

**ALASKA LEGISLATURE**

**993**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**1993-1994**

A M E N D M E N T

*Revised* OBJECTED  
FAILED

OFFERED IN THE SENATE  
TO: CSHB 199(O&G) am

BY SENATOR KERTTULA *3-2*  
*withdrawn*

Page 8, following line 20:

Insert a new subsection to read:

"(i) An exploration license to be issued under (g) or (h) of this section takes effect only if the exploration license is approved by the governor."

*revised by Atty General  
within 30 days  
of the time rec'd.*

SENATE FINANCE  
COMMITTEE

Amendment Number: (2)  
Bill Number: HB 199  
Sponsor: Kerttula Date: 4/9/94  
Logged In By: km

*Kelly + Kerttula  
supported*

*Reece, Shantz, Reizer  
opposed*

AMENDMENT

~~ADOPTED~~

OFFERED IN THE SENATE

BY SENATOR SHARP

TO: Draft SCS CSHB 199(FIN)

Page 4, line 2:

Delete "20,000 acres"

Insert "10,000 acres"

SENATE FINANCE  
COMMITTEE (3)  
Amendment Number: \_\_\_\_\_  
Bill Number: NS 199  
Sponsor: SHARP Date: 4/11/94  
Logged In By: RZ

~~ADOPTED~~

Amendment HB 199

Page 9, line <sup>12</sup>~~13~~ delete "In unproven areas the commissioner may offer additional incentives, including a reduction of royalty to a minimum of five percent in the case of oil and gas, and other terms in and granting a permit or lease for exploration and development whenever it appears to be in the best interests of the state to do so."

Insert [in unproven areas the commissioner may offer additional incentives, including a reduction of royalty to a minimum of five percent in the case of oil and gas, and other terms in and granting a permit or lease for exploration and development whenever it appears to be in the best interests of the state to do so.]

Amend # 4

SENATE AMENDMENT

BY Rieger ~~\_\_\_\_\_~~

To: SCS CS HR 199 (FIN) SENATE BILL No. ADOPTED

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 4      LINE: 6

after "expenditures;" insert:

"the specified work commitment may include  
a provision which adjusts the dollar amount  
for inflation;"

Back-up

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

18 1993

March 5, 1993

*The Honorable Ramona L. Barnes  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801 1182*

*Dear Speaker Barnes:*

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing oil and gas exploration licenses for tracts of state land up to 500,000 acres in size and providing for subsequent leasing of some or all of the acreage subject to the license.*

*The bill is designed to encourage the exploration and development of areas within the state with undetermined oil and gas potential. In contrast to the provisions of the state's existing competitive oil and gas leasing program, the bill would allow the state to issue licenses covering relatively large tracts to licensees based upon their commitment to perform certain exploration programs, the monetary value of which has been predetermined. The bill is not intended to replace the state's competitive leasing program; rather, it is intended to provide an effective alternative to encourage exploration in those areas that traditionally have not attracted the interest of explorationists under the state's current leasing regime.*

*Under the bill, either the state or a prospective licensee could nominate an area of unidentified oil and gas potential, consisting of reasonably compact and contiguous acreage that should be subject to a license. The commissioner of natural resources would be authorized to impose reasonable work commitments on the licensee with respect to the license area. Subsequent to the successful completion of the predetermined work commitment, the licensee could convert portions or all of the*

~~ORIGINAL~~

COMMITTEE COPY

The Honorable Ramona L. Barnes

March 5, 1993

Page 2

46 199

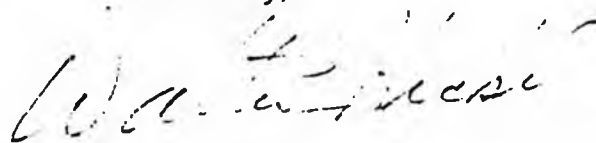
acreage to one or more leases, each not to exceed 30,000 acres in size. The imposition of the required work commitment and the requirement to pay an annual rental on acreage subject to lease are together intended to discourage warehousing of acreage that the licensee does not intend to explore or develop. The commissioner is authorized to include reasonable conditions and obligations in the leases arising from conversion of licenses.

