Mental Health Lands Trust Discussion

2-10-93

8-LS0604\A
Chenoweth
2/8/93

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

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

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

6 * **Section 1.** AS 22.10.020 is amended by adding a new subsection to read:
7 (j) The superior court is the court of original jurisdiction to hear and determine
8 any dispute arising under AS 37.14.036(c) - (e).
9 * **Sec. 2.** AS 37.14.009(a), added by sec. 10, ch. 66, SLA 1991, is amended to read:
10 (a) The Alaska Mental Health Trust Authority
11 (1) shall manage the assets of the trust in a fiduciary manner to fulfill
12 the purposes of the trust;
13 (2) may, consistent with (1) of this subsection and AS 47.30.036(1),
14 sell, lease, exchange, or otherwise dispose of land in the trust;

1 (3) may, consistent with (1) of this subsection, use land that is an asset
2 of the trust directly for the integrated comprehensive mental health program;
3 (4) shall [MAY] contract with the Department of Natural Resources to
4 manage the land assets of the trust, unless the authority determines that the best
5 interests of trust beneficiaries would be served by other arrangements; and
6 (5) shall contract with the Alaska Permanent Fund Corporation for
7 management of the trust's cash assets, unless the authority finds that the best interests
8 of trust beneficiaries would be served by contracting with another entity.
9 * **Sec. 3.** AS 37.14.031, added by sec. 11, ch. 66, SLA 1991, is amended to read:
10 Sec. 37.14.031. TRUST FUND ESTABLISHED. The mental health trust fund
11 is established as a separate fund within the state treasury. The fund consists of the
12 cash assets of the principal of the trust, including the proceeds earned from the
13 management of the land placed in the trust corpus under AS 38.05.800.
14 * **Sec. 4.** AS 37.14.036(c), added by sec. 11, ch. 66, SLA 1991, is repealed and reenacted
15 to read:
16 (c) As compensation for the land that constituted the trust established by the
17 enabling Act and that is not reconstituted as part of the mental health trust corpus
18 established under AS 38.05.800, the state shall make an annual payment of six percent
19 of the unrestricted general fund revenue of the state during each fiscal year. The
20 commissioner of revenue shall annually allocate that amount from the general fund to
21 the mental health trust income account established in (a) of this section.
22 * **Sec. 5.** AS 37.14.036, added by sec. 11, ch. 66, SLA 1991, is amended by adding new
23 subsections to read:
24 (d) To secure the allocation of amounts required under (c) of this section, land
25 granted to the state under the enabling act, and that is, on the effective date of this
26 subsection, designated by law as a state park, state forest, state game refuge, state
27 wildlife refuge, state game sanctuary, state recreational area, state recreational river,
28 state wilderness park, state marine park, state special management area, state public
29 use area, critical habitat area, bald eagle preserve, bison range, or moose range, is
30 pledged as security to the mental health trust. Title to this land remains in the state
31 and, so long as a default does not exist under (c) of this section, income from that land

1 shall be deposited in the general fund and considered unrestricted general funds of the
2 state.
3 (e) Upon default, the foreclosure of the lands pledged as security under (d) of
4 this section, including the parcels to be foreclosed and the manner of foreclosure, shall
5 be determined by the superior court.
6 * **Sec. 6.** AS 38.05.800 is repealed and reenacted to read:
7 Sec. 38.05.800. RECONSTITUTION OF MENTAL HEALTH TRUST
8 CORPUS. The corpus of the mental health trust includes land granted to the state
9 under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, that,
10 on the effective date of this Act,
11 (1) has not been conveyed or encumbered by the state, or reserved by
12 law from the public domain;
13 (2) is subject to only one or more of the following:
14 (A) an oil or gas lease, coal lease, or other lease;
15 (B) a timber contract;
16 (C) a mining claim;
17 (D) a sale of materials under AS 38.05.110 - 38.05.120;
18 (E) a land use permit or right-of-way issued by the department
19 under this chapter;
20 (3) is not necessary to carry out the purposes of an interagency land
21 management agreement; or
22 (4) was selected by a municipality under AS 29.65 or under former
23 AS 29.18.190 - 29.18.200 and the selection of which, on the effective date of this Act,
24 has been neither approved nor disapproved by the director.
25 * **Sec. 7.** Section 49, ch. 66, SLA 1991, is amended to read:
26 Sec. 49. AS 37.14.011, 37.14.021, [AS 38.05.800,] AS 47.30.546, secs. 1, 2,
27 4, and 5, ch. 132, SLA 1986; and secs. 7 - 10, ch. 48, SLA 1987 are repealed.
28 * **Sec. 8.** Sections 54, 55, 56, and 57, ch. 66, SLA 1991, are repealed.
29 * **Sec. 9.** SPECIAL MASTER. The superior court may refer the proceedings under
30 AS 22.10.020(j), added by sec. 1 of this Act, to a special master.
31 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 67

Revision Date: February 2, 1993
Title: "...amending...Ch. 66, SLA 1991, that relate to the mental health trust..."
Sponsor: Senate Resources Committee
Requestor: Senate Resources Committee

Department Affected: Department of Law
BRU: Legal Services
Component: Mental Health Lands

COMPONENT SERIAL NO. 1421

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						

REVENUE FUND SOURCE:						

FUNDING:

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA	-0-	-0-	-0-	-0-	-0-	-0-
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact:

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Phone: 465-3672
Division: Administrative Services Division
Date: February 2, 1993
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law
Date: February 2, 1993

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ANALYSIS CONTINUATION:

Enacting SB 67 as a proposed settlement of the mental health trust lands litigation will require the Department of Law to undertake some substantial effort, including:

1. Efforts to obtain court approval of the settlement. The mental health trust lands litigation is a class action lawsuit. Settlement of that lawsuit must comply with Rule 23 of the Alaska Rules of Civil Procedure. The parties may first need to draft a settlement agreement to present to the court (a settlement agreement may address terms not specifically provided for in the bill). The settlement agreement must then be presented to the court for preliminary approval--the court must determine that the settlement is fair, reasonable, and adequate. Following preliminary approval, notice of the settlement must be given to the class (in general, beneficiaries of the mental health land trust) so that they may comment to the court about the settlement. Only after notice may the court approve the settlement and dismiss the litigation

The time and effort necessary to obtain final approval of a settlement arising from SB 67 is uncertain because it is not possible to predict what challenges may come. However, possible challenges include:

(a) that the constitutional prohibition against dedicated funds [Article IX, Sec. 7, Alaska Constitution] is violated by the provision in Sec. 4 of SB 67 [to be codified as AS 37.14.036(c)] that allocates 6% of the unrestricted general fund revenue during each fiscal year to the mental health income account, coupled with the restriction that future legislatures and governors may appropriate these amounts for other high priority public needs only if the funds are not "reasonably necessary to meet the projected operating and capital expenses of the integrated comprehensive mental health program" [Sec. 10, Ch. 66, SLA 1991, to be codified in AS 37.14].

