.0	4.4
500 EQUIPMENT		6.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		193.2	205.9	226.6	249.2	274.1

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		193.2	205.9	226.6	249.2	274.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Allows the Commissioner of Revenue to invest three trust funds; the Mental Health Fund, University Fund and Public School Fund.

Personal Services is for Investment Officer II (R22,X) to invest and manage assets; Account Tech. II (R14,G) for associated trust accounting and proper allocation among three separate trust funds and all related reporting. Contractual Services: Comm. \$10.0; Print & Adv. \$10.0; Safekeeping and related reporting/accounting \$50.0; Audit \$20.0; Misc. \$5.0. Equipment for new positions. Costs cover all three funds. Travel to report to various boards involved.

The trust funds should pay for related expenses out of income to obtain true rate of return.

Anselm C. Staack

IV. DATE March 12, 1982 PREPARED BY Anselm C. Staack, Treasury Comptroller
 AGENCY Dept. of Revenue, Treasury Division
 Original: Legislative Finance PHONE 465-2350
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 710 (HESS)
Title An Act relating to State trust funds.
Requested by Senate Resources Committee Date 03/10/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
Program Category Affected _____
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Mental Health Fund		20,730	32,405			
Public School Fund		3,912	10,503			

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The above figures reflect the projected revenues (based on the Department of Revenue's January 1982 estimates) transferred from the General Fund to the Mental Health Fund (AS 37.14.010) and the Public School Fund (AS 37.14.110). Royalty sale proceeds are not included in the projections since bids are impossible to anticipate prior to sales.

IV. DATE 03/10/82

PREPARED BY Robert W. Elliott

AGENCY Revenue

PHONE 465-2172

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

HOUSE FINANCE COMMITTEE

May 24, 1978

9:00 a.m.

All members of the Committee were present except Representatives Cowper and Schaeffer. (Representatives Swanson and Gruening arrived later in the meeting). Also present were Representative Bradley and Pat Conheady, Division of Lands.

PRESENT

Vice-Chairman called the meeting to order and brought HB 720 up for consideration.

HB 720

"An Act relating to state land; and providing for an effective date."

Representative Duncan referred to the finance committee substitute for HB 720 and moved on page 1, line 29 to delete AS 38.08.080 and AS 40.15.200. Vice-Chairman Freeman objected.

(Representative Swanson arrived.)

Representative Duncan stated that if AS 38.08.080 were left in the bill, they would be by-passing the municipal zoning rights. Vice-Chairman Freeman stated this applies only to the "first go-around".

(Representative Gruening arrived.)

Vice-Chairman Freeman stated what they are trying to do here is offer a viable alternative to the Bierne initiative. He stated he didn't think they would be acting responsibly if they were to leave the Bierne initiative as the only choice. Vice-Chairman Freeman stated this section applies only to the "emergency" period and doesn't apply after 1980.

Representative Duncan stated section AS 40.15.200 deals with regulation of subdivisions and the ability of the municipality to regulate. Vice-Chairman Freeman stated this is also only exempted during the "emergency" period until November.

Representative Gruening commented that he did not think anything could be done between now and November within the provisions of the bill that would satisfy people. He stated he would be more comfortable with an effective date contingent on the failure of the Bierne Initiative.

Representative Buchholdt asked what the long term plan for land use was. Mr. Rogers (Administrative Assistant to Representative Bradley) stated there are two policies within the bill; one is to get the land out to the people immediately as proof that the land is available, and after that there is a long range plan (page 2 and 3 of the bill).

5/24/78

Representative Gruening asked how much land is located within municipalities. Mr. Conheady, Division of Lands, stated most of the land is located in the Mat-Su Borough. He stated there was very little in Southeast when they didn't include Mental Health lands. Representative Gruening commented the bill does include Mental Health lands. Representative Meekins stated he thought the purpose of the bill was to give land in areas relatively removed from urban areas. Vice-Chairman Freeman commented he didn't think you would find much mental health land in the middle of cities.

Representative Duncan asked if they could be getting into a legal problem if they over-ride home rule of municipalities. Vice-Chairman Freeman stated this might be a problem, but he didn't think they should lose sight of the fact that municipal governments are the "child" of state government, and the state gives them their powers.

Representative Gruening stated the problem with leaving these sections in is that he doesn't think it will accomplish anything, and it will not encourage good planning and zoning. He stated he thinks this is creating a bad precedent.

The Question on the motion was called for: 5 in favor, 3 opposed. AS 38.08.080 and AS 40.15.200 were deleted from Section 2 (d).

Representative Duncan referred to page 16, section 15 and stated his understanding is that this section gets into the local municipalities right to regulate land. He stated it takes away any approval rights of the local planning authority. There was discussion. Vice-Chairman Freeman stated this, again, is a policy decision. Representative Duncan moved to delete section 15, page 16. Vice-Chairman Freeman objected. After brief discussion, Representative Duncan withdrew his motion.

Representative Duncan asked if there was a difference between "designated" and "classified". Mr. Conheady stated there was. He stated that "classified" is required, where "designated" is just that. Representative Duncan recommended changing "designated" to "classified" in Section 15, and adding "and approved" back in. There was discussion. Mr. Rogers commented that if classified is used here, it must be used throughout the bill. He stated the question of adding "and approved" should be considered separately. There was brief discussion.

Vice-Chairman Freeman stated discussion would continue at this afternoon's meeting.

The meeting adjourned at 10:05 p.m.

Tape HFC 78-118 #663 - 1659

ADJ

5/2

HOUSE FINANCE COMMITTEE

May 24, 1978

3:05 p.m.

All members of the Committee were in attendance except Representative Buchholdt. (Representative Gruening arrived later in the meeting.) Also in attendance were: Jim Rolle, Alaska Municipal League; Representative Snider; Dick Holden, Department of Transportation and Public Facilities; and Rick Barrier, Alaska Court System.

PRESENT

Chairman Cowper called the meeting to order and brought HB 720 up for consideration.

HB 720

"An Act relating to homesites; and providing for an effective date."

Chairman Cowper requested that Representative Freeman, as Chairman of the Subcommittee on HB 720, Chair this portion of the meeting. Chairman Freeman recapped what had been discussed to date in Committee meetings.

Representative Duncan moved to delete Section 15 of the bill (page 16, lines 8-18) and insert in its place:

* Sec. 15. As 38 08.070 is repealed and re-enacted to read:

Sec. 38.080.070. LAND LOCATED WITHIN MUNICIPALITIES. The director, in consultation with the local planning authority of an organized borough or city, may designate or classify state land located within the city or borough for homesite entry consistent with established land use policies of the borough or city.

Chairman Freeman stated he had no objection to this. There was brief discussion. There being no objection, it was so ordered.

Chairman Freeman moved to add the following language to Section 15, to be inserted after the language accepted in the previous motion:

"Nothing in this section or other provisions of law which entitle an organized borough or city to select state land located within its boundaries prevents the director from selecting, designating, or classifying for homesite entry land which would otherwise be available for borough or city selection. If designated or classified for homesite entry, the land is not available for city or borough selection."

5/24/78

Representative Duncan objected. The Question was called for: 6 in favor, 3 opposed. The motion carried.

Representative Cowper suggested the Committee discuss the possibility of setting this up as an alternative proposition to the Bierne Initiative on the ballot. He stated he thinks they will have to play "hard ball" with the Initiative.

(Representative Gruening arrived at this time.)

Representative Cowper stated that if the Committee concurred that it was a good idea to put this on the ballot, he would suggest they ask for drafting assistance to amend the bill to reflect that decision. Representative Gruening stated he thought mental health lands should be separated from the initiative and be made effective immediately. There was brief discussion on the mental health lands. Chairman Freeman stated he was sold on the idea of having the section on mental health lands involved in this bill. He stated he believes the bill will have more appeal with those sections included. Representative Gruening stated the problem with mental health lands goes beyond this bill. He suggested if the passage of the homesite bill it going to be made provisional upon the approval of the voters, then the mental health lands problem should be addressed separately. There was further discussion on putting the bill on the ballot. Representative Cowper suggested passing the bill out and going to caucus with the idea of putting this on the ballot. He stated if the caucus decided to do this the bill could be revised in rules or free conference.

Chairman Freeman returned the gavel to Representative Cowper.

Representative Swanson moved and asked unanimous consent that a finance committee substitute be drafted, incorporating the latest finance work draft of CSHB 720 and the changes approved at this meeting. There being no objection, it was so ordered. CSHB 720 (finance) was reported out with a "do pass" recommendation.

CSHB 72
REPORTE
OUT

Chairman Cowper stated they have received a new fiscal note for CSHB 763 (An Act relating to Commercial Fishing and Agriculture) dated 5/22/78 in the amount of \$100.0. The Committee had no objection to the fiscal note. Chairman Cowper advised CSHB 763 had been reported out of Committee on April 25, 1978.

FISCAL
CSHB 76

Chairman Cowper brought HB 925 and HB 926 up for consideration.

HB 925
HB 926

5/24/78

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

Recd. 4/2/82

MEMORANDUM

February 17, 1982

SUBJECT: Mental health trust land liabilities
TO: Representative Hugh Malone
FROM: Richard A. Bradley
Legislative Counsel B

You have asked that I comment on the general question of the Mental Health Trust Lands granted to the Territory and the State of Alaska as well as the bill presently pending before the legislature relating to the trust lands, SB 710.

In preparing these comments, I have reviewed the memorandum of February 8, 1982 to you from the Department of Law. While I did not draft SB 710, I have been advised that SB 710 is the same as HB 151, the bill reviewed in the Department of Law memorandum. Accordingly, it seems that the comments in that memorandum are useful generally also to your question.

Because of the brief time allowed for the preparation of this memorandum, it was necessary to cast my views in general conclusory statements:

(1) I agree that it is unlikely that a court would conclude that the mental health trust responsibility imposed on the state to use the lands received for mental health purposes was terminated at statehood by the Statehood Act or by the Omnibus Act.

(2) I agree that it is likely that a court would conclude that the Alaska Mental Health Enabling Act imposed an affirmative trust on the state.

(3) It may be that the prohibition against the dedication of funds under the Alaska Constitution will, at some time in the future, have practical implications for the provisions of AS 37.14. I do not believe that it does at this point.

