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MENTAL HEALTH LANDS BRIEFING

presented by

Department of Law
and
Department of Natural Resources

January 20, 1986

1:30 p.m. Butrovich Room (Senate Resources, HE&SS)

4:30 p.m. House Finance (House Resources, HE&SS, C&RA)

Commissioner Winnicke

1. Background; decision in Weiss et. al. v. Alaska

Tom Koester
Asst. Attorney General

2. Implementation of court decision

Bob Arnold
Deputy Commissioner
Department of Natural Resources

3. Required actions; implications

Tom Koester
Bob Arnold, Mike Vediner,
Salli Slaughter

Commissioner Pugh, Dept. Health + Social Services,

Enclosures: will be available to answer questions.

- 1) Supreme Court Decision, Weiss v. Alaska
- 2) DNR Order 122 dated December 11, 1985
- 3) Map and list portraying mental health lands distribution by township, either owned or selected by State

See outline next page.



Alaska State Legislature

Official Business

MEMORANDUM

Pouch V
State Capitol
Juneau, Alaska 99811

Date: April 18, 1986

To: Rep. John Sund
Rep. M.M. Miller
Rep. Marco Pignalberi
Rep. Robin Taylor
✓ Rep. Pat Pourchot

From: Rep. Max Gruenberg, Jr. *Max*

Re: CS SS HB 128 (Judiciary)

In light of the attached comments by Legislative Counsel, Dick Bradley, I do not think that any changes to the language in Sec. 2(d) are necessary.

Please contact Jim Nordlund in my office at 465-4968 if you do not concur, or have any comments.

Thank you.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 15, 1986

SUBJECT: Mental health trust
[CSHB 128(Judiciary)]

TO: Representative Max Gruenberg

FROM: Richard A. Bradley
Legislative Counsel

You have suggested an amendment to the above bill; you suggest amending Sec. 2(d) of the bill to provide that the income from the management of the mental health trust land be deposited in the "mental health fund" established under AS 37.14.010.

I have advised you that I thought that the AS 37.14 provisions contained concepts that were apart from those within CSHB 128(Judiciary) and that the mix would not work, at least absent some further revisions to either AS 37.14 or CSHB 128(Judiciary).

I agree, on reflection, that AS 37.14 should be dealt with in legislation "permanently" solving the mental health trust problem, even if the law is simply repealed. It may be appropriate to defer that solution in the interim commission bill.

The provisions of AS 37.14 do not depend upon income from the trust resulting from the logic of State v. Weiss, 706 P.2d 681 (Alaska 1985). Rather, AS 37.14 is, I believe, premised on the determination of the legislature to convert the mental health trust land into general grant land and then make payments consistent with the formula contained in AS 37.14.050: a sum equal to "one and one-half percent of the total revenue derived from the management of state land." I understand that no such payments have been made; it is possible, I suppose, that if the legislature had funded the provisions of AS 37.14, the Weiss case might not have been brought.

Representative Max Gruenberg

Page 2

April 15, 1986

Be that as it may, it seems that AS 37.14 does not mesh well with HB 128.

The "purposes" of the two laws present no problems, since each would support the mental health program of the state. Compare AS 37.14.040 and sec. 3(d) of CSHB 128(Judiciary).

But the funds have different managers: AS 37.14.010 funds would be managed by the AS 37.14.020 board whereas the interim commission would manage the funds under CSHB 128(Judiciary).

There may even be different management goals: compare AS 37.14.030 with the last sentence in sec. 2(c) of CSHB 128(Judiciary).

And I assume that the AS 37.14.020 board may be dormant; there does not seem to be a need for two state boards in this area.

If I may be of further assistance, please advise.

RAB:mkr
m4/117

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-463-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 18, 1986

SUBJECT: Interim Mental Health Trust Land Commission
[CSSSHB 128(Judiciary)]

TO: Representative Max Gruenberg

FROM: Richard A. Bradley
Legislative Counsel *B*

Jim Nordland has asked that I comment on several questions regarding the interaction of CSSSHB 128(Judiciary) and AS 37.14.

The first question involves the adequacy of the language in HB 128 to establish the fund. In my view the language at Sec. 2(d) is quite adequate to establish the fund:

The income from the management of the mental health trust land shall be deposited in a special trust account in the general fund of the state

In my view, nothing more can be said about the creation of the fund: the idea is complete; even the reference to the permanent fund provides the management concepts for the funds. In such a situation, there seems no need for the formula established under AS 37.14.160 - 37.14.170.

Concern was also raised whether the AS 37.14.020 board would, in some sense, compete for the funds.

As I have suggested, eventually the legislature is going to need to deal with AS 37.14.010 - 37.14.050. Be that as it may, it seems clear that the funds that go into a special account under HB 128 are derived from a different formula (the State v. Weiss trust) than are those contemplated under AS 37.14.050. There are different managers and perhaps different managing principles for the fund established under HB 128: "In managing the trust . . . the commission and the commissioner shall be guided by the principles established

Representative Max Gruenberg
Page 2
April 18, 1986

for the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13.120(a)." [Sec. 2(c) of HB 128.]

In those circumstances, it seems difficult to see how there would be an argument that HB 128/ State v. Weiss funds benefit the fund established under AS 37.14.010.

If I may be of further assistance, please advise.

RAB:mkr
m4/136

DNR
SB 472

Sec. 3 - Part of the responsibilities of the commissioner and commission have already been fulfilled. Suggest, therefore that the following be substituted for the beginning of subsection 3 (a), commencing on line 5, page 3:

- (a) The commissioner of natural resources shall inventory and maintain appropriate title and status records pertaining to [CATALOG] the mental health trust land of the state and, to the extent necessary, shall audit....

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

APR 19 1986

Revision Date : 4/17/86

REQUEST

Bill/Resolution No. : SB 472
 Title : Management of Mental Health Trust

 Sponsor : Senate HESS
 Requestor : Senate Finance
 Date of Request : 4/10/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land and Water Management

 Components : _____

Superseded

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		191.0				
TRAVEL		26.0				
CONTRACTUAL		129.1				
SUPPLIES		10.0				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		356.1				

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		356.1				
FEDERAL FUNDS						
OTHER						
TOTAL		356.1				

POSITIONS :

FULL-TIME		5				
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

see attached

Prepared by : Mike Vediner Phone : 465-2400
 Division : Commissioner's Office Date : 4/17/86
 Approved by Commissioner : [Signature] Date : 4/17/86
 Agency : Department of Natural Resources

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Natural Resources
4-17-86
Senate Bill 472
Fiscal Note Addendum

Analysis

Several detailed reports, audits, and appraisals would be required under this bill, and indeed are required under the Supreme Court decision in Weiss v. Alaska, as interpreted by the Attorney General's Office. No funding is included for contracting with the plaintiffs and intervenors in the case.

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985. Estimated costs: \$40,800.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year (37.8 personal services; 1.0 travel; 1.5 contractual; 0.5 commodities).

2. Identify and appraise all less than fair market value conveyances and encumbrances. Estimated costs: \$107,600.

These appraisals will be performed contractually. However, the department must prepare reports and maps containing information about each parcel before the contract can be let. We also note that these appraisals cover only those mental health parcels that are no longer in trust status. The approximately 700,000 acres in trust status are not to be appraised. If section 3(b) of the bill intends that all mental health land be appraised, then the cost, by the Opinion of Value panel method, will require an additional \$22,000.

~~The reports and maps must take approximately 1,100 parcels into consideration. This project will be completed by the Natural Resource Officer I in item #1 above.~~

The appraisals are expected to cost \$107,600. We project that approximately 820 parcels totalling 268,000 acres will need appraisals at an estimated cost of \$28,000. These appraisals will be determined by an Opinion of Value panel method. This method employs three senior designated appraisers, each representing one geographic region (northern, southcentral, and southeastern). The panel of

appraisers prepares value statements for each parcel of mental health land based on their regional expertise. The Opinion of Value method has been criticized by the plaintiffs and intervenors.

In addition, approximately 276 leases must be reappraised at five-year intervals. Currently these leases may not be reappraised for twenty-five years which will create a discrepancy with fair market value rental. The approximate cost of these lease reappraisals is \$79,600.

3. Provide management oversight of all transactions and account for funds received from mental health lands.
Estimated costs: \$101,500.

Statewide trust management oversight can be provided by a Natural Resource Manager I. The manager would be expected to review a large number of transactions to ensure that the trust is not breached. It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel. Additional contractual money allows for the hiring of temporary help to assist with less complex, routine procedural steps.

An Accounting Technician I will be needed to receive and separately process that portion of the approximately \$1.5 billion taken in by the department annually that should be assigned to the mental health accounts.

Line items in this total are: 80.0 personal services; 5.0 travel; 12.0 contractual; and, 4.5 commodities.

4. Executive Director and secretary for Commission.
Estimated costs: \$106,200.

The executive director receives a monthly salary at the Natural Resource Manager level (range 18) and is in the exempt service. Office support is provided by a Clerk Typist II (range 7). Travel funding enables the director to meet regularly with the diverse mental health constituent groups and enables the commission to meet regularly. Office space and equipment will be provided in the department offices.

Line item totals are: 73.2 personal services; 20.0 travel; 8.0 contractual; 5.0 commodities.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 4/17/86

REQUEST

Bill/Resolution No. : SB 472
Title : Management of Mental Health Trust

Sponsor : Senate HESS
Requestor : Senate Finance
Date of Request : 4/10/86

FISCAL DETAIL

Agency affected : Natural Resources
BRU : Land and Water Management

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		227.9				
TRAVEL		26.0				
CONTRACTUAL		129.1				
SUPPLIES		10.0				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		393.0				

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		393.0				
FEDERAL FUNDS						
OTHER						
TOTAL		393.0				

POSITIONS :

FULL-TIME		5				
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

see attached

Prepared by : Mike Vediner
Division : Commissioner's Office

Phone : 465-2400
Date : 4/17/86

Approved by Commissioner : *Arms D Arms*
Agency : Department of Natural Resources

Date : 4/17/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Natural Resources
4-17-86
Senate Bill 472
Fiscal Note Addendum

Analysis

Several detailed reports, audits, and appraisals would be required under this bill, and indeed are required under the Supreme Court decision in Weiss v. Alaska, as interpreted by the Attorney General's Office. No funding is included for contracting with the plaintiffs and intervenors in the case.

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985. Estimated costs: \$40,800.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year (37.8 personal services; 1.0 travel; 1.5 contractual; 0.5 commodities).

2. Identify and appraise all less than fair market value conveyances and encumbrances. Estimated costs: \$107,600.

These appraisals will be performed contractually. However, the department must prepare reports and maps containing information about each parcel before the contract can be let. We also note that these appraisals cover only those mental health parcels that are no longer in trust status. The approximately 700,000 acres in trust status are not to be appraised. If section 3(b) of the bill intends that all mental health land be appraised, then the cost, by the Opinion of Value panel method, will require an additional \$22,000.

The reports and maps must take approximately 1,100 parcels into consideration. This project will be completed by the Natural Resource Officer I in item #1 above.

The appraisals are expected to cost \$107,600. We project that approximately 820 parcels totalling 268,000 acres will need appraisals at an estimated cost of \$28,000. These appraisals will be determined by an Opinion of Value panel method. This method employs three senior designated appraisers, each representing one geographic region (northern, southcentral, and southeastern). The panel of

appraisers prepares value statements for each parcel of mental health land based on their regional expertise. The Opinion of Value method has been criticized by the plaintiffs and intervenors.

In addition, approximately 276 leases must be reappraised at five-year intervals. Currently these leases may not be reappraised for twenty-five years which will create a discrepancy with fair market value rental. The approximate cost of these lease reappraisals is \$79,600.

3. Provide management oversight of all transactions and account for funds received from mental health lands.
Estimated costs: \$101,500.

Statewide trust management oversight can be provided by a Natural Resource Manager I. The manager would be expected to review a large number of transactions to ensure that the trust is not breached. It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel. Additional contractual money allows for the hiring of temporary help to assist with less complex, routine procedural steps.

An Accounting Technician I will be needed to receive and separately process that portion of the approximately \$1.5 billion taken in by the department annually that should be assigned to the mental health accounts.

Line items in this total are: 80.0 personal services; 5.0 travel; 12.0 contractual; and, 4.5 commodities.