(b) that the dedication of 6% of the unrestricted general fund revenue to the mental health income account [Sec. 4, SB 67], coupled with the reconstitution of almost one-half of the original one million acre land grant [Sec. 6, SB 67], coupled with the restrictions on appropriating amounts from that account under Sec. 10, Ch. 66, SLA 1991 [see Paragraph (a) above] may be challenged as being contrary to the public interest by persons who believe that the legislature and governor should not be restricted from appropriating public funds for other public needs if those needs are of higher priority (e.g. education, public safety, etc.). Different public interest groups will attach different priorities to the public need for different programs.

(c) that the allocation of 6% of the of the state's unrestricted general fund revenue to the mental health income account in perpetuity [Sec. 4, SB 67], coupled with the reconstitution of almost one-half of the original one million acre land grant [Sec. 6, SB 67], coupled with restrictions on appropriating "trust funds" [Sec. 10, Ch. 66, SLA 1991] is contrary to the public interest because it provides too much compensation to resolve this litigation. This claim was raised by intervenors Alaska Center for the Environment, et al. with respect to allegations that the state will overcompensate the ment[illegible] health trust by reconstituting too much land under Ch.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 67

ANALYSIS CONTINUATION:

66. This "public interest" challenge could more easily be made as to the state overcompensating the mental health trust with funds under SB 67.

(d) that the transfer of any existing leases to the mental health trust [Sec. 6, SB 67, to be codified as AS 38.05.800(2)] could be challenged by the lessees. Marathon Oil Company and Union Oil Company of California have been permitted to intervene in the mental health trust land litigation to challenge the assignability of state oil and gas leases on state general grant land to the trust authority.

(e) that the combination in one bill of the reconstitution of mental health trust lands [Sec. 6, SB 67] with other substantive provisions [the remainder of SB 67] violates the constitutional provision that bills for appropriation shall be confined to appropriations [Article II, Sec. 13, Alaska Constitution]. The Alaska Center for the Environment, et al. have challenged the constitutionality of Ch. 66 on the grounds that this constitutional provision extends to bills that affect the status of public lands--such as reconstitution of land into the mental health trust.

(f) other challenges may be made by parties opposed to SB 67 as a resolution of the mental health trust lands litigation.

2. Enactment of SB 67 may result in litigation with the mental health trust plaintiffs and third-parties who hold interests in former trust lands over whether particular parcels are suitable for being reconstituted into the trust. The provisions in Sec. 6, SB 67 are ambiguous because the bill does not explicitly validate existing interests in former trust lands nor does it identify the specific parcels that will be reconstituted--e.g. trust land that "has not been conveyed or encumbered by the state" is subject to conflicting interpretations.

The settlement agreement negotiated under Ch. 66, SLA 1991 that provides specifically as to parcels which will be reconstituted will not serve SB 67. Under Ch. 66, SLA 1991 the parties negotiated parcels to be reconstituted with the understanding that for any former trust parcel not reconstituted, the state would provide substitute land of comparable character and equal fair market value--the value obtained by the trust was the same regardless of whether the former trust parcel was reconstituted. Under SB 67, the trust is given an all or nothing choice--reconstitute the former trust parcel or receive nothing. Plaintiffs are likely to claim that any parcel arguably described in Sec. 6, SB 67 for reconstituting must be reconstituted regardless of the impact on the state or third-party interests.

The Department of Law currently receives $589,500 in general funds, and $1,000,000 in mental health trust funds to implement the Ch. 66, SLA 1991 settlement, including reconstituting the mental health lands trust within the terms of the settlement. The general funds are used to pay for two attorneys, one paraprofessional, and one clerical employee, who carry-out the state's responsibilities under Ch. 66. The mental health trust funds are provided to the plaintiffs who have accepted the settlement so that they can carry-out their responsibilities under Ch. 66.

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1993 LEGISLATIVE SESSION

BILL NO. SB 67

ANALYSIS CONTINUATION:

Because of the uncertainties described above, and because of the potential for continued legal challenges, we do not believe that the current efforts of either the state or the plaintiffs, will be reduced if SB 67 is adopted. This would cause existing resources to be redirected to implement and defend the new law. We cannot say if the bill would cause additional costs due to the uncertainty of potential litigation.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 67

Revision Date:
Department Affected: Natural Resources
Title: Mental Health Trust: Alternative Settlement Proposal
BRU: Resource Management
Components: Land Management
Sponsor: Senate Resources Committee
Requestor:
Component Serial No. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	1,022.2	817.2	186.1	197.3	209.2	221.8
TRAVEL	7.5	6.0				
CONTRACTUAL	890.0	1,625.0	2,000.0	2,000.0	2,000.0	2,000.0
SUPPLIES	22.0	14.5				
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,941.7	2,462.7	2,186.1	2,197.3	2,209.2	2,221.8
CAPITAL						
REVENUE fund source:						

FUNDING: (Thousands of Dollars)

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA	1,941.7	2,462.7	2,186.1	2,197.3	2,209.2	2,221.8
Other						
TOTAL	1,941.7	2,462.7	2,186.1	2,197.3	2,209.2	2,221.8

POSITIONS:

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
FULL-TIME	16	11	2	2	2	2
PART-TIME	1	3				
TEMPORARY	2	2				

Estimate of current year (FY93) impact: $ 1941.7

ANALYSIS:
The program impacts of this legislation are somewhat difficult to determine because of ambiguity in the wording of the legislation. It is unclear if the legislation contemplates the conveyance of unencumbered Original Trust Land to the Trust Authority or its "redesignation" as Original Trust Land on DNR status plats. We have based our analysis on the premise that the aforementioned land is to be conveyed to the Trust Authority. This interpretation seems appropriate since Sec. 2 AS 37.14.009(a)(2) allows the Trust Authority to sell, lease, exchange, or otherwise dispose of land in the trust.