February 17, 1982

Several aspects of this problem may be noted. This office disagrees with the Department of Law views on the nature of the constitutional requirement; in our view, the income from the disposal of lands does not constitute the income from a "tax or license". We believe those words have meaning, whether or not our constitutional fathers correctly anticipated the actual sources of state income in the 1980's.

Until litigation resolves the question, it will be open to the legislature to interpret the constitution and dedicate the income from the disposal of lands if it wishes.

But I suspect that we also disagree with the suggestions that if the legislature dedicates the proceeds of a tax or license but the funds remain subject to legislative appropriation, that an unconstitutional dedication occurred.

Put in other words, if the dedication of the proceeds of a tax or license are subject to affirmative legislative appropriation, then no violation of the constitution occurs; in effect, the dedication constitutes nothing more than an allocation to an account within the treasury for accounting purposes.

I think it is premature, therefore, to pay too much attention to those concerns, particularly as long as there remains an obligation to the legislature to appropriate all the funds granted under the one and one-half percent formula. A dedication that remains subject to the discretion of the legislature to appropriate is not in fact a dedicated fund.

(4) I agree that so long as AS 37.14 remains the method by which the legislature seeks to execute its trust land responsibilities, the legislature should honor its own commitment to fund AS 37.14. I suggest that a legislative determination that the state is meeting or has met its mental health responsibilities, if based on reasonably well founded facts, will go some distance towards blunting the possibility of litigation on a theory that the state has failed in that liability. Whether that conclusion can be justified (and be well founded), is a more difficult question on which I have no answers.

February 17, 1982

(5) If the legislature remains with a reasonable commitment to AS 37.14 and supports funding under that concept, the needs for an appraisal of the mental health lands may be avoided.

(6) I agree that the allocation of money to the mental health funds may be achieved without appropriation and that it is reasonable to do so.

As suggested, the money should be used for mental health purposes but if the legislature makes an implicit determination that mental health needs are adequately funded, the mental health funds may be appropriated by the legislature to a different purpose.

The provisions of SB 710 seem consistent with these conclusions and I offer no proposals for amendments to deal with the assumed liability or otherwise.

RAB:ljb

That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

"(d) The term 'cost of construction' means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost of land acquired specifically for the purpose of the project, and on-site improvements.

"(e) If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under the Territory's mental health program, the United States shall be entitled to recover from the Territory the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which the Territory may have contributed to the cost of construction thereof."

Recovery of value of facility.

LAND GRANT

Sec. 202. (a) The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing rights. All lands duly selected by the Territory of Alaska pursuant to this section shall be patented to the Territory by the Secretary of the Interior.

(b) The lands authorized to be selected by the Territory of Alaska by subsection (a) of this section shall be selected in such manner as the laws of the Territory may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the Territory. All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved. Upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective during which period the Territory of Alaska shall have a preferred right of selection, subject to the requirements of this Act, except as against prior existing valid rights or as against equitable claims subject to allowance and confirmation. Such preferred right of selection shall have precedence over the preferred right of application created by section 4 of the Act of September 27, 1944 (58 Stat. 748; 43 U. S. C., sec. 282), as now or hereafter amended, but not over other preference rights now conferred by law. As used in this subsection, the words "equitable claims subject to allowance and confirmation" include, without limitation, claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands.

(c) All grants made or confirmed under this section shall include mineral deposits: *Provided, however*, That mineral deposits in lands which on January 1, 1956, were subject to public land order numbered 82 of January 22, 1943, shall not be included in said grants, but shall continue to be reserved to the United States.

Mineral deposits.

Leases: sales.

(d) Following the selection of lands by the Territory pursuant to subsection (b), but prior to the issuance of final patent, the Territory shall be authorized to lease and to make conditional sales of such selected lands.

(e) All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this Act.

EFFECTIVE DATE

SEC. 203. This title shall become effective on the date of enactment of this Act.

TITLE III—TRANSITIONAL AND GENERAL PROVISIONS

AMENDMENTS AND REPEALS

SEC. 301. (a) Such of the following Acts or parts thereof as the Governor by proclamation shall declare to be superseded by a law or laws hereafter enacted by the Territorial legislature are repealed as of the effective date (specified in such proclamation) of such superseding law or laws, or as of the two hundred and tenth day after the date of enactment of this Act, whichever is later:

(1) Section 8 of the Act of January 27, 1905 (33 Stat. 616, 619; 48 U. S. C. 47);

(2) The first sentence of section 7 of the Act of February 6, 1909 (35 Stat. 600, 601), as amended by section 2 of the Act of October 14, 1942 (56 Stat. 782; 48 U. S. C. 46);

(3) The Act of June 25, 1910 (36 Stat. 852; see 48 U. S. C. 46b);

(4) The Act of April 24, 1926 (44 Stat. 322), as amended by sections 4 and 5 of the Act of October 14, 1942 (56 Stat. 782, 783; 48 U. S. C. 50, 50a); and

(5) Sections 1, 3, 6, 7, 8, and 9 of the Act of October 14, 1942 (56 Stat. 782, 783-785; 48 U. S. C. 46c, 47a, 47b, 47c, 48, 48a).

(b) (1) The Acts and parts of Acts listed in subsection (a), except the Act of June 25, 1910, are, pending their repeal as provided in subsection (a), amended (A) by striking out the words "Secretary", "United States", "Congress", and "Department of the Interior" wherever these words appear, and inserting in lieu thereof the words "Governor of Alaska or his designee", "Territory of Alaska", "the Legislature of Alaska", and "Territory of Alaska", respectively; (B) by inserting immediately before the word "Treasury", wherever it appears, the word "Territorial"; (C) by striking out the word "Federal"; and (D) by amending section 1 (a) of the Act of October 14, 1942, to read as follows: "'Governor' means the Governor of Alaska or his designee:": *Provided*, That the words "United States" where

48 USC 46c, 47a,
47b, 47c, 48, 48a.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

rd. 4/2/82
JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 8, 1982

RECEIVED

Hon. Hugh Malone
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Mental health trust fund
Our file: J66-534-81A

Dear Representative Malone:

You have asked us to review HB 151 and HB 152 to determine whether they, if enacted, would satisfy the state's obligation to the mental health trust fund. In our opinion, the bills as drafted would not entirely satisfy the state's obligation to the mental health trust fund. In addition, the existing legislation which HB 151 would amend presents a problem under our constitutional prohibition against dedicated funds. We have also reviewed SB 710 and SB 711 which affect the mental health trust fund. We will discuss the development of the mental health trust fund, and make specific suggestions for legislative action.

The Alaska Mental Health Enabling Act, P.L. 84-830, § 202, 70 Stat. 709 (July 28, 1956) (copy attached), authorized the Territory of Alaska to select one million acres from the public lands of the United States in Alaska which were vacant, unappropriated, unreserved at that time. The statute required that these lands be administered by the Territory "as a public trust" and that proceeds and income of these lands "first be applied to meet the necessary expenses of the mental health program of Alaska." The statute authorized the territory to sell, lease, mortgage, exchange or otherwise dispose of the land in order to obtain funds or other property to be invested, expended, or used by the territory. The committee report which accompanied that legislation stated that "amounts not needed for the mental health program can be used for other public purposes as the legislature may determine." Senate Report No. 2053, 84th Cong., 2nd Sess., reprinted in (1956) U.S. Code Congressional and Administrative News at 3639.

In 1958, Congress passed the Alaska Statehood Act, P.L. 85-508, 72 Stat. 339 (July 7, 1958). Section 6k of the

Statehood Act provided that "grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission." That section also specifically repealed two earlier federal acts under which land had been reserved, and granted the reserved lands to the state "for the purposes for which they were reserved." This proviso applied to lands reserved for the benefit of the public schools and university under the Act of March 4, 1915, P.L. 63-330, 38 Stat. 1214; it also applied to lands within the naval petroleum reserves under the Act of February 15, 1920, P.L. 66-146, 41 Stat. 450. However, this provision did not apply to the lands reserved under the Mental Health Enabling Act.

A section of the Mental Health Enabling Act which authorized federal grants for mental health treatment in Alaska was repealed in 1959 by the Alaska Omnibus Act, P.L. 86-70, 73 Stat. 148 (June 25, 1959), § 31(b)(1). That Act did not effect the land grant or trust provisions of the Mental Health Enabling Act. The attorney general opined in 1964 that lands received pursuant to the Alaska Mental Health Enabling Act were reserved and thus could not be selected by municipalities under state land disposal laws. 1964 Opin. Alaska Atty. Gen. #7. Subsequently, the attorney general advised that mental health lands could be exchanged for land of equivalent fair market value. Inf. Opin. Alaska Atty. Gen., Feb. 10, 1967.

In 1978, the Alaska Legislature redesignated mental health lands as general grant lands and established a mental health trust fund which was to receive one and one-half percent of the total receipts derived from the management of state land. 1978 Alaska Sess. L., ch. 181, §§ 3 and 4; AS 37.14.070. We understand that this percentage of state revenues was intended to approximate the value of the trust lands. However, since no appraisal was made of the fair market value of these lands, it is impossible to determine whether the substituted revenue source meets or exceeds the fair market value of the trust lands. Since the dedication of a percentage of state revenues has no termination date, it will presumably exceed the value of the trust lands at some time.

In addition, the 1978 legislation conditioned the placement of this percentage of state revenues in the mental health trust fund upon appropriation by the legislature. We understand that to date no appropriation has been made to the mental health trust fund. We also understand that the legislature has made regular appropriations for the purpose of mental health treatment in Alaska and that the Department of Health and Social Services contains a division which is responsible

for mental health treatment in the state.

Our review of the statutes and relevant cases leads us to conclude that the Alaska Mental Health Enabling Act did impose affirmative responsibilities on the Territory of Alaska to review the needs for mental health treatment in the territory and to meet those needs with revenues from the mental health trust lands before using any proceeds from those lands for other purposes. The Alaska Supreme Court has ruled that the public trust established by the federal government for the benefit of the university in territorial days still requires that the state compensate the university for the fair market value of any land reserved for the university under that trust. State v. University of Alaska, 624 P.2d 807 (Alaska 1981). The mental health trust differs greatly from the federal trusts for the public schools and university in that the use of the latter was restricted absolutely for the benefit of the public schools and university respectively. Income and proceeds of the mental health trust lands could be spent for purposes other than mental health at the discretion of the legislature, if the mental health needs in the state had been met. Nevertheless, we think it unlikely that a court would find that the Alaska Mental Health Enabling Act did not impose some affirmative trust obligation on the territory.

