

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 92 cont. ; HB 93 . . . . . 249 257

A new approach, suggested by the Interim Mental Health Commission and adopted as a Committee Substitute by both the House and Senate HESS committees, would do the following:

\*It would establish the value of the original mental health lands.

\*It would specify that a new mental health trust is created from certain legislatively-designated lands which have value equal in dollars to the former trust. These lands would be re-appraised every five years.

\*It would mandate that each year the Commissioner of Revenue would make rent or lease payments to the trust by depositing 8% of the value of the trust lands into a special account.

\*From this account, the Legislature would appropriate enough money to fund the necessary expenses of Alaska's mental health program. Excess moneys not necessary to fund mental health could be appropriated to meet other needs of the state.

\*A strong mental health board would be established, a prime function of which would be to determine each year what the necessary expenses of the program would cost.

\*As an interim measure, until valuations are made and the new trust is established, the "5% solution" proposed in the original House and Senate bills would go into effect. This would give the mental health program a temporary source of funds.

The advantages of the proposal are these:

1. It reconstitutes a permanent land trust and gets everybody out of court.
2. It allows mental health professionals to focus on mental health needs and on adequate budgeting, not on land management.
3. It eliminates all clouded land titles and frees lands for all other uses.
4. It is relatively easy to administer.
5. It requires no cash reimbursement for lands disposed of; its only special costs are for lands appraisal.
6. Most important, it creates a vehicle for the state -- three decades after the 1956 Congressional act -- to adequately fund the long neglected needs of the mentally ill.

## HB 91/SB 97 · Treatment of the Mentally Ill

### BACKGROUND:

Historically in Alaska, the needs of the mentally ill have not been adequately recognized and funded. This situation has existed for a number of reasons, one of which is that until very recently people with mentally ill family members or friends were extremely hesitant to talk about it in any public forum. Treatment for the chronically mentally ill was an area of particular underfunding and therefore undertreatment.

Too, until the 1984 Weiss decision by the Alaska Supreme Court, there was no identifiable source of funding which advocates could point to as being available for treatment of mentally ill persons. That, of course, has now changed. The court has ruled that the 1954 million-acre federal grant of lands for a mental health trust must be reconstituted. From income off of these lands, the money must first go to meet expenses of the mental health program of Alaska. (Moneys excess to those needs may be appropriated for other public uses.)

Some members of the 14th Alaska Legislature attempted to remedy the underattention and underfunding of needs of the chronically mentally ill (CMI) last year. They introduced legislation which would have specifically mandated treatment for these individuals. The bill, however, took a considerable amount of time to develop and by the time it was in shape for consideration the legislature was approaching adjournment. The bill did, however, receive favorable attention from the House HESS Committee and was passed out of that committee with a majority do-pass recommendation.

The 1986 interim Joint Special Committee created by the legislature to look into mental health matters also recognized the need for legislation of this kind. In both houses of the 15th Alaska Legislature the committee prefiled legislation similar to the former bill. The identical bills are HB 91 and SB 97.

### PRESENT STATUS:

HB 91 has been considered by the House HESS Committee and has been passed out of committee in the form of a recommended committee substitute, the principal features of which are these:

\*Priorities for treatment are established, the highest priority being for those facing immediate risk of hospitalization, for those in need of continuing services, for those who pose a hazard to themselves or others, and for severely mentally ill youth; second level priority would go to those who, because of geographic or income limitations, are not capable of obtaining assistance in the private sector; third

level attention would go to those suffering from mental or emotional disturbances of a less severe or persistent nature not requiring hospitalization in the foreseeable future.

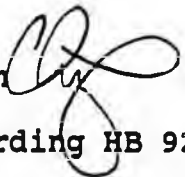
\*General treatment services -- both outpatient and inpatient -- available to treat all types of mental illness are described. (These include such services as emergency services, counseling, screening, evaluation, prevention, education, etc.)

\*In addition, the particular needs of the chronically mentally ill -- never before truly recognized in statute -- are set out. Language identifying the services to meet these needs was taken from a model federal program initiated by the National Institute of Mental Health. These include such services as crisis stabilization, unique patient treatment services such as psychotropic medication, case management, residential living, vocation assistance and other services. Recent NIMH research demonstrates that acute psychotic episodes are significantly reduced when a community has an array of such services. (Many of these services, incidentally, have long been available for other needy individuals, but have not, until recently, been available for CMI individuals even in a limited way.)

\*The bill provides that in cases where the usual funding "match" for CMI services and other community mental health services cannot realistically be expected from a community or a local organization, the Department of Health and Social Services will fund the percent of costs that is necessary to ensure the services will be provided. (In some instances, this may be 100% of program costs.)

\*The bill also establishes broad standards for community health services.

MEMORANDUM

To: Tom Koester  
From: Chip Dennerlein   
Subject: Questions regarding HB 92, Mental Health Trust Lands

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During my oral testimony before House H&SS regarding HB 92 I raised several questions which I felt should be clearly answered for the record before the bill is acted upon. Rep. Ellis asked you to address the questions, and I am forwarding them to you in writing so you can respond.

1. HB 92 reconstitutes the trust from lands already designated by the legislature as parks, refuges, forests and other public purpose lands. In essence, general grant park and refuge lands are disposed of and trust lands are substituted. During the testimony of several individuals there was a fair amount of discussion about the "leasing" of these new park/trust lands by the state to create a revenue stream for the trust. I am disturbed by the use of the term "lease" and believe it is incorrect. Park lands in particular derive their statutory existence from Article 8, Sec.7 of the Constitution. This is the "special purpose sites" provision. These lands are reserved from the public domain. All of the general statutory authority for leasing and disposal of state lands stems from Art.8, Sec.8. These are the lands in the public domain. Former Attorney General opinions have confirmed that "special purpose site" lands cannot be leased. Once the legislature enacts HB 92, the Mental Health Trust lands are ( at least in some cases) state park lands. These lands cannot be "leased" - to the state or otherwise. How does the proposed legislation avoid the issue of "leasing" of state park lands (and other special purpose site lands)? As a matter of public policy, the bill should neither imply, nor open the door for future discussions about the leasing of these lands.

2. You have testified that the reconstitution of the trust from existing legislatively designated areas acts to provide an extra layer of protection for these areas. In essence, the lands will not only be covered by the statutory protection of

their original designations as refuges or forests, but will now also be protected by trust responsibilities. However, could the trust status also become a reason someday to abolish park and refuge lands where no other reason might exist? For example, suppose, the legislature fails to appropriate the required revenue stream payment in a given year or years. A reason might be that state revenues are extremely limited. Could the trust then move to "free" their lands from park and refuge designation in order to turn the lands directly into cash via disposal? Could the legislature decide to "pay" the trust in lands by abolishing parks and refuges in order to avoid the cash debt? In essence, could the proposed legislation create a lever which does not now exist and which may well be used in the future to pry lands out of parks, refuges and forests? If no, how does the bill ensure that the remedy to the trust for failure of a future legislature to appropriate funds is action to secure the money, not secure lands, thereby destroying public purpose areas?

3. From the perspective of municipalities, one of the major virtues of the bill is that it removes the cloud which currently hangs over many acres of municipal selections. However, the bill is not specific as to when this cloud is removed. Are the municipal selections freed upon passage of the legislation? Are they freed bit by bit as the trust is reconstituted? If so, in what order are individual municipal selections freed? The appraisal and reconstitution process may take some time to complete. How long do communities have to wait?

4. The Mental Health Trust issue is a matter of litigation. By enacting the proposed legislation, the legislature does not actually settle that litigation. Rather, the legislature merely provides the terms of settlement. To ensure that a future legislature cannot change the deal, the legislation should be adopted by the court as the settlement. What plans does the state have to ensure that the court adopts the proposed legislation as final settlement of the issue? Does the state view the legislation as the terms of settlement or as a "framework" within which to further negotiate a court settlement? Municipalities would not view the legislation as a basis for settlement, but as the final deal. Do you see any room for departure?

HB 92 has tremendous merit. The Municipality of Anchorage is inclined to strongly support its passage this session. Failure to act soon will, we believe result in further litigation which will create land management havoc in and around many communities throughout the state. Since the lands at issue in the debate are around population centers and are subject to existing resource uses, additional litigation will make the Udall lands freezes of the late 60s seem mild by comparison. However, we believe it is also important to protect the interests of the broad constituency of all Alaskans as well as

the members of the mental health class who are seeking to remedy their existing situation. Thousands of Alaskans worked long and hard to establish parks, refuges, state forests, and other public purpose areas. It is incumbent that we assure ourselves that the proposed legislation creates no hidden booby traps which would promote or cause destruction of these areas in the future. Communities throughout the state have selected certain lands in good faith and in accordance with past legislative direction in fulfillment of their municipal entitlements. We should be clear about the removal of the cloud which now hangs over many of these lands, remembering that these are lands which will be put to the benefit of local people around the state. Many people are working to secure passage of this legislation in the hopes of achieving a final resolution to this difficult issue. We must make certain that it is affirmed by the court, and that the parties do not alter the deal. In this light, the above questions should be clearly answered on the record. Thank you.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF LAW

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

OFFICE OF THE ATTORNEY GENERAL

April 20, 1987

The Honorable Johnny Ellis  
Co-Chairman  
House Health, Education & Social  
Services Committee  
P.O. Box V  
Juneau, AK 99811

Re: CSHB 92 (relating to the  
mental health trust)

Dear Representative Ellis:

At the House Health, Education and Social Services Committee meeting on Tuesday, April 14, 1987, Chip Dennerlein of the Municipality of Anchorage asked a number of questions regarding Committee Substitute for House Bill 92, which relates to the mental health trust. Following the meeting, you asked me to address Mr. Dennerlein's concerns, which Mr. Dennerlein subsequently included in a memorandum to me (a copy of which is enclosed), and to forward my response to you and to Representative Pourchot.

1. Mr. Dennerlein's first question relates to the legislature's authority to administer state lands. Under article VIII, section 7 of the Alaska Constitution, the legislature may establish special purpose sites. These special purpose sites constitute the "legislatively designated areas" referred to in CSHB 92. The legislature's authority over the disposal of state lands stems from article VIII, section 8 of the Alaska Constitution. Mr. Dennerlein is concerned that this bill not confuse (the continued use of replacement mental health trust lands in legislatively designated areas for the legislatively designated purposes) with (the leasing and other disposal of state lands which are not in legislatively designated areas).

In our view, there should be no such confusion. In this bill, the legislature would be exercising its authority under section 202(e) of the Alaska Mental Health Enabling Act, P.L. 84-830, to "exchange" the lands the state

originally obtained under the Act for the lands in the legislatively designated areas. It then would be exercising its authority under article VIII, section 8 of the Alaska Constitution to preserve the use of those lands for the legislatively designated purposes while, simultaneously, compensating the mental health trust for the continued use of those lands for those legislatively designated purposes through the establishment of the Mental Health Trust Income Account.

This solution is not the same as a true disposal of state lands, which is a contractual relationship between the state and a third party, because there is no actual transfer of an ownership interest. In this case, the state simultaneously is the landowner, the land user, and the trustee. While the lands will in fact be trust lands at the conclusion of the process set out in the bill, the use to which those trust lands will be put has already been determined by the legislature; establishment of the Mental Health Trust Income Account ensures that the trust is fully compensated for the continued use of those lands for the legislatively designated purposes. In this way, the trust is fully compensated while the user conflicts which have developed over the original lands selected by and patented to the state under the Alaska Mental Health Enabling Act are eliminated.

2. Mr. Dennerlein's second question is whether the trust status of lands in legislatively designated areas might eventually place additional pressure on the legislature to remove those lands from the legislatively designated area for disposal or for other purposes. In our view, no such additional pressure would be placed on the legislature. The combination of existing state law and a principle of general trust law, a principle incorporated as an explicit provision in the bill (proposed AS 38.05.800(f), found at p. 11, lines 7-15), would require that two separate actions occur before such lands could be disposed of. First, the existing provisions of law creating the legislatively designated area would have to be amended to remove the lands from the legislatively designated area. Second, before the lands could be removed from trust status and disposed of, replacement land of equal value at the time of replacement would have to be identified and incorporated into the corpus of the mental health trust. In our view, this creates a substantial additional disincentive to the disposal of these lands, not an additional threat to them.

A second possible concern in this context is that the plaintiffs may seek to divest the state of title to these lands and dispose of them to generate revenue if the commissioner of revenue does not make the required deposit to the Mental Health Trust Income Account or the legislature attempts to appropriate money from the account for purposes other than mental health before it appropriates from the account to meet the necessary expenses of the state's mental health program. Initially, we would point out that it would be extremely unlikely that either of those events would ever occur because the state would gain absolutely nothing from either of those actions.

In the unlikely event that one of them does occur, however, a suit to divest the state of title almost undoubtedly would be unsuccessful. See State v. University of Alaska, 624 P.2d 807 (1981)). Moreover, the plaintiffs have much easier remedies than seeking to divest the state of title to the lands.

If the commissioner of revenue fails to make the required deposit, he would be acting contrary to statute. Accordingly, the plaintiffs could bring an injunctive action against the commissioner, seeking a court order directing him to follow the statute.

If the legislature attempts to appropriate from the Mental Health Trust Income Account for purposes other than mental health before it appropriates from the account to meet the necessary expenses of the state's mental health program, the plaintiffs again could seek an injunction enjoining the state from disbursing any of the funds in that account prior to the state satisfying the federal precondition on the use of those funds for purposes other than mental health -- i.e., first using funds in the account to meet the necessary expenses of the state's mental health program.