Prepared by: Ron Swanson
Phone: 762-2692
Division: Land
Date: 29-Jan-93

Approved by Commissioner: Glenn A. Olds [signature]
Date: 2/2/93
Agency: Department of Natural Resources

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SB.67[1]

DIVISION OF LAND

7100 Personnel Services	FY 94	FY 95
Mental Health Project Team		
(1) Project Manager	80.7	85.5
(1) Lands Manager	55.5	58.8
(2) NRO II	122.6	129.9
(2) NRO I	103.2	130.4
(1) CT III	37.3	39.5
(1) DPC II	39.2	41.3
(2) College Interns	27.5	29.1
	466.0	514.5
Land & Resource Management		
(1) Cadastral Surveyor III	110.2	116.8
Regional Offices		
Northern Regional Office		
(1) NRO II	60.4	32.0
Southcentral Regional Office		
(1) NRO II	60.4	32.0
Southeast Regional Office		
(1) NRO II (6 mo.)	30.2	32.0
Subtotal	727.2	727.3

7200 Travel		
Mental Health Project Team	3.0	3.0
Land & Resources	—	—
Regional Offices		
NRO	1.5	1.0
SCRO	1.5	1.0
SERO	1.5	1.0
Subtotal	7.5	6.0

7300 Contractual Services		
Mental Health Project Team		
Hazardous Substance Inventory	125.0	125.0
Land & Resources		
Cadastral Survey	750.0	1,500.0
Subtotal	875.0	1,625.0

[1] Assumes conveyance of unencumbered OTL to MHTA.

7400 Supplies

Mental Health Project Team		6.0	6.0
Land & Resouces		1.5	1.5
Regional Offices			
NRO		1.5	1.0
SCRO		1.5	1.0
SERO		1.5	1.0
	Subtotal	12.0	10.5
	TOTAL	1,621.7	2,368.8

	94	95
Personnel-Full time	11	9
Part time	1	3
Temporary	2	2

SB 67

LAND RECORD INFORMATION SECTION

Personnel Services	FY 94	FY 95
(1) Analyst/Programmer IV	77.0	0
(1) Analyst Programmer III	68.0	0
(1) Natural Resource Officer II	65.0	0
(1) Natural Resource Officer I	50.0	53.0
(1)(Data Processing Clerk I	35.0	37.0
Subtotal	295.0	90.0
Contractural Services		
DOA Data Processing Chargeback	15.0	0
Subtotal	15.0	0
Supplies		
Plotter, Micrographic & Office Supplies	10.0	4.0
Subtotal	10.0	4.0
TOTAL	320 0	94.0

TOTAL PROJECT COST

		FY 94	FY 95
Personnel Services			
Division of Land		727.2	727.3
LRIS		295.0	90.0
	Subtotal	1,022.2	817.3
Travel			
Division of Land		7.5	6.0
LRIS		0	0
	Subtotal	7.5	6.0
Contractural Services			
Division of Land		875.0	1,625.0
LRIS		10.0	0
	Subtotal	890.0	1,625.0
Supplies			
Division of Land		12.0	10.5
LRIS		10.0	4.0
	Subtotal	22.0	14.5
	TOTAL	1,941.7	2,462.8

	FY 94			FY 95		
	Land	LRIS	Total	Land	LRIS	Total
Positions						
Full time	11	5	16	9	2	11
Part time	1		1	3		3
Temp.	2		2	2		2

OUT-YEAR COSTS

Personnel Services	FY 96	FY 97	FY 98	FY 99
Land Manager	62.3	66.1	70.1	74.3
Cadastral Survey	123.8	131.2	139.1	147.5
Subtotal	186.1	197.3	209.2	221.8
Contractural Survey	2,000.0	2,000.0	2,000.0	2,000.0
TOTAL	2,186.1	2,197.3	2,209.2	2,221.8

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

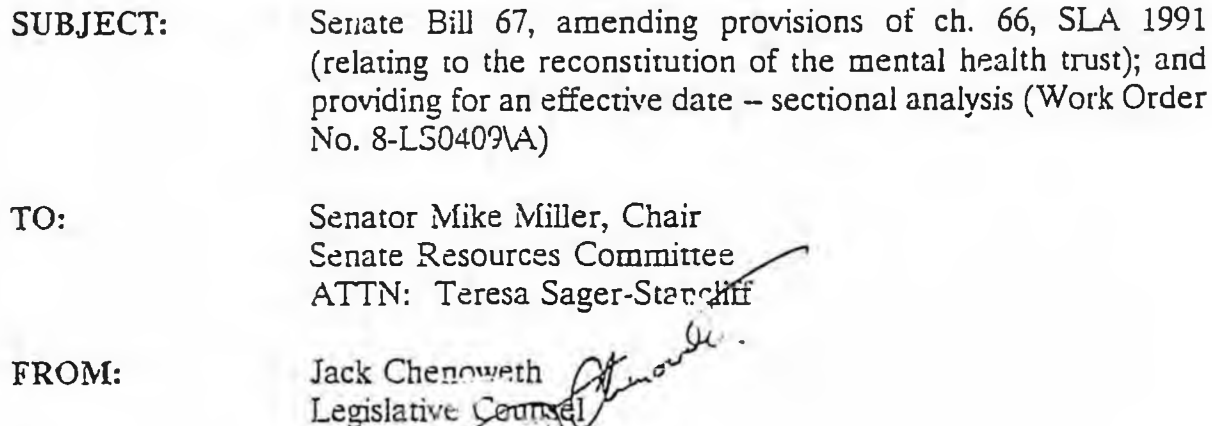
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

M E M O R A N D U M — January 28, 1993

SUBJECT: Senate Bill 67, amending provisions of ch. 66, SLA 1991 (relating to the reconstitution of the mental health trust); and providing for an effective date -- sectional analysis (Work Order No. 8-LS0409\A)

TO: Senator Mike Miller, Chair
Senate Resources Committee
ATTN: Teresa Sager-Stancliff

FROM: Jack Chenoweth
Legislative Counsel



The measure, based on CSSB 469 (Resources) of the last legislature, sets out a series of proposed amendments to ch. 66, SLA 1991, the legislation reconstituting the mental health trust. Necessarily, I will discuss these provisions out of the order in which they appear in the bill.

I

Sec. 54 of existing ch. 66, SLA 1991, reconstitutes the corpus of the mental health trust by identifying specific land held by the state and that is to be conveyed by it in order to reconstitute the trust. Sec. 55, ch. 66, SLA 1991, authorizes substitution of other state land (i.e. "replacement land" as substitution for former mental health lands that now cannot be returned to the trust because it is unavailable to the state) to the reconstituted trust and sets out standards to guide the making of replacement land substitutions. Sec. 56, ch. 66, SLA 1991, is an enforcement mechanism in that it hypothecates or pledges certain state assets to secure the transfer of compensation due the reconstituted trust corpus. These provisions are proposed to be repealed by **bill section 8**.