We also think it unlikely that a court would find that the mental health trust obligation was terminated by the Statehood Act. Section 6k of that act specifically repealed certain portions of the public school and university trust legislation and transferred to the state lands reserved under those acts "for purposes for which they were reserved." Since the Alaska Mental Health Enabling Act was not repealed, we presume that it remains effective.

The general language in section 6k of the Statehood Act confirming previous grants made to the territory could be construed to impliedly repeal any restrictions on those grants, as were contained in the Alaska Mental Health Enabling Act. However, the act could as easily be read to reaffirm and transfer the existing trust obligations to the new state. Since the latter view reconciles the Acts, it would probably be preferred by the courts. Sands, SUTHERLAND STATUTORY CONSTRUCTION (1973) §§ 51.01, 51.02.

If the Statehood Act did not terminate the mental health trust, then the trust obligation as to those lands selected under the Alaska Mental Health Enabling Act remains in effect. If the substitution of revenue for the trust imposed

by the 1978 state legislation was not equal to the fair market value of the trust lands, then the trust has been breached. Lassen v. Arizona, 385 U.S. 458 (1967). Even if the substituted revenue source were equal to the fair market value of the trust lands, the state's failure to appropriate that money to the trust may be a breach of the trust.

In addition, the dedication of one and one-half percent of total receipts from state lands will probably at some time exceed the fair market value of the trust lands. To that extent, the dedication is prohibited by article IX, § 7, of the Alaska Constitution. */ The dedication of revenues to the mental health trust fund is permitted under the Alaska Constitution only to the extent that it is required by federal law.

Thus, our review of the history of the mental health trust fund indicates that (1) a trust obligation probably exists under federal law, and (2) the state has probably breached that trust obligation by redesignating the mental health trust lands as general grant lands, and failing to compensate the trust for the fair market value of those lands. We have identified three alternative courses of legislative action and will discuss them briefly.

First, the legislature may follow its past course and do nothing to fund the mental health trust fund. There is a risk of litigation over the state's obligations in a suit brought by either the federal government or some beneficiary of mental health programs in the state. We note that the Alaska Mental Health Enabling Act does not provide any mechanism for enforcement of the trust. Therefore, the state may be immune from any action to enforce the terms of the trust under the

*/ Alaska Constitution, article IX, section 7 provides:

DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Eleventh Amendment of the United States Constitution. Scott, Law of Trusts § 95 (1967). */ This is an issue which should be explored more thoroughly if litigation appears likely. In addition, there is the possibility that the legislative appropriations for mental health programs over the years have been adequate to meet the need for mental health treatment in the state. If past appropriations have been rationally based on reasonable assessments of mental health needs in Alaska, then the state may have fulfilled its basic trust responsibilities despite the failure to establish a separate fund with the trust lands. In that case, there may be no effective remedy for any possible breach of trust.

Second, the state may attempt to comply with the terms of the Alaska Mental Health Enabling Act. We believe that this would require:

(1) an assessment of the fair market value of the lands which were selected by the state under the Alaska Mental Health Enabling Act, as of the date of their redesignation by statute as general grant lands;

(2) some regular review (perhaps by the senate and house HESS committees) of the need for mental health treatment in the state; a report to the legislature with recommendations for appropriations for mental health treatment and facilities in the state; a legislative finding that these needs are met before money in the mental health trust fund is appropriated for any other purpose; **/

*/ The state has partially waived its immunity from suit in state courts for contract, quasi-contract and certain tort claims. AS 09.50.2.0. It is doubtful that a suit to enforce a federal trust obligation could be brought under this statute.

**/ The attorney general opined in 1961 that money received from the mental health trust lands in excess of the needs of the mental health program could be transferred to the general fund without specific legislative authorization. 1961 Opin. Alaska Atty. Gen. No. 11. We agree that the transfer of money into the general fund does not require an appropriation. However, we believe that the mental health trust obligation requires a rationally based legislative determination that the current needs of the state mental health program are met before trust money is expended for another purpose. We do not know whether past appropriations for the mental health program would be found to have satisfied this requirement.

(3) transfer of money to the mental health trust fund until the fund has received money equaling the fair market value of the trust lands.

We believe that these measures would satisfy the state's obligation under the Alaska Mental Health Enabling Act, while retaining flexibility as to the use of money in the mental health trust fund. At present, AS 37.14.040 provides that the principal of the fund shall be reinvested, and the income of the fund may be appropriated only for the support of a state mental health program. This section is much more restrictive than the federal trust obligation would require. Any restriction on the use of money beyond that required by federal law may violate the Alaska constitutional prohibition on dedicated funds.

We also note that the current statute requires that money be appropriated into the mental health trust fund. AS 37.14.050. Once in the fund, it must again be appropriated before it can be spent. The dual appropriation requirement is unnecessary to satisfy the federal trust obligation. In fact, it makes compliance with the federal trust obligation more difficult, by interposing the appropriation requirement before money can be placed in the fund. Money may be placed in the fund without an appropriation to the extent required by federal law, without violating our dedicated fund provision. We recommend direct transfer of money to the mental health trust fund until the fund reaches an amount indicated by an appraisal of the mental health trust lands. Under the terms of the federal law, the legislature may use money in the fund for any public purpose, once it has determined that the needs of the mental health program in the state have been met. This determination must be made by the legislature and must have a rational basis.

HB 151 and SB 710 each contain provisions consistent with some of our recommendations. HB 152 and SB 711 each contain appropriations to the mental health fund. We hope that our comments are helpful in the legislative consideration of these bills. Please let us know if we may be of further assistance in this matter.

The third alternative which may be pursued along with either one of the first two is to seek repeal of the Alaska Mental Health Enabling Act by Congress. If the restrictions of the trust unreasonably interfere with the prudent management of state resources and are unnecessary to ensure adequate funding of mental health treatment programs in the state, then Congressional repeal of the Alaska Mental Health Enabling Act may be

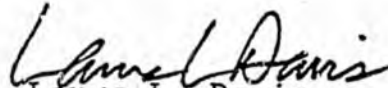
Hon. Hugh Malone
Alaska House of Representatives

February 8, 1982
Page #7

appropriate. We cannot advise you on the likelihood of obtaining such a repeal. However, we expect that Congress would be more favorably disposed toward the state if our actions demonstrated a commitment to carrying out our obligations under the Alaska Mental Health Enabling Act.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Laura L. Davis
Assistant Attorney General

LLD/pjg

cc: Hon. Charles Parr
Alaska State Senate

Carole Burger
Office of the Governor

MAR 29 1982

CHARLIE PARR
ALASKA LEGISLATURE

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Fairbanks, Alaska 99701
(907) 456-5029

Pouch V
Juneau, Alaska 99811
(907) 465-4907

MEMORANDUM

TO: Senator Fahrenkamp - Chairman - Senate Resources

FROM: Charles H. Parr *CP*

SUBJECT: SB 710 and SB 711

These bills, presently in your committee, attempt to rectify what I consider the state's failure to live up to its trust responsibility regarding mental health lands. Unless some action is taken this session the Alaska Mental Health Association plans to sue the state.

I would appreciate it if a hearing could be held on SB 710 and SB 711 soon.

CHP:sr

Pass
Schedule
CP

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAP T.
JUNEAU, ALASKA 998
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 12, 1982

SUBJECT: Mental health trust as "money trust"
(SB 710)

TO: Senator Charles H. Parr

FROM: Richard A. Bradley **B**
Legislative Counsel

Nancy Dietrick has asked that I prepare an analysis of the legislative history of the mental health trust laws, particularly with reference to the transition from a "land trust" to a "money trust" in 1978.

The quick answer to your question is that the "redesignation" provisions of Chapters 181 and 182, SLA 1978 constitute the sections that make the transition from the land trust to the money trust. See Sec. 3 of Chapter 181 and Sec. 1 of Chapter 182. To put these provisions in some context, it is useful to review the two bills and their contents.

The provisions of AS 37.14 are derived from these two bills. See Sec. 4 of Chapter 181, SLA 1978 and Sec. 4 of Chapter 182, SLA 1978. The Revisor's Note following the chapter 37.14 heading (page 47 of the AS 37 pamphlet) notes that the two chapters both contained provisions adopting AS 37.14. Because the revisor says, the provisions in Chapter 182 are subsequent in time and contains a "more comprehensive treatment of trust funds," (though see the discussion below) the provisions of the latter formulation of AS 37.14 were treated as superseding those contained in Chapter 181.

The provisions of Chapter 182 were adopted as SB 159 [FCCS CSSB 159]. This bill started out having nothing to do particularly with the various trust funds' management that eventually appeared in it; it was rather a legislative solution to the rather heated problems that arose in the

early years of the Hammond administration from that administration's review of the policies of the division of lands. It involved reappraisal of the Teaster's Mall lease in Anchorage and a number of other leases that the administration believed were not properly delivering to the state a proper return. Reappraisals raised land valuations and rentals in some cases 1,000 percent in recent years.

I have reviewed the work order request file on FCCS CSSB 159 and there is no indication of the source of the trust fund management sections. In fact, the provisions of HB 720 (FCCS SCS CSH 720) which became Chapter 181 show a more complex evolution of these provisions.

The closest thing that appears in the SB 159 file is a copy of a letter signed by Ted Smith as co-chairman of the "Ad Hoc Committee" on land policies and procedures, dated February 22, 1977. It is addressed to Governor Hammond as a report on administration of the state's "land patrimony".

Recommendation No. 11 notes that:

The committee believes that state trust lands (school, mental health, and university) are now and have been managed at a low intensity. These lands may be returning only a fraction of their potential value that could be realized by a small full time management staff. The Division manages these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore it has traditionally placed low priority on the management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the state's land act.

At the time of this report [before the adoption of Chapters 181 and 182, SLA 1978], the lands held in trust were managed under general laws for the management of public lands but under competitive bidding procedures. Under FCCS CSSB 159, mental health lands (as well as the other trust lands) may be leased either by competitive bidding or by noncompetitive disposal methods (direct negotiation, lottery, etc.) if the commissioner determines that the method selected is in the best interests of the state.