A license proposal would require public notice and the opportunity for competing proposals by other prospective licensees as well as the opportunity for public comment. The commissioner of natural resources would be required to make a finding that issuing a license is in the best interest of the state.

The exploration and potential development of Alaska's remote and underexplored basins will be further encouraged by the adoption of the licensing and leasing methodology contained in this bill.

I urge your prompt and favorable consideration of this bill.

Sincerely,



Walter J. Hickel  
Governor

SENATE BILL NO. 150 by the Senate Rules Committee by request of the Governor, entitled:

"An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date."

was read the first time and referred to the Senate Special Committee on Oil and Gas, Judiciary and Finance Committees.

Zero fiscal notes published today from Department of Revenue and Department of Natural Resources.

Governor's transmittal letter dated March 5:

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing oil and gas exploration licenses for tracts of state land up to 500,000 acres in size and providing for subsequent leasing of some or all of the acreage subject to the license.

The bill is designed to encourage the exploration and development of areas within the state with undetermined oil and gas potential. In contrast to the provisions of the state's existing competitive oil and gas leasing program, the bill would allow the state to issue licenses covering relatively large tracts to licensees based upon their commitment to perform certain exploration programs, the monetary value of which has been predetermined. The bill is not intended to replace the state's competitive leasing program; rather, it is intended to provide an effective alternative to encourage exploration in those areas that traditionally have not attracted the interest of explorationists under the state's current leasing regime.

Under the bill, either the state or a prospective licensee could nominate an area of unidentified oil and gas potential, consisting of reasonably compact and contiguous acreage that should be subject to a license. The commissioner of natural resources would be authorized to impose reasonable work commitments on the licensee with respect to the license area. Subsequent to the successful completion of the predetermined work commitment, the licensee could convert portions or all of the acreage to one or more leases, each not to exceed 30,000 acres in size. The imposition of the required work commitment and the requirement to pay an annual rental on acreage subject to lease are together intended to discourage warehousing of acreage that the licensee does not intend to explore or develop. The commissioner is authorized to include reasonable conditions and obligations in the leases arising from conversion of licenses.

A license proposal would require public notice and the opportunity for competing proposals by other prospective licensees as well as the opportunity for public comment. The commissioner

of natural resources would be required to make a finding that issuing a license is in the best interest of the state.

The exploration and potential development of Alaskas remote and underexplored basins will be further encouraged by the adoption of the licensing and leasing methodology contained in this bill.

I urge your prompt and favorable consideration of this bill.

Sincerely,  
/s/  
Walter J. Hickel  
Governor

April 14, 1993  
SB 150

SENATE JOURNAL

p. 1356

The Senate Special Committee on Oil and Gas considered SENATE BILL NO. 150 "An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 150(O&G), entitled:

"An Act relating to oil and gas exploration licenses and to oil and gas leases in certain areas of the state, and to the proof of financial responsibility required for operation of onshore facilities for the production of crude oil and associated hydrocarbons and for exploration for oil and gas and related hydrocarbons; and providing for an effective date."

Signing do pass: Senator Lerman, Chair, Senator Halford. Signing no recommendation: Senators Salo, Sharp.

Previous zero fiscal notes apply to the committee substitute.

SENATE BILL NO. 150 was referred to the Judiciary Committee.

April 15, 1993  
SB 150

SENATE JOURNAL

p. 1417

Senator Taylor, Chair, moved and asked unanimous consent that the Judiciary Committee referral be waived on SENATE BILL NO. 150 "An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date." Senator Duncan objected.

The question being: "Shall the Judiciary Committee referral be waived on SENATE BILL NO. 150?" The roll was taken with the following result:

Waive SB 150 from Judiciary Committee?

YEAS: 10 NAYS: 9 EXCUSED: 0 ABSENT: 1

Yeas: Halford, Jacko, Kelly, Leman, Miller, Pearce, Phillips, Rieger, Sharp, Taylor

Nays: Adams, Donley, Duncan, Ellis, Kerttula, Lincoln, Little, Salo, Zharoff

Absent: Frank

and so, the motion failed.

April 15, 1993

SENATE JOURNAL

p. 1419

**SB 150**

Senator Taylor moved and asked unanimous consent that the Judiciary Committee referral be waived on SENATE BILL NO. 150 "An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date." Senator Duncan objected.