In their place, **bill section 6** proposes to reconstitute the trust corpus in the permanent law. Some, but not all, of the land identified in sec. 54, ch. 66, SLA 1991, is carried over into this section. Omitted from the list approved in the 1991 Act is land identified in paragraph (5) (Tanana Valley State Forest and Haines State Forest

Resource Management lands), paragraph (6) (other land satisfactory to the plaintiffs drawn from legislatively-designated areas), and paragraph (7) (compensation land identified under former sec. 55). Added, in the enumeration set out in bill section 6, is land subject to "other lease" (proposed AS 38.05.800(2)(A)), land subject to mining claim or sale of materials (proposed AS 38.05.800(2)(D) and (E)), and land exclusive of that necessary to carry out purposes of an interagency land management agreement (proposed AS 38.05.800(3)).

In the 1991 legislation, existing AS 38.05.800 was to have been repealed. Since, in this bill, AS 38.05.800 would be modified and continued, the change set out in **bill section 7** drops that section from the list of sections repealed in the 1991 legislation.

II

This legislation also proposes to revise the mechanism by which to reconstitute an important element of the mental health trust, the mental health trust income account. Under current AS 37.14.036(c), the state obligates itself to pay to the mental health trust income account a declining percentage (six percent at inception declining to one percent in the last years) of unrestricted state revenue, the last payment to be made by June 30, 2003. The change proposed by **bill section 4**, a reenactment of AS 37.14.036(c), directs that a fixed annual payment of six percent of unrestricted state general fund revenue be allocated for an indefinite period "as compensation for land that constituted the [original] trust . . . and that is not reconstituted as part of the mental health trust corpus established under AS 38.05.800 . . . ." The payment, when made by the state and received by the trust, would be added to the balance of the mental health trust income account, the principal source of support for the programs and services to the trust beneficiaries.

However, payment of the allocation requires legislative appropriation. As a guarantee that the allocation will be made, **bill section 5** adds two subsections to AS 37.14.036. Under proposed subsection (d), land that came to the state under the mental health enabling act and that has been since placed in so-called "legislatively-designated" land status--state park, state forest, state game refuge, and the like--would be pledged as security. Under proposed subsection (e), the superior court is given the authority to determine the manner of the trust's foreclosure against those lands in the event the state fails to make the required allocation under subsection (c).

I want to note that it was the decision to convert the six percent payment obligation from one with a set termination date to one of indefinite duration that prompted the addition or revision of permanent law sections and the repeal or deletion of temporary law sections.

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

February 3, 1993

The Honorable Mike M er, Chairman
Senate Resources Committee
Seventeenth Alaska State Legislature
Room 423
State Capitol
Juneau, Alaska 99801-1182

Re: SB 67 (RES) (mental health lands trust)

Dear Senator Miller:

A bill relating to Weiss v. State, 4FA-82-2208 Civil, the mental health lands trust litigation, has been introduced by your committee. It is SB 67 (RES) (hereafter referred to as "SB 67"). SB 67 is substantially identical to SB 469 which was before this committee last year. Governor Hickel, Natural Resources Commissioner Olds, and I all opposed SB 469 last year and we oppose SB 67 now. This letter gives you our reasons for opposing the bill.

We oppose SB 67 because, notwithstanding what the legislature might want to do with respect to mental health funding on an annual basis, this bill is nothing more than a raid on the state treasury. It also presents several other problems which cast serious doubt on whether it would resolve the litigation.

In Chapter 66, SLA 1991, the bill passed as a framework for settlement of the case, the state gave up a $1.3 billion offset which the Alaska Supreme Court held that the state is entitled to. Chapter 66 also provides a number of other benefits to the plaintiff class which they would not be able to obtain in continued litigation, including (1) a new mental health permanent fund would be established, (2) a new Mental Health Trust Authority to manage the reconstituted trust and oversee the administration of the state's mental health programs would be created, (3) a separate process for appropriating trust revenues would be provided, (4) the state's current mental health program will be significantly amended to make it both more comprehensive and more expensive, and (5) perhaps most significantly, court approval would be required for any change in the future. SB 67, in addition to giving up the offset and all of the other benefits given plaintiffs in Chapter 66, would return much of the original land grant to trust status and commit six percent of the unrestricted general fund and all new

03-C32LH

Letter from AG opposing SB67

revenues from the returned lands to the trust every year in perpetuity. Because of the restrictions which would be applied to that money, however, the actual amount committed to mental health programs would be substantially greater.

That is much too much to pay to settle the case. Any litigation settlement that I approve must be drafted in light of the state's potential liability. Under the Supreme Court's order, a fair resolution of this case would be to return to trust status the original mental health lands which SB 67 (RES) would return, and consider the $1.3 billion offset as having purchased the balance of the original grant. By reconstituting the equivalent of the full original one million acre mental health trust, Chapter 66 was more than fair. The threatened continued litigation over Chapter 66 by its opponents is not a sufficient reason to return much of the original land grant to trust status, commit six percent of the unrestricted general fund to the trust in perpetuity, and create a possibility that substantially greater expenditure of state general funds will be required for mental health programs.

Some say that passage of this bill would be a panacea and make all the litigation over this issue disappear. That simply is not true. Other claims will be made, at least some of which we have already identified and describe below.

Fundamentally, however, I would recommend a veto of SB 67 if it passes in its current form because it simply is too much to pay for a quick resolution of this case. It would be a breach of my fiduciary duty as Alaska's Attorney General, a duty that I owe to all Alaskans, to do otherwise.

Brief explanations of the problems with SB 67 are set forth below.

I. SB 67 could cost the state far more than six percent of the unrestricted general fund every year.

SB 67 would commit six percent of the unrestricted general fund to the mental health trust every year. Proponents of the bill argue that, because the state currently spends about six percent of the unrestricted general fund on mental health programs, SB 67 would not cost the state any more than it currently is spending. That is not true.

The legislature authorized expenditure of $132,386,900 from the mental health trust for mental health programs in FY 92, while six percent of projected FY 92 unrestricted general fund revenues is almost identical -- $132 million. But the programs for which the more than $132 million in trust spending is authorized are those that the legislature has determined are appropriate for funding from the trust. Not everyone agrees with the legislature's determination in that regard.

Most specifically, the Alaska Mental Health Board (which has current responsibility for making recommendations for funding from the trust, a responsibility that under SB 67 would be assumed by the Alaska Mental Health Trust Authority established under Chapter 66) believes only about half of that amount goes to programs that should be funded by the trust.