4. Executive Director and secretary for Commission.
Estimated costs: \$143,100.

The executive director receives a monthly salary at the Division Director level (range 26) and is in the exempt service. Office support is provided by a Secretary (range 10). Travel funding enables the director to meet regularly with the diverse mental health constituent groups and enables the commission to meet regularly. Office space and equipment will be provided in the department offices.

Line item totals are: 110.1 personal services; 20.0 travel; 8.0 contractual; 5.0 commodities.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Superseded

Revision Date : _____

REQUEST

Bill/Resolution No. : _____
 Title : Interim Mental Health Land Management Commission
Alternative 2
 Sponsor : _____
 Requestor : Senate HESS
 Date of Request : 4/3/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land and Water Management

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		308.5				
TRAVEL		33.0				
CONTRACTUAL		136.9				
SUPPLIES		9.5				
EQUIPMENT		3.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		491.0				

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		491.0				
FEDERAL FUNDS						
OTHER						
TOTAL		491.0				

POSITIONS :

FULL-TIME		7				
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

see attached

Prepared by : Mike Vediner Phone : 465-2400
 Division : Commissioner's Office Date : 4/3/86

Approved by Commissioner : _____ Date : _____
 Agency : Department of Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Natural Resources
4-3-86
Draft Senate HESS Mental Health Commission
Fiscal Note Addendum (unnumbered)
ALTERNATIVE 2

Analysis

Several detailed reports, audits, and appraisals would be required under this bill, and indeed are required under the Supreme Court decision in Weiss v. Alaska, as interpreted by the Attorney General's Office. No funding is included for contracting with the plaintiffs and intervenors in the case.

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985. Estimated costs: \$40,800.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year (37.8 personal services; 1.0 travel; 1.5 contractual; 0.5 commodities).

2. Identify and appraise all less than fair market value conveyances and encumbrances. Estimated costs: \$117,800.

These appraisals will be performed contractually. However, the department must prepare reports and maps containing information about each parcel before the contract can be let. We also note that these appraisals cover only those mental health parcels that are no longer in trust status. The approximately 700,000 acres in trust status are not to be appraised. If section 3(b) of the bill intends that all mental health land be appraised, then the cost, by the Opinion of Value panel method, will be approximately \$50,000.

The reports and maps must take approximately 1,100 parcels into consideration. We expect this project to take a single Natural Resource Officer I three months to complete. Additionally, the project will need funding for supplies and contractual clerical services (9.5 personal services; .5 contractual; .2 commodities).

The appraisals are expected to cost \$107,600. We project that approximately 820 parcels totalling 268,000 acres will need appraisals at an estimated cost of \$28,000. These appraisals will be determined by an Opinion of Value panel

method. This method employs three senior designated appraisers, each representing one geographic region (northern, southcentral, and southeastern). The panel of appraisers prepares value statements for each parcel of mental health land based on their regional expertise. The Opinion of Value method has been criticized by the plaintiffs and intervenors.

In addition, approximately 276 leases must be reappraised at five-year intervals. Currently these leases may not be reappraised for twenty-five years which will create a discrepancy with fair market value rental. The approximate cost of these lease reappraisals is \$79,600.

3. Provide management oversight of all transactions and account for funds received from mental health lands.
Estimated costs: \$142,700.

Statewide trust management oversight can be provided by a Natural Resource Manager II with support from a Natural Resource Officer I. That manager would be expected to review a large number of transactions, with research assistance from a subordinate, to ensure that the trust is not breached. It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel.

Accounting functions can be broken into two parts: ongoing accounting services, and an independent audit. An accounting Technician I will be needed to receive and separately process that portion of the approximately \$1.5 billion taken in by DNR annually that should be assigned to the mental health accounts.

Line items in this total are: 124.0 personal services; 6.0 travel; 11.3 contractual; and, 1.4 commodities.

4. Provide administrative support to the commission.
Estimated costs: \$53,600.

The department would need to provide administrative support to the commission which includes arranging meetings, preparing briefing packets, documenting meeting results, and clerical support. The Natural Resource Officer I listed in item 3 above could assist with the details of action review and a Clerk Typist III would be needed to assist with typing and organization of meetings. Contractual monies would cover duplication costs, phone charges, postage, etc. Travel and per diem funding is for meetings of the commission. Commodities money is to cover routine supplies and maps (27.1 personal services; 18.0 travel; 6.0 contractual; 2.5 commodities).

5. Executive Director and secretary for Commission.
Estimated costs: \$146,100.

The executive director receives a monthly salary at the division director level (range 26). Office support is provided by a secretary (range 10). Both persons serve in the exempt service. Travel funding enables the director to meet regularly with the diverse mental health constituent groups. Contractual funding provides office space and overhead. Equipment funding is for a one time purchase of office equipment. Line item totals are: 110.1 personal services; 8.0 travel; 20.0 contractual; 5.0 commodities; and, 3.0 equipment.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Superseded
Revision Date : _____

REQUEST

Bill/Resolution No. : _____
 Title : Interim Mental Health Land Management Commission Alternative 1
 Sponsor : _____
 Requestor : Senate HESS
 Date of Request : 4/3/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land and Water Management
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		308.5				
TRAVEL		33.0				
CONTRACTUAL		329.9				
SUPPLIES		9.6				
EQUIPMENT		3.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		678.0				

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		678.0				
FEDERAL FUNDS						
OTHER						
TOTAL		678.0				

POSITIONS :

FULL-TIME		7				
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

see attached

Prepared by : Mike Vediner Phone : 465-2400
 Division : Commissioner's Office Date : 4/3/86

Approved by Commissioner : _____ Date : _____
 Agency : Department of Natural Resources

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Natural Resources
4-3-86
Draft Senate HESS Mental Health Land Commission
Fiscal Note Addendum (unnumbered bill)
ALTERNATIVE 1

Analysis

Several detailed reports, audits, and appraisals would be required under this bill, and indeed are required under the Supreme Court decision in Weiss v. Alaska, as interpreted by the Attorney General's Office. No funding is included for contracting with the plaintiffs and intervenors in the case.

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985. Estimated costs: \$40,800.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year (37.8 personal services; 1.0 travel; 1.5 contractual; 0.5 commodities).

2. Identify and appraise all less than fair market value conveyances and encumbrances. Estimated costs: \$304,800.

These appraisals will be performed contractually. However, the department must prepare reports and maps containing information about each parcel before the contract can be let. We also note that these appraisals cover only those mental health parcels that are no longer in trust status. The approximately 700,000 acres in trust status are not to be appraised. If section 3(b) of the bill intends that all mental health land be appraised, then the cost will be \$1,206,100.

The reports and maps must take approximately 1,100 parcels into consideration. We expect this project to take a single Natural Resource Officer I three months to complete. Additionally, the project will need funding for supplies and contractual clerical services (9.5 personal services; .5 contractual; .2 commodities).

The appraisals are expected to cost \$294,600. We project that approximately 820 parcels totalling 268,000 acres will need appraisals at an estimated cost of \$215,000. In addition, approximately 276 leases must be reappraised at

five-year intervals. Currently these leases may not be reappraised for twenty-five years which will create a discrepancy with fair market value rental. The approximate cost of these lease reappraisals is \$79,600.

3. Provide management oversight of all transactions and account for funds received from mental health lands.
Estimated costs: \$142,700.

Statewide trust management oversight can be provided by a Natural Resource Manager II with support from a Natural Resource Officer I. That manager would be expected to review a large number of transactions, with research assistance from a subordinate, to ensure that the trust is not breached. It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel.

Accounting functions can be broken into two parts: ongoing accounting services, and an independent audit. An accounting Technician I will be needed to receive and separately process that portion of the approximately \$1.5 billion taken in by DNR annually that should be assigned to the mental health accounts.

Line items in this total are: 124.0 personal services; 6.0 travel; 11.3 contractual; and, 1.4 commodities.

4. Provide administrative support to the commission.
Estimated costs: \$53,600.

The department would need to provide administrative support to the commission which includes arranging meetings, preparing briefing packets, documenting meeting results, and clerical support. The Natural Resource Officer I listed in item 3 above could assist with the details of action review and a Clerk Typist III would be needed to assist with typing and organization of meetings. Contractual monies would cover duplication costs, phone charges, postage, etc. Travel and per diem funding is for meetings of the commission. Commodities money is to cover routine supplies and maps (27.1 personal services; 18.0 travel; 6.0 contractual; 2.5 commodities).

5. Executive Director and secretary for Commission.
Estimated costs: \$146,100.

The executive director receives a monthly salary at the division director level (range 26). Office support is provided by a secretary (range 10). Both persons serve in the exempt service. Travel funding enables the director to

meet regularly with the diverse mental health constituent groups. Contractual funding provides office space and overhead. Equipment funding is for a one time purchase of office equipment. Line item totals are: 110.1 personal services; 8.0 travel; 20.0 contractual; 5.0 commodities; and, 3.0 equipment.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3762

Senate Committee on Health, Education and Social Services

MEMORANDUM

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, January 20, 1986

DATE: January 16, 1986

On Monday, January 20 at 1:30 pm in the Butrovich Room the Senate Committee on Health, Education and Social Services will meet jointly with the Senate Resources Committee to receive a briefing by the Department of Natural Resources on the mental health lands settlement.

In 1956, Congress passed Alaska's Mental Health Enabling Act which established a trust fund to be used for the treatment of the mentally ill in Alaska. One million acres of federal land were granted to Alaska to form the economic base for the trust.

In 1978 the legislature passed a law which redesignated mental health trust lands as general grant lands and established a trust fund for mental health programs to be financed by 1.5% of the annual receipts for all state land. However, ~~the trust fund was never funded by the legislature.~~ *from* *no monies were ever deposited into the trust fund.*

In November 1982 the Alaska Mental Health Association filed a class action suit ~~on behalf of Carl Weiss and Earl Hilliker.~~ The ~~suit contended~~ that the plaintiffs were in need of mental health services which they could not receive in Alaska, and raised questions about the constitutionality of the 1978 law.

Upon appeal by the state, on October 4, 1985 the Supreme Court ruled that former mental health land must be restored to trust land status. At the briefing, the Department will discuss the court ruling and what it means to the management of state mental health lands. Department of Health and Social Services representatives will be available to discuss program impacts.

1. Audit expenditures (narrow or broad)
2. finding for plaintiffs
3. appraise conveyed land, account for receipts
4. leg. committee estab. policy - m.h. need (state plan trust land or \$ land mgt. policy)
5. increased \$ for MH programs
6. interim mgt. of land

Interim Legislative Committee

* HCR 50
H HESS
SCR 36
Josephson

3 House members, 3 Senate members resolve litigation, recommend level finding

2 House members, 2 Senate members resolve litigation, recommend level finding

Commissioners of DNR & DHSS, 2 public members Specify duties: trust of lands or funds * create policy for mgt. of land

Mental Health Land Management Commission

<u>HB 651*</u>	<u>SSHB 128</u>	<u>Josephson Proposal</u>
in DNR	independent revenue	in DNR
members: DNR DHSS 3 gov. appt.	members: DHSS plaintiff intervenor Gov MH Council	members: DNR public member plaintiff intervenor Gov MH Council
per diem only sell, lease, exchange	salary \$5568/mo.	per diem only transfer, appraise
approve Commissioners' actions	inventory & catalog land, audit transactions, manage, generate funds.	approve Commissioners' actions can hire exec dir. & staff
"maximize income"	Terminate 7/1/88.	Terminate 7/1/88.

Alliance Proposal

independent mgt.
legislators

members: 3: plaintiffs/intervenors
direct appraisals, oversee mgt, draft leg., renew audits, consensus building

finding DNR/DHSS audit, appraise
increase programs (SB 388, HB 412)

Stayton/Smythe Proposal

HB 651

Broaden to allow commission to act as advisory bd. to Leg. Comm.