The question being: "Shall the Judiciary Committee referral be waived on SENATE BILL NO. 150?" The roll was taken with the following result:

Waive SB 150 from Judiciary Committee?

**YEAS: 11 NAYS: 9 EXCUSED: 0 ABSENT: 0**

Yeas: Frank, Halford, Jacko, Kelly, Leman, Miller, Pearce, Phillips, Rieger, Sharp, Taylor

Nays: Adams, Donley, Duncan, Ellis, Kerttula, Lincoln, Little, Salo, Zharoff

and so, the Judiciary Committee referral was waived.

SENATE BILL NO. 150 was referred to the Finance Committee.

April 28, 1993

SENATE JOURNAL

p. 1250

**SB 150**

The Finance Committee considered SENATE BILL NO. 150 "An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 150(FIN), entitled:

"An Act relating to the exploration and production of oil and gas and related hydrocarbons, to oil and gas exploration licenses and to oil and gas leases in certain areas of the state, and to the proof of financial responsibility required for the operation of facilities for the production of crude oil and associated hydrocarbons and facilities for exploration for oil and gas and related hydrocarbons; and extending the period in which a sale on the five- year oil and gas lease sale schedule may be delayed; and providing for an effective date."

Signing do pass: Senator Pearce, Cochair. Signing no recommendation: Senator Frank, Cochair, Senators Kelly, Rieger, Sharp. Signing do not pass: Senator Kerttula.

Previous zero fiscal notes apply to the committee substitute.

SENATE BILL NO. 150 was referred to the Rules Committee.

April 29, 1993 SENATE JOURNAL p. 1902  
SB 150

The Rules Committee considered SENATE BILL NO. 150 "An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date." Signing to calendar: Senator Jacko, Chair, Senators Halford, Rieger. Signing no recommendation: Senator Little.

SENATE BILL NO. 150 is on today's calendar.

April 29, 1993 SENATE JOURNAL p. 1908  
SB 150

SENATE BILL NO. 150 "An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date" was read the second time.

Senator Pearce moved and asked unanimous consent for the adoption of the Finance Committee Substitute offered on page 1860. Senator Duncan objected.

Senator Taylor moved and asked unanimous consent that SENATE BILL NO. 150 be placed at the bottom of Second Reading of Bills. Without objection, it was so ordered.

April 29, 1993 SENATE JOURNAL p. 1941  
SB 150

SENATE BILL NO. 150 "An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date" which had been placed at the bottom of Second Reading of Bills was before the Senate at this time with a motion pending to adopt the Finance Committee Substitute.

April 29, 1993 SENATE JOURNAL p. 1942  
SB 150

Senator Ellis maintained his objection to the adoption of the Finance Committee Substitute.

The question being: "Shall the Finance Committee Substitute be adopted?" The roll was taken with the following result:

SB 150  
Adopt Finance CS?

YEAS: 11 NAYS: 9 EXCUSED: 0 ABSENT: 0

Yeas: Frank, Halford, Jacko, Kelly, Leman, Miller, Pearce, Phillips, Rieger, Sharp, Taylor

Nays: Adams, Donley, Duncan, Ellis, Kerttula, Lincoln, Little, Salo, Zharoff

and so, CS FOR SENATE BILL NO. 150(FIN) "An Act relating to the exploration and production of oil and gas and related hydrocarbons, to oil and gas exploration licenses and to oil and gas leases in certain areas of the state, and to the proof of financial responsibility required for the operation of facilities for the production of crude oil and associated hydrocarbons and facilities for exploration for oil and gas and related hydrocarbons; and extending the period in which a sale on the five-year oil and gas lease sale schedule may be delayed; and providing for an effective date" was adopted.

CS FOR SENATE BILL NO. 150(FIN) was read the second time.

Fiscal note for the Finance committee substitute published today from Department of Natural Resources.

April 29, 1993  
SB 150

SENATE JOURNAL

p. 1943

Senators Little, Kerttula offered Amendment No. 1:

Page 12, line 5:

Delete "1,000,000"  
Insert "5,000,000"

Senator Little moved for the adoption of Amendment No. 1. Senator Taylor objected.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

CSSB 150(FIN)  
Second Reading  
Amendment No. 1

YEAS: 13 NAYS: 7 EXCUSED: 0 ABSENT: 0

Yeas: Adams, Donley, Duncan, Ellis, Halford, Kerttula, Leman, Lincoln, Little, Pearce, Rieger, Salo, Zharoff

Nays: Frank, Jacko, Kelly, Miller, Phillips, Sharp, Taylor

and so, Amendment No. 1 was adopted.