In other words, the plaintiffs have simple and almost certainly successful remedies available should either of those unlikely events occur, and would have no need to seek to divest the state of title to the lands (an action which almost certainly would be unsuccessful in any event).

3. Mr. Dennerlein's third question relates specifically to municipal entitlements to land which currently are in limbo because of the mental health lands controversy. In brief, he asks when the existing cloud over municipal

selections will be removed and when conveyances to municipalities will be resumed.

There are two answers to Mr. Dennerlein's question, depending on whether the lands have already been patented to the municipalities or whether patent has not yet issued. With respect to lands already patented to municipalities, subsection 1(b)(6) of the bill (p. 8, lines 22-28) states that one of the purposes of the bill is to validate prior transactions involving lands selected by and patented to the state under the Alaska Mental Health Enabling Act. Accordingly, with respect to lands which already have been patented to municipalities, we believe passage of this bill as a practical matter would validate those patents and minimize any cloud on title to lands which have already been patented to municipalities.

With respect to lands which have been selected by but not yet patented to municipalities, proposed AS 38.05.-800(d) (pp. 10-11, lines 27-29 and 1 respectively) provides that lands selected by and patented to the state under the Alaska Mental Health Enabling Act which are not within legislative designations are removed from trust status upon reconstitution of the trust. At that time, conveyances to municipalities could resume without question. In the meantime, however, it is conceivable that such conveyances could occur since ch. 132, SLA 1986, makes clear that the commissioner of natural resources can convey lands selected by and patented to the state under the Alaska Mental Health Enabling Act if the conveyance is approved by the Interim Mental Health Trust Commission. As the land identification process goes forward, it certainly is possible that the commissioner, with the commission's approval, could proceed with municipal conveyances.

-- 4. Mr. Dennerlein's final question relates to the interplay between this legislation and the litigation in court. We believe this legislation, standing alone, satisfies the state's legal obligations under the Alaska Mental Health Enabling Act. If we are correct, the court could make such a determination even if the plaintiffs and intervenors argue that it does not.

At the same time, we do not believe that the plaintiffs and intervenors will oppose this resolution and indeed will support it. In that respect, we look at this bill as establishing the basic parameters for final judicial resolution of the litigation. Before the litigation can be

The Honorable Johnny Ellis

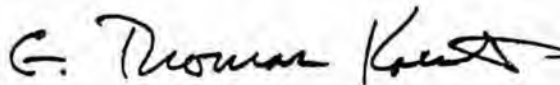
April 20, 1987  
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finally resolved, some other actions may have to occur (e.g., valuation of lands selected by and patented to the state under the Alaska Mental Health Enabling Act; identification of replacement lands; appointment of members to the Alaska Mental Health Board; determination of class membership; resolution of questions relating to attorney's fees; etc.). However, in our view, none of those matters will have any effect on the basic principles established under this bill. In other words, those subsidiary matters relate either to implementation of the provisions of this bill or to matters unique to the litigation context in which they are raised.

We hope this information is useful. As always, we remain ready to answer your questions at your convenience.

Sincerely,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:   
G. Thomas Koester  
Assistant Attorney General

GTK/dlm

Enclosed

cc w/enc.: Senator Rick Halford  
Representative Pat Pourchot  
Commissioner Judith Brady  
Commissioner Myra Munson  
Caren Robinson, Office of the Governor  
David Walker, Esq.  
James Gottstein, Esq.  
Cooper Geraty, Esq.  
Philip Volland, Esq.  
Chip Dennerlein  
Scot Burgess  
Interim Mental Health Trust Commission

CSHB 92 (HESS) RELATING TO THE ALASKA MENTAL HEALTH TRUST

Sec. 1

Findings, which lay out the history of the mental health trust, and purposes, which explain the settlement proposal.

Sec. 2

Establishes the mental health trust income account in the general fund. Specifies the trust earnings as 8% of the fair market value of the land constituting the mental health trust corpus. Earnings are to be annually allocated from the general fund to the mental health account.

Sec. 3

Provides that funds in the mental health account shall first be appropriated to meet the necessary expenses of the state's mental health program, with the balance available for appropriation for other public purposes.

Sec. 4

Calls upon DNR to determine the fair market value of the original 1 million acres of trust land, and identify replacement land of equal value within legislative designations (parks, refuges, forests). Once this reconstitution of the trust is accomplished, all original trust land is removed from trust status.

Sec. 5

Adds employees of the Mental Health Board to the partially exempt service.

Sec. 6

Establishes a Mental Health Board in the Department of Health and Social Services to assist the state in ensuring an integrated comprehensive mental health program. Membership of consumers, providers, and others; staff; duties.

Sec. 7 - 8

Continues the Interim Mental Health Trust Commission (established last year), with a reduced membership and new duties.

Sec. 9

Outlines commission's duties to include oversight of the trust reconstitution and oversight of trust land management by DNR.

Sec. 10

Terminates the commission upon reconstitution of the trust.

Sec. 11

Provides that until the trust is reconstituted, and beginning with FY 89, the mental health trust income account shall consist of 5% of the state's unrestricted revenue each year.

Sec. 12

Addresses initial appointment of Mental Health Board members.

Sec. 13

Repeals the Governor's Mental Health Advisory Council statute and the existing mental health fund.

Introduced: 2/2/87  
Referred: Health, Education and Social  
Services, Judiciary and Finance

5-0525A

HB 92

1 IN THE SENATE

BY HALFORD BY REQUEST OF  
THE JOINT SPECIAL COMMITTEE  
ON MENTAL HEALTH TRUST LAND

2 SENATE BILL NO. 96

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act implementing a settlement relating to the  
7 federally created mental health trust; and providing  
8 for an effective date."

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

10 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that:

11 (1) the United States Congress passed the Alaska Mental Health  
12 Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, to "confer upon Alaska  
13 autonomy in the field of mental health, transfer from the Federal Govern-  
14 ment to the Territory the fiscal and functional responsibility for the  
15 hospitalization of committed mental patients, and for other purposes";

16 (2) in sec. 202 of the Alaska Mental Health Enabling Act, Con-  
17 gress granted the territory the right to select up to 1,000,000 acres of  
18 federal land to serve as a source of funds to support the territory's  
19 mental health program;

20 (3) in subsection 202(e), Congress specifically provided that  
21 the land granted and the proceeds and income from dispositions of the land  
22 were to be administered as "a public trust and such proceeds and income  
23 shall first be applied to meet the necessary expenses of the mental health  
24 program of Alaska";

25 (4) the Tenth Alaska State Legislature, in enacting ch. 181 and  
26 182, SLA 1978, redesignated all mental health land as general grant land  
27 and compensated the mental health trust for the value of the land by creat-  
28 ing the mental health fund into which a sum equal to one and one-half  
29 percent of all revenue received from the management of state land was to be

S SB0096A

-1-

SB 96

Original sponsor: Pourchot/Joint Special Committee  
on Mental Health Trust Land

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 92 (Finance) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Mental Health Trust;  
7 and providing for an effective date."

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

9 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds

10 (1) the United States Congress passed the Alaska Mental Health  
11 Enabling Act of 1956, P.L. No. 84-830, 70 Stat. 709, "To confer upon Alaska  
12 autonomy in the field of mental health, transfer from the Federal Govern-  
13 ment to the Territory the fiscal and functional responsibility for the  
14 hospitalization of committed mental patients, and for other purposes;"

15 (2) in sec. 202 of the Alaska Mental Health Enabling Act, the  
16 Congress granted the territory the right to select up to one million acres  
17 of federal land to serve as a source of funds to support the territory's  
18 mental health program;

19 (3) in subsection 202(e), the Congress specifically provided  
20 that the land so granted, as well as any income from the land and proceeds  
21 from dispositions of the land, were to be administered as "a public trust  
22 and such proceeds and income shall first be applied to meet the necessary  
23 expenses of the mental health program of Alaska," that "Such lands, income,  
24 and proceeds shall be managed and utilized in such manner as the Legisla-  
25 ture of Alaska may provide," that the land may be "sold, leased, mortgaged,  
26 exchanged or otherwise disposed of in such manner as the Legislature of  
27 Alaska may provide, in order to obtain funds or other property to be in-  
28 vested, expended or used by the Territory of Alaska," and that the Alaska  
29 legislature must exercise this broad authority "in a manner compatible with

1 the conditions and requirements imposed by this Act;"

2 (4) in requiring that the proceeds and income of the 1,000,000-  
3 acre land grant "first be applied to meet the necessary expenses of the  
4 mental health program of Alaska," it was the intent of the Congress that  
5 additional public funds be appropriated by the legislature to supplement  
6 the proceeds and income from the land grant if those proceeds and income  
7 are insufficient to meet the necessary expenses of the mental health pro-  
8 gram of Alaska;

9 (5) if the proceeds and income from the 1,000,000-acre land  
10 grant exceed the necessary expenses of the mental health program of Alaska,  
11 the Congress authorized the legislature to appropriate the excess proceeds  
12 and income for other public purposes;

13 (6) because of the highly desirable location and character of  
14 much of the land selected by the state under the Act, for example, in and  
15 around major population centers, suitable for parks and game refuges, and  
16 other uses, and the difficulties associated with disposing of or dedicating  
17 the land for purposes that would not result in the receipt of funds that  
18 could be used for mental health purposes, for example, satisfaction of  
19 municipal entitlements, placement in parks and game refuges, and other  
20 uses, without compensation to the trust, the Tenth Alaska State Legislature  
21 enacted ch. 181 and 182, SLA 1978, which, among other things, redesignated  
22 all mental health lands as general grant lands;

23 (7) both ch. 181 and 182, SLA 1978, also created the mental  
24 health fund into which, as compensation to the trust, a sum equal to one  
25 and one-half percent of all revenue received from the management of state  
26 land was to be deposited and from which only the income could be appro-  
27 priated exclusively for mental health purposes;

28 (8) a significant difference between ch. 181 and 182, SLA 1978,  
29 was that ch. 182 made the deposit of one and one-half percent of all public

1 land revenue into the mental health fund "subject to legislative appropri-  
2 ation of sufficient funds";

3 (9) because ch. 182, SLA 1978 became law after ch. 181, SLA 1978  
4 became law, the provisions of ch. 182, SLA 1978 have been considered con-  
5 trolling, including specifically the provision that deposits to the mental  
6 health fund would be "subject to legislative appropriation of sufficient  
7 funds";

8 (10) the legislature has never appropriated funds to the mental  
9 health fund;

10 (11) a class-action lawsuit, Weiss v. State, 4FA-82-2208, was  
11 filed on November 26, 1982, seeking a judicial determination that the  
12 Alaska Mental Health Enabling Act had established a "public trust" under  
13 which the state had received the 1,000,000-acre land grant, that the 1978  
14 legislation redesignating mental health land as general grant land was a  
15 breach of that trust, and that the appropriate remedy was to invalidate the  
16 1978 legislation and return mental health land to trust status;

17 (12) in State v. Weiss, 706 P.2d 681 (Alaska 1985), the Alaska  
18 Supreme Court held that the Alaska Mental Health Enabling Act established a  
19 public trust, that the 1978 legislation redesignating mental health land as  
20 general grant land was a breach of the trust, and that the appropriate  
21 remedy was to return mental health land still in state ownership to trust  
22 status and, for mental health land that the state had "sold" between 1978  
23 and the date of the court's decision, to compensate the trust for the fair  
24 market value of mental health land so "sold" as of the date of their  
25 "sale," subject to a set-off for state mental health expenditures during  
26 the same period;

27 (13) while the court returned mental health land to trust status,  
28 it did not specify the nature of the state's obligations with respect to  
29 managing the trust land, leaving significant questions unanswered that may

1 require additional costly and time-consuming litigation;

2 (14) continued costly and time-consuming litigation over mental  
3 health trust land management is not in the public interest because it  
4 diverts attention from the goal the Congress sought to achieve through the  
5 Act's land grant, the funding of a mental health program;

6 (15) continued costly and time-consuming litigation over mental  
7 health trust land management is not in the public interest because it has  
8 the potential to be extremely divisive, pitting the advocates of stringent  
9 mental health trust land management against those who envision state-owned  
10 mental health land managed for its highest and best use, including convey-  
11 ance to municipalities in satisfaction of municipal entitlements, placement  
12 in parks and game refuges, and other uses, without a major expenditure to  
13 compensate the mental health trust for the fair market value of the land;

14 (16) continued costly and time-consuming litigation over mental  
15 health trust land management is not in the public interest because advo-  
16 cates of stringent mental health trust land management may seek the in-  
17 validation of state conveyances of mental health land to third parties,  
18 particularly municipalities and Native corporations organized under the  
19 Alaska Native Claims Settlement Act, a course of action that at best will  
20 place a cloud on the third parties' title to those lands and at worst will  
21 result in those third parties losing title to their lands, causing economic  
22 and other harm and further dividing those who advocate stringent mental  
23 health trust land management from those who believe all state-owned land,  
24 including mental health land, should be managed for its highest and best  
25 use;

26 (17) continued costly and time-consuming litigation over mental  
27 health trust land management is not in the public interest because advo-  
28 cates of stringent mental health trust land management may seek the in-  
29 validation of legislative designations of mental health land as state

1 parks, state game refuges, state forests, etc., placing the future use of  
2 the land for the designated purposes in doubt and further dividing those  
3 who advocate stringent mental health trust land management from those who  
4 believe all state-owned land, including mental health land, should be  
5 managed for its highest and best use;

6 (18) the failure of the Alaska Legislature to deal with the  
7 current situation by properly reconstituting the mental health trust at  
8 this time will lead to continued costly, time-consuming, and divisive liti-  
9 gation, which is not in the public interest;