Appropriations

	broad definition		
audit expense (DHSS)	\$101,250 *	leg. committee	\$?
management (DNR)	\$142,700 *	land commission	\$?
account for funds recd (DNR) <small>by FMV conveyances</small>	\$ 40,800 *	CMI (SB 388, HB 412)	\$10 M
appraise less than FMV conveyances (DNR)	\$ 304,800 *		
plaintiff legal fees, etc. #B 625	\$200,000 *		

PROPOSED MENTAL HEALTH TRUST LAND APPROPRIATION

		<u>COSTS</u>	<u>POSSIBLE REDUCTIONS</u>
H & SS	Independently audit state mental health expenditures from July 1, 1978 through June 30, 1986.	\$81,000	\$(81,000)
DNR	Account for all funds or land received from conveyances and exchanges July 19, 1978 through October 4, 1985.	40,800	
DNR	Identify and appraise all less than fair market value conveyances and encumbrances.	117,800	
DNR	Provide management oversight of all transactions and account funds received from mental health lands.	142,700	
DOL	Special appropriation to the Department of Law for payment of the plaintiff legal fees. The fees shall only be paid by court order.	100,000	
DNR	Mental health land management commission.		
	Administrative support (53,600)		(53,600)
	Staffing (109,200)	162,800	
	Joint legislative committee on mental health trust land	30,600	(30,600)
	TOTAL APPROPRIATIONS PROPOSED	<u>\$675,700</u>	(164,200)
	TOTAL WITH ALL REDUCTIONS		<u>\$511,500</u>

Superseded

NOTE ON PROPOSED APPROPRIATIONS

This request is composed of firm dollar amounts of which reductions would impair the completion of the stated tasks and soft dollar amounts of which reductions or eliminations may be possible without jeopardizing the completion of basic tasks or the total program.

1. With an amendment striking the independent audit of H & SS mental health expenditures, the audit would be completed by existing H & SS staff. The reduction would be \$81,000.

2. Since DNR's administrative support line item within the mental health land management commission was drafted based upon no staffing of the commission; the line item staffing the commission includes the basic elements necessary for the commission to function, however, the quality of commission support undoubtedly would be reduced and there would probably be fewer committee meetings. This line item could be eliminated at a savings of \$53,600.

3. The funds for staffing and support of the joint legislative committee on mental health trust land could be provided from existing budgets for Senate and House interim committees. If these funds were used the reduction would be \$30,600.

The proposed appropriations could be reduced by a total of \$164,200. Thus, the grand total of the proposed appropriations for the mental health land issue could be \$511,500. This would provide a marginal budget, but a budget sufficient to complete the elements required under the Supreme Court decision in Weiss v. Alaska.

PRO FORMA MENTAL HEALTH LAND MANAGEMENT COMMISSION STAFFING

Natural Resource Manager I Type	\$47,600
Clerk Typist II Type	25,600
Travel Costs	8,000
Contractual Costs	20,000
Commodities	5,000
Equipment Costs	3,000
TOTAL STAFF COSTS	<u>\$109,200</u>

DRAFT POSITION PAPER
SENATE HESS COMMITTEE

For an Act entitled: "An Act relating to the interim management of mental health trust land; and providing for an effective date."

Section 4 of the draft bill requires the department to establish guidelines for and obtain an independent audit of mental health expenditures. It also requires the department to prepare guidelines and procedures to determine by some mechanism the level of funding necessary to comply with the state's mental health plan. It requires the department to seek the approval of the commission prior to embarking on these tasks.

Position

The department wishes to comment on Section 4 of this bill. The department believes an audit of mental health expenditures needs to be performed.

It would be prudent for all parties to agree on the guidelines for such an audit prior to commitment of funds for that purpose. The commission provides a valuable forum for this agreement to be reached. The department would work with the commission to achieve consensus on such a set of guidelines. Once the scope is determined, the department's Audit Unit could perform the audit within existing resources. Should it be determined that the audit could adequately be performed in-house, the proposed language would have to be amended to delete the word "independent" in section 4(1).

With regard to the third section, the department feels it important that an interim commission examine the needs for mental health services and be involved in a needs assessment which would result in costing out what is "necessary" for the state to implement a comprehensive mental health program. A broad based effort to come to an agreement on the level and range of services needed to meet Alaska's mental health program would provide a valuable yard stick by which to measure how existing services fail to meet the true need and what level of commitment is needed in the future.

Recommended by:

Karen Perdue
Karen Perdue
Assistant Commissioner
for Administration

Date:

4/3/86

Approved by:

John R. Pugh
John R. Pugh
Commissioner

Date:

4/3/86

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No.: CSSSHB 128
 Title: An Act relating to the interim management of mental health trust land; and providing for an effective date.
 Sponsor: Pignalberi, Gruenberg, Boucher
 Requestor: Pignalberi
 Date of Request: March 24, 1986

FISCAL DETAIL

Agency Affected: Health & Social Services
 BRU: DHSS Administrative Services
 Components: Audit

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		81.0	0			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		81.0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		81.0				
FEDERAL FUNDS						
OTHER						
TOTAL		81.0				

POSITIONS :

FULL-TIME		0				
PART-TIME		0				
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: *Karen Perdue* Karen Perdue, Assistant Commissioner
 Division: Commissioner's Office

Phone: 465-3030
 Date: 3/26/86

Approved by Commissioner: *John R. Poy*
 Agency: Health and Social Services

Date: 4/1/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note, Page 2

The definition of mental health is not clear, and was not defined by the courts. The parties may agree to a definition or the court may be asked to define it for these purposes.

The department's cost estimate for an independent audit includes the accounting for a broad range of possible mental health expenditures. Auditing all possible expenditures and then applying those relevant to the final definition would be cheaper than presupposing the definition of mental health and then reperforming the audit should the definition be expanded beyond the original scope.

Department audit staff could perform this audit at a negligible cost if it is determined that a private firm is not needed. DHSS audit staff includes 3 CPAs who regularly perform hundreds of audits per year.

Should it be determined that the department perform this function in-house, the proposed language would have to be amended to delete the word "independent" in section 4(1).

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 472
Title : Management of Mental Health Trust

Sponsor : Senate HESS
Requestor : Senate Finance
Date of Request : 4/10/86

FISCAL DETAIL

Agency Affected : Natural Resources
BRU : Land and Water Management

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		271.6				
TRAVEL		33.0				
CONTRACTUAL		146.9				
SUPPLIES		9.6				
EQUIPMENT		3.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		464.1				

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		464.1				
FEDERAL FUNDS						
OTHER						
TOTAL		464.1				

POSITIONS :

FULL-TIME		7				
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

see attached

Prepared by : Mike Vediner
Division : Commissioner's Office

Phone : 465-2400
Date : 4/10/86

Approved by Commissioner : Mark D Arnold, Deputy
Agency : Department of Natural Resources

Date : 4/10/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Natural Resources
4-10-86
Senate Bill 472
Fiscal Note Addendum

Analysis

Several detailed reports, audits, and appraisals would be required under this bill, and indeed are required under the Supreme Court decision in Weiss v. Alaska, as interpreted by the Attorney General's Office. No funding is included for contracting with the plaintiffs and intervenors in the case.

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985. Estimated costs: \$40,800.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year (37.8 personal services; 1.0 travel; 1.5 contractual; 0.5 commodities).

2. Identify and appraise all less than fair market value conveyances and encumbrances. Estimated costs: \$117,800.

These appraisals will be performed contractually. However, the department must prepare reports and maps containing information about each parcel before the contract can be let. We also note that these appraisals cover only those mental health parcels that are no longer in trust status. The approximately 700,000 acres in trust status are not to be appraised. If section 3(b) of the bill intends that all mental health land be appraised, then the cost, by the Opinion of Value panel method, will require an additional \$22,000.

The reports and maps must take approximately 1,100 parcels into consideration. We expect this project to take a single Natural Resource Officer I three months to complete. Additionally, the project will need funding for supplies and contractual clerical services (9.5 personal services; .5 contractual; .2 commodities).

The appraisals are expected to cost \$107,600. We project that approximately 820 parcels totalling 268,000 acres will need appraisals at an estimated cost of \$28,000. These appraisals will be determined by an Opinion of Value panel

method. This method employs three senior designated appraisers, each representing one geographic region (northern, southcentral, and southeastern). The panel of appraisers prepares value statements for each parcel of mental health land based on their regional expertise. The Opinion of Value method has been criticized by the plaintiffs and intervenors.

In addition, approximately 276 leases must be reappraised at five-year intervals. Currently these leases may not be reappraised for twenty-five years which will create a discrepancy with fair market value rental. The approximate cost of these lease reappraisals is \$79,600.

3. Provide management oversight of all transactions and account for funds received from mental health lands.
Estimated costs: \$142,700.

Statewide trust management oversight can be provided by a Natural Resource Manager II with support from a Natural Resource Officer I. That manager would be expected to review a large number of transactions, with research assistance from a subordinate, to ensure that the trust is not breached. It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel.

Accounting functions can be broken into two parts: ongoing accounting services, and an independent audit. An accounting Technician I will be needed to receive and separately process that portion of the approximately \$1.5 billion taken in by DNR annually that should be assigned to the mental health accounts.

Line items in this total are: 124.0 personal services; 6.0 travel; 11.3 contractual; and, 1.4 commodities.

4. Provide administrative support to the commission.
Estimated costs: \$53,600.

The department would need to provide administrative support to the commission which includes arranging meetings, preparing briefing packets, documenting meeting results, and clerical support. The Natural Resource Officer I listed in item 3 above could assist with the details of action review and a Clerk Typist III would be needed to assist with typing and organization of meetings. Contractual monies would cover duplication costs, phone charges, postage, etc. Travel and per diem funding is for meetings of the commission. Commodities money is to cover routine supplies and maps (27.1 personal services; 18.0 travel; 6.0 contractual; 2.5 commodities).

5. Executive Director and secretary for Commission.
Estimated costs: \$109,200.

The executive director receives a monthly salary at the Natural Resource Manager level (range 18). Office support is provided by a Clerk Typist II (range 7). Both persons serve in the exempt service. Travel funding enables the director to meet regularly with the diverse mental health constituent groups. Contractual funding provides office space and overhead. Equipment funding is for a one time purchase of office equipment. Line item totals are: 73.2 personal services; 8.0 travel; 20.0 contractual; 5.0 commodities; and, 3.0 equipment.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE.

Revision Date : 3/5/86

REQUEST

Bill/Resolution No. : HCR 50
 Title : establish joint committee
on mental health lands

Sponsor : Gruenberg
 Requestor : House HESS
 Date of Request : 3/5/86

FISCAL DETAIL

Agency Affected : legislature
 BRU : _____

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		21.7				
TRAVEL		3.0				
CONTRACTUAL		5.6				
SUPPLIES		.3				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		30.6				

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		30.6				
FEDERAL FUNDS						
OTHER						
TOTAL		30.6				

POSITIONS :

FULL-TIME						
PART-TIME		1				
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This fiscal note calls for a half-time professional assistant (Range 21A) to work for the committee. Salary for a nine month period is \$17,239.50 plus \$4,482.27 in benefits.

Prepared by : Representative Max F. Gruenberg, Jr.

Division : House HESS Committee

Phone : 465-4968

Date : 3/5/86

Approved by Co-Chair Commissioner :

Agency : House HESS Committee

Date : 3/5/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



Official Business

Alaska State Legislature

→ letter to Commissioners from France & HESS
Chairs RE provide space for
Exec. Dir

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

→ Facilitate Gov. & leg. appt.

Date: April 22, 1986
To: Rep. Max Gruenberg, Jr.
From: Jim Nordlund
Re: Mental Health Lands Commission Bills

The substantive differences between CSSSHB 128 (Judiciary) and CSSB 472 (Resources) are as follows:

- 1) Findings
The Senate version has a findings section; the House version does not.
- 2) Designees
The Senate version allows designees for DNR and DHSS only; the House version allows all Commission members to appoint designees.
- 3) Meetings
The Senate version requires quarterly meetings; the House version has no language regarding meetings.
- 4) Contracting
The Senate version allows the Commission to contract; the House version has no language regarding contracting.
- 5) Land Transactions
The Senate version directs the Commissioner of DNR to audit and appraise each land transaction; the House version directs the Commissioner of DNR to audit only.
- 6) Land Transactions
The Senate version requires a status determination of land transactions on "the effective date of this act"; the House version has no such time period language.
- 7) Review of Records
The Senate version allows the Commission to review DNR and DHSS records; the House has no language regarding records review.

→ Commission shall contract for an executive director
& may employ additional staff ...

→ Travel \$ for MH groups.



Approval vs. Directive Function

The Senate version requires the Commission to approve the Commissioners' actions regarding audit of land transactions, the appraisal of mental health land, the management of trust lands and the audit of the mental health program; the House version requires the Commission to direct the above functions.