This result occurs because the provisions of both Chapters 1 and 182 provide for the "redesignation" of the mental health lands as general grant lands. See Sec. 3 of Chapter 181:

* Sec. 3. REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND. (a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received by the state in exchange for land granted under the federal land grant is redesignated as general grant land and shall be managed and disposed of by the Department of Natural Resources under applicable provisions of law.

(The provisions of (b) do not concern us.)

Sec. 1 of Chapter 182 is essentially identical.

The intent of these two sections states the core of your concern; those sections changed the character of mental health land into general grant land; they sought simultaneously to establish a fund to replace the segregated lands granted for the trust purposes.

It seems that the goal was reasonable.

Congress permitted the lands granted for mental health purposes to be sold or held and managed. It seems therefore that there was no need to maintain the lands in a segregated trust status. The concept of one and one-half percent dedication is also reasonable; 2,000,000 acres of the 104 million acres granted to the state from the various sources are mental health trust lands; one and one-half percent of the lands is a fair if not precise allocation which should do justice to the purposes of the trust established by Congress.

There is [at least] one difference of substance between the two formulations of the mental health funds established in each bill. While I do not disagree with the determination made by the revisors to use the provisions of the later adopted bill in determining which chapter 37.14 became effective, I note that the provisions of AS 37.14 in Chapter 181 required the commissioner to make the contributions to the fund without the qualification found in

Senator Charles H. Parr
Page 4
April 12, 1982

Chapter 182: "subject to legislative appropriation". See in this context Sec. 37.14.070 in Chapter 181 and Sec. 37.14.050 in Chapter 182.

Therefore, if the provisions of Chapter 181 had been utilized, at least a large part of the present problem addressed in SB 710 would not have occurred.

If I may assist further, please advise.

RAB:ljb



Alaska State Legislature

SENATE Resources Committee

Official Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

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

TO: Senate Resources Committee
FROM: Senate Resources Committee Staff
RE: Monday Committee Hearing, 4/12/82
DATE: April 8, 1982

Please find attached background information for Monday's hearing on the following bills:

SB 710

Relating to state trust funds and their administration.

SB 806

Relating to the issuance of citations for fish and game violations.

The meeting will be held from 1:00 to 2:00 p.m. in the Peltz Room.

SELECT - QUERY

00002 1 SECTION EQ 37.14.010,37.14.020,37.14.030,37.14.040,37.14.050,37.14.060,37.14.120,37.14.130,37.14.150

AS37.14.010 DOCUMENT- 1 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 1.
MENTAL HEALTH FUND.

CITATION SEC. 37.14.010.

CATCH LINE

MENTAL HEALTH FUND ESTABLISHED.

TEXT (A) THERE IS ESTABLISHED AS A SEPARATE FUND THE MENTAL HEALTH FUND.

(B) THE PRINCIPAL OF THE FUND ESTABLISHED IN (A) OF THIS SECTION CONSISTS OF SUMS TRANSFERRED UNDER SEC. 50 OF THIS CHAPTER.

(C) THE INCOME OF THE FUND ESTABLISHED IN (A) OF THIS SECTION CONSISTS OF THE INTEREST AND DIVIDENDS EARNED FROM INVESTMENTS OF THE PRINCIPAL OF THAT FUND UNDER SEC. 170 OF THIS CHAPTER.

HISTORY (SEC. 4 CH 181 SLA 1978; SEC. 4 CH 182 SLA 1978)

AS37.14.020 DOCUMENT- 2 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 1.
MENTAL HEALTH FUND.

CITATION SEC. 37.14.020.

CATCH LINE

MENTAL HEALTH FUND ADVISORY BOARD CREATED.

TEXT (A) THERE IS CREATED IN THE DEPARTMENT OF REVENUE THE MENTAL HEALTH FUND ADVISORY BOARD COMPOSED OF THE DIRECTOR OF THE DIVISION OF MENTAL HEALTH, THE CHAIRMAN OF THE MENTAL HEALTH ADVISORY COUNCIL, AND THE COMMISSIONER OF THE DEPARTMENT OF REVENUE.

(B) THE BOARD CREATED IN (A) OF THIS SECTION SHALL ELECT A CHAIRMAN FROM THE MEMBERSHIP OF THAT BOARD. MEMBERS SERVE WITHOUT COMPENSATION BUT ARE ENTITLED TO PER DIEM AND TRAVEL EXPENSES AUTHORIZED BY LAW FOR OTHER BOARDS.

HISTORY (SEC. 4 CH 181 SLA 1978; SEC. 4 CH 182 SLA 1978)

AS37.14.030 DOCUMENT- 3 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 1.
MENTAL HEALTH FUND.

CITATION SEC. 37.14.030.

CATCH LINE

POWERS AND DUTIES OF BOARD.

TEXT THE BOARD CREATED IN SEC. 20 OF THIS CHAPTER HAS THE FOLLOWING POWERS AND DUTIES:

(1) TO HOLD REGULAR MEETINGS AND SPECIAL MEETINGS
CONSIDERED NECESSARY;

(2) TO HAVE PREPARED AN ANNUAL ACCOUNTING OF THE TOTAL
PRINCIPAL AND INCOME OF THE FUND ESTABLISHED IN SEC. 10 OF
THIS CHAPTER; AND

(3) TO PREPARE LONG-RANGE INVESTMENT PLANS FOR THE FUND
ESTABLISHED IN SEC. 10 OF THIS CHAPTER.

HISTORY (SEC. 4 CH 181 SLA 1978; SEC. 4 CH 182 SLA 1978)

AS37.14.040 DOCUMENT- 4 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 1.
MENTAL HEALTH FUND.

CITATION SEC. 37.14.040.

CATCH LINE

FUND UTILIZATION.

TEXT THE PRINCIPAL OF THE FUND ESTABLISHED IN SEC. 10 OF THIS CHAPTER
SHALL BE RETAINED IN THAT FUND FOR INVESTMENT AS SPECIFIED IN
SEC. 170 OF THIS CHAPTER. THE INCOME OF THE FUND MAY NOT BE
APPROPRIATED FOR A PURPOSE OTHER THAN THE SUPPORT OF THE STATE
MENTAL HEALTH PROGRAM.

HISTORY (SEC. 4 CH 181 SLA 1978; SEC. 4 CH 182 SLA 1978)

AS37.14.050 DOCUMENT- 5 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 11.
TRUST FUNDS.
ARTICLE 1.
MENTAL HEALTH FUND.

CITATION SEC. 37.14.050.

CATCH LINE

CONTRIBUTIONS.

TEXT DURING EACH FISCAL YEAR, SUBJECT TO LEGISLATIVE APPROPRIATION OF
SUFFICIENT FUNDS, THE COMMISSIONER OF THE DEPARTMENT OF REVENUE
SHALL TRANSFER TO THE FUND ESTABLISHED IN SEC. 10 OF THIS CHAPTER
A SUM EQUAL TO ONE AND ONE-HALF PER CENT OF THE TOTAL REVENUE
DERIVED FROM THE MANAGEMENT OF STATE LAND, INCLUDING AMOUNTS PAID
TO THE STATE AS PROCEEDS OF SALE OR ANNUAL RENT OF SURFACE
RIGHTS, MINERAL LEASE RENTALS, ROYALTIES, ROYALTY SALE PROCEEDS,
AND FEDERAL MINERAL REVENUE-SHARING PAYMENTS OR BONUSES.

HISTORY (SEC. 4 CH 181 SLA 1978; SEC. 4 CH 182 SLA 1978)

AS37.14.060 DOCUMENT- 6 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 2.
UNIVERSITY FUND.

CITATION SEC. 37.14.060.

CATCH LINE

UNIVERSITY FUND ESTABLISHED.

TEXT (A) THERE IS ESTABLISHED AS A SEPARATE FUND THE UNIVERSITY
FUND.

(B) THE PRINCIPAL OF THE FUND ESTABLISHED IN (A) OF THIS

SEARCH - QUERY
00001 '37.14.110' CITATION.

AS37.14.110 DOCUMENT= 1 OF 1

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 3.
PUBLIC SCHOOL FUND.

CITATION SEC. 37.14.110.

CATCH LINE PUBLIC SCHOOL FUND ESTABLISHED.

TEXT (A) THERE IS ESTABLISHED AS A SEPARATE FUND THE PUBLIC SCHOOL FUND.

(B) THE PRINCIPAL OF THE FUND ESTABLISHED IN (A) OF THIS SECTION CONSISTS OF

(1) THE BALANCE OF THE PUBLIC SCHOOL PERMANENT FUND ON JULY 1, 1978; AND

(2) SUMS TRANSFERRED UNDER SEC. 150 OF THIS CHAPTER.

(C) THE INCOME OF THE FUND CREATED IN (A) OF THIS SECTION CONSISTS OF THE INTEREST AND DIVIDENDS EARNED FROM INVESTMENTS OF THE PRINCIPAL OF THAT FUND UNDER SEC. 170 OF THIS CHAPTER.

HISTORY (SEC. 4 CH 182 SLA 1978)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SECTION CONSISTS OF

(1) THE BALANCE OF THE TRUST FUND ESTABLISHED IN AS 14.40.400 ON JULY 1, 1978; AND

(2) SUMS TRANSFERRED UNDER SEC. 100 OF THIS CHAPTER.

(C) THE INCOME OF THE FUND ESTABLISHED IN (A) OF THIS SECTION CONSISTS OF THE INTEREST AND DIVIDENDS EARNED FROM INVESTMENTS OF THE PRINCIPAL OF THAT FUND UNDER SEC. 170 OF THIS CHAPTER.

HISTORY (SEC. 4 CH 181 SLA 1978; SEC. 4 CH 182 SLA 1978)

AS37.14.120 DOCUMENT= 7 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 3.
PUBLIC SCHOOL FUND.

CITATION SEC. 37.14.120.

CATCH LINE

PUBLIC SCHOOL FUND ADVISORY BOARD CREATED.

TEXT

(A) THERE IS CREATED IN THE DEPARTMENT OF REVENUE THE PUBLIC SCHOOL FUND ADVISORY BOARD COMPOSED OF THE COMMISSIONER OF THE DEPARTMENT OF EDUCATION, THREE MEMBERS ELECTED BY THE BOARD OF EDUCATION FROM AMONG ITS MEMBERSHIP, AND THE COMMISSIONER OF THE DEPARTMENT OF REVENUE.