Under Chapter 66's stringent restrictions on the legislature's and the governor's ability to deviate from the Trust Authority's recommendations for appropriation of trust funds, more than $60 million in programs currently funded by the trust would have to be funded from general fund revenues over and above the six percent SB 67 would commit to the trust if the Trust Authority were to adopt the current board's narrow approach to programs that qualify for trust funding. SB 67 thus could result in far more than six percent of the unrestricted general fund being committed to mental health programs every year. (We "accepted" the restrictions on appropriations in Chapter 66 because they were coupled with a declining percentage of general fund contributions to the trust. They would have been unacceptable if applied to a fixed percentage in perpetuity, which is what SB 67 would do.)

In other words, the true cost of this bill is far more than six percent of the state's unrestricted general fund, and that does not even count additional monies attributable to development of the lands which would be returned to the trust. SB 67 would simply cost the state too much.

II. SB 67 would violate the Alaska Mental Health Enabling Act.

Section 3 of SB 67 would require that all "proceeds earned" from the reconstituted mental health trust lands -- i.e., both principal from the sale of trust land or extraction of nonrenewable resources and income from leasing the land or the sale of renewable resources -- be deposited in the mental health trust fund, a permanent fund from which only the earnings may be spent. Subsection 202(e) of the Alaska Mental Health Enabling Act (the federal act that created the trust), however, provides in part that "such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska."

We believe we can defend the deposit of principal from the lands in the mental health trust fund under general private trust law principles. But income from trust lands is normally spent for trust purposes, and Congress clearly intended that income from mental health lands be spent first for programs before being used in any other way. Depositing the income directly in the fund, therefore, is prohibited by the federal Enabling Act.

III. SB 67 may create an unconstitutional dedicated fund.

Article IX, section 7 of the Alaska Constitution prohibits the dedication of state revenues to specific purposes "unless required by the federal government for state participation

in federal programs" or if the dedication pre-dated the constitution. As noted in the preceding section, section 3 of SB 67 would dedicate trust land income to the mental health trust fund, and such income could not be spent on mental health programs as Congress required when it created the trust originally.

Because the dedication of income to the permanent mental health trust fund is not required by federal law (and, indeed, is prohibited by the Enabling Act), it may violate article IX, section 7. We are analyzing this issue.

IV. SB 67 may violate the single appropriation bill requirement.

Chapter 66 imposes several restrictions on appropriations of income from the reconstituted mental health land trust, including a requirement that the governor introduce a separate appropriation bill limited to appropriations from the mental health trust income account. SB 67 would apply the separate bill requirement to a percentage of the unrestricted general fund. The Alaska Constitution imposes specific requirements upon the Governor with respect to the preparation and review of the budget and all appropriations and upon the legislature with respect to passage of the budget and all appropriations. The restrictions placed on the budget and appropriation processes in Chapter 66 when applied to a percentage of the unrestricted general fund revenue in perpetuity raise serious questions regarding the permissibility of delegating some of those responsibilities to an agency such as the Trust Authority. We are analyzing these issues.

V. Land management would remain a question under SB 67.

The proponents of SB 67 suggest that, because it would require the Alaska Mental Health Trust Authority to contract with the Department of Natural Resources to manage the land unless the Authority determines that it is in the best interest of the trust to do otherwise, SB 67 allows continuity of management and gives affected industries some comfort with respect to trust ownership of the land.

What they fail to recognize, however, is that the courts will require that trust lands be managed in a fiduciary manner and in the best interest of the trust. Whether DNR or the Trust Authority exercises management duties, therefore, the current state pricing structure and policies for land use could not be applied to trust lands unless they meet fiduciary standards and are in the best interests of the beneficiaries and not just the best interests of the state standard employed by DNR for non-trust lands. The "comfort" to affected industries therefore is illusory.

VI. SB 67 provides no protection to third party interests and would create potential liability for the state.

As under Chapter 66, SB 67 would reconstitute the trust with some "encumbered land" -- i.e., land subject to an oil or gas lease, coal lease, or other lease, timber contract, mining claim, sale of materials, land use permit or right-of-way. Under the Settlement Agreement implementing Chapter 66, the plaintiffs agreed that the trust would be bound by the terms of such encumbrances because the trust will be compensated to the extent those encumbrances reduce the value of the lands returned to the trust.

Nothing in SB 67, however, provides that the trust will be bound by the terms of the encumbrances, nor does it provide compensation for those encumbrances. Instead, the trust would be given an "all or nothing choice" to either accept the encumbrance and receive no compensation in return for the devaluation or contest the validity of the encumbrance and, if successful, receive the parcel with no devaluation. Faced with this choice, the trust would vigorously contest the validity of third party interests.

If the trust were to successfully challenge an encumbrance or some of its terms, an affected third party might then try to hold the state liable for the termination of the encumbrance or an increase in rents or royalties. The state would then have settled the Weiss case only to expose itself to numerous other lawsuits.

VII. SB 67 would preclude development of some land currently available for development.

Section 5 of SB 67 would pledge all original mental health lands in state parks, state forests, state wildlife refuges, etc., as security for the state's performance under the bill. Under the Settlement Agreement implementing Chapter 66, and to the extent permitted by the statutes governing the areas, those lands will be available for development prior to court approval if plaintiffs agree and after court approval whether plaintiffs agree or not. If they become security for the state's performance as SB 67 would provide, however, the state would be obligated not to diminish their value. In other words, even if otherwise allowed by law, development would be prohibited.

VIII. SB 67 does not protect Native allotments.

Under Chapter 66 and the Settlement Agreement, original trust land encumbered by valid Native allotment claims will not be returned to the trust; instead, the trust will receive other state land to compensate for any value lost to the trust as a result of those claims. As a result, the state will decide whether to challenge the validity of Native allotment claims and will review Native allotments on original trust land under the same standards applied to general state land instead of under a higher trust standard of review which would result in more challenges. Under SB

67, land with allotment claims would go back to the trust, and the trust would be almost compelled to challenge each claim because, if the claim were found valid, the trust would receive less valuable over-selection land.

IX. **The provisions of the April 6, 1992 Settlement Agreement cannot be simply cut and pasted into a new agreement.**

Supporters of SB 67 have argued that, as a time saving measure, all that will be necessary for a new Settlement Agreement is to cut and paste pertinent parts of the Chapter 66 Settlement Agreement. This will not be possible because each provision of the April 6 Settlement Agreement was negotiated in the context of Chapter 66.