Land Management

The Senate version states that the Commission may approve the sale, lease or exchange of trust land, on a determination that such action is consistent with the Federal Act; the House version allows the Commission to direct such action with no other qualifying language.

10) Erroneous Transfers

The Senate version disqualifies the Commission from any say over trust lands that were erroneously or wrongfully transferred from the federal government to the State; the House version does the same, but requires the Commissioner of DNR to notify the Commission prior to such a transfer and requires the Commissioner to attempt to replace the lands with lands of equal value.



Fiduciary Requirements

The House version requires the Commissioner of DNR and the Commission to manage the trust and trust land according to principles set for Alaska Permanent Fund Board; the Senate version has no such language.

Appropriation of Income

The House version states that the legislature may appropriate trust income for mental health programs only; the Senate version states simply that the income is subject to appropriation by the legislature.

red
[Trust
Add "MH 15FT"]

13) Independent Auditors

The Senate version requires an independent auditor for the mental health program audit; the House version does not require an independent auditor.

14) Commission Reports

The Senate version requires the Commission to report to the Legislature by the 10th day of the next legislative session (approximately January 22, 1987); the House version requires a report on February 1st of every year.

15) Duration

The Senate version terminates the Commission on July 1, 1987; the House terminates it on July 1, 1988.

*Shuenberg -
2 yrs!
Cause dont
think can get
done in 1 yr.*

Offered: 4/18/86
Referred: Finance

changes from CSSB472 (Res)

Original sponsors: Pignalberi, Gruenberg,
Boucher, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental
7 health trust land; and providing for an effective
8 date."

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

10 * Section 1. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED.

11 (a) The interim mental health trust land commission is established in the
12 Department of Natural Resources.

13 (b) The commission established under (a) of this section consists of
14 five members, including the commissioner of natural resources and the
15 commissioner of health and social services, and three members appointed by
16 the governor as follows: *or their designees*

17 (1) a member representing the plaintiffs, appointed by the
18 governor from a list of three names submitted to the governor by the plain-
19 tiffs in State v. Weiss, 706 P.2d 681 (Alaska 1985);

20 (2) a member representing the intervenors, appointed by the
21 governor from a list of three names submitted to the governor by the inter-
22 venors in State v. Weiss; and

23 (3) a member representing the Governor's Mental Health Advisory
24 Council, appointed by the governor from a list of three names submitted to
25 the governor by the Governor's Mental Health Advisory Council.

26 (c) The members of the commission shall elect a presiding officer. A
27 majority of the commission constitutes a quorum. The affirmative vote of
28 three members is required to take official action. A vacancy does not
29 impair the power of the remaining members to exercise the powers of the

no findings

added

1 commission. A member of the commission may designate an individual to
2 represent the member at a meeting of the commission. An individual des-
3 ignated under this subsection may vote and has all the powers of a member.

4 (d) Members of the commission serve without compensation but are
5 entitled to per diem and travel expenses authorized by law for other boards
6 under AS 39.20.180.

Meet at least quarterly & may meet more frequently, either in person or by teleconference

7 (e) The commission may employ an executive director and staff to
8 assist it in fulfilling its responsibilities under this Act. The ~~executive~~
9 ~~director~~ of the commission is in the exempt service under AS 39.25.110.

employees

10 * Sec. 2. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND

11 THE COMMISSION. (a) The commissioner of natural resources shall inventory
12 and catalog the mental health trust land, shall audit ^{and appraise} each transaction
13 involving land that has been part of the mental health trust land ^{land of the state} and
14 shall determine the status of mental health trust land ^{on eff. d. of this act} under procedures and
15 guidelines established by the commissioner of natural resources as directed
16 by the commission. *Commission may review the records of DNR.*

17 (b) *DNR shall, w/ approval of commissioner,* As directed by the commission, the commissioner of natural re-
18 sources shall retain appraisers to appraise ^{all or a portion of} land that was part of the
19 mental health trust. The commissioner shall provide the appraisers with
20 written procedures and instructions that have been ^{approved} adopted by the commis-
21 sion.

22 (c) The commissioner of natural resources shall manage the mental
23 health trust land as a public trust under P.L. 84-830, 70 Stat. 709, ^{under}
24 ^{except for transfer under 38.05.035(b)(9)} the direction of the commission. The commissioner of natural resources may
25 not sell, lease, or exchange mental health trust land or an interest in the
26 mental health trust land without the prior approval of the commission. The
27 commissioner of natural resources shall sell, lease, and exchange mental
28 health trust land as directed by the commission. The commissioner of
29 natural resources may transfer trust land to the federal government under

In reviewing a proposal... determine consistency w/terms of trust established by the AK MH Enabling Act.

1 AS 38.05.035(b)(9) without the approval of the commission. The commis-
2 sioner of natural resources shall advise the commission of an intention to
3 transfer any trust land to the federal government and, after the transfer,
4 shall make every effort to ensure that the federal government will transfer
5 to the state trust land of equal value. In managing the trust and the
6 trust land the commission and the commissioner shall be guided by the
7 principles established for the Board of Trustees of the Alaska Permanent
8 Fund Corporation under AS 37.13.120(a).

9 (d) The ^{proceeds} income from the management of the mental health trust land
10 shall be deposited in a special trust account in the general fund of the
11 state and may be appropriated by the legislature only for the support of
12 the mental health program in the state.

13 * Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL
14 SERVICES AND THE COMMISSION. The commissioner of health and social ser-
15 vices, ^{w/ approval of} as directed by the commission, shall

- 16 (1) select ^{independent} auditors to audit the state's mental health program;
17 (2) establish the procedures and guidelines to guide the audi-
18 tors selected under this subsection;
19 (3) propose the guidelines and procedures to be used in de-
20 termining a range of expenditures for mental health programs necessary to
21 comply with the state's comprehensive mental health plan.

22 * Sec. 4. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-
23 sion shall report to the legislature ^{by 10th day of 1st session of 15th leg.} on February 1 of each year on matters
24 of concern to it including recommendations for amendment of laws relating
25 to the management of the mental health trust, the mental health trust land,
26 and the mental health program of the state.

27 * Sec. 5. DEFINITION. In secs. 1 - 4 of this Act "commission" means
28 the interim mental health trust land commission established in sec. 1 of
29 this Act.

Commission may review DITS records.

- 1 * Sec. 6. Sections 1 - 5 of this Act are repealed July 1, ¹⁹⁸⁷ 1988.
- 2 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
- 3 10.070(c).

PROPOSED AMMENDMENTS

TO: 3/31/86 DRAFT of "An Act relating to the interim management of the mental health trust; and providing for an effective date." (14-2030)

Page 3, line 20, following "resources"

Insert "as trustee"

Page 4, lines 1-3:

Delete all material and insert the following:

X
"(d) In managing the Alaska Mental Health Trust and the trust land, the Commissioner shall seek to maximize the income earned and received by the Trust consistent with the trustee's obligation to protect and perpetuate the Trust. The proceeds from the management of the Mental Health Trust and the trust land must be deposited in a special trust account in the general fund of the State and are subject to appropriation by the Legislature. The funds in the mental health Trust account shall be utilized first to meet the necessary expenses of the mental health program of Alaska before they are utilized for any other purpose.

Page 4, line 25:

Delete "July 1, 1987" and insert "upon the effective date of an act designating a permanent trustee for the Alaska Mental Health Trust and providing for the management of the Alaska Mental Health Trust"

Comment:

The responsibilities of the interim Mental Health Trust Commission and the Department of Natural Resources can only be accomplished by funding this effort at a realistic level, taking into account the requirements for Commission and Department staff, travel and meeting schedules and the responsibilities imposed upon the parties charged with implementing this legislation. There will be very large savings if the interim commission and the permanent trustee contemplated by this legislation succeed in laying to rest the issues involved in State of Alaska v. Weiss.

Findings

The Senate version has a findings section; the House version does not.

TOOK SENATE LANG.

Designees

The Senate version allows designees for DNR and DHSS only; the House version allows all Commission members to appoint designees.

~~House~~ **Senate**

Meetings

The Senate version requires quarterly meetings; the House version has no language regarding meetings.

SENATE

Contracting

The Senate version allows the Commission to contract; the House version has no language regarding contracting.

SENATE/STAFF

Land Transactions

The Senate version directs the Commissioner of DNR to audit and appraise each land transaction; the House version directs the Commissioner of DNR to audit only.

SENATE/discussion/DNR

Land Transactions

The Senate version requires a status determination of land transactions on "the effective date of this act"; the House version has no such time period language.

NEW LANGUAGE / DISCUSSION - Oct. 4, '85

Review of Records

The Senate version allows the Commission to review DNR and DHSS records; the House has no language regarding record review.

SENATE

Approval vs. Directive Function

The Senate version requires the Commission to approve the Commissioners' actions regarding audit of land transactions, the appraisal of mental health land, the management of trust lands and the audit of the mental health program; the House version requires the Commission to direct the above functions.

SENATE

Land Management

The Senate version states that the Commission may approve the sale, lease or exchange of trust land, on a determination that such action is consistent with the Federal Act; the House version allows the Commission to direct such action with no other qualifying language.

SENATE / ISSUE

Erroneous Transfers

The Senate version disqualifies the Commission from any say over trust lands that were erroneously or wrongfully transferred from the federal government to the State; the House version does the same, but requires the Commissioner of DNR to notify the Commission prior to such a transfer and requires the Commissioner to attempt to replace the lands with lands of equal value.

SENATE / ISSUE HOUSE

Fiduciary Requirements

The House version requires the Commissioner of DNR and the Commission to manage the trust and trust land according to principles set for Alaska Permanent Fund Board; the Senate version has no such language.

SENATE

Appropriation of Income

The House version states that the legislature may appropriate trust income for mental health programs; the Senate version states simply that the income is subject to appropriation by the legislature.

NEW LANGUAGE

Independent Auditors

The Senate version requires an independent auditor for the mental health program audit; the House version does not require an independent auditor.

SENATE/discussion/ISSUE LBA/ISSUE

Commission Reports

The Senate version requires the Commission to report to the legislature by the 10th day of the next legislative session (approximately January 22, 1987); the House version requires a report on February 1st of every year.

SENATE / STANDARD REPORT LANGUAGE

Duration

The Senate version terminates the Commission on July 1, 1987; the House terminates it on July 1, 1988.

SENATE / ISSUE

These are the major substantive differences between the Senate bill SB 472 and the House Bill HB 128 regarding the establishment of an interim mental health lands commission, the Commission bill.

add HB 502 lang. re confidentiality

p. 4, l. 5 add "trust" back in

H
new appt. H alt.
S
S new
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OK
OK
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OK
OK define MH
S

@ ~~100,000~~^{5,000} acres of MH overselection
@ 8,000 acres erroneously conveyed Native allotments
@ 7,000 acres navigable waterways that need to be reselected
@ 100,000 acres of general grant land overselection

Bradley
4/29/86

Original sponsor: Health, Education and
Social Services Committee

1 IN THE SENATE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 472 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of the
7 mental health trust; and providing for an effective
8 date."

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

10 * Section 1. The legislature finds that

11 (1) the Congress granted 1,000,000 acres of land to the Terri-
12 tory of Alaska to be administered as a public trust for the necessary
13 expenses of the support of ^{the} mental health ^{program} in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska
15 has been selected by the territory and since statehood by the state and
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d
18 681 (Alaska 1985) that the legislation redesignating mental health trust
19 land as general grant land had actually breached the trust established by
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the
22 management of the mental health trust land as trust land;

23 (5) the Alaska Mental Health Association as the original sponsor
24 of the litigation regarding the management of the mental health trust land,
25 more recently participating as intervenor in the litigation, and the plai-
26 tiffs have performed and continue to perform an important public function
27 in their efforts to reconstitute the mental health trust land and to pro-
28 vide for the proper management of the trust land; and

29 (6) there is a need for the interim management of the trust land

*Koester designee for 3 MH members
obviates nomination process
& intent that have land
background*

1 as a public trust.

2 * Sec. 2. INTERIM MENTAL HEALTH TRUST COMMISSION ESTABLISHED. (a) The
3 interim mental health trust commission is established in the Department of
4 Natural Resources.