(B) THE BOARD CREATED IN (A) OF THIS SECTION SHALL ELECT A CHAIRMAN FROM THE MEMBERSHIP OF THE BOARD. MEMBERS SERVE WITHOUT COMPENSATION BUT ARE ENTITLED TO PER DIEM AND TRAVEL EXPENSES AUTHORIZED BY LAW FOR OTHER BOARDS.

HISTORY (SEC. 4 CH 182 SLA 1978)

AS37.14.130 DOCUMENT= 8 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 3.
PUBLIC SCHOOL FUND.

CITATION SEC. 37.14.130.

CATCH LINE

POWERS AND DUTIES OF BOARD.

TEXT

THE BOARD CREATED IN SEC. 120 OF THIS CHAPTER HAS THE FOLLOWING POWERS AND DUTIES:

(1) TO HOLD REGULAR MEETINGS AND SPECIAL MEETINGS CONSIDERED NECESSARY;

(2) TO HAVE PREPARED AN ANNUAL ACCOUNTING OF THE PRINCIPAL AND INCOME OF THE FUND ESTABLISHED IN SEC. 110 OF THIS CHAPTER; AND

(3) TO PREPARE LONG-RANGE INVESTMENT PLANS FOR THE FUND ESTABLISHED IN SEC. 110 OF THIS CHAPTER.

HISTORY (SEC. 4 CH 182 SLA 1978)

AS37.14.150 DOCUMENT= 9 OF 9

HEADINGS TITLE 37.
PUBLIC FINANCE.
CHAPTER 14.
TRUST FUNDS.
ARTICLE 3.
PUBLIC SCHOOL FUND.

CITATION SEC. 37.14.150.

CATCH LINE

CONTRIBUTIONS.

TEXT DURING EACH FISCAL YEAR THE COMMISSIONER OF THE DEPARTMENT OF REVENUE SHALL TRANSFER TO THE FUND CREATED IN SEC. 110 OF THIS CHAPTER A SUM EQUAL TO ONE-HALF OF ONE PER CENT OF THE TOTAL RECEIPTS DERIVED FROM THE MANAGEMENT OF STATE LAND, INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR ANNUAL RENT OF SURFACE RIGHTS, MINERAL LEASE RENTALS, ROYALTIES, ROYALTY SALE PROCEEDS, AND FEDERAL MINERAL REVENUE-SHARING PAYMENTS OR

HISTORY (SEC. 4 CH 182 SLA 1978)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

In answer to a question regarding the regulations, Mr. Hold advised Section .040 deals with approval of plans and requires that, before construction, the district submit plans. Section .050, he advised, deals with approval of purchase for non-facilities, which speaks for the REAA's; and .060 specifically set forth the requirements the Department will meet. There was further discussion on school construction. Representative Cotten stated existing regulations are the only ones being considered.

At this time, Mr. Rolle testified in support of the bill, since it has been redrafted, but questioned the portion dealing with retirement of all debt. He stated it is his understanding that cash payments would be treated. Representative Buchholdt commented the HESS committee decided the State could not continue to pay the cash debts forever; therefore, decided on a cut-off date of June 30, 1977. Representative Cotten referred to page 2, line 5, and stated this means the State will take over all the payments incurred on all bonds before July 1, 1977. There was further discussion regarding the language, and Mr. Rolle indicated he had "no problem" with the bill.

There was brief discussion on the revised fiscal note, dated 4-19-78.

Representative Buchholdt moved and asked unanimous consent that Finance Committee Substitute for HB 681 be reported out. Representative Rhode objected by stating he feels those districts paying cash are being penalized and proposed FY 76 be included in the bill. Representative Buchholdt stated it was the HESS committee's position that the State would not have to help those districts who could afford this. Discussion followed.

Representative Rhode moved the following amendment be adopted: page 2, line 8, add "and cash payments made by the borough and city before July 1, 1977 to pay costs of school construction;". Representatives Buchholdt and Duncan objected. Discussion on the fiscal impact followed. The question was called for (Representatives Rhode, Guy and Schaeffer in favor), and the motion failed.

AMENDMENT

There being no further objection, Finance CS for HB 681 was reported out.

FINANCE
FOR HB
REPORTED

Vice Chairman Freeman brought up HB 720 for discussion:

HB 720

"An Act relating to state land; and providing for an effective date."

Vice Chairman Freeman briefly explained the background on the bill and stated the workdraft presently before the Committee is the result of the subcommittee's recom-

mendations. He stated Representative Bradley, prime sponsor, would explain the Finance Committee Substitute (workdraft).

Representative Bradley distributed to the Committee a sectional analysis (attached) by Mr. Baldwin, Legislative Affairs. He discussed the bill's intent to make State land available for private use and noted the designation of a specific date. He commented on the provision for lottery sales. He advised Representative Gruening's amendment regarding mental health land has been incorporated in the bill, which frees up land without impacting the original concept. Commenting on the land discount provision, he advised this takes into account short terms rather than long terms.

At this time, Mr. Baldwin stated the Committee might want to consider the inclusion of language dealing with classified land--a provision that a list be received from the Director of Land before that land can be expedited. He advised this was not included in the bill--that the land be classified--and that it probably should be.

At this time, Mr. Conrady presented testimony regarding the position of the Department of Natural Resources. (See written statement attached.) He discussed those portions of the bill the Department finds fault with and offered several amendments. In commenting on Section 38.05.043(d), regarding acquisition of surface rights to State land, he stated this section needs to be clarified to note that the discount applies "only" to interest in surface rights--not subsurface. Discussion followed, with Mr. Baldwin urging the Committee to be careful of putting in arbitrary figures (such as the 1-1/2% figure discussed) with regard to prudent-man rule, which, he stated, does not give away assets. He advised the Committee consider carefully if it wants the subsurface included.

At this point, Mr. Rolle testified on behalf of Alaska Municipal League. (See written statement attached.) He stated he finds no fault with the intent of the bill but is concerned that this bill, as currently drafted, will hamper efforts of the municipalities throughout the State. Vice Chairman Freeman stated, as one of the sponsors of the bill, the intent was to "get the land out to the people as quickly as possible--to mandate this." He commented it would not seem very consistent if the State has to part with the land and then allows the municipalities to have veto power over this. He advised the purpose of the bill is to provide an alternative to the Bierne "hippy homestead" Initiative.

Mr. Rolle advised he feels HB 133 is a good vehicle, but expressed concern that HB 720 would undo all that HB 133

is would accomplish. He commented, however, that HB 720 is better than the Bierne Initiative. Discussion followed on the various land bills. Vice Chairman Freeman commented it may be that all the land bills will be incorporated into one.

Representative Hayes testified briefly in support of the objectives and concerns contained in HB 720. He stated he feels it is a reasonable approach "to get land into the hands of the people." In commenting on subsection (c) (4), page 4, lottery sales, he stated too many things can happen during the period of 10 years to disqualify a person. He also advised he would like to see the "old-timers" who live on forest service land get title to their land.

Vice Chairman Freeman requested Mr. Conheady and Mr. Rolle prepare written statements of their testimony presented today for the Committee. He advised the subcommittee would then go over these comments and suggestions and report their recommendations back to the full committee next week. Further action on HB 720 was deferred until that time.

HB 720
HELD OV

The meeting adjourned at 3:40 p.m.

ADJOURN

HFC 78-116 #0793 - End
78-117 #0001 - #0623

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y - SI
JUNEAU, AL
907-cc

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 18, 1978

SUBJECT: Section-by-Section Analysis: proposed CSHB 720
dated 5/18/78

TO: House Finance Committee

FROM: James L. Baldwin, Legislative Counsel *J.L.B.*

Section 1: General intent stated.

Section 2: (a) - (c) directs the director of the division of lands to designate for disposal before November 1, 1978 land in the following categories and amounts:

(a) homesite entry land (AS 38.08) -- 20,000 acres.

(b) vacant, unappropriated and unreserved land suitable for residential use in five acre lots -- 10,000 acres.

(c) classified land (agricultural, commercial, industrial, private recreation, residential, utility, or open-to-entry) that is surveyed and platted on July 1, 1978.

(d) provides that the designation and disposal of land required in (a) - (c) of sec. 2 is not subject to the usual predisposal procedures. These procedures are:

(1) director's findings (AS 38.05.035(a)(14));

(2) appraisal (AS 38.05.310);

(3) zoning requirements before disposal (AS 38.08.080); and

(4) state adherence to local subdivision requirements (AS 40.15.200).

The requirement that the director classify land before disposal was not included as an applicable pre-disposal procedure. This was an oversight and is mentioned here for clarification. Reference to AS 38.05.300 should be added in the sec. 2(d) is adopted by the committee.

Public notice of land disposals required in (a) - (c) will be given by newspaper in the vicinity in which the land to be sold or entered is located.

Section 3: Redesignation and Disposal of Mental Health Land.

(a) Redesignates approximately 975,000 acres of mental health land as unappropriated and unreserved state land.

(b) Opens former mental health land to disposal for homesite entry or private land use or ownership programs under the Alaska Land Act (AS 38.05) if:

(1) the land is unclassified and not reserved by statute; or

(2) the land is classified for agricultural, grazing, commercial, industrial, private recreational, residential, utility, or open-to-entry uses.

(c) Municipalities may select former mental health land to satisfy land entitlement under AS 29.18.190 - 200 (transitional assistance to municipalities). Municipalities are required to certify that at least 30 percent of the former mental health land will be committed to disposal for private use or ownership.

(d) Reaffirms existing leases of former mental health land.

Section 4: Various amendments to the Alaska Land Act (AS 38.05).

AVAILABILITY OF LAND (AS 38.05.041):

(a) Beginning fiscal year 1980 (July 1, 1979) the director is required to initiate a continuing, annual land disposal program of at least 70,000 acres each year with at least 20,000 acres of that amount to be devoted to homesite entry and land sales.

(b) Requires the governor to submit three options as a part of his budget submission for the division of lands. The options include:

(1) an increased acreage land disposal program;

(2) a land disposal program with acreage equal to the preceding year's disposal program; and

(3) a land disposal program with reduced acreage from the preceding year's program.