Senator Taylor moved and asked unanimous consent that CS FOR SENATE BILL NO. 150(FIN) am be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 150(FIN) am was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 150(FIN) am "An Act relating to the exploration and production of oil and gas and related hydrocarbons, to oil and gas exploration licenses and to oil and gas leases in certain areas of the state, and to the proof of

April 29, 1993

SENATE JOURNAL

p. 1944

**SB 150**

financial responsibility required for the operation of facilities for the production of crude oil and associated hydrocarbons and facilities for exploration for oil and gas and related hydrocarbons; and extending g the period in which a sale on the five-year oil and gas lease sale schedule may be delayed; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

CSSB 150(FIN) am

Third Reading - Final Passage

Effective Date

**YEAS: 9 NAYS: 11 EXCUSED: 0 ABSENT: 0**

Yeas: Donley, Halford, Jacko, Lerman, Pearce, Phillips, Rieger, Salo, Taylor

Nays: Adams, Duncan, Ellis, Frank, Kelly, Kerttula, Lincoln, Little, Miller, Sharp, Zharoff

and so, CS FOR SENATE BILL NO. 150(FIN) am failed.

Senator Salo gave notice of reconsideration.

April 30, 1993

SENATE JOURNAL

p. 1985

**SB 150**

Senator Taylor requested that the reconsideration on CS FOR SENATE BILL NO. 150(FIN) am be taken up.

April 30, 1993

SENATE JOURNAL

p. 1985

**SB 150**

CS FOR SENATE BILL NO. 150(FIN) am "An Act relating to the exploration and production of oil and gas and related hydrocarbons, to oil and gas exploration licenses and to oil and gas leases in certain areas of the state, and to the proof of financial responsibility required for the operation of facilities for the production of crude oil and associated hydrocarbons and facilities for exploration for oil and gas and related hydrocarbons; and extending the period in which a sale on the five-year oil and gas lease sale schedule may be delayed; and providing for an effective



certain areas of the state, and to the proof of financial responsibility required for the operation of facilities for the production of crude oil and associated hydrocarbons and facilities for exploration for oil and gas and related hydrocarbons; and extending the period in which a sale on the five-year oil and gas lease sale schedule may be delayed; and providing for an effective date."

CS FOR SENATE BILL NO. 150(FIN) am was re-referred to the Senate Special Committee on Oil and Gas.

JPC 4-11-94  
Boyd  
HB 199

WALTER J. HICKEL, GOVERNOR

**DEPT. OF NATURAL RESOURCES**

P.O. BOX 107034  
ANCHORAGE, ALASKA 99510-7034  
PHONE: (907) 762-2553

**DIVISION OF OIL AND GAS**

March 29, 1994

The Honorable Drue Pearce  
Alaska State Legislature  
State Capitol, Room 508  
Juneau, Alaska 99801-1182

Dear Senator Pearce:

Enclosed you will find a table that compares three versions of the Exploration Licensing legislation. The first version (left column) is the original version introduced by the Governor. The middle column describes the version currently in the Senate; this is the way the bill was left at the end of last session. The third column is the version that was just passed by the House. It represents the changes made as a result of a number of meetings between DNR and industry held between sessions last Summer and Fall. In addition, this version of the bill contains three amendments adopted on the House floor.

At the end of last session it was quite clear that changes needed to be made in order to have legislation that would be supported by all parties involved. Between sessions DNR met with eighteen companies of all sizes—from one-person entrepreneurs to the largest oil companies—and everyone in-between. The purpose of the DNR-industry meetings was to reach consensus on Exploration Licensing. Although the underlying concepts of Exploration Licensing remain intact, there have been some substantial modifications to specific aspects of the existing Senate bill. We now have a bill that satisfies both the state and industry. Major changes that came from these meetings involve bonding requirements and relinquishment provisions (as summarized in the attached table).