5 (b) The commission established under (a) of this section consists of
6 five members, including the commissioner of natural resources and the
7 commissioner of health and social services, ~~or their designees~~ ^{redundant} and three
8 members appointed by the governor as follows:

9 (1) a member representing the plaintiffs, appointed by the
10 governor from a list of three names submitted to the governor by the plain-
11 tiffs in State v. Weiss, ^{4 SA 82-2208 Civil} [706 P.2d 68] (Alaska 1985);

12 (2) a member representing the intervenors, appointed by the
13 governor from a list of three names submitted to the governor by the inter-
14 venors in State v. Weiss, ^{4 SA 82-2208 Civil} [706 P.2d 68] (Alaska 1985); and

15 (3) a member representing the Governor's Mental Health Advisory
16 Council, appointed by the governor from a list of three names submitted to
17 the governor by the Governor's Mental Health Advisory Council.

18 (c) The members of the commission shall elect a presiding officer. A
19 majority of the commission constitutes a quorum. The affirmative vote of
20 three members is required to take official action. A vacancy does not
21 impair the power of the remaining members to exercise the powers of the
22 commission. A member of the commission may designate an individual to
23 represent the member at a meeting of the commission. An individual desig-
24 nated under this subsection may vote and has all the powers of a member.

25 (d) Members of the commission serve without compensation but are
26 entitled to per diem and travel expenses authorized by law for other boards
27 under AS 39.20.180.

28 (e) The commission shall meet at least quarterly and may meet more
29 frequently, either in person or by teleconference.

Koester / Yottstein - maybe contract w/ land. mgt. firm instead of hiring a director. Most flexibility - delete (f). But ensure in fiscal note that \$ is there for Commission mgt.

→ Miller: concerned. Wants executive Dir. to be a public employee.

Dr. Bradley leaves O.K. (w/ contract vs. exempt) to commission.

contract for employment of

The commission shall employ an executive director and may employ additional staff to assist it in fulfilling its responsibilities under this Act.

Koester concerned. Don't include contract out basic approval duty.
The commission may contract with parties or individuals for the performance of functions it deems necessary. (Koester)

* Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND THE COMMISSION. (a) The commissioner of natural resources shall inventory and catalog the mental health trust land of the state, shall audit and appraise each transaction involving land that has been part of the mental health trust land of the state, and determine the status of mental health trust land on October 4, 1985, under procedures and guidelines established by the commissioner of natural resources with the approval of the commis-

sion. In the exercise of the commission's responsibilities under this section, the commission may review the records of the Department of Natural Resources. *Miller - state already has open records act. Wouldn't allow look at confidential. Koester - wouldn't supersede confidentiality law. Pauchot - could use HB 502 language re penalties for public disclosure.*

(b) The commissioner of natural resources shall, with the approval of the commission, retain an appraiser or appraisers to appraise all or a portion of land that, at any time, was part of the mental health trust land of the state. The commissioner shall provide an appraiser conducting an appraisal with written procedures and instructions that have been approved by the commission.

(c) The commissioner of natural resources is responsible for the management of the mental health land of the state as a public trust under P.L. 84-830, 70 Stat. 709. Except for a transfer authorized under AS 38.-

05.035(b)(9), the commissioner of natural resources may not sell, lease, or exchange mental health trust land of the state or an interest in the mental health trust land of the state without the prior approval of the commission. In reviewing a proposal for the sale, lease, or exchange of mental health trust land from the commissioner of natural resources, the

M.H. enabling act provided -3- HCS CSSB 472()
fixed number of acres, not fixed value of land. Feds. will only allow based on acres.

use language

confidentiality

lands we weren't entitled to in 1st place

Koester - OK to say notify commission + replacement M.H. selections take their place + illegal lands irrelevant cause were on there by mistake. One seek to maximize value. But value of

Powchot

shall be available to meet the MTH needs.

commission may approve the proposal of the commissioner on its determination that the proposal is consistent with the terms of the trust established by the Alaska Mental Health Enabling Act.

(d) The proceeds from the management of the mental health trust land of the state shall be deposited in a special ~~account~~ ^{add TRUST} in the general fund of the state and shall first be applied to meet the necessary expenses of the ^{Gruenberg: wants only} mental health program of the state. ^{Koester + Comm. Revenue manage these funds in accordance w/ ~~the~~ Gen. Fund which is prudent mt!}

* Sec. 4. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES AND THE COMMISSION. (a) The commissioner of health and social services, with the approval of the commission, shall

(1) select an independent auditor to audit the state's mental health program; ^{reference LB & A}

(2) establish the procedures and guidelines to guide the auditor selected under this subsection; ^{Koester: This will determine state's monetary liability to the trust. May need more legislative direction!}

(3) propose the guidelines and procedures to be used in determining a range of expenditures for mental health programs necessary to comply with the state's comprehensive mental health plan.

(b) The commission may review the records of the Department of Health and Social Services that involve mental health expenditures under the state's comprehensive mental health plan. ^{Clasby - wants included that commission defines MTH. (Set off is a policy question!)}

* Sec. 5. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commission shall submit a report to the legislature by the 10th day of the First Session of the Fifteenth State Legislature on matters of concern to the commission. The report shall include its recommendations for amendment of the laws relating to the management of the mental health trust, the mental health trust land, and the mental health program of the state.

* Sec. 6. DEFINITION. In this Act "commission" means the interim mental health trust commission established in sec. 2 of this Act.

* Sec. 7. This Act is repealed July 1, 1987.

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* Sec. 8. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

5:30 A Fin.

WORKING/DISCUSSION MEETING

4/30/86

RE: SCR 36/HCR 50, estb. joint special committee on mental health trust land
HB 128/SB 472, estb. mental health trust land commission

Asked to attend

✓ Jim Gottstein ^{teleconference}

✓ Pat Pouchot/Mark Bayer

✓ Pat Clasby

✓ David Walker

✓ Max Gruenberg/Jim Nordland

✓ Mike Miller (JNO)

✓ Marco Pignatelli/Debra Bonito

Steve Reiser

✓ Steve Frank

✓ DNR/Mike Vedener

✓ H&SS/Karen Purdue

✓ DOL/Tom Koester

Joe Josephson/David Finkstein

Sandra Schubert/Sen. Fahrvein

Tom Smythe/Sen. Sackitt

? Cotton
? Adams

CHANGES TO SENATE RESOURCES COMMITTEE SUBSTITUTE

1. Page 2, lines 22-24

Adds ability of any commission member to designate a representative to attend a commission meeting with full voting rights.

2. Page 3, lines 1-2

Requires commission to hire an executive director and allows, permissively, for the employ of additional staff. The following subsection (g) provides for the contracting of these and other individuals.

3. Page 3, line 9

Removed land. It was redundant.

4. Page 3, line 11

Changed the date upon which the DNR must determine the status of mental health trust lands from Senate/effective date of this Act/House/no language to October 4, 1985 - the date of the Supreme Court decision.

5. Page 4, line 5

Removes trust from phrase 'deposited in a special trust account in the General Fund'. Department of Revenue requested this amendment. A trust requires a trustee and a certain kind of management. These types of decisions are being left to the Committee/Commission.

6. Page 4, lines 6-7

Requires that proceeds from the management of the trust be applied first for mental health needs. This intent language mirrors the 1956 federal enabling Act.

REMAINING ISSUES

SCR 36/HCR 50

- Each has three members from each side
- Senate has two public members/House has none

ISSUE: Should legislative Committee have public members?

HB 128/SB 472

1. Draft CS takes explicit positions i.e.

- 1) requiring meetings quarterly but allowing for more frequent meetings;
- 2) contracting, now necessary for staff; and
- 3) review of DNR/DHSS records

ISSUE: To direct or remain silent

2. Approval vs. directive commission

This is the pro-active issue.

ISSUE: Should this policy question be addressed now or should it be addressed by the interim policy legislative committee with recommendations from the Commission? This affects several sections of the bill. Proposed CS takes Senate language which leaves this question open.

3. Fiduciary requirements

This is the same as number two.

Concern: The prudent man rule is great for a money trust but inappropriate for a land trust.

4. Independent auditors

CS takes Senate language.

One option is to fund audit - between \$20-80.0. Another option to be discussed is having LBA/Legislative Audit perform audit after the Commission determines scope or definition of mental health program. This would require no appropriation.

5. Termination date

One year versus two.

6. Additional appropriation for consensus building - \$20-40.0?? Attach to fiscal note.

delete findings¹.

Page 1, beginning line 10 - delete findings section through page 2, line 1.

Gov. appoints alternate for each appointed member

2. Page 2, line 8, after "member", insert and three alternates.

3. Page 2, lines 9, 12, and 15, after the word "member" add the words and an alternate.

Page 2, lines 11 and 14, delete [State v. Weiss, 706 P.2d 681 (Alaska 1985)] and insert Weiss v State, 4 FA 82-2208 Civil.

technical

alternates may vote

5. Page 2, line 22, after "commission" delete [a member...member] and insert new subsection (d)

6. Page 3, lines 1 - 3, delete (f) and rewrite (g) as follows:

staff...

The commission shall prepare a budget allocating the funds appropriated to it for the performance of its responsibilities and may contract with parties or individuals for the performance of functions it considers necessary, including the services of an executive director and staff, ~~as necessary.~~

staff & members may review confidential records

7. Page 3, line 14, after "commission" insert and its staff.

8. Page 3, line 15, after "Resources" add that are made confidential by law or regulation.

9. Page 3, lines 24 & 25, delete [for a transfer authorized under AS 38.05035 (b)(9)],

and insert: as provided in (d) of this section.

10. Page 4, line 4, insert the following new language (d):

native allotments

"The commissioner of natural resources may transfer trust land to the federal government under AS 38.05.035 (b)(9) without approval of the commission. The commissioner of natural resources shall advise the commission of an intention to transfer any trust land to the federal government and, after the transfer, shall make every effort to ensure that the federal government will transfer to the state land of equal value."

expenditure
of MH \$

11. Page 4, line 5, after "special" insert trust, line 6, after "shall" delete [first] and after "be" delete [applied] and replace with available.

confidentiality

12. Page 4, lines 7-8, insert new subsection (f) to read:

"An individual who acquires information made confidential by law or regulation and discloses it without proper authority violates AS 11.56.860."

no independent
audit

13. Page 4, lines 11 and 12 are deleted.

14. Page 4, line 13, is amended to combine ideas under (1) and (2) under new (1).

15. Page 4, between lines 17 and 18 insert new subsection (2)(b) as follows:

"The legislative auditor shall audit the state's mental health program under procedures and guidelines established in (a) of this section."

LB&A

record review
technical

16. Page 4, line 18-20 delete (b)

17. Page 4, line 25, after the word "trust", insert fund.

no Permanent find language
commission oversees DVR & DTSS functions
meet at least quarterly
terminate 1 yr.

2 no. workdraft changes
in CONTEXT

Bradley
4/29/86

Original sponsor: Health, Education and
Social Services Committee

1 IN THE SENATE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 472 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of the
7 mental health trust; and providing for an effective
8 date."

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

10 ~~* Section 1. The legislature finds that~~

11 (1) the Congress granted 1,000,000 acres of land to the Terri-
12 tory of Alaska to be administered as a public trust for the necessary
13 expenses of the support of mental health in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska
15 has been selected by the territory and since statehood by the state and
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d
18 681 (Alaska 1985) that the legislation redesignating mental health trust
19 land as general grant land had actually breached the trust established by
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the
22 management of the mental health trust land as trust land;

23 (5) the Alaska Mental Health Association as the original sponsor
24 of the litigation regarding the management of the mental health trust land,
25 more recently participating as intervenor in the litigation, and the plain-
26 tiffs have performed and continue to perform an important public function
27 in their efforts to reconstitute the mental health trust land and to pro-
28 vide for the proper management of the trust land; and

29 ~~(6) there is a need for the interim management of the trust land~~

1 ~~as a public trust.~~

2 * Sec. 2. INTERIM MENTAL HEALTH TRUST COMMISSION ESTABLISHED. (a) The
3 interim mental health trust commission is established in the Department of
4 Natural Resources.