LOTTERY SALES (AS 38.05.042):

(a) Requires the director to sell at least 10,000 acres of state land by lottery each year (July 1 to June 30).

(b) The purchase price is to be set at not more than fair market value; requires a deposit of five per cent of the purchase price at the conclusion of the sale.

(c) Sets eligibility requirements for lottery participants. A three year durational residency requirement is specified and may be unconstitutional under either the state or federal constitutions, or both.

(d) - (g) Specifies application and lottery procedures.

(h) Allows the director to include terms in lottery sales contracts which require use and/or occupancy requirements and restrictions or resale until use and occupancy terms are satisfied.

LAND DISCOUNT PROGRAM (AS 39.05.043):

(a) Grants a discount on the purchase price of land sold under the annual land availability program. The discount is determined by multiplying the number of full years of residency in the state by 5 percent of the purchase price of a parcel. The discount may not exceed 50 percent of the purchase price or a value of \$25,000.

(b) Sets eligibility requirements.

(c) Requires persons to submit proof of eligibility and makes false submissions a criminal offense and sets maximum punishments.

(d) Only one chance to use a discount is granted. Specifies certain costs that must be paid by a purchaser in cash and requires a cash down payment of at least 5 percent at the time of purchase.

(e) The Commissioner of the Department of Natural Resources is granted authority to adopt regulations to implement the land discount program.

Section 5: AS 37 is amended by adding a new chapter.

MENTAL HEALTH FUND ADVISORY BOARD CREATED (AS 07.14.010):

(a) The board is created within the Department of Revenue; membership is specified.

(b) Selection procedure for the office of Chairman of the Board is specified.

POWERS AND DUTIES OF BOARD (AS 37.14.020):

Authorizes the board to conduct an annual accounting of the mental health fund, and prepare long-range investment plans for that fund.

MENTAL HEALTH FUND ESTABLISHED (AS 37.14.030):

Establishes the mental health fund, specifies the source of the principal and income of the fund.

DUTIES OF COMMISSIONER OF REVENUE (AS 37.14.040):

Designates the commissioner of revenue as the treasurer of the fund, specifies the responsibilities of the commissioner and directs him to manage the fund so that the principal and income are readily distinguishable.

FUND UTILIZATION (AS 37.14.050):

Requires that the principal of the fund be invested for the generation of income, prohibits the appropriation of the income of the fund except for the support of the state mental health program.

INVESTMENTS (AS 37.14.060):

(a) The commissioner of revenue is directed to invest the fund in the same manner as currently required for the investment of surplus money in the public employee's retirement fund.

CONTRIBUTIONS (AS 37.14.070):

Directs the commissioner of revenue to transfer as contributions to the mental health fund an amount equal to 1 1/2 percent of the total revenue received from the state for the sale, lease, or other disposal of state land during a fiscal year. This section may need further revision to specify whether or not revenues attributable to subsurface leasing are intended to be included. Specific instructions regarding this matter were not given to the draftsman.

In addition, the rate set for contributions may not adequately compensate the "mental health trust" for the conversion of land subject to the trust. The rate was set on the theory that on the average, mental health lands are more valuable than similar general grant lands. Data was gathered by Mr. Burke Riley of the division of lands which allegedly supports the rate set in this section. However, Mr. Riley has since cautioned against relying on his earlier conclusion. The Committee should regard the proposed contribution rate with caution and, perhaps, request further testimony from the division of lands on this point.

(Secs. 6 - 21 are not included in this analysis due to time constraints imposed by legislative business.)

JLB:hjd

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

11TH FLOOR, STATE OFFICE BLDG.
POUCH M - JUNEAU 99811

May 19, 1978

The Honorable Oral Freeman
Vice Chairman, House Finance
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Oral:

In response to your request for written comments on the proposed Committee Substitute for HB 720 (Finance) following are the views of this Department on policy matters addressed in this legislation and suggested amendments of both a substantive and a technical scope:

1. Section 2, subsection (d). This subsection abrogates the power of local municipalities to exercise zoning and platting authority within their boundaries on the disposal of 30,000 acres of state land. Sound land use management dictates a planning approach which in municipalities is exercised by the local government. In vesting this power at a local rather than a state level, it was envisioned that maximum local input on developmental matters is the best means to achieve sound land use plans. Many communities have already adopted municipal land use plans which would be valueless if disposals are mandated and inconsistent with those plans. The Department believes as a matter of public policy that the short range goals of HB 720 are not sufficient to override sound land use planning decisions.

2. Section 3. This section, as written, is confusing due to an abundance of superfluous language. In the interest of clarity, the same results can be achieved with the following amendment: On line 10, after the word "unreserved" delete "state land" and insert in lieu thereof "general grant land." Delete subsections (b) and (c) and renumber subsection (d) as subsection (b).

3. Section 38.05.041. The Department is unalterably opposed to a continuing mandate of disposal of 70,000 acres annually. Although subsection (b) appears to provide an annual option as was present in SB 562 and HB 904, when the section is read in its entirety, this option is obviously illusory. The section portends of a situation where the Legislature opts for a reduced-level disposal program in the future,

yet the dictates of subsection (a) require the Department to dispose of 70,000 acres irrespective of the funding.

Furthermore, mandating minimum disposals within specific programs does not allow the necessary flexibility the Department would need in future years to meet the range of needs for land throughout the State. Suggested amendment: This section should be replaced with Sections 38.04.020 and 38.04.025 from CSSB 562 am.

4. Section 38.05.041 and 38.05.042. Taken together it would appear that in addition to the 70,000 acres made available for disposal under .041 and additional 10,000 acres should be made available for lottery sales under .042. To clarify the Committee's intent to have the lottery sales incorporated in the 70,000 acres disposed of under .041 on line 7, AS 38.05.045 should be changed to read AS 38.05.042.

5. Section 38.05.042(b) requires disposal of land at "fair market" value. As this term connotes a sale procedure, lottery sales should be made at "appraised" value. (line 29)

6. Section 38.05.042(c)(2) requires residency of three years for participation in a lottery disposal. This provision is constitutionally suspect and the Department would like to caution the Committee in adopting such a provision as it may delay disposals under this program through legal action.

7. Section 38.05.042(c)(3) addresses lottery disposals on agricultural tracts. This section is more appropriately handled in a separate section (38.07).

8. Section 38.05.042(e). This section specifies the period of time for lottery disposals. As one of the major issues addressed by this legislation is the length of time required for disposal of state lands, mandating a 3 1/2 month period for a lottery disposal is counterproductive. The simultaneous filing period in (1) can be shortened to 30 days with no adverse effects, (this was the period utilized in the recent homesite disposal). The 45 day period after close of filing can likewise be shortened to 15 days.

9. Section 38.05.042(f). This subsection is redundant and should be deleted.

10. Section 38.05.043(a). If the discount program is intended to apply to lottery disposals, recommendation 4 needs to be adopted.

May 19, 1978

11. Section 38.05.043(a). The maximum level of discount is too high as most tracts will sell for less than \$25,000. This section should be amended by deleting all language after the word "state" on line 22 and inserting in lieu thereof: "to 50 percent of the total purchase price of the land not to exceed \$25,000."

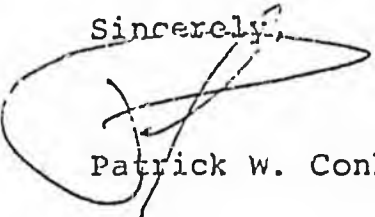
12. Section 38.05.043(d). This subsection should be clarified to illustrate that the application of the discount applies only to acquisition of an interest in surface rights to the land. To this end, on line 17, between the words "applied" and "to" insert "only".

13. Section 8. AS 38.05.102. These amendments to existing law would give existing leaseholders on state land a 90 percent credit towards the purchase price of that land based on prior lease rentals. As the mechanism for exercising preference rights on these lands gives converting leaseholders a major advantage, further credits as granted in this section would result in major windfalls for such leaseholders. The Department views the provision as a major rip-off of state interests and oppose enactment of the measure if this provision remains.

14. Section 17. AS 38.08.110. This section mandates adoption of regulations within 90 days after the effective date of this act. The 90 day provision is totally unrealistic in light of the dictates of AS 44.62 and suggest this period be lengthened to 180 days.

This concludes the Department's comments on H.B. 720. We appreciate the opportunity to present our comments and urge the Committee to consider our proposed amendments.

Sincerely,



Patrick W. Conheaçy

TESTIMONY BY
JIM ROLLE
ALASKA MUNICIPAL LEAGUE

before the
HOUSE FINANCE COMMITTEE
MAY 18, 1978

HOUSE FINANCE COMMITTEE

Mr. Chairman:

I would like to thank you for this further opportunity to testify on CSHB 720 (Finance).

Mr. Chairman, our concerns are very basic. We feel that this bill degradates the integrity of municipalities. While we do, in fact, see and agree with the need for the bill, we feel that the same product could be delivered without hurting municipalities.

Our first concern is that this bill is requiring the state to deliver 30,000 acres of land to the people by November 1, 1978. Mr. Chairman, that is only 120 days from the effective date of the bill. We are concerned that the state is going to take land that is the most accessible which, in our mind, will be land that is now within municipal boundaries or contiguous to municipalities. We just don't have a sufficient amount of time to plan for the impact that will occur, especially in light of Mental Health Lands being made available. Another problem we visualize with the time schedule is that we have hopes that this Legislature will pass the Municipal Land Selection Bill. For the most part, these lands are currently unknown. We feel that this bill would take prime land away the municipal land selection process. Mr. Chairman, municipalities have been trying to get this land since 1964.

Our next concern is with Section 2(D). This provides that the provisions of AS 38.05.035(A)(4), 38.05.310, AS 38.08.080 and AS 40.15.200 are inapplicable. Although our main concern is with 38.08.080 and 40.15.200, we believe that the provisions in the other two are important and should be maintained.

AS 38.08.080 says - No state land that is located within the boundaries of a municipality which excercises planning and zoning and zoning authority under AS 29 may be offered by the Director for homesite entry until the land has been zoned by the governing body of the municipality for residential use only.

By ignoring this section you are denying municipalities the opportunity to bear fruit from many long years of land use planning. Most municipalities have, or are in the process of comprehensive land use plans. This bill could totally destroy the rational behind these plans.