For example, the Settlement Agreement defines an encumbrance to mean every kind of lease, permit, contract, right-of-way, interagency land management agreement, etc. If that very expansive definition is used in a new settlement agreement, very little original trust land would be returned to the trust because SB 67 provides that only certain encumbered land is returned to the trust. As another example, Chapter 66 provides for conveyance of the reconstituted trust lands to the Trust Authority, and the Settlement Agreement includes detailed provisions for such conveyances and for proper accounting following such conveyance. Under SB 67, trust lands will not be conveyed. Instead, they will simply be redesignated, and an entirely different approach would have to be taken in any implementing settlement agreement.

X. **Certain pending challenges to Chapter 66 raised by intervenors would be equally applicable as to SB 67.**

Certain issues raised by both the environmental and oil company intervenors to challenge Chapter 66 are equally applicable as to SB 67. The issues raised by the environmental intervenors have been fully briefed and the matter is pending for decision before the trial court. The issues raised by the oil company intervenors will be briefed on an expedited schedule dictated by the trial court, with dispositive motions due on or before March 22, 1993. While we believe these challenges have little or no merit, the interventions have raised the following issues:

1. **A settlement that provides too much compensation may not be approved because it is contrary to the public interest.**

The environmental intervenors argued in opposing preliminary approval of the proposed chapter 66 settlement that the broad public interest must be considered, and any settlement that provides too much compensation is contrary to the public interest and must be rejected by the court. Their specific claim is that because the state waived the "offset" and agreed to reconstitute a land trust comparable in value to the original one million acre grant, the trust receives too much, the settlement is therefore

contrary to the public interest, and the court may not approve it. As is set forth above, an even better claim may be made that SB 67 would "overcompensate" the mental health trust at the expense of other public needs, such as education, public safety, transportation, etc.

2. **A bill that includes provisions that affect both the status of public lands and other substantive provisions violates the constitutional requirement that bills for appropriation shall be confined to appropriations [Art. II, Sec. 13, Alaska Constitution].**

The environmental intervenors challenged Chapter 66 arguing that constitutional provisions related to appropriation bills apply to bills that affect the status of public lands. The State argued that this constitutional provision applies only to appropriations of state revenues. If the environmental intervenors argument is correct, then SB 67 is unconstitutional because it includes both an "appropriation" of land [see Sec. 6, SB 67] with other substantive provisions. Further, if the environmental intervenors argument is correct, whether any public lands are now validly within legislative designated areas is subject to challenge because legislation that created those designated areas included both "appropriations" of land and other substantive provisions.

3. **SB 67 provides no "other safeguards of the public interest" in terms of management of lands by the Trust Authority or conveyance of lands to the Trust Authority.**

The environmental intervenors argue that Chapter 66 violates Article VIII, Section 10 of the Alaska Constitution because it fails to provide "other safeguards of the public interest" both as to the management of lands by the Trust Authority and as to the conveyance of lands to the Trust Authority. SB 67 does not address either of those arguments, but instead leaves trust land managment and conveyance of land to the Trust Authority as they appear in Chapter 66.

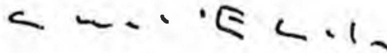
4. **Whether state leases may be assigned to the Trust Authority.**

The oil company intervenors challenge whether the st[illegible] may assign its lessor's interest in state oil and gas leases to the Trust Authority. The court permitted the intervention, in part, because "[i]f the [oil company] intervenors are correct and the reason [they are correct] is broadly applicable to state leases, it will be impossible to reconstitute the trust under the Chapter 66 procedures." The assignability of all state leases -- and more broadly land contracts -- is therefore at issue. Whether the state may assign its interest in oil or gas leases, coal leases, or other leases, timber contracts, mining claims, material sales, land use permits or rights-of-way under Sec. 6 of SB 67 could also be challenged.

For all of the foregoing reasons, I would recommend that Governor Hickel veto SB 67 should it pass the legislature. It certainly is not appropriate to pass such legislation as a settlement of the Weiss litigation, especially since Chapter 66 will resolve the litigation on terms which are fair to both the trust and the state.

If I or my staff can answer any questions, please contact us at your convenience.

Very truly yours,



Charles E. Cole
Attorney General

cc: Glenn Olds, Commissioner of Natural Resources
Kris Lethin, Senior Legislative Liaison

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM February 4, 1993

SUBJECT: Constitutional questions raised by Senate Bill 67
(Work Order No. 8-LS0409\A)

TO: Senator Mike Miller, Chair
Senate Resources Committee

FROM: Jack Chenoweth
Legislative Counsel

I am responding to the two questions you have asked with respect to Senate Bill 67, an Act amending the 1991 mental health trust measure, reconstituting the mental health corpus, and altering the manner of enforcement of the state's obligation to compensate the reconstituted trust:

(1) Does section 4 of the bill, establishing an ongoing annual payment of six percent of the state's unrestricted general fund revenue to the mental health trust income account, violate the prohibition of article IX, section 7 of the state constitution against dedication of state funds?

(2) Does section 6 of the bill, identifying specific state land obtained by the territory and the state under the provisions of the former Alaska Mental Health Enabling Act of 1956 that shall be used to reconstitute the state's mental health trust corpus, constitute an appropriation such that its inclusion with other substantive provisions violate the second sentence of article II, section 13 wherein appropriation bills are to be confined to appropriations?

For the reasons set out below, I am inclined to answer both questions in the negative.

I

Section 4 of the bill establishes an ongoing obligation by which the state would pay six percent of the state's unrestricted general fund revenue into the mental health

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trust income account. [1/] The provision directs the commissioner of revenue to "allocate" the amount from the general fund into the mental health trust income account. [2/] The allocation of an amount of money from the general fund into an account established within that fund is, to my mind, nothing more than a bookkeeping matter, an accounting transfer that does not require a legislative appropriation. A legislative appropriation is required only as to the withdrawal of money from the state treasury. Article IX, section 13, Alaska constitution.

It is clear that the legislature prepared ch. 66, SLA 1991, contemplating that money would not be withdrawn or expended from the mental health trust income account without a legislative appropriation. [3/]

[1/] The proposed language of the bill's section 4 would replace AS 37.14.036(c), added by sec. 11, ch. 66, SLA 1991. Subsection (c) directs

> (c) In each of the following state fiscal years, the commissioner of revenue shall allocate from the general fund of the state to the mental health trust income account in the general fund an amount equal to the percent of the unrestricted revenue of the state specified for that fiscal year:

FISCAL YEAR ENDING	PERCENT OF UNRESTRICTED STATE REVENUE
June 30, 1992	six percent
June 30, 1993	six percent
June 30, 1994	five percent
June 30, 1995	five percent
June 30, 1996	four percent
June 30, 1997	four percent
June 30, 1998	three percent
June 30, 1999	three percent
June 30, 2000	two percent
June 30, 2001	two percent
June 30, 2002	one percent
June 30, 2003	one percent

[2/] This "allocation" language is consistent with the approach taken in current AS 37.14.036(c), added by ch. 66, SLA 1991, the subsection being replaced by this bill section. The same section identifies the mental health trust income account as "a separate account within the general fund of the state." AS 37.14.036(a).