10 (19) the same problems that led to the 1978 redesignation of  
11 mental health land as general grant land, for example, the desirability of  
12 managing mental health land for its highest and best use, including the  
13 satisfaction of municipal entitlements, inclusion in parks and game ref-  
14 uges, will continue to pose difficulties in the state's efforts to accom-  
15 modate the public's needs generally with the obligation to administer  
16 mental health land as a trust;

17 (20) under art. VIII, sec. 2, Constitution of the State of  
18 Alaska, as construed by the Alaska Supreme Court in State v. University of  
19 Alaska, 624 P.2d 807 (1981), the legislature has the authority to remove  
20 land from trust status if the trust is compensated for the fair market  
21 value of the land;

22 (21) the state is not now, and in the foreseeable future will not  
23 be, in a position to compensate the mental health trust in money for the  
24 fair market value of mental health land;

25 (22) even if the state were able to compensate the mental health  
26 trust in money for the fair market value of mental health land, there is a  
27 substantial legal question whether that compensation, as the corpus of the  
28 trust, could be preserved in perpetuity or whether the prohibition on  
29 dedicated funds in art. IX, sec. 7, Constitution of the State of Alaska,

1 would require that those funds be made available for appropriation by the  
2 legislature under the terms of the Alaska Mental Health Enabling Act;

3 (23) under art. VIII, sec. 2, Constitution of the State of  
4 Alaska, and subsection 202(e) of the Alaska Mental Health Enabling Act, the  
5 legislature has broad authority over all state land, including mental  
6 health land, and can permissibly remove mental health land from trust  
7 status if, consistent with its trust responsibilities, it simultaneously  
8 designates other state land of equivalent value as mental health land;

9 (24) the Congress' goal of funding a mental health program, and  
10 the public interest in having attention focused on the problems of the  
11 mentally ill and not questions regarding mental health trust land manage-  
12 ment, will be best served by establishing a mechanism for generating reve-  
13 nue from mental health land that minimizes the number and complexity of  
14 related land management decisions;

15 (25) reconstituting the mental health trust with state land that  
16 has a substantial likelihood of remaining in state ownership in perpetuity,  
17 and compensating the mental health trust for state use of that land through  
18 annual identification of an amount of state general fund revenue equal to  
19 the fair market rental value of the land as a separate account in the  
20 general fund, would minimize the number and complexity of land management  
21 decisions and would result in the following benefits to the mental health  
22 trust:

23 (A) it would ensure that the mental health trust corpus  
24 will be preserved in perpetuity;

25 (B) it would reconstitute a mental health trust corpus  
26 equal in value to the original 1,000,000-acre mental health trust  
27 corpus, with no reduction (in the nature of a set-off) for state  
28 mental health expenditures;

29 (C) it would make the entire mental health trust corpus

1           productive in that each acre of mental health trust land would produce  
2           its fair market rental value annually;

3                       (D) the mental health trust would not incur administrative  
4           expenses;

5                       (E) it would focus attention on questions related to the  
6           state's mental health programs and the levels of appropriations for  
7           those programs;

8           (26) reconstituting the mental health trust with state land that  
9           has a substantial probability of remaining in state ownership in perpetuity  
10          would result in the following benefits to the state generally:

11                      (A) it would free all mental health land not in legisla-  
12           tively designated areas for nontrust uses;

13                      (B) the only significant expenditure of public funds that  
14           would be required would be appropriations for appraisal of the land to  
15           ensure equal value, an expenditure that would be required no matter  
16           what form of trust reconstitution is selected; and

17                      (C) it would establish an additional safeguard against  
18           disposal of the newly designated mental health trust land, that is,  
19           those in legislatively designated areas, in that, prior to such dis-  
20           posal, equal value replacement land would have to be identified and  
21           redesignated as trust land;

22           (27) the legislature will best serve the public interest by  
23           reconstituting the mental health trust with land in legislatively des-  
24           ignated areas, continuing to use that land for the legislatively designated  
25           purposes, compensating the trust for the use of the land through annual  
26           identification of an amount of general fund revenue equal to the fair  
27           market rental value of the land and designation in the general fund of that  
28           amount of funds as the special mental health trust income account, and  
29           creating a board to assist and advise the legislative and executive

1 branches of government on matters relating to the mental health program of  
2 Alaska.

3 (b) The purposes of this Act are

4 (1) to implement the intent of the Congress underlying sec. 202  
5 of the Alaska Mental Health Enabling Act that mental health land be admin-  
6 istered in a way that makes funds available for the support of Alaska's  
7 mental health program;

8 (2) to the extent practicable, to eliminate the need for costly,  
9 time-consuming and divisive litigation over the state's management of  
10 mental health land;

11 (3) to ensure that the attention of the public and the govern-  
12 ment is focused on mental health programs, as contemplated by the Congress,  
13 and not on issues relating to the management of mental health land;

14 (4) to reconstitute a mental health land trust through identi-  
15 fication of land in legislatively designated areas that is equal in value  
16 to the land selected by and patented to the state under sec. 202 of the  
17 Alaska Mental Health Enabling Act;

18 (5) to remove from trust status the land selected by and pat-  
19 ented to the state under sec. 202 of the Alaska Mental Health Enabling Act  
20 that is not in legislative designated areas, thereby freeing them for other  
21 uses;

22 (6) to validate each deed, contract for sale, lease, easement,  
23 right-of-way, permit, mineral lease disposal, reservation of land for  
24 public use by statute, or land management actions, including use classi-  
25 fications under AS 38.05.300 and interagency land management assignments by  
26 the Department of Natural Resources, that may have been called into ques-  
27 tion by the Supreme Court's decision in State v. Weiss, 706 P.2d 681  
28 (Alaska 1985), returning mental health land to trust status;

29 (7) to identify a portion of annual state general fund revenue,

1 equal in amount to the fair market rental value of mental health land, as  
2 compensation to the trust for the continued use of the land in legisla-  
3 tively designated areas for the legislatively designated purposes; and

4 (8) to create a board to assist and advise the legislative and  
5 executive branches of government on matters relating to the mental health  
6 program of Alaska.

7 \* Sec. 2. AS 37.14 is amended by adding a new section to read:

8 Sec. 37.14.011. MENTAL HEALTH TRUST INCOME ACCOUNT. (a) The  
9 mental health trust income account is established as a separate ac-  
10 count in the general fund.

11 (b) The amount determined under (c) of this section as the fair  
12 market rental of the land constituting the mental health trust corpus  
13 is the earnings of the trust and the commissioner of revenue shall  
14 annually allocate that amount from the general fund of the state to  
15 the mental health trust income account in the general fund of the  
16 state.

17 (c) The fair market rental value of the land constituting the  
18 mental health trust corpus is equal to eight percent of the fair  
19 market value of the land. Following the initial determination of the  
20 fair market value of the land selected by and patented to the state  
21 under sec. 202 of the Alaska Mental Health Enabling Act, the com-  
22 missioner of natural resources shall redetermine the fair market value  
23 of the land constituting the mental health trust corpus at least every  
24 five years, and provide the redetermined value to the commissioner of  
25 revenue and the board established under AS 47.30.661.

26 \* Sec. 3. AS 37.14 is amended by adding a new section to read:

27 Sec. 37.14.021. UTILIZATION OF THE MENTAL HEALTH TRUST INCOME  
28 ACCOUNT. Money in the mental health trust income account established  
29 in AS 37.14.011(a) shall first be appropriated by the legislature to

1 meet the necessary expenses of the mental health program of the state.  
2 In making annual appropriations from the mental health trust income  
3 account, the legislature shall consider the recommendations of the  
4 Alaska Mental Health Board established under AS 47.30.661, including  
5 recommendations regarding capital improvements. After the necessary  
6 expenses of the state's mental health program have been funded, the  
7 legislature may make appropriations from the mental health trust  
8 income account for other public purposes.

9 \* Sec. 4. AS 38.05 is amended by adding a new section to article 11 to  
10 read:

11 Sec. 38.05.800. RECONSTITUTION AND ADMINISTRATION OF MENTAL  
12 HEALTH LAND TRUST. (a) The commissioner of natural resources, under  
13 procedures approved by the interim mental health trust commission,  
14 shall determine the fair market value, as of the effective date of  
15 this section, of all land selected by and patented to the state under  
16 the Alaska Mental Health Enabling Act. The commissioner shall report  
17 the determination of that value to the board established under AS 47.-  
18 30.661.

19 (b) The commissioner of natural resources, with the approval of  
20 the interim mental health trust commission, shall identify land within  
21 legislative designations that is equal in value to all land selected  
22 by and patented to the state under sec. 202 of the Alaska Mental  
23 Health Enabling Act that is not in legislative designations.

24 (c) All land selected by and patented to the state under the  
25 Alaska Mental Health Enabling Act that is within legislative desig-  
26 nations, together with all land identified by the commissioner under  
27 (b) of this section, constitutes the corpus of the mental health land  
28 trust.

29 (d) Upon reconstitution of the trust under this subsection, land

1 selected by and patented to the state under sec. 202 of the Alaska  
2 Mental Health Enabling Act that is not within legislative designations  
3 is removed from trust status.

4 (e) The land within legislative designations that constitutes  
5 the mental health land trust shall continue to be administered for the  
6 legislatively designated purposes. The trust shall be compensated for  
7 the continued use of the mental health trust land for the legisla-  
8 tively designated purposes as provided in AS 37.14.011.

9 (f) Before the state may remove land that is part of the mental  
10 health trust corpus from trust status, and in addition to any other  
11 requirements of law, the commissioner of natural resources, consistent  
12 with the state's trust responsibilities, shall identify replacement  
13 land, equal in value at the time of replacement, within legislative  
14 designations and incorporate them into the mental health trust corpus.  
15 The commissioner of natural resources annually shall report any  
16 actions under this subsection to the board established under AS 47.-  
17 30.661.

18 \* Sec. 5. AS 39.25.120(c)(9) is amended by adding a new subparagraph to  
19 read:

20 (L) Alaska Mental Health Board;

21 \* Sec. 6. AS 47.30 is amended by adding new sections to read:

22 Sec. 47.30.661. ALASKA MENTAL HEALTH BOARD. The Alaska Mental  
23 Health Board is established. For budgetary purposes, the board is  
24 located within the Department of Health and Social Services. The  
25 board is the state planning and coordinating agency for the purposes  
26 of federal and state laws relating to the mental health program of the  
27 state. The purpose of the board is to assist the state in ensuring an  
28 integrated comprehensive mental health program.

29 Sec. 47.30.662. COMPOSITION. (a) The board consists of the

1 commissioner of health and social services, or the commissioner's  
2 designee, and not fewer than nine nor more than 12 other members,  
3 appointed by the governor, with due regard for population and balanced  
4 geographic representation of the state.

5 (b) At least one-third of the members shall be consumers of  
6 mental health services, or parents or guardians of consumers.

7 (c) At least one-third of the members shall be either public or  
8 private providers of mental health services.

9 (d) The remaining members shall be representatives of the public  
10 at large.

11 Sec. 47.30.663. TERM OF OFFICE. (a) Board members serve  
12 staggered terms of three years.

13 (b) A vacancy occurring in the membership of the board shall be  
14 filled by appointment of the governor for the unexpired portion of the  
15 vacated term.

16 (c) Members may be removed only for cause, including, but not  
17 limited to, poor attendance or lack of contribution to the board's  
18 work.

19 Sec. 47.30.664. OFFICERS AND STAFF. (a) The board, by a major-  
20 ity of its membership, shall annually elect a chair and other officers  
21 it considers necessary from among its membership.

22 (b) The board will have a paid staff provided by the Department  
23 of Health and Social Services, including, but not limited to, an  
24 executive director who shall be selected by the board from candidates  
25 provided by the department. The executive director is in the partial-  
26 ly exempt service and may hire additional employees in the classified  
27 service of the state. The executive director and the staff of the  
28 board shall be directly responsible to the board in the performance of  
29 their duties.

1           Sec. 47.30.665. BYLAWS. The board, on approval of a majority of  
2 its membership and consistent with state law, shall adopt and amend  
3 bylaws governing its composition, proceedings, and other activities  
4 consistent with state law and including, but not limited to, pro-  
5 visions concerning a quorum to transact board business and other  
6 aspects of procedure, frequency and location of meetings, and estab-  
7 lishment, functions, and membership of committees.

8           Sec. 47.30.666. POWERS, DUTIES, AND RESPONSIBILITIES OF THE  
9 BOARD. The board shall

10           (1) measure the extent of the mental health need and, as  
11 necessary, conduct independent studies, evaluate the statewide mental  
12 health information system, and review the current mental health pro-  
13 gram of the state;

14           (2) provide a public forum for discussion of issues regard-  
15 ing current and potential services to persons served by the mental  
16 health program of the state;

17           (3) determine the needs, including those currently unmet,  
18 of the persons to be served by the mental health program of the state;

19           (4) review reports from the Department of Natural Resources  
20 regarding the valuation of the mental health land trust and the status  
21 of mental health trust land, from the Department of Revenue regarding  
22 allocations to the mental health income account, and from other de-  
23 partments regarding the current and projected revenue for the support  
24 of the mental health program of the state;

25           (5) subject to disclosure restrictions imposed by state or  
26 federal confidentiality or privacy laws, have access to information in  
27 the possession of state agencies;

28           (6) in conjunction with the Department of Health and Social  
29 Services, prepare and annually update a long-term comprehensive state

1 mental health plan, to include the projected need and the services,  
2 facilities, and resources for the mental health program of the state  
3 to meet that need;

4 (7) in conjunction with the Department of Health and Social  
5 Services, develop, prepare, adopt, and periodically review and revise  
6 as necessary an annual state implementation plan to meet the needs of  
7 persons served by the mental health program of the state;

8 (8) in conjunction with the Department of Health and Social  
9 Services, and before developing the annual state implementation plan,  
10 evaluate the effectiveness of the prior year's implementation plan and  
11 evaluate program performance and recommend improvements, set priori-  
12 ties, and establish criteria to utilize in funding allocations;

13 (9) report at least annually to the legislature, governor,  
14 and commissioner of health and social services, and meet with appro-  
15 priate legislative committees, concerning the board's activities,  
16 including its evaluation of the effectiveness of the prior year's  
17 implementation plan, and its recommendations to meet the necessary  
18 operating and capital expenses of the mental health program of the  
19 state;

20 (10) serve as an advocate before the executive and legisla-  
21 tive branches of government and the public on behalf of those served  
22 by the mental health program of the state;

23 (11) discourage duplication of services and promote effi-  
24 cient and coordinated use of federal, state, and private resources in  
25 the provision of mental health services; and

26 (12) review applicable statutes, regulations, and policies  
27 and recommend appropriate changes.