Section 40.15.200 says - All subdivisions of land made by the state, its agencies, instrumentalities and political subdivisions are subject to the provisions of this chapter and As 29.33.150, 29.33.240, Home Rule ordinances or regulations governing subdivisions and other local regulations adopted under this chapter and As 29.33.150, 29.33.240 or under Home Rule authority, IN THE SAME MANNER AND TO THE SAME EXTENT AS SUBDIVISIONS MADE BY OTHER LAND OWNERS. For a moment, Mr. Chairman, I would like to cite 29.33.150-240, which is as just referenced in Section 40.15.200.

These areas are of great concern, not only to municipalities, but to all of the citizens of the State of Alaska. These sections concern platting jurisdiction and power, procedures for platting boards, waiver in certain cases, information required, penalties, alteration of replat petition, hearing notices, hearing and determination procedures and title to vacated areas.

Mr. Chairman, laws were made to serve the best interest of the majority. I fear that what this bill is saying is that the laws made, the laws that the majority has had to follow, are now inappropriate for the few that will receive land under this bill. I just can't imagine that what we are really saying is that laws be damned. We are not just talking about one use, but for all land uses. Imagine for a moment that the land available under this bill, in a municipality, exceeds the amount of land in private ownership now. How would you suggest we deal with planning and zoning matters? There will be rebellion against local government. I would submit we have enough problems already.

Our next concerns are toward the end of the bill, section 15. This will amend section 38.08.070. The amendments are nothing more than further attempts to say that municipal regulations are to be ignored. This is seen on line 28, page 16, where we change the word "classified" to "designated", and on line 29, where we eliminate the words "and approved". Then on page 17, the bill goes on to say, lines 2-6, that this bill has right over the Municipal Land Selection bill. Mr. Chairman, municipal government is a good form of government and can be trusted to respond to the needs of its citizens.

Section 16 deals with an even different kind of problem. In section 2(D), it said that 38.08.080 is inapplicable. However, we find in section 16 that there is an amendment. We feel this totally inappropriate. We would hope that it is not the state's intentions to develop a time table for local zoning matters in all future land selections.

Our final section of concern is section 17. This will amend section 38.08.110. Our concern appears on page 17, line 19. You are adding language that says the state shall adopt regulations that effect land in municipalities that are not limited to regulations relating to easements and access routes. Mr. Chairman, we have enough problems with the Feds, and d(2) legislation. We would ask that you not impose further encroachments on us.

In conclusion, we would like to say that the Alaska Municipal League encourages a cooperative intergovernmental land use planning process that considers municipal, state and federal lands effected by the land selection process. Mr. Chairman, we hope the State Legislature shares our views and gives serious consideration to our testimony.

POSITION PAPER

SENATE BILL NO. 710

"An Act relating to state trust funds and their administration; and providing for an effective date."

The effect of this act insofar as mental health programs is concerned is that it will (Sec. 1, 47.14.040) make the mental health fund income mandated for use first for mental health programs with any balance available for general public use.

Section 2, 37.14.050 removes the current permissive wording and requires that the one and one-half percent total receipts from "land use" be transferred each year.

Section 5, 37.14.170(a) removes the advisory board from direct involvement in the investment of the fund.

Section 7, 18.07.011 charges the Statewide Health Coordinating Council with review and reporting to the legislature of the fund's activity.

Section 8, 47.10.350(a) charges the Commissioner of health and Social Services with review and reporting to the legislature of the fund's activity.

Section 9, 47.30.605(b) charges the Governor's Mental Health Advisory Council with review and reporting to the legislature of the fund's activity.

Section 10, 47.80.090 charges the Governor's Council for the Handicapped and Gifted with the review and reporting to the legislature of the fund's activity.

Section 11, 37.14.020 repeals the mental health land fund use advisory board. 37.14.030 repeals the powers granted to the mental health land fund use advisory board.

Analysis: This legislation will have the effect of establishment of a permanent fund which was implied when State mental health lands were placed in public ownership by 1978 legislation. This fund is to replace the earlier established mental health lands trust; the lands with a dollar value. First call on the revenue from this trust goes to fund mental health programs. The review of activity and fund use from the trust is made by a multiplicity of boards and councils. No direct authority over the fund is given to any persons other than the legislature and the Commissioner of Revenue. All other reviews are advisory in capacity.

The existence of this funding source for mental health programs should have no direct impact on the State mental health system because the revenue from the fund will require a legislative appropriation which is the procedure that currently exists. The major difference will be a change in the funding source for the appropriation.

Position Paper
Senate Bill No. 710

Recommendation: The Division of Mental Health and Developmental Disabilities supports Senate Bill No. 710; however, we suggest that the multiplicity of council and board reviews be evaluated as a possible duplication, as each of these groups currently does review that part of the mental health budget which is pertinent to their area of responsibility. Senate Bill No. 710 will require that the role of each council be increased beyond their area of interest, i.e., the Governor's Council for the Handicapped and Gifted may not wish to consider the funds allocated to operate the Alaska Psychiatric Institute. The Department of Revenue will furnish monthly reports on the fund's income which can be given needed distribution.

Recommended by: Robert W. Marshall
Robert W. Marshall, M.D.
Director, Division of
Mental Health and Deve-
lopmental Disabilities

Date: 17 Feb 82

Approved by: Helen D. Beirne
Helen D. Beirne
Commissioner
Department of Health and
Social Services

Date: 2-17-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 710
 Title Relating to state trust funds and their administration.
 Requested by Commissioner's Office Date 2/17/82

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services
 Program Category Affected Mental Health & Developmental Disabilities
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No cost impact is foreseen to the Department of Health and Social Services as a result of this legislation.

IV. DATE _____

Robert W. Marshall
 PREPARED BY Robert W. Marshall, M.D., Director ACC
AGENCY Health & Social Services, Mental Health & DD
 PHONE 465-3370

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 6, 1982

SUBJECT: Mental health trust fund
(CSSB 710 (Resources))

TO: Senator Arliss Sturgulewski

FROM: Richard A. Bradley *B*
Legislative Counsel

You have requested a sectional analysis of CSSB 710
(Resources).

The Resources Committee substitute abandons the broader goals of SB 710 and CSSB 710 (HESS); CSSB 710 (HESS) had been concerned with the administration of the trust funds established in AS 37.14 generally, including not only the mental health trust fund [AS 37.14.010 - 37.14.050] but also the public school fund [AS 37.14.110 - 37.14.150]. The university fund provisions [AS 37.14.060 - 37.15.100] never took effect and therefore were not treated in the HESS committee substitute; the error of including the university trust funds was discovered after the introduction of SB 710 and corrected in the first committee substitute. See the editor's note to these sections in the supplement to AS 37 at page 310.

Therefore the Resources Committee substitute is concerned exclusively with mental health trust fund amendments. The title of the bill is amended for consistency.

When Congress granted the land to the state for the support of the mental health program, it contemplated that the state would use the land for the support of the mental health program. Congress expected that the state would make a determination as to the needs, address those needs, and if those needs were met, use any surplus for other public purposes as determined by the legislature.

Senator Arliss Sturgulewski

Page 2

April 6, 1982

At this point in the state's history, while the legislature has clearly appropriated to the mental health program, there may not have been a "needs assessment". Similarly, it has not been determined whether the appropriated funds granted to the support of the mental health by the legislature have met the needs or whether under or over-funding has occurred.

What this bill does is establish a set aside of state funding approximating the income that could be anticipated from the mental health trust land; the bill also establishes a mechanism for determining what the mental health needs of the state are.

Sec. 1 of the bill amends AS 37.14.030, a section dealing with the power and duties of the mental health fund advisory board (created under AS 37.14.020) and grants the board the responsibility to "assess and report to the legislature" the "needs for mental health services" in the state, the "degree to which the needs for mental health services are being met in the state", and "recommendations and priorities for use of the income of the mental health fund".

Sec. 2 of the bill amends AS 37.14.040, a section dealing with "fund utilization". The existing provisions of AS 37.14.040 require that the principal of the fund be retained for investment under AS 37.14.170 (investment by the commissioner of revenue). The amendment to sec. 40 provides that the income of the fund shall be "first" appropriated to the support of the state mental health program. The second amendment to the section permits the balance of the income from the fund to be appropriated to other public purposes.

Before commenting on the implications of the amendment to sec. 40, the provisions of the amendment to AS 37.14.050 [in Sec. 3] should be noted. This provision deletes the requirement that contributions to the fund under the existing formula established in sec. 50 be accomplished by appropriation. The commissioner of revenue is directed to transfer the funds on their receipt; the provision requires that "one and one-half percent" of the receipts from listed rentals, royalties, etc. be paid into the fund. The existing requirement of an appropriation before funds go into the fund is deleted; the effect is an automatic deposit.

Senator Arliss Sturgulewski

Page 3

April 6, 1982

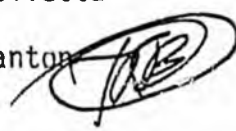
My understanding is that there are no funds in the mental health trust fund because AS 37.14.050 (at least until its amendment in this bill) requires the legislature to appropriate the funds that go into the fund and it has failed to do so. If sec. 50 is amended as this bill provides, there will be a principal established under sec. 50 and the legislature will have its income for distribution under sec. 40 to the mental health program and for other purposes.

Sec. 4 of the bill establishes a new section giving the Legislative Budget and Audit Committee oversight responsibilities.

RAB:ljb

TO: Senator Mike Colletta

FROM: Thomas R. Branton



Proposed amendment to AS 37.14.050:

Shall be amended by the deletion from the first sentence of the words [subject to legislative appropriation of sufficient funds]

Purpose of proposed amendment:

This change will remove the legislative determination language from the existing law. No funds have been appropriated to this trust and, consequently, there has been no restitution to the State mental health program for the transfer of State mental health lands per chapter 181 and 182 of the Session Laws of Alaska, 1978.

This proposed amendment will also make AS 37.14.050 consistent with AS 37.14.100 which is a response to the loss of university land per chapter 181 and 182 of the Session Laws of Alaska, 1978.