5 (b) The commission established under (a) of this section consists of
6 five members, including the commissioner of natural resources and the
7 commissioner of health and social services, or their designees, and three
8 (AND THREE ALTERNATES) members appointed by the governor as follows:

9 (1) a member (AND AN ALTERNATE) representing the plaintiffs, appointed by the
10 governor from a list of three names submitted to the governor by the plain-
11 tiffs in Weiss v. State, 4 FA 82-2203 (Civil) [State v. Weiss, 706 P.2d 681 (Alaska 1985)];

12 (2) a member (AND AN ALTERNATE) representing the intervenors, appointed by the
13 governor from a list of three names submitted to the governor by the inter-
14 venors in Weiss v. State, 4 FA 82-2203 Civil [State v. Weiss, 706 P.2d 681 (Alaska 1985)]; and

15 (3) a member (AND AN ALTERNATE) representing the Governor's Mental Health Advisory
16 Council, appointed by the governor from a list of three names submitted to
17 the governor by the Governor's Mental Health Advisory Council.

18 (c) The members of the commission shall elect a presiding officer. A
19 majority of the commission constitutes a quorum. The affirmative vote of
20 three members is required to take official action. A vacancy does not
21 impair the power of the remaining members to exercise the powers of the
22 commission. (d) In the absence of the member, an alternate appointed under (b) of this
23 section may vote and has all the powers of a member. [A member of the commission may designate an individual to
24 represent the member at a meeting of the commission. An individual desig-
25 nated under this subsection may vote and has all the powers of a member.]

26 [(d)] Members of the commission serve without compensation but are
27 entitled to per diem and travel expenses authorized by law for other boards
28 under AS 39.20.180.

29 [(e)] The commission shall meet at least quarterly and may meet more
frequently, either in person or by teleconference.

1 [(f) The commission shall employ an executive director and may employ
2 additional staff to assist it in fulfilling its responsibilities under this
3 Act.] The Commission shall prepare a budget allocating the funds appropriated to it for the
4 performance of its responsibilities and may contract with parties or individuals for the
5 performance of functions it considers necessary, including the services of an executive director and staff.
6 (g) [The commission may contract with parties or individuals for the
7 performance of functions assigned to it.]

8 * Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND
9 THE COMMISSION. (a) The commissioner of natural resources shall inventory
10 and catalog the mental health trust land of the state, shall audit and
11 appraise each transaction involving land that has been part of the mental
12 health trust land of the state, and determine the status of mental health
13 trust land on October 4, 1985, under procedures and guidelines established
14 by the commissioner of natural resources with the approval of the commis-
15 sion. In the exercise of the commission's responsibilities under this
16 section, the commission ^(AND ITS STAFF) may review the records of the Department of Natural
17 Resources that are made confidential by law or regulation.

18 (b) The commissioner of natural resources shall, with the approval of
19 the commission, retain an appraiser or appraisers to appraise all or a
20 portion of land that, at any time, was part of the mental health trust land
21 of the state. The commissioner shall provide an appraiser conducting an
22 appraisal with written procedures and instructions that have been approved
23 by the commission.

24 (c) The commissioner of natural resources is responsible for the
25 management of the mental health land of the state as a public trust under
26 P.L. 84-830, 70 Stat. 709. Except ^{AS PROVIDED IN (d) OF THIS SECTION,} [for a transfer authorized under AS 38.-
27 05.035(b)(9)], the commissioner of natural resources may not sell, lease, or
28 exchange mental health trust land of the state or an interest in the mental
29 health trust land of the state without the prior approval of the commis-
30 sion. In reviewing a proposal for the sale, lease, or exchange of mental
31 health trust land from the commissioner of natural resources, the

1 commission may approve the proposal of the commissioner on its determina-
2 tion that the proposal is consistent with the terms of the trust estab-
3 lished by the Alaska Mental Health Enabling Act.

4 → ^{d insert new language} [(d)] The proceeds from the management of the mental health trust land
5 of the state shall be deposited in a special ^(TRUST) account in the general fund of
6 the state and shall ^{Available} [first] be [applied] to meet the necessary expenses of the
7 mental health program of the state.

8 → ^{(f) insert new language}
9 * Sec. 4. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL
10 SERVICES AND THE COMMISSION. (a) The commissioner of health and social
11 services, with the approval of the commission, shall

12 [(1) select an independent auditor to audit the state's mental
13 health program;]

14 ⁽¹⁾ [(2)] establish the procedures and guidelines ^{FOR THE AUDIT OF THE STATE} [to guide the auditor
15 ^{mental health program} selected under this subsection;]

16 ⁽²⁾ [(3)] propose the guidelines and procedures to be used in de-
17 termining a range of expenditures for mental health programs necessary to
18 comply with the state's comprehensive mental health plan.

19 → ^{insert new language}
20 [(b) The commission may review the records of the Department of Health
21 and Social Services that involve mental health expenditures under the
22 state's comprehensive mental health plan.]

23 * Sec. 5. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-
24 sion shall submit a report to the legislature by the 10th day of the First
25 Session of the Fifteenth State Legislature on matters of concern to the
26 commission. The report shall include its recommendations for amendment of
27 the laws relating to the management of the mental health trust, ^(Fund) the mental
28 health trust land, and the mental health program of the state.

29 * Sec. 6. DEFINITION. In this Act "commission" means the interim
30 mental health trust commission established in sec. 2 of this Act.

* Sec. 7. This Act is repealed July 1, 1987.

1 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
2 10.070(c).
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*2 ND worked draft.
Changes unmarked or
marked where appropriate*

Bradley
5/5/86

Original sponsor: Health, Education and
Social Services Committee

1 IN THE SENATE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 472 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of the
7 mental health trust; and providing for an effective
8 date."

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

10 * Section 1. INTERIM MENTAL HEALTH TRUST COMMISSION ESTABLISHED. (a)

11 The interim mental health trust commission is established in the Department
12 of Natural Resources.

13 (b) The commission established under (a) of this section consists of
14 five members, including the commissioner of natural resources and the
15 commissioner of health and social services, or their designees, and three
16 members and three alternates appointed by the governor as follows:

17 (1) a member and an alternate representing the plaintiffs,
18 appointed by the governor from a list of three names submitted to the
19 governor by the plaintiffs in Weiss v. State, 4 FA 82-2208 Civil;

20 (2) a member and an alternate representing the intervenors,
21 appointed by the governor from a list of three names submitted to the
22 governor by the intervenors in Weiss v. State, 4 FA 82-2208 Civil; and

23 (3) a member and an alternate representing the Governor's Mental
24 Health Advisory Council, appointed by the governor from a list of three
25 names submitted to the governor by the Governor's Mental Health Advisory
26 Council.

27 (c) The members of the commission shall elect a presiding officer. A
28 majority of the commission constitutes a quorum. The affirmative vote of
29 three members is required to take official action. A vacancy does not

1 impair the power of the remaining members to exercise the powers of the
2 commission.

3 (d) In the absence of the member, an alternate appointed under (b) of
4 this section may vote and has all the powers of a member.

5 [d]
6 (e) Members of the commission serve without compensation but are
7 entitled to per diem and travel expenses authorized by law for other boards
8 under AS 39.20.180.

9 [e]
10 (f) The commission shall meet at least quarterly and may meet more
11 frequently, either in person or by teleconference.

12 (g) The commission shall prepare a budget allocating the funds appro-
13 priated to it for the performance of its responsibilities and may contract
14 with parties or individuals for the performance of functions it considers
15 necessary, including the services of an executive director and staff.

16 * Sec. 2. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND
17 THE COMMISSION. (a) The commissioner of natural resources shall inventory
18 and catalog the mental health trust land of the state, shall audit and
19 appraise each transaction involving land that has been part of the mental
20 health trust land of the state, and determine the status of mental health
21 trust land on October 4, 1985, under procedures and guidelines established
22 by the commissioner of natural resources with the approval of the commis-
23 sion. In the exercise of the commission's responsibilities under this
24 section, the commission and its staff may review the records of the Depart-
25 ment of Natural Resources that are made confidential by law or regulation.

26 (b) The commissioner of natural resources shall, with the approval of
27 the commission, retain an appraiser or appraisers to appraise all or a
28 portion of land that, at any time, was part of the mental health trust land
29 of the state. The commissioner shall provide an appraiser conducting an
appraisal with written procedures and instructions that have been approved
by the commission.

1 (c) The commissioner of natural resources is responsible for the
2 management of the mental health land of the state as a public trust under
3 P.L. 84-830, 70 Stat. 709. Except as provided in (d) of this section, the
4 commissioner of natural resources may not sell, lease, or exchange mental
5 health trust land of the state or an interest in the mental health trust
6 land of the state without the prior approval of the commission. In review-
7 ing a proposal for the sale, lease, or exchange of mental health trust land
8 from the commissioner of natural resources, the commission may approve the
9 proposal of the commissioner on its determination that the proposal is
10 consistent with the terms of the trust established by the Alaska Mental
11 Health Enabling Act.

12 (d) The commissioner of natural resources may transfer trust land to
13 the federal government under AS 38.05.035(b)(9) without approval of the
14 commission. The commissioner of natural resources shall advise the commis-
15 sion of an intention to transfer trust land to the federal government and,
16 after the transfer, shall make every effort to ensure that the federal
17 government will transfer to the state land of equal value.

18 (e) The proceeds from the management of the mental health trust land
19 of the state shall be deposited in a special trust account in the general
20 fund of the state and shall ^[First] ^[Applied] be available to meet the necessary expenses of
21 the mental health program of the state.

22 (f) An individual who acquires information made confidential by law
23 or regulation and discloses it without proper authority violates AS 11.56.-
24 860.

25 * Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL
26 SERVICES AND THE COMMISSION. (a) The commissioner of health and social
27 services, with the approval of the commission, shall

28 (1) establish the procedures and guidelines for the audit of the
29 state's mental health program; and

1 (2) propose the guidelines and procedures to be used in de-
2 termining a range of expenditures for mental health programs necessary to
3 comply with the state's comprehensive mental health plan.

4 (b) The legislative auditor shall audit the states' mental health
5 program under the procedures and guidelines established in (a) of this
6 section.

7 * Sec. 4. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-
8 sion shall submit a report to the legislature by the 10th day of the First
9 Session of the Fifteenth State Legislature on matters of concern to the
10 commission. The report shall include its recommendations for amendment of
11 the laws relating to the management of the mental health trust fund, the
12 mental health trust land, and the mental health program of the state.

13 * Sec. 5. DEFINITION. In this Act "commission" means the interim
14 mental health trust commission established in sec. 1 of this Act.

15 * Sec. 6. This Act is repealed July 1, 1987.

16 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).

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within the
r. (§ 6 ch

(2) knowingly refrains from performing a duty which is imposed upon the public servant by law or is clearly inherent in the nature of the public servant's office.

(b) Official misconduct is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

✓ **Sec. 11.58.860. Misuse of confidential information.** (a) A person who is or has been a public servant commits the crime of misuse of confidential information if the person

(1) learns confidential information through employment as a public servant; and

(2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

P 2d 365

e of false

Article 7. General Provisions.

Section

900. Definitions

Sec. 11.56.900. Definitions. In this chapter, unless the context requires otherwise.

(1) "improperly influence a witness" means to cause or induce a witness to

(A) testify falsely, offer misleading testimony, or unlawfully withhold testimony in an official proceeding;

(B) avoid or attempt to avoid legal process summoning the witness to testify in an official proceeding, regardless of whether legal process has issued;

(C) be absent from an official proceeding to which the witness has been summoned; or

(D) engage in conduct described in AS 11.56.610;

(2) "judicial officer" means a supreme court justice, including the chief justice, a judge of the court of appeals, a judge of the superior court, a district court judge, or a magistrate;

(3) "juror" means a person who is a member of an impanelled jury or a person who has been drawn or summoned to attend as a prospective juror;

(4) "physical evidence" means an article, object, document, record, or other thing of physical substance;

(5) "testimony" means oral or written statements, documents, or other material that may be offered by a witness in an official proceeding;

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DNR Activity Costs
STATE OF ALASKA

superseded
BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

OFFICE OF THE COMMISSIONER

February 27, 1986

The Honorable Max Gruenberg
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Gruenberg:

During our meeting this week on the subject of mental health lands legislation, you asked that I provide you with a list of the tasks required of the department by the Supreme Court in its decision in Weiss v. Alaska, and an estimate of the funding required to accomplish these tasks. Although our budget amendment is yet to be submitted, I am pleased to provide you with our estimates.

Of the tasks identified by the Department of Law as required by the court, two will be accomplished during the current fiscal year. These are (1) to identify all mental health lands returned to the trust; and (2) to identify all existing encumbrances for mental health lands, such as interagency land management assignments, parks, and refuges.