[3/] See AS 37.14.003, setting out the obligations of the governor, and AS 37.14.005, identifying the obligations of the legislature, in the handling of proposed appropriations of the balance of the mental health trust income account. Specifically, under AS 37.14.005(b):

> (b) Before taking action on appropriations from the mental health trust income account proposed by the governor, the legislature shall consider

(continued...)

Consequently, since the transfer to the special account is an accounting mechanism and appropriation of the balance of the account involves an appropriation, the change proposed by bill section 4 does not violate the prohibition of article IX, section 7 of the state constitution against dedication of state funds.

II

Section 6 of the measure proposes to reconstitute the mental health trust corpus. In essence, it identifies land that came to the state under provisions of the former Mental Health Enabling Act of 1956--former trust corpus land--that, in general, has not been conveyed or generally encumbered and that remains available now out of the general grant land inventory for restoration to the reconstituted trust or that is so encumbered that its removal from the state general grant land inventory and restoration to the reconstituted trust ought not to impair the interests of third parties.

Whether inclusion of section 6 within Senate Bill 67 improperly and unconstitutionally [4] joins an appropriation with other material making a change in substantive law depends, of course, on whether or not section 6 makes an appropriation. If it makes an appropriation, it is an appropriation of land. The courts have held that land, as a state asset, may be a subject of appropriation, at least in certain circumstances. Thomas v. Bailey, 595 P.2d 1 (Alaska 1979) (initiative that would have provided state land to residents under the Alaska Homestead Act, the so-called "Beirne Initiative," invalidated as an "appropriation" made in violation of constitutional provision, article XI, section 7, precluding use of initiative to make appropriations); McAlpine v. University of Alaska, 762 P.2d 81 (Alaska 1988) (required transfer of university assets in initiative to reestablish a separate community college system identified as an "appropriation" that is an impermissible violation of the constitutional prohibition).

---

[3](...continued)

> the needs of the beneficiaries of the trust without regard to other potential objects of state expenditure. The legislature shall make appropriations from the mental health trust income account in a separate appropriation bill limited to appropriations from the mental health trust income account.

(Emphasis added.)

[4] Unconstitutionally as an asserted violation of the second sentence of article II, section 13:

> FORM OF BILLS. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

The court has tagged the segregation and allocation of state assets as appropriations only in the context of upholding the prohibition of article XI, section 7, against use of the initiative process to accomplish the transfer of state assets. Whether the court is prepared to extend the reasoning it used to find a violation of article XI, section 7 to circumscribe appropriations of assets other than money by application of the second sentence of article II, section 13 is debatable. To date the court has not been asked to do so, and I hesitate to reach that conclusion in the absence of a definitive judicial opinion. [5]

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[5] The two circumstances are, to my mind, distinguishable. I have considered the matter in the context of whether a bill making an appropriation of money may combine or incorporate provisions appropriating non-monetary state assets and believe that the distinction in the handling of monetary and non-monetary state assets, at least for purposes of compliance with article II, deserves to be maintained.

Under the state constitution, the executive's treatment of measures appropriating money differs from the authority he or she has with respect to all other measures. Constitutionally, the governor must submit a general appropriation bill authorizing proposed expenditures during the ensuing fiscal year. Article IX, section 12, Alaska constitution. The appropriation bill making these expenditures serves only (or should serve only) to withdraw money from the state treasury. Other appropriation bills may also serve to withdraw money from the state treasury. Article IX, section 13.

All legislative bills, whatever the subject, must run the gauntlet of the executive's veto. However, under article II, section 15, the governor enjoys wider latitude with the disposition of appropriation bills in that the governor "may, by veto, strike or reduce items in appropriation bills." For a bill involving the appropriation of money, the ability to "strike or reduce" is meaningful, its use is well understood, and it is arguably limited to dealing with the dollar amount set out in the appropriation rather than with any of the language in which the appropriation appears in context. By contrast, for measures purporting to dispose of or appropriate other kinds of state assets, the governor's ability to "strike or reduce" the appropriation or disposition of a non-monetary asset is without precedent. Indeed, if the assets that is the subject of the appropriation is something other than money, a reduction or partial veto may amount to an alteration of substantive law.

Additionally, no case has as yet focussed on the treatment properly to be given the legislature's response to a veto in the event the appropriation involves an asset other than money in the state treasury. Left unanswered at this time is the question of whether the governor's veto of a legislative measure making an appropriation of a non-monetary asset must, under article II, section 16, be overridden with a vote of three-quarters of the legislature or whether a two-thirds override vote would be sufficient.

These considerations raise sufficient question as to whether the court would extend the reasoning applied in its Thomas and McAlpine decisions to equate the manner of handling of non-monetary state assets with that give monetary assets under article II of the state constitution.

The action required to be taken by the bill's section 6 may not, in fact, constitute an "appropriation."

In its McAlpine decision, the court indicated that a key reason that it was invalidating the property transfer provisions of the community college system initiative was to protect, to the widest possible degree, the discretion that was constitutionally given to the legislature to make decisions with respect to state assets:

> . . . Outside the context of give-away programs, the more typical appropriation involves committing certain assets for a particular public purpose. The reason for prohibiting appropriations by initiative is to ensure that the legislature, and **only** the legislature, retains control over the allocation of state assets among competing needs. This rationale applies as much or nearly as much to allocations of physical property as to allocations of money. To whatever extent it is desirable for the legislature to have sole responsibility for allocating the use of state money, it is also desirable for the legislature to have the same responsibility for allocating property other than money. . . . .