Charlie —

this is the end I spoke to you about

Mike Colletta

CHARLIE PARR
ALASKA LEGISLATURE

S.R. Box 50599
Fairbanks, Alaska 99701
(907) 456-5029

Pouch V
Juneau, Alaska 99811
(907) 465-4907

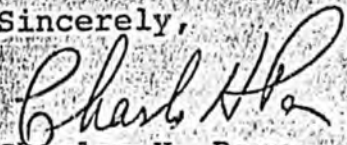
March 17, 1982

Joe Cladouhos
Chairman, Statewide Health
Coordinating Council
Pouch H 01A
Juneau, AK 99811

Dear Mr. Cladouhos:

Thank you for your letter of March 15 about SB 710 and 711.
These bills have been passed out by the HESS Committee and
are now in the Senate Resources Committee. Your letter will
be forwarded to Senator Bettye Fahrenkamp, Chairman of that
Committee.

Sincerely,


Charles H. Parr

cc: Senator Bettye Fahrenkamp ✓

CHP:sr ✓

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

STATEWIDE HEALTH COORDINATING COUNCIL

JAY S. HAMMOND, GOVERNOR

POUCH H 01A
JUNEAU, ALASKA 99811

PHONE: 465-3037

March 15, 1982

Honorable Charles H. Parr
Chairman, Senate HESS Committee
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

The Alaska Statewide Health Coordinating Council, a 30-member advisory board to the Department of Health and Social Services and author of the State Health Plan for Alaska, has been on record for several years in support of statewide mental health programs.

During the February 20, 1982 meeting, the Council voted to endorse the following Resolution #1 in support of Senate Bills 710 and 711 and to urge the House HESS or Finance Committees to introduce companion bills:

"Whereas the United States Congress created a source of and mechanism for stable funding of services for the mentally ill when it created the Alaska Mental Health lands trust; and

Whereas the Territory of Alaska accepted and State of Alaska reaffirmed responsibility for the management of that trust responsibility; and

Whereas the State of Alaska ignored, mismanaged, and ultimately abrogated that trust responsibility, stripping the mentally ill of a guaranteed resource and substituting instead the uncertain generosity of future legislatures; and

Whereas Senate Bills 710 and 711 would help restore a portion of this lost resource and meet a moral obligation incurred, accepted, and abandoned by the State of Alaska;

Now therefore be it resolved that the Alaska Statewide Health Coordinating Council supports Senate Bills 710 and 711 and urges the House HESS or Finance Committees to introduce companion bills."

Sincerely,

Joe Cladouhos
(by ACH)

Joe Cladouhos

Chairman

cc: Helen D. Beirne

DMH & DD
Schedule of Expenditures
FY 1977 - FY 1981

Year	Mental Health	APR	Assisted Living	Regional Community MH Svcs.	Developmental Disabilities	HDC	Council on Handicapped / G.I. Vet.	Regional Community DD Svcs.	Administration	Central Office	Others	TOTAL														
1977	6,139,128	190,812	1,795,630	6,809,802	2,370,210	9,479,019	2,841,446	10,555,969	11,482,844	3,226,945	14,122,340	6,211,056	5,296,904	286,477	3,066,892	3,730,111	10,261,463	619,008	365,226	982,634	2,536,443					
1978	6,921,868	186,955	2,370,210	9,479,019	2,841,446	10,555,969	11,482,844	3,226,945	14,122,340	3,730,111	10,261,463	619,008	365,226	982,634	2,536,443	193,869	709,544	193,869	112,011	718,802	20,851,919	17,939,066	749,778	17,939,066		
1979	11,201,513	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868	7,921,868
1980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980	15,104,980
1981	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463	19,261,463

2 Positions '83 - automated MH information
SD 100 - Transferred from Central Office

SUBJECT: Mental health trust land liabilities

(Work Order Request #12 - 2465)

TO: Sen. Charles H. Parr

FROM: Richard A. Bradley
 Legislative Counsel

B

You have asked that I comment on the general question of the Mental Health Trust Lands granted to the Territory and the State of Alaska as well as the bill presently pending before the legislature relating to the trust lands, SB 710.

In preparing these comments, I have reviewed the memorandum of February 8, 1982 to Representative Malone from the Department of Law which I believe that you also received a copy of. While I did not draft SB 710, I have been advised that SB 710 is the same as HB 151, the bill reviewed in the Department of Law memorandum. Accordingly, it seems that the comments in that memorandum are usefully generally also to your question.

Because of the brief time allowed for the proeparation of this memorandum, it was necessary to cast my views in general conclusory statements:

- (1) I agree that it is unlikely that a court would conclude that the mental health trust responsibility imposed on the state to use the lands received for mental

health purposes was terminated at statehood by the Statehood Act or by the Omnibus Act.

(2) I agree that it is likely that a court would conclude that the Alaska Mental Health Enabling Act imposed an affirmative trust on the State.

(3) It may be that the prohibition against the dedication of funds under the Alaska Constitution will, at some time in the future, have practical implications for the provisions of AS 37.14. I do not believe that it does at this point.

Several aspects of this problem may be noted. This office disagrees with the Department of Law views on the nature of the constitutional requirement; in our view, the income from the disposal of lands does not constitute the income from a "tax or license." We believe those words have meaning, whether or not our constitutional fathers correctly anticipated the actual sources of state income in the 1980's.

Until litigation resolves the question, it will be open to the legislature to interpret the constitution and dedicate the income from the disposal of lands if it wishes.

But I suspect that we also disagree with the suggestion that if the legislature dedicates the proceeds of a tax

or license but the funds remain subject to legislative appropriation, that an unconstitutional dedication occurred.

Put in other words, if the dedication of the proceeds of a tax or license are subject to affirmative legislative appropriation, there also no violation of the constitution occurs; in effect, the dedication constitutes nothing more than an allocation to an account within the treasury for accounting purposes.

I think it is premature, therefore, to pay too much attention to those concerns, particularly as long as there remains an obligation on the legislature to appropriate all the funds granted under the one and one-half percent formula. A dedication that remains subject to the discretion of the legislature to appropriate is not in fact a dedicated fund.

(4) I agree that so long as AS 37.14 remains the method by which the legislature seeks to execute its trust land responsibilities, the legislature should honor its own commitment to fund AS 37.14. I suggest that a legislative determination that the state is meeting or has met its mental health responsibilities, if based on reasonably well founded facts, will go some distance towards blunting the possibility of litigation on a theory that the state has failed in that liability. Whether that

Sen. Charles H. Parr
02/17/82
Page 4

conclusion can be justified (and be well founded), is a more difficult question on which I have no answers.

(5) If the legislature remains with a reasonable commitment to AS 37.14 and supports funding under that concept, the needs for an appraisal of the mental health lands may be avoided.

(6) I agree that the allocation of money to the mental health funds may be achieved without appropriation and that it is reasonable to do so.

As suggested, the money should be used for mental health purposes but if the legislature makes an implicit determination that mental health needs are adequately funded, the mental health funds may be appropriated by the legislature to a different purpose.

The provisions of SB 710 seem consistent with these conclusions and I offer no proposals for amendments to deal with the assumed liability or otherwise.

POSITION PAPER

SENATE BILL NO. 710

"An Act relating to state trust funds and their administration; and providing for an effective date."

The effect of this act insofar as mental health programs is concerned is that it will (Sec. 1, 47.14.040) make the mental health fund income mandated for use first for mental health programs with any balance available for general public use.

Section 2, 37.14.050 removes the current permissive wording and requires that the one and one-half percent total receipts from "land use" be transferred each year.

Section 5, 37.14.170(a) removes the advisory board from direct involvement in the investment of the fund.

Section 7, 18.07.011 charges the Statewide Health Coordinating Council with review and reporting to the legislature of the fund's activity.

Section 8, 47.30.350(a) charges the Commissioner of Health and Social Services with review and reporting to the legislature of the fund's activity.

Section 9, 47.30.605(b) charges the Governor's Mental Health Advisory Council with review and reporting to the legislature of the fund's activity.

Section 10, 47.80.090 charges the Governor's Council for the Handicapped and Gifted with the review and reporting to the legislature of the fund's activity.

Section 11, 37.14.020 repeals the mental health land fund use advisory board. 37.14.030 repeals the powers granted to the mental health land fund use advisory board.

Analysis: This legislation will have the effect of establishment of a permanent fund which was implied when State mental health lands were placed in public ownership by 1978 legislation. This fund is to replace the earlier established mental health lands trust; the lands with a dollar value. First call on the revenue from this trust goes to fund mental health programs. The review of activity and fund use from the trust is made by a multiplicity of boards and councils. No direct authority over the fund is given to any persons other than the legislature and the Commissioner of Revenue. All other reviews are advisory in capacity.

The existence of this funding source for mental health programs should have no direct impact on the State mental health system because the revenue from the fund will require a legislative appropriation which is the procedure that currently exists. The major difference will be a change in the funding source for the appropriation.

Position Paper
Senate Bill No. 710

Recommendation: The Division of Mental Health and Developmental Disabilities supports Senate Bill No. 710; however, we suggest that the multiplicity of council and board reviews be evaluated as a possible duplication, as each of these groups currently does review that part of the mental health budget which is pertinent to their area of responsibility. Senate Bill No. 710 will require that the role of each council be increased beyond their area of interest, i.e., the Governor's Council for the Handicapped and Gifted may not wish to consider the funds allocated to operate the Alaska Psychiatric Institute. The Department of Revenue will furnish monthly reports on the fund's income which can be given needed distribution.

Recommended by: Robert W. Marshall
Robert W. Marshall, M.D.
Director, Division of
Mental Health and Deve-
lopmental Disabilities

Date: 17 Feb 82

Approved by: Helen D. Beirne
Helen D. Beirne
Commissioner
Department of Health and
Social Services

Date: 2-17-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. Senate Bill No. 710
 Title Relating to state trust funds and their administration.
 Requested by Commissioner's Office Date 2/17/82

II. FISCAL DETAIL
 Agency Affected Department of Health & Social Services
 Program Category Affected Mental Health & Developmental Disabilities
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

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100 PERSONAL SERVICES						
200 TRAVEL						
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500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No cost impact is foreseen to the Department of Health and Social Services as a result of this legislation.

IV. DATE _____ PREPARED BY Robert W. Marshall, M.D., Director *Robert W. Marshall*
 AGENCY Health & Social Services, Mental Health & DD ACC
 Original: Legislative Finance PHONE 465-3370
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)