The amendments adopted in the House are also summarized in the table. In short, the amendments provide for:

- an extension of AS 38.05.140(f) so that surface entry for licensing is not permitted in a portion of Bristol Bay. Surface entry on leases is currently not allowed in this area unless approved by the Legislature
- public notice for certain documents
- A "cap" of 2 million acres on the amount of land one company may have under license at one time.

Industry and DNR support these amendments.

Two items that were added to the bill last session have now been removed and have been introduced as separate, stand-alone legislation. These are also shown in the table. The first item is a reduction of bonding requirements for onshore exploration facilities (now SB-239). The second is a modification of Title 38 that eliminates the so-called "90 day provision" on holding lease sales (now HB 322). These items were removed to keep the bill strictly focused on Exploration Licensing.

The Exploration Licensing Legislation passed in the House and currently pending in the Senate will give companies the opportunity to explore lands which have drawn little or no interest under the current leasing system. High interest lands on the North slope and in Cook Inlet are off-limits to licensing and will continue to be leased under the existing 5 Year Oil and Gas Leasing Program. Exploration Licensing does not replace the 5 Year Oil and Gas Leasing program rather it augments the current plan.

Under Exploration Licensing parcels of up to 500,000 acres will be made available for licensing. This amount of acreage (and more) is routinely offered in lease sales under the current 5 Year Leasing Program. Exploration Licensing, unlike the current leasing program, requires work to be done. In fact, the license is awarded to the company that promises to do the most work. This work commitment is secured with a bond that is renewed annually. If the company fails to perform 25% of the work commitment within four years it forfeits its license and that years bond. Exploration Licensing is designed to get the maximum amount of money into exploration—with the hope that increased exploration will lead to new oil and gas discoveries. New discoveries mean more royalties and taxes—new income—to offset the shrinking revenues as Prudhoe Bay declines.

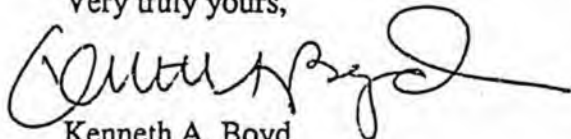
All of the environmental safeguards that are part of current statute apply to Exploration Licensing. A Best Interest Finding is done before the issuance of the license, and all the statutory requirements for permits and other license/lease-related activities remain in place.

History shows that oil and gas exploration means money and jobs, increasing the opportunity to explore and develop new areas will mean more money and more jobs. Jobs for all sorts of people—from geologists to camp cooks. These jobs will be created in geographically diverse areas of the state.

Alaska is at a crossroads of opportunity in the oil and gas business. Alaska must compete in an increasingly international arena for exploration dollars, and competition for these dollars is intense. Exploration Licensing will help keep Alaska firmly in the forefront in the competition for exploration expenditures.

Please call with questions or comments.

Very truly yours,



Kenneth A. Boyd  
Deputy Director

29-Mar-94

**EXPLORATION LICENSING**

**Senate Bill No. 150**

**CSSB150 (Fin)**

**Senate CS for  
CS HB-199 (Fin)/Q**

<b>Geographical Restrictions</b>	To state land with insufficient geological or geophysical information, or for unleased state land previously available for lease.	Land north of the Umiat Baseline; pending lease sales 57, 77, 80, 87 & 88, and portions of the Cook Inlet area are excluded.	Land north of the Umiat Baseline; pending lease sales 80, 87 & 88, and portions of the Cook Inlet area are excluded. AS 39.05.140(f) amended to restrict surface entry in Bristol Bay Fisheries Reserve.
<b>Relinquishment</b>	No relinquishment provision.	Relinquish 25 % of the license area at end of 4th year, plus an additional 10 % of the original area each year thereafter.	If 50 % of the work commitment is completed by the end of the 4th year, no relinquishment is required. Otherwise, 25% of the original acreage must be surrendered with an additional 10% of the remaining acreage each year - to a maximum of 50% total relinquishment.
<b>Bonding</b>	Bonding for the total work commitment; forfeit difference between work commitment and completed work if there is a default.	Annual bond equal to 10 % of that years work commitment.	Calculated annually as the entire work commitment expressed in dollars, less cumulative expenditures, divided by the number of years remaining in the license.
<b>Competitive Bidding</b>	Oral outcry auction; awarded to the highest work commitment expressed in dollars.	Competitive sealed bids; award based upon highest dollar bid in terms of work commitment. Allowed expenditures are defined.	Competitive sealed bids; award based upon highest dollar bid in terms of work commitment. Allowed expenditures are defined.