McAlpine, 762 P.2d at 88, 89 (emphasis added; footnote reference omitted). But, in the area in which Senate Bill 67 operates--restoration of the Alaska Mental Health Trust--the legislature decidedly does not have discretion or latitude to act to allocate assets among competing needs. That door closed when the court decided, in State v. Weiss, 706 P.2d 681 (Alaska 1985), that the trust should be reconstituted. The legislature is constrained by the "guidance" provided by the court to accomplish that end:

> . . . [T]he redesignation [of former mental health trust land] legislation is invalid [and] the trust must be reconstituted to match as nearly as possible the holdings which comprised the trust when the 1978 law became effective. . . . We take the opportunity to provide some guidance to the trial court to simplify its task.
>
> Those general grant lands which were once mental health lands will return to their former trust status. In the event exchanges have been made, those properties which can be traced to an exchange involving mental health lands will also be included in the trust. To the extent that former mental health lands have been sold since the date of the conveyance the trust must be reimbursed for the fair market value at the time of sale. In calculating the total amount owed, the trial court should grant a set-off for mental health expenditures made by the state during the same period. In the event that expenditures exceeded the value of lands sold, the state need not furnish cash as part of the reconstitution. The goal is to restore the trust to its

> position just prior to the conveyance effected by the redesignation legislation.

Weiss, 706 P.2d 681, at 684. Arguably, the state's former holdings of the assets of the trust first established by the 1956 Mental Health Enabling Act, and the assets that have been derived from the sale, exchange, or other actions involving those original assets are not unencumbered or unobligated state assets over which the legislature has discretion, but are held subject to the court's opinion in Weiss. The court has already ordered allocation of assets into a reconstituted trust, [6] and the legislature's actions taken in response to that order may not constitute, for purposes of article II, the appropriation of a state asset as the term "appropriation" has been explained in the McAlpine decision.

Finally, for whatever merit it may have, I should point out that the bill's section 6 in effect replaces an uncodified provision, sec. 54, ch. 66, SLA 1991, reconstituting the mental health trust corpus. If the approach taken in this section of this bill is unconstitutional as a violation of the second sentence of article II, section 13, it merely compounds the error made in legislation making a substantially similar effort to resolve the Weiss claims enacted in 1991.

*

I trust this is responsive to your questions.

JBC:lmb
93-028.lmb

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[6] The court's disposition of the appeal in the Weiss decision is in marked contrast to the usual disposition of cases raising claims against the state. Under the relevant statute, AS 09.50.270:

> PAYMENT OF JUDGMENT AGAINST THE STATE. No attachment or execution shall issue against the state. When a final judgment is rendered against the state in an action, the clerk of the court shall immediately transmit a certified copy of the judgment to the Department of Administration which shall either approve payment of the judgment against the state if a sufficient appropriation exists for payment, or audit the amount and transmit a copy to the legislature with the recommendation that an appropriation be made for its payment.

The court has observed that "[this] statute gives [a successful plaintiff] a specific, albeit uncertain, remedy: the chance to have his claim presented to the Legislature." Zerbetz v. Alaska Energy Center, 708 P.2d 1270, 1278 (Alaska 1985). But Zerbetz's claim involved money damages and was prosecuted under provisions of law that raised a question whether money might be drawn from the state treasury to pay the claim in the absence of an appropriation, a question involving article IX. No such uncertainty attends the disposition of the claim successfully litigated by Weiss and his colleagues.

BURR, PEASE & KURTZ
A PROFESSIONAL CORPORATION

DONALD A. BURR
RICHARD A. HELM
OF COUNSEL

THEODORE M. PEASE, JR.
CHARLES P. FLYNN
ARDEN E. PAGE
RUSSELLYN S. CARRUTH

RALPH E. DUERRE
ANN C. LIBURD
JOHN C. SIEMERS
NELSON G. PAGE
THOMAS E. MEACHAM
PETER GRUENSTEIN
MICHAEL W. SEWRIGHT
PETER J. MAASSEN

MICHAEL W. SEVILLE
DAVID W. PEASE
THOMAS P. OWENS III

810 N STREET
ANCHORAGE, ALASKA 99501-3293
TELEPHONE: (907) 276-6100
FACSIMILE III: (907) 258-2530

TAX ID NO. 92-0037399

February 5, 1993

The Honorable Bill Williams, Chairman
House Resources Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Re: The Alaska Mental Health Lands Trust

Dear Representative Williams:

At the hearing of the House Resources Committee on the morning of W[illegible]nesday, February 3, 1993, Representatives Bunde and Green [illegible]d that each person who testified indicate his or her posi[illegible] on SB 67, regarding the reconstitution of the Mental Health Trust. My clients, Marathon Oil Company and Union Oil Company of California, wholeheartedly support SB 67. Their oil and gas leases are not on original Mental Health Trust lands, but they are currently embroiled in the Weiss litigation as both security for the successful reconstitution of the trust and as "Proposed Substitute Lands" for eventual inclusion in the reconstituted trust. SB 67, on the other hand, does not include a wholesale land substitution process. Its passage, therefore, will eliminate my clients' concerns about changed lease administration and the uncertainty caus[illegible] by perpetual litigation over the reconstitution process.

I apologize for the delay in answering the committee's question. As I know you're aware, trying to get out of Juneau and back to the office these past few days has been a challenge. Thank you for the opportunity to explain my clients' position, and if I can be of further help to the committee, please don't hesitate to contact me.

Very truly yours,

BURR, PEASE & KURTZ

Peter J. Maassen

HOUSE RESOURCES COMMITTEE

DATE: 2/10/93

PLACE: Capitol, Room 124

SUBJECT OF MEET[ING]: Spruce Bark Beetle B[...]
Committee Discussion [...]
Lands Settlemen[t]

	NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	
(1)	Dan Golden	State of AK	3601 C Street, Suite 1008	99503	243-4733	762-2123	(Y)	N
(4)	John Torgerson	Kenai Borough	35322 Sterling Hwy Soldotna	99669	2626192	2624802	(Y)	N
(5)	Ron Somerville	ADF&G	Juneau			465-4100	Y	(N)
							Y	N
(2)	Steve Albert test. from Anch. LIO						Y	N
(3)	Steve ~~Gibson~~ Gilbert test. from Homer LIO		1122 Highland Drive		235-6787 Homer	99603	Y	N
							Y	N
							Y	N
							Y	N
							Y	N
							Y	N

HOUSE RESOURCES COMMITTEE

/10/93

PLACE: Capitol, Room 124

SUBJECT OF MEETING: Spruce Bark Beetle Briefing (SBB)

Committee Discussion of Mental Health Lands Settlement

REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
State of AK	3601 C Street, Suite 1008	99503	243-4733	762-2123	(Y)	N	SBB
Kenai Borough	35322 Soldotna Spur Hwy	99669	2626192	2624802	(Y)	N	Bags
ADF&G	Juneau			465-4100	Y	(N)	available for Questions
					Y	N	
... from Anch. LIO					Y	N	
... from Homer LIO	1122 Highland Drive Homer		235-6987	99603	Y	N	
					Y	N	
					Y	N	
					Y	N	
					Y	N	
					Y	N	