28 Sec. 47.30.669. DEFINITION. In AS 47.30.661 - 47.30.669,  
29 "board" means the Alaska Mental Health Board established in

1 AS 47.30.661.

2 \* Sec. 7. Section 1(b), ch. 132, SLA 1986, is amended to read:

3 (b) The commission established under (a) of this section con-  
4 sists of three [FIVE] members, including the commissioner of natural  
5 resources, or the commissioner's designee [AND THE COMMISSIONER OF  
6 HEALTH AND SOCIAL SERVICES, OR THEIR DESIGNEES], and two [THREE]  
7 members and two [THREE] alternates [APPOINTED BY THE GOVERNOR] as  
8 follows:

9 (1) a member and an alternate representing the plaintiffs  
10 who were [,] appointed by the governor from a list of three names  
11 submitted to the governor by the plaintiffs in Weiss v. State, 4 FA  
12 82-2208 Civil;

13 (2) a member and an alternate representing the intervenors  
14 who were [,] appointed by the governor from a list of three names  
15 submitted to the governor by the intervenors in Weiss v. State, 4 FA  
16 82-2208 Civil [; AND

17 (3) A MEMBER AND AN ALTERNATE REPRESENTING THE GOVERNOR'S  
18 MENTAL HEALTH ADVISORY COUNCIL, APPOINTED BY THE GOVERNOR FROM A LIST  
19 OF THREE NAMES SUBMITTED TO THE GOVERNOR BY THE GOVERNOR'S MENTAL  
20 HEALTH ADVISORY COUNCIL].

21 \* Sec. 8. Section 1(c), ch. 132, SLA 1986, is amended to read:

22 (c) The members of the commission shall elect a presiding offi-  
23 cer. A majority of the commission constitutes a quorum. The affirma-  
24 tive vote of two [THREE] members is required to take official action.  
25 A vacancy does not impair the power of the remaining members to exer-  
26 cise the powers of the commission.

27 \* Sec. 9. Section 2, ch. 132, SLA 1986, is repealed and reenacted to  
28 read:

29 Sec. 2. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL

1 RESOURCES AND THE COMMISSION. (a) The commission shall review proce-  
2 dures proposed by the commissioner of natural resources to determine  
3 the fair market value, as of the effective date of AS 38.05.800, of  
4 all land selected by and patented to the state under sec. 202 of the  
5 Alaska Mental Health Enabling Act, and review the final determination  
6 of the fair market value determined under those procedures.

7 (b) The commission shall review the identification by the com-  
8 missioner of natural resources under AS 38.05.800 of land within  
9 legislative designations that is equal in value to all land selected  
10 by and patented to the state under sec. 202 of the Alaska Mental  
11 Health Enabling Act that is not in legislative designations.

12 (c) In the exercise of the commission's responsibilities under  
13 this section, the commission and its staff may review the records of  
14 the Department of Natural Resources that are made confidential by law  
15 or regulation. An individual who acquires information made confiden-  
16 tial by law or regulation in the performance of functions authorized  
17 by this Act and discloses it without proper authority violates AS 11.-  
18 56.860.

19 (d) The commissioner of natural resources is responsible for the  
20 management of the mental health land of the state as a public trust  
21 under P.L. 84-830, 70 Stat. 709. Except as provided in (e) of this  
22 section, the commissioner of natural resources may not sell, lease, or  
23 exchange mental health trust land of the state or an interest in the  
24 mental health trust land of the state without the prior approval of  
25 the commission. In reviewing a proposal for the sale, lease, or ex-  
26 change of mental health trust land from the commissioner of natural  
27 resources, the commission may approve the proposal of the commissioner  
28 on its determination that the proposal is consistent with the terms of  
29 the trust established by the Alaska Mental Health Enabling Act.

1           (e) The commissioner of natural resources may transfer trust  
2 land to the federal government under AS 38.05.035(b)(9) without ap-  
3 proval of the commission. The commissioner of natural resources shall  
4 advise the commission of an intention to transfer trust land to the  
5 federal government and, after the transfer, shall make every effort to  
6 acquire replacement land to fulfill the state's remaining entitlement  
7 based on a prioritization, approved by the commission, of existing  
8 valid mental health selections.

9       \* Sec. 10. Section 6, ch. 132, SLA 1986, is repealed and reenacted to  
10 read:

11           Sec. 6. This Act is repealed on the certification of the commis-  
12 sioner of natural resources that the mental health land trust has been  
13 reconstituted under AS 38.05.800 to

14                   (1) the Alaska Mental Health Board established under  
15 AS 47.30.661;

16                   (2) the lieutenant governor; and

17                   (3) the revisor of statutes.

18       \* Sec. 11. TRANSITIONAL PROVISIONS. Beginning with fiscal year 1989  
19 and continuing until the commissioner of natural resources certifies to the  
20 commissioner of revenue that the mental health land trust has been recon-  
21 stituted under AS 38.05.800, as enacted in sec. 4 of this Act, the commis-  
22 sioner of revenue shall annually allocate from the general fund of the  
23 state to the mental health trust income account in the general fund an  
24 amount equal to five percent of the unrestricted revenue of the state for  
25 the fiscal year.

26       \* Sec. 12. Notwithstanding AS 47.30.663(a), as added by sec. 6 of this  
27 Act, of the initial appointees to the Alaska Mental Health Board appointed  
28 under AS 47.30.662, as added by sec. 6 of this Act, one-third shall serve  
29 for one year terms, one-third shall serve for two year terms, and one-third

1 for three year terms.

2 \* Sec. 13. AS 37.14.010, 37.14.020, 37.14.030, 37.14.040, 37.14.050;

3 AS 47.30.605; and sec. 3, ch. 132, SLA 1986, are repealed.

4 \* Sec. 14. Sections 7 - 10 of this Act take effect July 1, 1987.

SENATE COMMITTEE REPORT

FURTHER: FINANCE

5/1/87

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

HESS Committee considered CSHB 92(Fin) am

Alaska Mental Health Trust; efd.

and recommended:

replace with \_\_\_\_\_ CS FOR \_\_\_\_\_ )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  \_\_\_\_\_

new  update

zero

MEMBERS SIGNING

\_\_\_\_\_

1  
1  
1

HB

93

# HOUSE COMMITTEE REPORT

(11)

Date referred: 4/1/87

FURTHER REFERRALS:

DATE: 4-6-87

The Finance Committee has considered HB 93

"An Act establishing a system of recreation rivers; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 93 (Finance)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_  
*Pat Fournier*  
 \_\_\_\_\_  
*M. Mark Boyan*  
 \_\_\_\_\_  
*Jay Brown*  
 \_\_\_\_\_  
*Steve Rice*  
 \_\_\_\_\_  
*Mike D.*  
 \_\_\_\_\_  
*Ronald J. ...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Al ... NO Rec*  
 \_\_\_\_\_  
*Peter ...*  
 \_\_\_\_\_  
*Kay ... no rec*  
 \_\_\_\_\_  
*... NO Rec*  
 \_\_\_\_\_  
*... no rec*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Arthur ...*  
 \_\_\_\_\_  
 Chairman's signature

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: CSHB 93 (Finance)  
Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

Revision Date: April 6, 1987  
Title: Recreation Rivers

Agency Affected: Natural Resources  
BRU: Land and Water Management

Sponsor: Cotten  
Requestor: \_\_\_\_\_

Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		96.5	96.5	96.5		
TRAVEL		5.0	5.0	5.0		
CONTRACTUAL		20.0	20.0	20.0		
SUPPLIES		2.0	2.0	2.0		
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		123.5	123.5	123.5		

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

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		123.5	123.5	123.5		
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		123.5	123.5	123.5		

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

All six plans will be developed at the same time and complete over a three year period. New staff will gather planning information and begin the plans with assistance from other planning staff as time is available. (See attached explanation).

Prepared by: Rep. Al Adams, Chairman *APA* Phone: 4/16/87  
Division: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

**Distribution (by preparer):**

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CS HB 93

This bill would require the Department of Natural Resources to complete management plans for six rivers by 1992, and hold at least two hearings in municipalities and communities near the recreation river corridors.

The planning team would require a Range 18 Natural Resource Manager I, a Range 12 Natural Resource Technician II, and a half-time Range 8 Clerk Typist III.

## Explanation of funding:

100 - Two and one-half positions.

Natural Resource Manager I	48.2	12 months
Natural Resource Technician II	34.1	12 months
Clerk Typist III	14.2	6 months

200 - Per diem and travel for meetings.

300 - Travel and printing expenses for the plans.  
Surveys of type and quantity of river users.

400 - Supplies and commodities for staff.

Original sponsors: Cotten, Pourchot,  
Rieger, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 93 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing six recreation rivers; and pro-  
7 viding for an effective date."

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

9 \* Section 1. FINDINGS. The legislature finds that the special values  
10 and uses of certain river corridors in Southcentral Alaska justify their  
11 retention for public use. The river corridors can support many public  
12 uses, including some that will enhance the local economy as well as improve  
13 access to retained public land. The designation of these corridors as  
14 recreation rivers recognizes the value of the described land and is not  
15 intended to become an undue impediment to the use and enjoyment of adjacent  
16 land or to the development of access within, across, and around the rivers.

17 \* Sec. 2. AS 41.23 is amended by adding new sections to read:

18 ARTICLE 3. RECREATION RIVERS.

19 Sec. 41.23.200. PURPOSES. The purpose of AS 41.23.200 - 41.23.-  
20 290 is to establish as recreation rivers the land and water now owned  
21 by the state and the land and water acquired in the future by the  
22 state that lies within the boundaries described in AS 41.23.290(b).  
23 The primary purposes for the establishment of the recreation rivers  
24 are

25 (1) the management, protection, and maintenance of the fish  
26 and wildlife populations and habitat on a sustained-yield basis;

27 (2) conservation of the scenic and natural integrity of the  
28 recreation river corridor and continued recreational and economic use  
29 and enjoyment by the public including hunting, fishing, trapping,

1 boating, hiking, snowmachining, skiing, dog mushing, and wildlife  
2 viewing;

3 (3) management of upland activities within the recreation  
4 river corridor for the protection and maintenance of water quality and  
5 stream flow; and

6 (4) accommodation of access for recreation, tourism, and  
7 other compatible recreation-oriented economic uses of the river corri-  
8 dor.

9 Sec. 41.23.210. COMPATIBLE ACTIVITIES. (a) The commissioner  
10 shall allow the following activities within a recreation river corri-  
11 dor when they are compatible with AS 41.23.200 and consistent with a  
12 management plan adopted under AS 41.23.230:

13 (1) the use of aircraft, powerboats, snowmachines, all-  
14 terrain vehicles, and other motorized transportation;

15 (2) the harvest of wood products;

16 (3) sand and gravel extraction for public use; and

17 (4) the construction and operation of recreational facil-  
18 ities.

19 (b) In addition to the activities identified in (a) of this  
20 section, the commissioner may allow other activities within a recre-  
21 ation river corridor when they are compatible with AS 41.23.200 and  
22 consistent with a management plan adopted under AS 41.23.230.

23 (c) The commissioner shall allow the continuation of commercial  
24 or private activities occurring on the effective date of this Act  
25 under a valid permit for use of state-owned land within the boundaries  
26 of a recreation river corridor so long as the commissioner determines  
27 that the activity is compatible with AS 41.23.200. When considering  
28 the revocation or nonrenewal of an existing permit, the commissioner  
29 shall make available for public comment, on request, a preliminary

1 finding and, if appropriate, may hold a public hearing in the commu-  
2 nities near the recreation river corridor before determining whether  
3 the activity is compatible with AS 41.23.200.

4 Sec. 41.23.220. GENERAL MANAGEMENT OF RECREATION RIVER CORRI-  
5 DORS. (a) The state-owned land and water within the area established  
6 as a recreation river corridor under AS 41.23.290(b) is assigned to  
7 the commissioner for management consistent with the purposes of  
8 AS 41.23.200 - 41.23.290.

9 (b) The commissioner shall reserve to the state under AS 46.15.-  
10 145 an instream flow or level for the water in the rivers described in  
11 AS 41.23.290(b) that is adequate to achieve the purposes of AS 41.23.-  
12 200.