<b>Acreage Chargeability</b>	License area not more than 500,000 acres; All or part converted to 30,000 acre lease tracts upon fulfillment of work commitment Not subject to acreage limitations at AS 38.05.140(c).	License area not more than 500,000 acres; All or part converted to standard lease tracts upon fulfillment of work commitment Subject to acreage limitations at AS 38.05.140(c).	License not less than 20,000 nor more than 500,000 acres. All or part may be converted to standard lease tracts upon fulfillment of work commitment. Subject to acreage limitations at AS 38.05.140(c).
<b>Acreage Restrictions</b>	Not addressed.	Not addressed.	2,000,000 acres maximum to any licensee at any one time.
<b>Application Fee</b>	\$1 acre	Not more than \$1 acre.	Not more than \$1 acre as set by the commissioner.
<b>Minimum Work Commitments</b>	Must fulfill work commitment by the end of the license term.	Yearly work commitment, subject to review.	Must have completed at least 25 % of the work commitment by the end of the 4th year.
<b>Title 46 Financial Responsibility</b>	Not addressed.	Lowers financial responsibility for onshore exploration facilities from \$5-million to \$1-million.	Removed. Reintroduced in SB 239.
<b>90-Day Provision</b>	Not addressed.	Allows DNR to delay an oil & gas lease sale beyond 90-days of scheduled sale date.	Removed and reintroduced in HB 322.
<b>Lease Rental</b>	\$3 Acre.	\$3 Acre.	\$3 Acre.
<b>Public Notice</b>	Not addressed.	Not addressed.	Provides for public notice of the commissioner's finding.

**Disclaimer:**

This document is for discussion purposes only; it is not intended to be a comprehensive description of the provisions of the bill.

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

April 5, 1994

bill file SFC  
P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

APR 05 1994

The Honorable Rick Halford  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Mr. President:

I want to take this opportunity to reaffirm my complete support for the exploration licensing bill (HB 199) recently passed by the House and due for consideration by the Senate. I also want to set the record straight as there has been misinterpretation of several provisions of HB 199.

Some have erroneously professed that the bill sets the royalty payment to the state at 5 percent, a provision I would not endorse. In fact, the bill states: "A lease issued under this section...must be conditioned upon a royalty in amount or value of not less than 12.5 percent of production. [Emphasis added.]" I totally support a minimum level of 12.5 percent.

Another assertion is that this bill gives the commissioner of the Department of Natural Resources additional power. This simply is not the case. All current statutory environmental safeguards apply to exploration licensing. A Best Interest Finding must be done before a license can be issued, and all the statutory requirements for permits and other license/lease-related activities will remain in place. As to the work commitment, the commissioner has virtually no discretion. The bill states clearly that "the successful bidder is the prospective licensee who submits the highest bid in terms of the minimum work commitment dollar amount." In case of a tie, a sealed bid is used to determine the winner. There is no other standard; whoever bids the most gets the license.

Alaska is at a crossroads of opportunity in the oil and gas business. We must compete in an increasingly international arena for exploration dollars and competition for these dollars is intense. Exploration licensing is one more tool, in addition to our current leasing program, to help keep Alaska firmly in the forefront of the competition.

I ask you to join me in supporting this important piece of legislation.

With best regards.

Sincerely,

A handwritten signature in cursive script that reads "Wally".

Walter J. Hickel  
Governor

cc: *The Honorable Loren Leman, Chair, Senate Oil and Gas*  
*The Honorable Joe Green, Chair, House Oil and Gas*  
*The Honorable Jim Duncan, Senate Minority Leader*  
*The Honorable Fran Ulmer, House Minority Leader*  
*The Honorable Drue Pearce, Co-Chair, Senate Finance Committee*  
*The Honorable Steve Frank, Co-Chair, Senate Finance Committee*

## Alaska Oil and Gas Association

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121 W. Fireweed Lane, Suite 207  
Anchorage, Alaska 99503-2035  
Phone: (907)272-1481 Fax: (907)279-8114

### FACSIMILE TRANSMITTAL

DATE: April 11, 1994

TO: Senator Drue Pearce  
465-3872

FROM: Judy Brady

# PAGES: 4 (including cover)

Please call Tamara Sheffield at 272-1481 if problems occur during transmission.