Tasks also required by the court, for which no funding is presently available, are as follows:

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985. Estimated costs: \$40,800.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year.

February 27, 1986

2. Identify and appraise all less than fair market value conveyances and encumbrances. Estimated costs: \$304,800.

These appraisals will be performed contractually. However the department must prepare reports and maps containing information about each parcel before the contract can be let.

The reports and maps must take approximately 1,100 parcels into consideration. We expect this project to take a single Natural Resource Officer I three months to complete. Additionally, the project will need funding for supplies and contractual clerical services.

The appraisals are expected to cost \$294,600. We project that approximately 820 parcels totalling 268,000 acres will need appraisals at an estimated cost of \$215,000. In addition, approximately 276 leases must be reappraised at five-year intervals (the Legislature created a first term of 25 years during which time rents cannot be raised). The approximate cost of these lease reappraisals is \$79,600.

3. Provide management oversight of all transactions and account for funds received from mental health lands. Estimated costs: \$142,700.

Statewide trust management oversight can be provided by a Natural Resource Manager II with support from a Natural Resource Officer I. That manager would be expected to review a large number of transactions, with research assistance from a subordinate, to ensure that the trust is not breached. It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel.

Accounting functions can be broken into two parts: ongoing accounting services, and an independent audit. An accounting Technician I will be needed to receive and separately process that portion of the approximately \$1.5 billion taken in by DNR annually that should be assigned to the mental health accounts.

Please let me know if there is additional information I might provide you.

Sincerely,



Robert D. Arnold
Deputy Commissioner

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



POUCH 4
STATE CAPITAL
JUNEAU, ALASKA 99511
(907) 465-3534
(907) 465-3535

Senate Committee on Health, Education and Social Services

MEMORANDUM

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, March 20, 1986

DATE: March 18, 1986

On Thursday, March 20, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear:

SCR 36, establishing a joint special committee on mental health trust land

In brief, the bill would establish a committee consisting of two Senators, two Representatives, the Commissioners of Natural Resources and Health and Social Services, and two public members to develop a proposal to resolve the mental health trust litigation and recommend a level of program funding for future years. The committee would terminate at the beginning of next session.

The bill has been introduced in response to the Supreme Court's determination that the state breached the mental health trust established by Congress. A brief outline of the history of the case and the court decision is attached.

Also attached is an outline of other proposals under discussion, as pending legislation or otherwise, that seek to respond to the Supreme court ruling and work toward resolution of the litigation. Committee discussion will not be limited to SCR 36, but will be broadened to include these additional points.

SENATE HESS
March 18, 1966

POINTS FOR DISCUSSION

- I. Interim Legislative Committee (SCR 36, HCR 50)
 - A. Purpose and Goal
 1. Develop a proposal to resolve the mental health trust litigation
 - a. Establish policy for reconstitution of the trust (lands and/or money, determine trustee and management terms of trust)
 - b. Establish policy for management of mental health land
 2. Recommend funding level for mental health programs based on "necessary expenditures"
 - B. Membership
 1. Legislators only
 2. Legislators and public members
 3. Legislators, representatives of the administration, and public members
 - C. Cost
 1. Per diem/travel
 2. Staff
- II. Mental Health Trust Land Commission (SSHB 128, HB 651)
 - A. Purpose and Goal
 1. Independent management of lands
 2. Approval of Department of Natural Resources' land management decisions, including proposed sale, lease, or exchange
 3. Review of land appraisals and status determinations
 4. Broader purpose to include approval of procedures for auditing mental health expenditures, participation in development of standards that guide program funding, and general advisory role to the legislative committee
 - B. Membership
 1. Administrative representatives
 2. Representatives of mental health community
 3. Public members
 - C. Term
 1. Interim
 2. Perpetual
 - D. Cost
 1. Salary
 2. Per diem/travel
 3. Staff
- III. Agency Activities
 - A. Department of Natural Resources
 1. Appraisal of conveyed lands, account for funds received from conveyance
 2. Management of mental health lands
 - B. Department of Health and Social Services

1. Audit expenditures (based on definition of "mental health")
 2. Finalize five year mental health plan
 3. Needs assessment
- C. Cost
1. Both agencies have indicated additional operating funds will be needed to enable them to complete these activities.
- IV. Participation of Plaintiffs/Intervenors (HIB 625)
- A. Funding
 1. Legal fees
 2. Consensus building
 - B. Advisory Committee (see II,A,4 above)
- V. Program Enhancement (SB 388, HB 412)
- A. \$10 million for treatment of chronically mentally ill (50% of need)

Statement on Mental Health Trust Lands Before the Senate
on Health, Education and Social Services Committee, Alaska State
Legislature, March 25, 1986

By JOHN SANDOR

586-2497

I am John A. Sandor, a resident of Juneau, Alaska. Although I have been a professional land and natural resource manager for over thirty years, I am here as a parent who has been seeking improvements in local and state-wide mental health programs. My primary interest in this subject began with the special health needs of a daughter who was born in Alaska in 1968. Through the years, I have attempted to develop a better understanding of mental health needs and the programs and services offered within Alaska.

Although I am here primarily to listen to the various presentations and discussions on the "trust lands" and related issues of Alaska mental health policies, I do want to present a statement regarding these issues.

In all, I want to stress my belief that the issue of the creation and management of the "trust lands" and the development of improved State mental health policies and programs are closely related.

In order for the State of Alaska to clearly define management objectives for the "trust lands", it is essential that the State develop clearer definitions of Alaska's "mental health needs" and what comprises "adequate or necessary mental health services".

I support the passage of Senate Concurrent Resolution No. 36, which would establish a joint special committee on mental health trust land. I especially support the provisions to hold public hearings and to recommend a level of appropriations adequate to provide sufficient funding for mental health programs in the future.

I strongly support enactment of HB 128 which relates to the interim management of mental health trust land. I believe it is important to establish a Commission which can begin the immediate job of inventorying and cataloging the mental health trust land of the state and audit the transactions involving trust lands in the past. I endorse the proposal that the Commission manage the trust land to maximize the income earned and received by the trust consistent with the trustee's obligation to protect and perpetuate the trust.

Finally, I also want to express my support for enactment of SB 388 (HB 412) which I think is an essential step in developing basic mental health definitions, objectives and the foundation for a reasonable mental health program in our State.

In regard to the issue of restoration and management of the "trust lands", I am hopeful that the Administration and representatives of the parties involved in the litigation will be able to work closely together to reach agreement on such definitions as "needed services", "fair appraisals of lands conveyed" and "past mental health expenditures".

It is an understatement to say that these are very complex issues. From the land question, we are dealing with a million-acre "mental health trust" scattered in over 4,500 parcels throughout the State. From the Alaska mental health policy and program question, we are dealing with basic definitions of needs and different classes of services.

The resolution of these issues will, I believe, require very close work together over the next year at least, between the Administration, the Legislature and the parties directly affected by the mental health programs and policies of the State.

Finally, I want to commend you and the other members of the Alaska State Legislature for working on these important issues. Thank you.

SB 472 RELATING TO THE INTERIM MANAGEMENT OF THE MENTAL HEALTH TRUST

SENATE VERSION

Page 1, Lines 10-29
Findings Section (history of
the lawsuit)

Page 2, Line 8
Provides for the Governor to
appoint three public members
to the Commission.

Page 3, Lines 12-13
Allows for the Commission to
review DNR's records.

Page 4, Line 4
Makes available for
appropriation by the
legislature proceeds from the
management of the mental
health trust land.

Page 4, Line 8 Provides for an
"independent" audit of the
state's mental health program.

HOUSE VERSION

Deleted.

Page 1, Line 16
Requires the Governor to
appoint an alternate for
each of the Commission's
public members.

Page 2, Lines 23-26
Contains specific
language regarding
confidential records.

Page 3, Lines 24-25
Specifies that the
proceeds shall "first be
applied to meet the
necessary expenses of the
state's mental health
program."

Page 4, Lines 5-7
Specifies that the audit
will be performed by
Legislative Budget and
Audit.

SCR 36 ESTABLISHING A JOINT SPECIAL COMMITTEE ON MENTAL HEALTH TRUST LANDS

SENATE VERSION

Page 2, Lines 2-4
Provides for three senators
and three representatives to
serve on the committee.

HOUSE VERSION

Pages 8-11
Specifies that one of the
senators and one of the
representatives be
Finance Committee
members.

The House adopted a Letter of Intent (see reverse) calling for the audit of mental health expenditures to be broad in scope so that the legislative committee has adequate information on which to base its recommendations for resolving the litigation.

final

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 5/7/86

REQUEST

Bill/Resolution No. : SB 472
Title : Management of Mental Health Trust

Sponsor : Senate HESS
Requestor : House Finance
Date of Request : 5/7/86

FISCAL DETAIL

Agency Affected : Natural Resources
BRU : Land and Water Management

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		300.0				
TOTAL OPERATING		300.0				

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		300.0				
FEDERAL FUNDS						
OTHER						
TOTAL		300.0				

POSITIONS :

FULL-TIME		3				
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

see attached

Prepared by : Mike Vediner
Division : Commissioner's Office

Phone : 465-2400
Date : 5/7/86

Approved by Commissioner : Wm D Arnold, Deputy
Agency : Department of Natural Resources

Date : 5/7/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Natural Resources
5-7-86
Senate Bill 472
House Finance - Fiscal Note Addendum

Analysis

Several detailed reports, audits, and appraisals would be required under this bill, and indeed are required under the Supreme Court decision in Weiss v. Alaska, as interpreted by the Attorney General's Office.

Task 4 specifies that \$72,000 will be made available to the commission which will prepare a budget for necessary expenditure of those funds. Tasks 1, 2, and 3 will be completed by the department with the remaining \$228,000. Rather than allocate the funds to each component it is preferred that the department have the flexibility to utilize the funds as determined necessary by the commissioner.

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year.

2. Identify and appraise all less than fair market value conveyances and encumbrances.

These appraisals will be performed contractually. However, the department must prepare reports and maps containing information about each parcel before the contract can be let. We also note that these appraisals cover only those mental health parcels that are no longer in trust status. The approximately 700,000 acres in trust status are not to be appraised.

The reports and maps must take approximately 1,100 parcels into consideration. This project will be completed by the Natural Resource Officer I in item #1 above.

We project that approximately 820 parcels totalling 268,000 acres will need appraisals. These appraisals will be determined by an Opinion of Value panel method. This method employs three senior designated appraisers, each

representing one geographic region (northern, southcentral, and southeastern). The panel of appraisers prepares value statements for each parcel of mental health land based on their regional expertise. The Opinion of Value method has been criticized by the plaintiffs and intervenors.

In addition, approximately 276 leases must be reappraised at five-year intervals. Currently these leases may not be reappraised for twenty-five years which will create a discrepancy with fair market value rental.

3. Provide management oversight of all transactions and account for funds received from mental health lands.

The Supreme Court decision in Weiss v. Alaska requires the department to manage mental health land as a trust consistent with the Alaska Mental Health Enabling Act. In order to comply in a defensible and consistent manner the department will employ a Natural Resource Manager and Accounting Technician.

The new Natural Resource Manager (NRM) position will oversee all actions taken by the department on mental health land. Over the last eight years we have averaged approximately 60 cases per month where some (former) mental health land was involved. These include mining locations, park permits, oil and gas lease sales, rights-of-way, ILMAs, municipal selections, leases, land sales, and nearly anything else in which the department is involved.

One of the major duties of the NRM will be review of these cases to ensure compliance with the court decision and prepare briefing packets for review by the commission. In addition the NRM will: prepare mental health land management notices to the department; prepare audit reports; oversee implementation of Department Order 121 relating to interim mental health land management; research trust land management problems; coordinate review and responses by various agencies; continue to update audit reports; implement procedure to recognize various trust lands on the LAS computer system; establish, maintain, and continue to improve departmental mental health land records system; prepare fact sheets and informational notices regarding mental health lands; and, oversee and assist in the activities of the NRO (item 1 above) and coordinate with the accountant position to ensure an accurate and expeditious procedure for distribution of monies.

It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel.