13 (c) The provisions of AS 41.23.200 - 41.23.290 do not affect the  
14 authority of

15 (1) the Department of Fish and Game, the Board of Fisher-  
16 ies, the Board of Game, or the Guide Licensing and Control Board under  
17 AS 08.54, AS 16, or AS 41.99.010;

18 (2) the Department of Environmental Conservation under  
19 AS 46.03; or

20 (3) state agencies and municipalities under AS 44.19.145-  
21 (a)(11) and AS 46.40.100.

22 (d) The commissioner may not restrict the use of weapons, in-  
23 cluding firearms, within a recreation river corridor except in sites  
24 of high public use such as picnic areas, boat ramps, camping grounds,  
25 and parking areas when the commissioner determines that the use of  
26 weapons constitutes a threat to public safety. Except as provided in  
27 this subsection, the commissioner may not restrict fishing, hunting,  
28 or trapping within a recreation river corridor.

29 (e) The commissioner may not regulate under AS 41.23.200 -

1 41.23.290 an activity that occurs on a river that has not been desig-  
2 nated as a recreational river under AS 41.23.290(b). Where the water  
3 of a river that has been designated under AS 41.23.290(b) flows into  
4 the water of a larger river that has not been designated under AS 41.-  
5 23.290(b), the authority of the commissioner under AS 41.23.200 -  
6 41.23.290 ceases where the water joins the larger river and the com-  
7 missioner may not regulate activities on the larger undesignated river  
8 under AS 41.23.200 - 41.23.290.

9 Sec. 41.23.230. MANAGEMENT PLAN. (a) After consultation with  
10 local authorities, representatives of groups who will use the recre-  
11 ation rivers, and state agencies, including the commissioner of fish  
12 and game, the commissioner shall adopt a management plan for a recre-  
13 ation river corridor. During the planning process the commissioner  
14 shall comply with the notice requirements of AS 38.05.945 and shall  
15 hold at least two public hearings in municipalities and communities  
16 near the recreation river corridor. The management plan shall estab-  
17 lish long-range guidelines and management practices consistent with  
18 AS 41.23.200 to

19 (1) protect, maintain, or enhance the fish and wildlife  
20 habitat and the free-flowing nature of the river;

21 (2) identify special recreational values and manage the  
22 level of intensity and types of recreational uses;

23 (3) designate compatible land uses and management guide-  
24 lines for associated development;

25 (4) manage commercial activities or development, including  
26 recreational services such as guiding;

27 (5) provide for necessary public services, such as trans-  
28 portation and utility corridors, public safety, and law enforcement;

29 (6) allow reasonable and necessary access to public land

1 and private inholdings, including municipal land that is offered for  
2 sale or lease, and to land beyond the recreation river corridor;

3 (7) establish criteria and timelines to review future  
4 proposed uses for compatibility with AS 41.23.200;

5 (8) establish guidelines and setback restrictions for an  
6 activity occurring under AS 41.23.210, including mining leasing and  
7 oil and gas leasing under AS 41.23.260(b) - (d).

8 (b) The commissioner shall adopt regulations necessary to imple-  
9 ment the management plan. The commissioner may adopt regulations  
10 before a management plan is adopted.

11 (c) A management plan adopted by the commissioner under (a) of  
12 this section shall be submitted to the legislature for review within  
13 the first 10 days of the first regular session of the legislature to  
14 convene after its adoption by the commissioner.

15 Sec. 41.23.240. MANAGEMENT OF MUNICIPAL LAND. If a municipality  
16 commits land for inclusion in a recreation river corridor established  
17 under AS 41.23.290(b), the commissioner shall obtain the concurrence  
18 of the municipality to the management plan proposed under AS 41.23.230  
19 as it applies to municipal land. The commissioner shall cooperate, at  
20 the request of a municipality, in planning for municipal land adjacent  
21 to a recreation river corridor.

22 Sec. 41.23.250. ACQUISITION OF ADDITIONAL LAND. (a) The com-  
23 missioner may acquire in the name of the state land that is adjacent  
24 to or located within the land described in AS 41.23.290(b) by pur-  
25 chase, lease, gift, or exchange for inclusion within a recreation  
26 river corridor.

27 (b) The commissioner may not acquire land for inclusion in a  
28 recreation river corridor by eminent domain.

29 Sec. 41.23.260. APPLICATION OF PUBLIC LAND LAWS. (a) Except to



# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

1 the extent that a provision is inconsistent with a provision of  
2 AS 41.23.200 - 41.23.290, the provisions of AS 38.04, AS 38.05,  
3 AS 38.35, and AS 38.95 apply to land described in AS 41.23.290(b).

4 (b) Except for land within the Talkeetna State Recreation River  
5 north and east of Iron Creek, the state-owned land and water within a  
6 recreation river corridor described in AS 41.23.290(b) is closed to  
7 mineral entry by location under AS 38.05.195 and to disposal of leas-  
8 able minerals under AS 38.05.150 - 38.05.175.

9 (c) Except on state-owned land below ordinary high-water or mean  
10 high tide, the commissioner may, upon a mineral discovery validated by  
11 the commissioner, permit mining leasing under AS 38.05.205 in an area  
12 within a recreation river corridor if leasing is allowed under a  
13 management plan that has been adopted by the commissioner. The com-  
14 missioner shall establish appropriate conditions for permits, operat-  
15 ing plans, and leases to protect the environment and prevent degrada-  
16 tion of the recreational uses of the river.

17 (d) The state-owned land and water within a recreation river  
18 corridor is available for oil and gas leasing subject to conditions in  
19 an adopted management plan.

20 (e) To enhance public use and enjoyment of a recreation river  
21 corridor under a management plan adopted under AS 41.23.230, the  
22 commissioner may provide for the construction and operation of commer-  
23 cial facilities such as lodges, campgrounds, and boat launches by

24 (1) leasing land including competitive leasing to a pre-  
25 qualified bidder under AS 38.05.070; and

26 (2) contracting for the construction and operation of a  
27 facility under AS 36.30.

28 (f) The commissioner of administration shall separately account  
29 for funds collected under this section and deposited in the general

1 fund. The annual estimated balance in the account may be appropriated  
2 by the legislature to the department to carry out the purposes of this  
3 chapter.

4 Sec. 41.23.270. COOPERATIVE MANAGEMENT AGREEMENTS. (a) The  
5 commissioner may enter into a cooperative management agreement for the  
6 management of land and water described in AS 41.23.290(b) or of other  
7 adjacent land and water with a federal agency, a municipality of the  
8 state, another agency of the state, or a private landowner.

9 (b) The commissioner may transfer the management of a specific  
10 site within a recreation river corridor described in AS 41.23.290(b)  
11 to a state agency to assist in the development of a facility or to  
12 carry out a program authorized by law.

13 (c) The commissioner may not manage a recreation river corridor  
14 described in AS 41.23.290(b) as a unit of the state park system. The  
15 commissioner may assign management of a recreation facility or site  
16 such as a campground or a boat launch to the division of parks and may  
17 adopt regulations allowing the division of parks to manage recreation  
18 activities in a recreation river corridor.

19 Sec. 41.23.280. ESTABLISHMENT OF RECREATION RIVER CORRIDORS.  
20 State-owned land and water may be established as a recreation river  
21 corridor only by the legislature.

22 Sec. 41.23.290. DESIGNATED RIVERS. (a) Subject to valid exist-  
23 ing rights, the state-owned land and water within one-half mile of  
24 either ordinary high water or mean high tide on a recreation river  
25 designated in (b) of this section that is established as a recreation  
26 river corridor under (b) of this section is reserved as a special  
27 purpose area under art. VIII, sec. 7, Constitution of the State of  
28 Alaska and shall be retained by the state.

29 (b) The general grant land, acquired land, and the water

1 presently owned by the state and all land and water acquired by the  
2 state in the future, including shore and submerged land and land  
3 redesignated after the effective date of this Act as general grant  
4 land, that lie within the following described parcels are established  
5 as recreation rivers and shall be managed under AS 41.23.200 - 41.23.-  
6 290:

7 (1) Alexander Creek State Recreation River

8 (A) Township 16 North, Range 7 West, Seward Meridian  
9 Sections 6 - 7

10 Sections 18 - 19

11 (B) Township 17 North, Range 7 West, Seward Meridian

12 Section 6: Otter Lake, Weenie Lake, and that  
13 portion of the SW1/4 in Tract B, ASLS 81-77

14 Section 7: Otter Lake and Tracts F-2 and F-3 of  
15 ASLS 79-147

16 Section 18: S1/2, W1/2NW1/4

17 Section 19

18 Sections 30 - 31

19 Section 32: W1/2

20 (C) Township 17 North, Range 8 West, Seward Meridian

21 Section 1

22 Section 2: E1/2, N1/2NW1/4

23 Section 3: N1/2N1/2

24 Section 4: N1/2, N1/2SE1/4

25 Section 11: NE1/4, E1/2SE1/4

26 Section 12

27 Section 13: E1/2, E1/2NW1/4

28 Section 24: NE1/4, E1/2SE1/4

29 (D) Township 18 North, Range 8 West, Seward Meridian

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Section 4: W1/2

Section 5

Section 6: NE1/4

Section 8: N1/2, SE1/4

Section 9

Section 10: SW1/4

Section 14: W1/2SW1/4, SE1/4SW1/4

Section 15: W1/2, SE1/4, S1/2NE1/4

Section 16: N1/2, SE1/4

Section 22: N1/2, N1/2S1/2, S1/2SE1/4

Section 23: W1/2, W1/2SE1/4

Section 26: W1/2, W1/2E1/2, E1/2SE1/4

Section 27: E1/2NE1/4

Section 33: SW1/4, S1/2SE1/4

Section 34: S1/2S1/2

Section 35

Section 36: W1/2

(E) Township 19 North, Range 8 West, Seward Meridian

Section 19: W1/2, W1/2E1/2

Section 29: W1/2W1/2

Section 30

Section 31: E1/2, E1/2W1/2

Section 32

(F) Township 19 North, Range 9 West, Seward Meridian

Sections 3 - 4

Sections 9 - 10

Section 13: S1/2

Section 14: S1/2

Sections 15 - 16

1 Section 22: N1/2

2 Section 23: N1/2

3 Section 24

4 (2) Kroto Creek and Moose Creek State Recreation River

5 (A) Township 19 North, Range 6 West, Seward Meridian

6 Section 2: SW1/4

7 Section 3

8 Section 10: E1/2

9 Section 11

10 Section 14

11 Section 15: E1/2E1/2

12 Section 22: E1/2E1/2

13 Section 23

14 Section 25: that portion west of the eastern-  
15 most bank of the Susitna River

16 Section 26

17 Section 27: E1/2E1/2

18 Section 34: NE1/4NE1/4

19 Section 35

20 Section 36: that portion west of the eastern-  
21 most bank of the Susitna River

22 (B) Township 20 North, Range 6 West, Seward Meridian

23 Section 4

24 Section 5: E1/2

25 Section 8: NE1/4, E1/2SE1/4

26 Section 9

27 Section 15: W1/2

28 Section 16

29 Section 21: E1/2, N1/2NW1/4, SE1/4NW1/4

1 Section 22: NW1/4, S1/2

2 Section 27

3 Section 34

4 (C) Township 21 North, Range 6 West, Seward Meridian

5 Section 3

6 Section 9: E1/2SE1/4, SE1/4NE1/4

7 Section 10

8 Section 15: W1/2, W1/2NE1/4

9 Section 16

10 Section 20: E1/2

11 Section 21

12 Section 28

13 Section 29: E1/2

14 Section 32: E1/2E1/2, NW1/4NE1/4

15 Section 33

16 Section 34: SW1/4

17 (D) Township 22 North, Range 6 West, Seward Meridian

18 Sections 4 - 5

19 Section 6: E1/2, E1/2W1/2

20 Sections 7 - 9

21 Sections 16 - 18

22 Sections 20 - 21

23 Section 27

24 Section 28: N1/2, SE1/4, E1/2SW1/4

25 Section 29: E1/2NE1/4

26 Section 33: N1/2NE1/4, SE1/4NE1/4

27 Section 34

28 (E) Township 23 North, Range 6 West, Seward Meridian

29 Section 4

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Section 7: W1/2

Section 9

Section 16

Section 17: SW1/4SW1/4

Sections 18 - 19

Section 20: W1/2NW1/4

Section 21

Section 28

Sections 30 - 31

Section 32: S1/2

Section 33

(F) Township 23 North, Range 7 West, Seward Meridian

Section 1

Section 2: E1/2

Sections 12 - 13

Section 24

Section 25: N1/2, SE1/4

Section 36: N1/2NE1/4

(G) Township 24 North, Range 6 West, Seward Meridian

Section 4: W1/2

Section 5

Section 6: NE1/4, E1/2SE1/4

Section 8: N1/2, SE1/4, E1/2SW1/4

Section 9

Section 15: SW1/4, SW1/4NW1/4

Section 16

Section 17: NE1/4, N1/2SE1/4

Section 21: E1/2, SE1/4SW1/4

Section 22: NW1/4, N1/2SW1/4, SW1/4SW1/4

1 Section 28: E1/2W1/2, E1/2

2 Section 33

3 (H) Township 24 North, Range 7 West, Seward Meridian

4 Section 6: S1/2, NW1/4

5 Section 7

6 Section 8: S1/2SW1/4

7 Section 16: W1/2, W1/2E1/2

8 Section 17

9 Section 18: N1/2N1/2, SE1/4NW1/4, S1/2NE1/4,  
10 N1/2SE1/4, SE1/4SE1/4

11 Section 19: NE1/4NE1/4

12 Section 20: N1/2

13 Section 21: W1/2, SE1/4, W1/2NE1/4

14 Section 27

15 Section 28: E1/2

16 Section 33: NE1/4NE1/4

17 Section 34: E1/2, E1/2W1/2, NW1/4NW1/4

18 Section 35: W1/2, SE1/4, S1/2NE1/4

19 Section 36: SW1/4

20 (I) Township 24 North, Range 8 West, Seward Meridian

21 Section 1: E1/2

22 Section 12: NE1/4, E1/2SE1/4

23 Section 13: NE1/4NE1/4

24 (J) Township 25 North, Range 6 West, Seward Meridian

25 Section 5

26 Section 8

27 Section 17

28 Section 18: SE1/4

29 Section 19: E1/2, E1/2W1/2

- 1 Section 20: W1/2W1/2  
 2 Section 29: W1/2W1/2  
 3 Section 30: E1/2, E1/2W1/2  
 4 Section 31: E1/2  
 5 Section 32: W1/2W1/2, SE1/4SW1/4
- 6 (K) Township 25 North, Range 7 West, Seward Meridian  
 7 Section 5  
 8 Section 6: SE1/4, S1/2NE1/4  
 9 Section 7: E1/2, SW1/4, E1/2NW1/4  
 10 Section 8: NW1/4, W1/2SW1/4  
 11 Sections 18 - 19  
 12 Sections 30 - 31
- 13 (L) Township 25 North, Range 8 West, Seward Meridian  
 14 Section 13: E1/2SE1/4  
 15 Section 24: E1/2NE1/4
- 16 (M) Township 26 North, Range 6 West, Seward Meridian  
 17 Section 5  
 18 Section 8  
 19 Section 17: N1/2, SE1/4, N1/2SW1/4, SE1/4SW1/4  
 20 Section 19: SE1/4  
 21 Section 20: E1/2, SW1/4, S1/2NW1/4, NE1/4NW1/4  
 22 Section 29: E1/2, NW1/4  
 23 Section 30: S1/2, NE1/4, SE1/4NW1/4  
 24 Section 31: E1/2NE1/4, that portion of NW1/4-  
 25 NE1/4 within retained easement (50' each side  
 26 of MHWM)  
 27 Section 32: land within 150' of MHWM
- 28 (N) Township 26 North, Range 7 West, Seward Meridian  
 29 Section 4: W1/2

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Section 5: E1/2, S1/2SW1/4

Section 7: SE1/4

Section 8

Section 9: NW1/4, N1/2SW1/4

Section 17

Section 18: E1/2

Section 19

Section 20: W1/2

Section 29: S1/2, NW1/4

Section 30

Section 31: NE1/4

Section 32

(O) Township 27 North, Range 6 West, Seward Meridian

Section 4

Section 5: E1/2

Section 8: E1/2

Section 9

Section 16

Section 17: E1/2

Section 20: E1/2

Section 21

Section 28: W1/2

Section 29: E1/2

Section 32: E1/2

Section 33: W1/2

(P) Township 27 North, Range 7 West, Seward Meridian

Section 7

Section 8: S1/2, NW1/4

Section 9: W1/2

1 Section 16

2 Section 17: N1/2, SE1/4

3 Section 20: E1/2

4 Section 21

5 Section 28: N1/2, SW1/4

6 Section 29: E1/2

7 Section 32: E1/2

8 Section 33: W1/2

9 (Q) Township 27 North, Range 8 West, Seward Meridian

10 Section 12: NE1/4

11 (R) Township 28 North, Range 6 West, Seward Meridian

12 Section 32: S1/2SE1/4

13 Section 33: S1/2S1/2

14 (3) Lake Creek State Recreation River

15 (A) Township 21 North, Range 9 West, Seward Meridian

16 Section 3

17 Section 4: Excluding Tracts A, B, C and D

18 Section 9: N1/2 Excluding Tracts A and B

19 Section 10

20 Section 15

21 (B) Township 22 North, Range 9 West, Seward Meridian

22 Section 4: NW1/4, S1/2

23 Section 5: N1/2, E1/2SE1/4

24 Section 9: N1/2, SE1/4, E1/2SW1/4

25 Section 10: W1/2SW1/4, SW1/4NW1/4

26 Section 15: W1/2

27 Section 16: E1/2, E1/2W1/2

28 Section 21: E1/2

29 Section 22: W1/2

1 Section 27: W1/2, W1/2SE1/4

2 Section 28: E1/2

3 Section 34

4 (C) Township 23 North, Range 9 West, Seward Meridian

5 Section 3: W1/2W1/2

6 Section 4

7 Section 5: E1/2, E1/2SW1/4

8 Section 7: SE1/4, SE1/4NE1/4, E1/2SW1/4

9 Section 8: S1/2, NE1/4, S1/2NW1/4, NE1/4NW1/4

10 Section 9: N1/2NW1/4, SW1/4NW1/4, NW1/4SW1/4

11 Section 17: W1/2, W1/2E1/2

12 Section 18: E1/2

13 Section 19: N1/2, SE1/4, E1/2SW1/4

14 Section 20: W1/2, SE1/4, S1/2NE1/4, NW1/4NE1/4

15 Section 29

16 Section 30: NE1/4, E1/2NW1/4, NE1/4SW1/4, SE1/4

17 Section 32

18 Section 33: S1/2SW1/4, NW1/4SW1/4

19 (D) Township 24 North, Range 9 West, Seward Meridian

20 Section 28: S1/2SW1/4, SW1/4SE1/4

21 Section 29: NW1/4, S1/2

22 Section 30

23 Section 31: N1/2

24 Section 32: NW1/4, E1/2

25 Section 33

26 Section 34: SW1/4SW1/4

27 (E) Township 24 North, Range 10 West, Seward Meridian

28 Section 3

29 Section 4: E1/2

- 1 Section 10
- 2 Section 11: W1/2, W1/2SE1/4, SW1/4NE1/4
- 3 Section 13: W1/2W1/2
- 4 Section 14
- 5 Section 15: NE1/4
- 6 Section 23: N1/2, SE1/4
- 7 Section 24: W1/2, S1/2SE1/4, NW1/4SE1/4
- 8 Section 25
- 9 Section 36: NE1/4, E1/2NW1/4
- 10 (F) Township 25 North, Range 10 West, Seward Meridian
- 11 Sections 6 - 7
- 12 Section 8: S1/2, NW1/4
- 13 Section 16: W1/2
- 14 Section 17
- 15 Section 18: E1/2
- 16 Section 20: SE1/4, N1/2
- 17 Section 21
- 18 Section 22: W1/2
- 19 Section 25: SW1/4
- 20 Section 26: S1/2
- 21 Section 27
- 22 Section 28: E1/2, NW1/4
- 23 Sections 34 - 35
- 24 Section 36: W1/2
- 25 (G) Township 25 North, Range 11 West, Seward Meridian
- 26 Section 1: E1/2
- 27 (H) Township 26 North, Range 10 West, Seward Meridian
- 28 Section 31
- 29 (I) Township 26 North, Range 11 West, Seward Meridian

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Sections 3 - 4  
Section 9: E1/2  
Section 10  
Section 14: W1/2  
Section 15  
Section 22: E1/2, E1/2NW1/4  
Section 23  
Section 25: S1/2, NW1/4  
Section 26  
Section 27: NE1/4  
Section 35: NE1/4  
Section 36

(J) Township 27 North, Range 11 West, Seward Meridian

Section 6: SW1/4  
Section 7  
Section 8: SW1/4  
Sections 17 - 18  
Section 19: N1/2, SE1/4  
Section 20  
Section 21: SW1/4  
Sections 28 - 29  
Section 30: NE1/4  
Section 32: E1/2  
Section 33  
Section 34: W1/2

(K) Township 27 North, Range 12 West, Seward Meridian

Sections 1 - 3  
Section 10: N1/2, SE1/4  
Sections 11 - 14

1 Section 15: NE1/4

2 Section 23: NE1/4

3 Section 24: N1/2

4 (L) Township 28 North, Range 12 West, Seward Meridian

5 Sections 1 - 5

6 Sections 8 - 12

7 Sections 13 - 17

8 Sections 21 - 24

9 Sections 25 - 28

10 Sections 33 - 36

11 (4) Little Susitna State Recreation River: the water column  
12 of the main stream of the Little Susitna River from mean high water  
13 mark to mean high water mark, from the point at which the river cross-  
14 es the section line dividing Sections 23 and 26 in Township 19 North,  
15 Range 1 East, Seward Meridian downstream to the point at which the  
16 river crosses the section line between Sections 15 and 22 in Township  
17 16 North, Range 5 West, Seward Meridian; the water column of Lake  
18 Creek from mean high water mark to mean high water mark, from the  
19 point at which the creek crosses the section line dividing Sections 10  
20 and 11, Township 18 North, Range 4 West, Seward Meridian downstream to  
21 the confluence with the Little Susitna River; and

22 (A) Township 16 North, Range 5 West, Seward Meridian

23 Section 3

24 Section 4: E1/2NE1/4

25 Section 10: E1/2, E1/2W1/2

26 Section 15: E1/2, E1/2W1/2

27 (B) Township 17 North, Range 4 West, Seward Meridian

28 Section 4

29 Section 6: SW1/4

1 Section 7: W1/2, S1/2SE1/4

2 Section 8: E1/2, S1/2SW1/4

3 Section 17: NW1/4

4 Section 18: N1/2, N1/2SW1/4

5 (C) Township 17 North, Range 5 West, Seward Meridian

6 Sections 12 - 15

7 Section 22

8 Section 23: N1/2N1/2, SW1/4NW1/4, W1/2SW1/4

9 Section 26: W1/2W1/2

10 Section 27

11 Section 34

12 (D) Township 18 North, Range 1 East, Seward Meridian

13 Section 8: NW1/4, SW1/4NE1/4, S1/2NW1/4NE1/4

14 (E) Township 18 North, Range 1 West, Seward Meridian

15 Section 15: N1/2NW1/4

16 Section 16: NW1/4, N1/2NE1/4, SE1/4NE1/4

17 (F) Township 18 North, Range 2 West, Seward Meridian

18 Section 15: NW1/4, N1/2NE1/4, NW1/4SW1/4

19 Section 16: S1/2

20 Section 17: S1/2

21 Section 19: NW1/4, W1/2NE1/4, E1/2SW1/4.

22 (G) Township 18 North, Range 3 West, Seward Meridian

23 Section 19

24 Section 20: SW1/4, W1/2SE1/4, SE1/4NW1/4,  
25 W1/2NW1/4

26 Section 28: N1/2NW1/4, SW1/4NW1/4

27 Section 29: NE1/4

28 Section 30

29 (H) Township 18 North, Range 4 West, Seward Meridian

1 Section 11: SW1/4, SW1/4SE1/4, SW1/4NW1/4

2 Section 13: S1/2, SW1/4NW1/4

3 Section 14

4 Section 24

5 Section 25: N1/2

6 Section 26

7 Section 27: S1/2

8 Section 33: S1/2, S1/2NE1/4

9 Section 34

10 Section 35: NW1/4, W1/2NE1/4

11 (5) Talachulitna State Recreation River

12 (A) Township 16 North, Range 10 West, Seward Meridian

13 Section 6: W1/2

14 Section 7: NW1/4, N1/2SW1/4

15 (B) Township 16 North, Range 11 West, Seward Meridian

16 Section 1: E1/2, SW1/4

17 Section 2: S1/2, NW1/4

18 Section 3

19 Section 11: N1/2, N1/2S1/2

20 Section 12: N1/2, N1/2S1/2

21 (C) Township 17 North, Range 10 West, Seward Meridian

22 Section 6: W1/2, W1/2SE1/4

23 Section 7

24 Sections 18 - 19

25 Sections 30 - 31

26 (D) Township 17 North, Range 11 West, Seward Meridian

27 Section 1: E1/2E1/2

28 Section 3: W1/2

29 Sections 4 - 5

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Section 6: S1/2  
Sections 7 - 8  
Section 9: N1/2, SE1/4  
Section 10  
Section 14: W1/2  
Section 15  
Section 17: NW1/4  
Section 18: N1/2, SW1/4  
Section 19: NW1/4NW1/4  
Section 22  
Section 23: W1/2  
Section 25: E1/2E1/2  
Section 26: W1/2  
Section 27  
Section 34  
Section 35: W1/2

(E) Township 17 North, Range 12 West, Seward Meridian

Section 7: S1/2  
Section 12: S1/2  
Section 13  
Section 14: S1/2  
Section 15: S1/2  
Section 16: S1/2  
Sections 17 - 18  
Section 20: E1/2  
Sections 21 - 23  
Section 24: N1/2, N1/2S1/2

(F) Township 17 North, Range 13 West, Seward Meridian

Section 9: S1/2

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Section 10: S1/2  
Section 11: S1/2  
Section 12: S1/2  
Sections 13 - 16  
Section 24: N1/2

(G) Township 18 North, Range 10 West, Seward Meridian

Section 18: SW1/4SW1/4  
Section 19: NW1/4, S1/2NE1/4, E1/2SW1/4, SE1/4  
Section 20: S1/2, NE1/4  
Section 21  
Section 22: W1/2W1/2  
Section 26: W1/2SW1/4, SW1/4NW1/4  
Section 27: S1/2, S1/2N1/2  
Sections 28 - 29  
Section 30: E1/2, E1/2W1/2  
Section 31: NE1/4, S1/2NW1/4, NE1/4NW1/4,  
SW1/4, W1/2SE1/4  
Section 33: NE1/4NE1/4  
Section 34: N1/2NW1/4

(H) Township 18 North, Range 11 West, Seward Meridian

Section 6: W1/2, W1/2E1/2, E1/2SE1/4  
Section 7  
Section 11: E1/2SE1/4  
Section 12: SW1/4SW1/4  
Section 13: NW1/4, E1/2SW1/4, SE1/4  
Section 16: SW1/4  
Sections 17 - 18  
Section 19: NE1/4  
Section 20: N1/2, SE1/4

1 Section 21: W1/2

2 Section 24: E1/2NE1/4

3 Section 28

4 Section 29: E1/2

5 Section 32: E1/2

6 Section 33

7 Section 36: E1/2SE1/4SE1/4SE1/4

8 (I) Township 18 North, Range 12 West, Seward Meridian  
9 Sections 1 - 2

10 Section 12: N1/2, SE1/4

11 (J) Township 19 North, Range 12 West, Seward Meridian

12 Section 3: N1/2, SW1/4

13 Section 4: E1/2E1/2, W1/2SE1/4, SE1/4SW1/4

14 Section 9: E1/2, SW1/4, E1/2NW1/4, SW1/4NW1/4

15 Section 10: NW1/4

16 Section 15: W1/2SW1/4, SW1/4NW1/4

17 Section 16

18 Section 21

19 Section 22: W1/2W1/2, E1/2SW1/4, SW1/4SE1/4

20 Sections 27 - 28

21 Section 34

22 Section 35: S1/2, NW1/4

23 (K) Township 20 North, Range 11 West, Seward Meridian

24 Section 18: W1/2

25 Section 19: W1/2

26 (L) Township 20 North, Range 12 West, Seward Meridian

27 Section 1

28 Section 2: N1/2

29 Section 11: E1/2

1 Sections 12 - 13

2 Section 14: E1/2

3 Sections 23 - 24

4 Section 25: N1/2

5 Section 26

6 Section 27: E1/2

7 Section 34: S1/2, NE1/4, SE1/4NW1/4

8 Section 35: NW1/4

9 (M) Township 21 North, Range 11 West, Seward Meridian

10 Section 31: W1/2

11 (N) Township 21 North, Range 12 West, Seward Meridian

12 Section 25: SW1/4, SW1/4SE1/4

13 Section 26: E1/2SE1/4, SW1/4SE1/4

14 Section 35: E1/2, SW1/4

15 Section 36

16 (6) Talkeetna State Recreation River: the water column of  
17 the Talkeetna River from mean high water mark to mean high water mark  
18 from the point at which it crosses the line dividing Townships 28 and  
19 29 North, Seward Meridian, downstream to its confluence with the  
20 Susitna River; the water column of Chunilna Creek from mean high water  
21 mark to mean high water mark from the point at which it crosses the  
22 line dividing Townships 27 and 28 North, Seward Meridian, downstream  
23 to its confluence with the Talkeetna River; and

24 (A) Township 26 North, Range 3 West, Seward Meridian

25 Sections 1 - 2: north of the left bank of the  
26 Sheep River

27 Section 3: all land north of the left bank of  
28 the Talkeetna River and Tract B of ASLS 81 -  
29 196

1 Section 4: all land north of the left bank of  
2 the Talkeetna River and Tract A of ASLS 81 -  
3 196

4 Section 5: all land north of the left bank of  
5 the Talkeetna River and Tract C of ASLS 80 -  
6 94

7 Section 6: all land north of the left bank of  
8 the Talkeetna River and Tract A of ASLS  
9 80 - 84

10 (B) Township 26 North, Range 4 West, Seward Meridian

11 Sections 1 - 3: exclusive of ASLS 79 - 149

12 Section 4: E1/2, SW1/4 exclusive of ASLS 79 -  
13 149

14 Section 7: S1/2

15 Section 8: S1/2 exclusive of ASLS 79 - 149

16 Section 9: E1/2, E1/2W1/2

17 Section 17: that portion north of the left bank  
18 of the Talkeetna River

19 Section 18: exclusive of DOT 200642

20 (C) Township 26 North, Range 5 West, Seward Meridian

21 Section 12: E1/2SE1/4

22 Section 13: E1/2, E1/2SW1/4, SW1/4SW1/4

23 Section 23: that portion northeast of the left  
24 bank of the Susitna River

25 Section 24: that portion east of the left bank  
26 of the Susitna River and west of the right  
27 bank of the main channel of the Talkeetna  
28 River (that channel of the river that runs  
29 diagonally through the NE 1/4 and SW1/4 of

1                    Sec. 24)

2                    (D) Township 27 North, Range 1 West, Seward Meridian

3                    Section 1

4                    Section 2: S1/2, NE1/4, S1/2NW1/4

5                    Section 3: S1/2, S1/2N1/2

6                    Section 4: SE1/4

7                    Sections 7 - 10

8                    Section 11: N1/2

9                    Section 12: NW1/4

10                   Section 15: NW1/4

11                   Section 16: N1/2

12                   Section 17: N1/2

13                   Section 18: N1/2

14                   (E) Township 27 North, Range 2 West, Seward Meridian

15                   Section 2: SW1/4

16                   Section 3: S1/2

17                   Section 4: S1/2

18                   Section 5: SE1/4, E1/2SW1/4

19                   Section 7: SE1/4

20                   Sections 8 - 12

21                   Section 13: N1/2

22                   Section 14: N1/2NE1/4

23                   Section 17

24                   Section 18: E1/2, SW1/4

25                   Section 19

26                   Section 20: N1/2, SW1/4

27                   Section 30: W1/2

28                   (F) Township 27 North, Range 3 West, Seward Meridian

29                   Section 24: E1/2

1 Section 25

2 Section 26: SE1/4

3 Section 31: S1/2

4 Section 32: S1/2 exclusive of ASLS 79 - 149

5 Section 33: S1/2S1/2 exclusive of ASLS 79 - 149

6 Section 34: S1/2S1/2 exclusive of ASLS 79 - 149  
7 and ASLS 76 - 138

8 Sections 35 - 36

9 (G) Township 27 North, Range 4 West, Seward Meridian

10 Section 36: S1/2SE1/4 exclusive of ASLS 74 - 77  
11 and ASLS 74 - 78

12 (H) Township 27 North, Range 1 East, Seward Meridian

13 Section 5: NW1/4

14 Section 6

15 (I) Township 28 North, Range 1 West, Seward Meridian

16 Section 36: SE1/4SE1/4

17 (J) Township 28 North, Range 1 East, Seward Meridian

18 Section 2

19 Section 3: SE1/4

20 Section 9: SE1/4

21 Section 10

22 Section 11: NW1/4, W1/2NE1/4, W1/2SW1/4

23 Section 15: N1/2, SW1/4

24 Section 16: E1/2SW1/4

25 Section 20: SE1/4

26 Section 21

27 Section 22: NW1/4

28 Section 28: N1/2, SW1/4

29 Section 29: E1/2, SW1/4, SE1/4NW1/4

1 Section 31: SW1/4, E1/2

2 Section 32

3 Section 33: NW1/4

4 ARTICLE 4. GENERAL PROVISIONS.

5 Sec. 41.23.900. DEFINITION. In this chapter, "commissioner"  
6 means the commissioner of natural resources.

7 \* Sec. 3. Until a management plan has been adopted for a recreation  
8 river corridor under AS 41.23.230(a) as enacted in sec. 2 of this Act,  
9 interim management shall be consistent with AS 41.23.200. The commissioner  
10 of natural resources shall adopt a management plan for each river by  
11 July 1, 1992.

12 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

# Alaska State Legislature

REPRESENTATIVE  
PAT POURCHOT

HOUSE FINANCE COMMITTEE  
COMMITTEE ON OIL AND GAS



House of Representatives

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## MEMORANDUM

DATE: April 6, 1987  
TO: House Finance Committee Members  
FROM: Rep. Pat Pourchot *Pat*  
SUBJECT: Proposed CSHB 93 (Finance), Recreation Rivers

The following three changes were made to CSHB 93 (Res):

Page 2, lines 9 - 19 Paragraph (a) in CSHB 93 (Res)  
COMPATIBLE ACTIVITIES language was deleted and replaced with  
the following:

Sec. 41.23.210 COMPATIBLE ACTIVITIES. (a) The commissioner shall allow the following activities within a recreation river corridor when they are compatible with AS 41.23.200 and consistent with a management plan adopted under AS 41.23.230:

- (1) the use of aircraft, powerboats, snowmachines, all-terrain vehicles, and other motorized transportation,
- (2) the harvest of wood products
- (3) sand and gravel extraction for public use; and
- (4) the construction and operation of recreational facilities.

(b) In addition to the activities identified in (a), the commissioner may allow other activities within a recreation river corridor when they are compatible with AS 41.23.200 and consistent with a management plan adopted under AS 41.23.230.

-- The compatible activities language was rewritten and clarified so that the compatibility test would be easier to apply and so that compatibility would relate directly to the "purposes" of the bill as well as the management plan.

Page 2, line 22, after "AS 31.23.200" insert the following sentence:

When considering the revocation or nonrenewal of an existing permit, the commissioner shall make available for public comment, on request, a preliminary finding and provide the opportunity for public comment, and if appropriate, may hold a public hearing in the communities near the recreation river corridor before determining whether the activity is compatible with AS 41.23.200.

-- This additional paragraph allows for public participation in the process with respect to activities permitted on the effective date of this Act.

Page 6, line 7, after "upon a mineral discovery" insert "validated by the commissioner,"

The subsection would read as follows:

"(c) Except on state-owned land below ordinary high-water or mean high tide, the commissioner may, upon a mineral discovery validated by the commissioner, permit mining leasing under AS 38.05.205 in an area within a recreation river corridor if leasing is allowed under a management plan that has been adopted by the commissioner. The commissioner shall establish appropriate conditions for permits, operating plans, and leases to protect the environment and prevent degradation of the recreational uses of the river."

-- The commissioner may permit mining leasing, with protections, if the management plan allows mining and after the commissioner has determined the discovery would support a legitimate mineral activity and would prevent the use of a mining lease for non-mining purposes such as habitation or residency.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: CS HB 93 (Resources)

Publish Date: \_\_\_\_\_

Revision Date: 3/26/87

Agency Affected: Natural Resources

Title: Recreation Rivers

BRU: Land and Water Management

Sponsor: Cotten

Components: \_\_\_\_\_

Requestor: House Resources Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		96.5	96.5	96.5		
TRAVEL		5.0	5.0	5.0		
CONTRACTUAL		30.0	30.0	30.0		
SUPPLIES		2.0	2.0	2.0		
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		133.5	133.5	133.5		

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		133.5	133.5	133.5		
FEDERAL FUNDS						
OTHER						
TOTAL		133.5	133.5	133.5		

POSITIONS:

FULL-TIME		2	2			
PART-TIME		1	1			
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

All six plans will be developed at the same time and completed over a three year period. New staff will gather planning information and begin the plans with assistance from other planning staff as time is available. (See attached explanation).

Prepared by: Carol Wilson Phone: 465-2400  
Division: Commissioner's Office Date: 3-24-87

Approved by Commissioner: Lennie Boston Gorsuch Date: 3-26-87  
Agency: Natural Resources

Distribution (by preparer):

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CS HB 93

This bill would require the Department of Natural Resources to complete management plans for six rivers by 1992, and hold at least two hearings in municipalities and communities near the recreation river corridors.

The planning team would require a Range 18 Natural Resource Manager I, a Range 12 Natural Resource Technician II, and a half-time Range 8 Clerk Typist III.

## Explanation of funding:

100 - Two and one-half positions.

Natural Resource Manager I	48.2	12 months
Natural Resource Technician II	34.1	12 months
Clerk Typist III	14.2	6 months

200 - Per diem and travel for meetings.

300 - Travel and printing expenses for the plans.

400 - Supplies and commodities for staff.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version: HB93  
Publish Date: 1/30/87

Revision Date: \_\_\_\_\_  
Title: Establishing recreational  
rivers

Agency Affected: Fish and Game  
BRU: Sport Fish, Habitat

Sponsor: Cotten, Pourchot, Rieger  
Requestor: & Gruenberg

Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

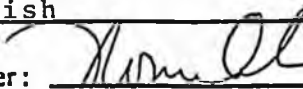
**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Lou Bandirola  
Division: Sport Fish

Phone: 465-4180  
Date: 2/6/87

Approved by Commissioner:   
Agency: Fish and Game

Date: 2/11/87

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

HE 93



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER HB 93	SPONSOR Representative Cotten
DEPARTMENT POSITION The department strongly supports the intent of this bill.			
PREPARED BY Carl M. Yanagawa	DATE 2/16/87	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 2/11/87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Alaska Department of Natural Resources Matanuska-Susitna Borough	CONSTITUENT GROUP(S) AFFECTED BY BILL Sportsmen, trappers, miners, loggers, recreationalists
ORGANIZATIONAL SUPPORT FOR BILL Sportsman's groups, boaters, conservationists	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT  
The bill would establish a recreational river system for the state and include six highly valuable recreational rivers in southcentral Alaska. The Susitna Area Plan identified and proposed these areas for legislative designation. Primary uses would include sport hunting, fishing, trapping, protection and maintenance of fish and wildlife habitat, traditional recreational uses, and natural integrity of the river. Uses allowed if found compatible would include timber harvest, use of motorized vehicles, sand and gravel  
(continued next page)

ANALYSIS OF BILL/PROGRAM EFFECTS  
The bill would retain public lands along and including the bed of rivers and streams important for the fish and wildlife production and use. The bill would also require that all uses be compatible with the primary uses which are fish and wildlife production and related uses. The enactment of this legislation would establish long term management for the rivers designated; management plans would focus attention on resources issues, the need for land acquisition, facility development, access development, research needs, resource enhancement needs, and long term recreational use objectives. The requirement for management planning would also ensure public involvement concerning the management of the rivers. Establishing the recreational rivers at this time will avoid future, costly buy-back of shorelands and allow the state to manage the river as a continuous resource producing system.