The accounting position is required to distribute the appropriate percentage of income to the proper accounts for each post-October 4, 1986 transaction involving mental health land. In addition to percentage distributions among land types this position must also identify the percentage distribution between interest, principle, and penalty payments for entry into AKSAS. Many of these transactions are manually posted. A large portion of the work this position must accomplish will be the large number of monthly transactions from pre-1978 and continuing leases which must be corrected to reflect the proper distribution of income monies between the general and trust accounts. This is a continuing prospective function for each of the several thousand transactions which include mental health land.

4. Commission funding for the performance of its duties.
Total allocation: \$72,000.

The commissioner shall allocate \$72,000 to the commission for the performance of its duties which may include, but are not limited to, hiring an executive director and staff, contracting with parties or individuals for the performance of functions it considers necessary, and travel expenses incurred in convening the commission or by the executive director. A budget for these funds will be prepared by the commission as provided in section 1 of the bill.

Office space and equipment will be provided by the department.

TESTIMONY OF SENATOR BETTYE FAHRENKAMP

SB 472 INTERIM MANAGEMENT OF THE MENTAL HEALTH TRUST

SENATE FINANCE COMMITTEE APRIL 22, 1986

THANK YOU FOR THIS OPPORTUNITY TO TESTIFY. WITH YOUR PERMISSION, I'D LIKE TO ADDRESS BOTH SB 472, RELATING TO THE INTERIM MANAGEMENT OF THE MENTAL HEALTH TRUST, AND SCR 36, WHICH WOULD ESTABLISH A LEGISLATIVE COMMITTEE TO ADDRESS RESOLUTION OF THE MENTAL HEALTH LANDS LAWSUIT, AS I FEEL PASSAGE OF BOTH BILLS IS AN ESSENTIAL STEP IN RESOLUTION OF THE LITIGATION.

AS YOU ALL KNOW, IN 1956 CONGRESS GRANTED ALASKA 1 MILLION ACRES OF LAND TO BE MANAGED AS A PUBLIC TRUST TO PROVIDE FUNDS FOR ALASKA'S MENTAL HEALTH PROGRAM. THE LEGISLATURE'S REDESIGNATION OF THE TRUST LANDS AS GENERAL GRANT LANDS AND FAILURE TO ESTABLISH A TRUST FUND PROMPTED THE ALASKA MENTAL HEALTH ASSOCIATION TO FILE SUIT AGAINST THE STATE. THE SUPREME COURT'S RECENT RULING THAT THE STATE HAD BREACHED THE TRUST AND MUST RECONSTITUTE IT HAS LED US TO WHERE WE ARE TODAY.

THE INTENT OF SB 472 IS TWOFOLD:

1) TO ENSURE THAT ACTIVITIES REQUIRED BY THE COURT ARE UNDERTAKEN

2) TO PROTECT THE TRUST FROM FURTHER ALIENATION PENDING FINAL RESOLUTION OF THE LITIGATION.

SPECIFICALLY, THE BILL CALLS ON THE DEPARTMENT OF NATURAL RESOURCES TO:

- a) INVENTORY AND CATALOG THE MENTAL HEALTH TRUST LAND
- b) AUDIT PAST TRANSACTIONS INVOLVING MENTAL HEALTH LAND
- c) APPRAISE LANDS THAT ARE NO LONGER IN THE TRUST
- d) MANAGE THE MENTAL HEALTH LAND AS A PUBLIC TRUST.

THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES IS TO:

- a) AUDIT THE STATE'S PAST MENTAL HEALTH PROGRAM EXPENDITURES
- b) PROPOSE GUIDELINES FOR DETERMINING FUTURE LEVELS OF EXPENDITURES.

A THIRD AND EQUALLY IMPORTANT FUNCTION OF SB 472 IS TO FACILITATE INVOLVEMENT OF THE MENTAL HEALTH COMMUNITY IN SETTLING THE LITIGATION. TO THIS END, THE BILL:

- 1) INCLUDES ON THE COMMISSION 3 MEMBERS NOMINATED BY THE MENTAL HEALTH COMMUNITY
- 2) CALLS ON THE COMMISSION TO APPROVE THE AUDITS AND APPRAISALS CONDUCTED BY D.N.R. AND D.H.S.S.
- 3) REQUIRES THAT THE COMMISSION APPROVE D.N.R.'S LAND MANAGEMENT DECISIONS.

WHAT SB 472 DOES NOT DO IS PROPOSE ANY LONG TERM SOLUTIONS. IT DOESN'T ANSWER QUESTIONS ABOUT MENTAL HEALTH LANDS THAT ARE IN PARKS OR HAVE BEEN CONVEYED TO MUNICIPALITIES; IT DOESN'T DISCUSS WHETHER THE SETTLEMENT SHOULD BE LAND OR MONEY, OR WHAT THE SIZE OF THE SETTLEMENT SHOULD BE. SCR 36, WHICH IS ALSO BEFORE YOU TODAY,

WOULD ESTABLISH A LEGISLATIVE COMMITTEE TO ANSWER THESE QUESTIONS, AND IN DOING SO DEVELOP A PROPOSAL TO RESOLVE THE LITIGATION. SB 472 WILL ASSIST THE STATE, AND THE LEGISLATIVE COMMITTEE SPECIFICALLY, IN THIS TASK AND PROTECT THE TRUST UNTIL RESOLUTION IS REACHED.

THE FISCAL NOTE ON SB 472 PROVIDES FUNDING TO D.N.R. TO CONDUCT APPRAISALS, AUDIT PAST LAND TRANSACTIONS, AND ALLOW THE COMMISSION TO HIRE AN EXECUTIVE DIRECTOR. THE APPRAISALS AND AUDITS WERE REQUIRED BY THE COURT AND MUST BE DONE. I FEEL THAT THE FUNDING FOR THE EXECUTIVE DIRECTOR IS ESSENTIAL ALSO, AS TO BE EFFECTIVE THE COMMISSION MUST HAVE THE INDEPENDENCE TO REVIEW LAND TRANSACTIONS AND THE ABILITY TO DEVELOP RECOMMENDATIONS ON LAND MANAGEMENT.

I URGE YOUR SUPPORT OF BOTH THE BILLS AND THE FISCAL NOTE.
THANK YOU AGAIN FOR YOUR CONSIDERATION.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

SENATE FINANCE COMMITTEE

LETTER OF INTENT

CS SB 472 (RESOURCES)

It is the intent of the legislature that the Interim Mental Health Trust Commission established by CS SB-472 shall include at least one member besides the Commissioner of Natural Resources who has experience and knowledge in Alaskan based property and resource values.

HISTORY

- 1956 Public Law 80, Title II, Section 202
U.S. Congress granted the Territory of Alaska 1 million acres of land to be managed as a public trust to provide funds for Alaska's Mental Health program. Monies left after mental health program costs could be used for other public needs.
- 1958 Public Law 85-508, Section 6
Transferred grants to the State of Alaska.
- Lands were selected and patented, but no trust fund was established.
- 1978 Ch. 181, SLA 1978,
The legislature redesignated the trust lands as general grant lands. In their place a mental health fund was created and subject to an appropriation by the legislature, was to receive 1.5% of revenues paid to the State each year as proceeds from the management of State lands.
- No monies were deposited into the Mental Health fund.
- 1982 Weiss et.al. v. Alaska
Alaska Mental Health Association filed a class action suit against the state contending that the plaintiffs were in need of mental health services which they could not receive in Alaska and raised questions about the 1978 redesignation law.
- 1984 State Superior Court directed the state to reimburse the trust for the full value of the land that was redesignated in 1978. The state appealed.
- October, 1985
State Supreme Court ruled that the state had breached the trust and that it must be reconstituted.
- December, 1985 Mental Health Lands Interim Management
Department of Natural Resources issued Department Order 121, which establishes criteria for management based on receipt of fair market value or reimbursement of the trust in land or money for all transactions.

SENATE HESS
March 18, 1986

THE SUPREME COURT DECISION

On October 4, 1985 the State Supreme Court ruled:

- 1) the state had breached the mental health lands trust.
- 2) the 1978 law redesignating mental health lands as general grant lands was invalid.
- 3) the trust must be reconstituted to match as nearly as possible the holdings which comprised the trust when the 1978 law became effective.

The Supreme Court remanded the case to the Superior Court so that findings could be made and provide the following specific directions.

- 1) General grant lands which were once mental health lands be returned to their former trust status.
- 2) Lands that can be traced to an exchange involving mental health lands be included in the trust.
- 3) The trust be reimbursed for mental health lands that have been sold, based on fair market value at the time of sale.
- 4) A set-off against the value of lands sold be granted for mental health expenditures made by the state, and in the event that expenditures exceed the value, the state need not furnish cash as part of the reconstitution.

Distributed by
Sen. Fahrenkamp

Rep. Pat Pourchot
May 8, 1986

PROPOSED FINANCE COMMITTEE LETTER OF INTENT

It is the intent of the House Finance Committee that the "procedures and guidelines for the audit of the state mental health program," to be developed under section 3(a)(1) of HCS CSSB 472 (Fin), are to specify the method by which the audit is to be conducted and are not to limit the scope of the audit by defining items constituting the state's mental health program. Rather, it is the intent of the House Finance Committee that the required audit of state mental health expenditures be as broad in scope as possible. At the same time, the House Finance Committee intends that the commission make recommendations as to which of the audited items are appropriately considered part of the state's mental health program in the report submitted to the legislature under section 4.

COMMITTEE REPORT

SENATE

FURTHER: RESOURCES
FINANCE

4/4/86

Date 4-8-86

Mr. President

The Committee on HESS considered SB 472
relating to the interim management of the mental health trust; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Joe Jacobson

MEMBERS HAVING
OTHER RECOMMENDATIONS

Edwin De Vries N.R.

Bettye Johnson Do Pass
Chairman

Chairman recommendation

ADOPTED
Cont Comm

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4-21-86

REQUEST

Bill Resolution No.: CSSE-473 (RES)
Title: Management of Mental Health Trust Lands

Sponsor: Senate Finance
Requestor: Senator Sackett
Date of Request: 4-21-86

FISCAL DETAIL

Agency Affected: Natural Resources
BRU: Land and Water Management

Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		300.0				
TOTAL OPERATING						

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		300.0				
FEDERAL FUNDS						
OTHER						
TOTAL		300.0				

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Fiscal note analysis attached

REVISED

Prepared by: Senate Finance
Division: Legislative Finance

Phone: 465-3753

Date: 4-21-86

Approved by Commissioner: Senator Sackett
Agency: Senate Finance

Date: 4-21-86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

These funds will permit the Department of Natural Resources, Land and Water Management to carry out the following functions stipulated in CSSB-472(Res):

1. Sec. 3 (a) account for all funds or land received from conveyances and exchanges between July 19, 1978 and October 4, 1985.
2. Sec. 3 (b) Identify and appraise all less than fair market value conveyances and encumbrances.
3. Sec. 3 (c) Provide management oversight of all transactions and account for funds received from mental health lands.
4. Sec. 2 (f) hire commission staff personnel as may be necessary to carry out the responsibilities of the Interim Mental Health Trust Commission.

NOTES: * Rather than allocate the funds to each component it was preferred the Department have the flexibility to utilize funds as determined by the Commissioner of Natural Resources.

* Sec. 4 (1) Requires the Department of Health and Social Services to provide an independent audit of mental health expenditures from July 1, 1978 through June 30, 1986.....The Department had requested \$81.0 for this purpose but has indicated they can handle the cost with existing funds.

* \$100,000 is included in the Department of Law's FY87 budget for payment of plaintiff legal fees should the court so order.

* SCR-36, creates a joint legislative committee on mental health trust lands and carries a fiscal note of \$30.6 appropriated to Legislative Affairs.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 4-21-86

REQUEST

Bill Resolution No.: CSSCR-35 (HESS)
 Title: Joint Special Committee
Mental Health Trust Lands
 Sponsor: Josephson, Sackett, Rodey
 Requestor: Senate Finance
 Date of Request: 4-21-86

FISCAL DETAIL

Agency Affected: Legislature
 BRU: Legislative Affairs
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		30.6				
TOTAL OPERATING						

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		30.6				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Senate Finance Committee
 Division: _____

Phone: 465-3753
 Date: 4-21-86

Approved by Commissioner: Sen. Sackett
 Agency: Senate Finance Committee

Date: 4-21-86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
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STATE OF ALASKA
THE LEGISLATURE

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May, 1988

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Mary Van Nimwegen

HESS 4-3-86 1:30pm
4-8-86 1:43pm