AMENDMENTS PROPOSED  
None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Bill Analysis  
(Supplemental Sheet)  
Page 2 of 2

<u>Department</u>	<u>Sponsor</u>	<u>Bill Number</u>
ADF&G	Representative Cotten	HB 93

Background/Legislative Intent (continued)

extraction, and other compatible uses. Prohibited uses would include new mineral entry and leasing. The plan would require the development of a management plan by 1992; an instream flow reservation would also be required within three years of the effective date. The public comment received on the Susitna Area Plan strongly supported the legislative designation of the rivers.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version : HR 93

Publish Date : \_\_\_\_\_

Revision Date: February 11, 1987  
Title: Recreation Rivers

Agency Affected: Natural Resources  
BRU: Land and Water Management

Sponsor: Rep. Cotten  
Requestor: House Resources Committee

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		86.5	86.5			
TRAVEL		2.0	2.0			
CONTRACTUAL		74.7	74.7	66.7		
SUPPLIES		3.0	3.0			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		166.2	166.2	66.7		
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		166.2	166.2	66.7		
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		166.2	166.2	66.7		

**POSITIONS:**

FULL-TIME		2	2			
PART-TIME		1	1			
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

See attachment

Prepared by: Tom Hawkins  
Division: Land and Water Management

Phone: 465-2400  
Date: 2/11/87

Approved by Commissioner: Thomas D. Amundson, Deputy  
Agency: Natural Resources

Date: 2/11/87

Distribution (by preparer):

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

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93

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 93

This bill would require the Department of Natural Resources to do instream flow studies and reservations, and produce management plans for six river areas. The instream flow reservations are to be completed within three years; the management plans are to be completed in two stages, 1989 and 1992. We hope to have the instream flow studies and reservations completed by a contractor over a three year period, for a total cost of approximately \$200,000. The planning team would require a Range 16 Natural Resource Officer II, a Range 12B Natural Resource Technician II, and a half-time Range 8 Clerk Typist III. The team would need approximately two years to complete the plans.

- 100 - Two and one-half positions for two years.
- 200 - Per diem and travel for meetings.
- 300 - Travel and printing expenses for the plans.
- 400 - Supplies and commodities for staff.

5-0230B

Bradley

4/1/87

Original sponsors: Cotten, Pourchot,  
Rieger, et al.

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 93 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing six recreation rivers; and pro-  
7 viding for an effective date."

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

9 \* Section 1. FINDINGS. The legislature finds that the special values  
10 and uses of certain river corridors in Southcentral Alaska justify their  
11 retention for public use. The river corridors can support many public  
12 uses, including some that will enhance the local economy as well as improve  
13 access to retained public land. The designation of these corridors as  
14 recreation rivers recognizes the value of the described land and is not  
15 intended to become an undue impediment to the use and enjoyment of adjacent  
16 land or to the development of access within, across, and around the rivers.

17 \* Sec. 2. AS 41.23 is amended by adding new sections to read:

18 ARTICLE 3. RECREATION RIVERS.

19 Sec. 41.23.200. PURPOSES. The purpose of AS 41.23.200 - 41.23.-  
20 290 is to establish as recreation rivers the land and water now owned  
21 by the state and the land and water acquired in the future by the  
22 state that lies within the boundaries described in AS 41.23.290(b).  
23 The primary purposes for the establishment of the recreation rivers  
24 are

25 (1) the management, protection, and maintenance of the fish  
26 and wildlife populations and habitat on a sustained-yield basis;

27 (2) conservation of the scenic and natural integrity of the  
28 recreation river corridor and continued recreational and economic use  
29 and enjoyment by the public including hunting, fishing, trapping,

1 boating, hiking, snowmachining, skiing, dog mushing, and wildlife  
2 viewing;

3 (3) management of upland activities within the recreation  
4 river corridor for the protection and maintenance of water quality and  
5 stream flow; and

6 (4) accommodation of access for recreation, tourism, and  
7 other compatible recreation-oriented economic uses of the river  
8 corridor.

9 Sec. 41.23.210. COMPATIBLE ACTIVITIES. (a) The commissioner  
10 shall allow and may regulate compatible activities within a recreation  
11 river corridor as allowed in a management plan adopted under  
12 AS 41.23.230, including, but not limited to

13 (1) use of aircraft, powerboats, snowmachines, all-terrain  
14 vehicles, and other motorized transportation;

15 (2) harvest of wood products;

16 (3) sand and gravel extraction for public use; and

17 (4) public use facilities.

18 (b) The commissioner shall allow the continuation of commercial  
19 or private activities occurring on the effective date of this Act  
20 under a valid permit for use of state-owned land within the boundaries  
21 of a recreation river corridor so long as the commissioner determines  
22 that the activity is compatible with AS 41.23.200.

23 Sec. 41.23.220. GENERAL MANAGEMENT OF RECREATION RIVER CORRI-  
24 DORS. (a) The state-owned land and water within the area established  
25 as a recreation river corridor under AS 41.23.290(b) is assigned to  
26 the commissioner for management consistent with the purposes of  
27 AS 41.23.200 - 41.23.290.

28 (b) The commissioner shall reserve to the state under AS 46.15.-  
29 145 an instream flow or level for the water in the rivers described in

1 AS 41.23.290(b) that is adequate to achieve the purposes of AS 41.23.-  
2 200.

3 (c) The provisions of AS 41.23.200 - 41.23.290 do not affect the  
4 authority of

5 (1) the Department of Fish and Game, the Board of Fisher-  
6 ies, the Board of Game, or the Guide Licensing and Control Board under  
7 AS 08.54, AS 16, or AS 41.99.010;

8 (2) the Department of Environmental Conservation under  
9 AS 46.03; or

10 (3) state agencies and municipalities under AS 44.19.145-  
11 (a)(11) and AS 46.40.100.

12 (d) The commissioner may not restrict the use of weapons, in-  
13 cluding firearms, within a recreation river corridor except in sites  
14 of high public use such as picnic areas, boat ramps, camping grounds,  
15 and parking areas when the commissioner determines that the use of  
16 weapons constitutes a threat to public safety. Except as provided in  
17 this subsection, the commissioner may not restrict fishing, hunting,  
18 or trapping within a recreation river corridor.

19 (e) The commissioner may not regulate under AS 41.23.200 -  
20 41.23.290 an activity that occurs on a river that has not been desig-  
21 nated as a recreational river under AS 41.23.290(b). Where the water  
22 of a river that has been designated under AS 41.23.290(b) flows into  
23 the water of a larger river that has not been designated under AS 41.-  
24 23.290(b), the authority of the commissioner under AS 41.23.200 -  
25 41.23.290 ceases where the water joins the larger river and the com-  
26 missioner may not regulate activities on the larger undesignated river  
27 under AS 41.23.200 - 41.23.290.

28 Sec. 41.23.230. MANAGEMENT PLAN. (a) After consultation with  
29 local authorities, representatives of groups who will use the

1 recreation rivers, and state agencies, including the commissioner of  
2 fish and game, the commissioner shall adopt a management plan for a  
3 recreation river corridor. During the planning process the commis-  
4 sioner shall comply with the notice requirements of AS 38.05.945 and  
5 shall hold at least two public hearings in municipalities and commu-  
6 nities near the recreation river corridor. The management plan shall  
7 establish long-range guidelines and management practices consistent  
8 with AS 41.23.200 to

9 (1) protect, maintain, or enhance the fish and wildlife  
10 habitat and the free-flowing nature of the river;

11 (2) identify special recreational values and manage the  
12 level of intensity and types of recreational uses;

13 (3) designate compatible land uses and management guide-  
14 lines for associated development;

15 (4) manage commercial activities or development, including  
16 recreational services such as guiding;

17 (5) provide for necessary public services, such as trans-  
18 portation and utility corridors, public safety, and law enforcement;

19 (6) allow reasonable and necessary access to public land  
20 and private inholdings, including municipal land that is offered for  
21 sale or lease, and to land beyond the recreation river corridor;

22 (7) establish criteria and timelines to review future  
23 proposed uses for compatibility with AS 41.23.200;

24 (8) establish guidelines and setback restrictions for an  
25 activity occurring under AS 41.23.210, including mining leasing and  
26 oil and gas leasing under AS 41.23.260(b) - (d).

27 (b) The commissioner shall adopt regulations necessary to imple-  
28 ment the management plan. The commissioner may adopt regulations  
29 before a management plan is adopted.

1 (c) A management plan adopted by the commissioner under (a) of  
2 this section shall be submitted to the legislature for review within  
3 the first 10 days of the first regular session of the legislature to  
4 convene after its adoption by the commissioner.

5 Sec. 41.23.240. MANAGEMENT OF MUNICIPAL LAND. If a municipality  
6 commits land for inclusion in a recreation river corridor established  
7 under AS 41.23.290(b), the commissioner shall obtain the concurrence  
8 of the municipality to the management plan proposed under AS 41.23.230  
9 as it applies to municipal land. The commissioner shall cooperate, at  
10 the request of a municipality, in planning for municipal land adjacent  
11 to a recreation river corridor.

12 Sec. 41.23.250. ACQUISITION OF ADDITIONAL LAND. (a) The com-  
13 missioner may acquire in the name of the state land that is adjacent  
14 to or located within the land described in AS 41.23.290(b) by pur-  
15 chase, lease, gift, or exchange for inclusion within a recreation  
16 river corridor.

17 (b) The commissioner may not acquire land for inclusion in a  
18 recreation river corridor by eminent domain.

19 Sec. 41.23.260. APPLICATION OF PUBLIC LAND LAWS. (a) Except to  
20 the extent that a provision is inconsistent with a provision of  
21 AS 41.23.200 - 41.23.290, the provisions of AS 38.04, AS 38.05,  
22 AS 38.35, and AS 38.95 apply to land described in AS 41.23.290(b).

23 (b) Except for land within the Talkeetna State Recreation River  
24 north and east of Iron Creek, the state-owned land and water within a  
25 recreation river corridor described in AS 41.23.290(b) is closed to  
26 mineral entry by location under AS 38.05.195 and to disposal of leas-  
27 able minerals under AS 38.05.150 - 38.05.175.

28 (c) Except on state-owned land below ordinary high-water or mean  
29 high tide, the commissioner may, upon a mineral discovery, permit

1 mining leasing under AS 38.05.205 in an area within a recreation river  
2 corridor if leasing is allowed under a management plan that has been  
3 adopted by the commissioner. The commissioner shall establish appro-  
4 priate conditions for permits, operating plans, and leases to protect  
5 the environment and prevent degradation of the recreational uses of  
6 the river.

7 (d) The state-owned land and water within a recreation river  
8 corridor is available for oil and gas leasing subject to conditions in  
9 an adopted management plan.

10 (e) To enhance public use and enjoyment of a recreation river  
11 corridor under a management plan adopted under AS 41.23.230, the  
12 commissioner may provide for the construction and operation of commer-  
13 cial facilities such as lodges, campgrounds, and boat launches by

14 (1) leasing land including competitive leasing to a pre-  
15 qualified bidder under AS 38.05.070; and

16 (2) contracting for the construction and operation of a  
17 facility under AS 36.30.

18 (f) The commissioner of administration shall separately account  
19 for funds collected under this section and deposited in the general  
20 fund. The annual estimated balance in the account may be appropriated  
21 by the legislature to the department to carry out the purposes of this  
22 chapter.

23 Sec. 41.23.270. COOPERATIVE MANAGEMENT AGREEMENTS. (a) The  
24 commissioner may enter into a cooperative management agreement for the  
25 management of land and water described in AS 41.23.290(b) or of other  
26 adjacent land and water with a federal agency, a municipality of the  
27 state, another agency of the state, or a private landowner.

28 (b) The commissioner may transfer the management of a specific  
29 site within a recreation river corridor described in AS 41.23.290(b)

1 to a state agency to assist in the development of a facility or to  
2 carry out a program authorized by law.

3 (c) The commissioner may not manage a recreation river corridor  
4 described in AS 41.23.290(b) as a unit of the state park system. The  
5 commissioner may assign management of a recreation facility or site  
6 such as a campground or a boat launch to the division of parks and may  
7 adopt regulations allowing the division of parks to manage recreation  
8 activities in a recreation river corridor.

9 Sec. 41.23.280. ESTABLISHMENT OF RECREATION RIVER CORRIDORS.  
10 State-owned land and water may be established as a recreation river  
11 corridor only by the legislature.

12 Sec. 41.23.290. DESIGNATED RIVERS. (a) Subject to valid exist-  
13 ing rights, the state-owned land and water within one-half mile of  
14 either ordinary high water or mean high tide on a recreation river  
15 designated in (b) of this section that is established as a recreation  
16 river corridor under (b) of this section is reserved as a special  
17 purpose area under art. VIII, sec. 7, Constitution of the State of  
18 Alaska and shall be retained by the state.

19 (b) The general grant land, acquired land, and the water pres-  
20 ently owned by the state and all land and water acquired by the state  
21 in the future, including shore and submerged land and land redesi-  
22 gnated after the effective date of this Act as general grant land, that  
23 lie within the following described parcels are established as recrea-  
24 tion rivers and shall be managed under AS 41.23.200 - 41.23.290:

25 (1) Alexander Creek State Recreation River

26 (A) Township 16 North, Range 7 West, Seward Meridian  
27 Sections 6 - 7

28 Sections 18 - 19

29 (B) Township 17 North, Range 7 West, Seward Meridian