## Alaska Oil and Gas Association

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121 West Fireweed Lane, Suite 207  
Anchorage, Alaska 99503-2035  
Phone: (907) 272-1481 Fax: (907) 279-8114

April 11, 1994

The Honorable Drue Pearce, Co-Chair  
Finance Committee  
Alaska State Senate  
Room 408  
State Capitol  
Juneau, Alaska 99801-1182

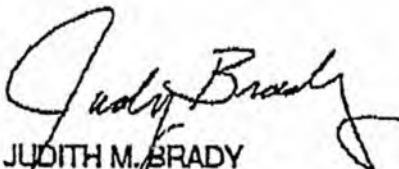
Dear Senator Pearce:

The Alaska Oil and Gas Association (AOGA) is a trade association whose member companies account for the majority of oil and gas exploration, production and transportation activities in Alaska.

The Association would like to offer the attached AOGA position on HB 199 for the record of the April 12, 1994 Senate Finance Committee hearing on HB 199, Oil & Gas Exploration Licenses/Leases.

AOGA appreciates the opportunity to provide written comments on the legislation. If I can be of further assistance on this issue, please contact me at your convenience.

Sincerely,

  
JUDITH M. BRADY  
Executive Director

JMB:ts  
SLC.PEARCE.HB199.041194

Attachment

**ALASKA OIL AND GAS ASSOCIATION  
POSITION  
ON  
LARGE BLOCK EXPLORATION LICENSING LEGISLATION  
(HB 199/SB 150)**

The Alaska Oil and Gas Association (AOGA) is a trade association, whose member companies account for the majority of oil and gas exploration, production, transportation and marketing activities in Alaska.

AOGA believes that large block licensing is an attractive addition to the State's leasing program to accelerate exploration and potential development of Alaska's frontier areas.

The Association has established the following position on large block exploration licensing legislation:

- AOGA supports a large block licensing program that does not apply to lands (1) north of the Umiat baseline; (2) lands south of the Umiat baseline that are within proposed Competitive Oil and Gas Lease Sales 80, 87 and 88 prior to the initial sale; and (3) in the vicinity of Cook Inlet that are within the area bounded by the north boundary of Township 17 North S.M., the Seward Meridian, the south boundary of Township 7 South S.M., and the west boundary of Range 19 West S.M.
- AOGA supports a program in which a license is conditioned upon the posting of an annual bond or other security in favor of the state and in which the annual bond or other security is calculated as the entire work commitment expressed in dollars less the cumulative expenditures as of the last day of the most recent project-year, divided by the remaining years of the exploration license.
- AOGA supports a competitive program in which all licenses are awarded on the basis of written, sealed bids for total dollar work commitment. The commissioner should adopt regulations to evaluate competing proposals.

**AOGA Position on HB 199/SB 150****Page 2**

- **AOGA supports a program in which conversion from license to lease is under existing state leasing statutes AS 38.05.180 (j)-(m), (o)-(u), and (x)-(z), and upon conversion, such a lease is subject to the acreage chargeability of AS 38.05.140(c).**
- **AOGA supports a program in which any relinquishment of the License area does not occur before the fourth anniversary of the License and each year thereafter is a percentage relinquishment of the remaining License area not to exceed 50 percent of the original License area. As an incentive for early evaluation of a License area, AOGA believes no relinquishment should be required if the Licensee has expended 50 percent of the approved work commitment by the fourth anniversary of the License.**

**The House Oil and Gas Committee Substitute for HB 199 is consistent with the AOGA position on exploration licensing legislation. AOGA supports CSHB 199.**

**AOGA MEMBERS:**

**Amerada Hess Corporation  
Anadarko Petroleum Corporation  
ARCO Alaska, Inc.  
BP Exploration (Alaska), Inc.  
Chevron U.S.A. Inc.  
Cook Inlet Region, Inc.  
Exxon Company, U.S.A.  
MAPCO Alaska Petroleum Inc.  
Marathon Oil Company**

**Mobil Oil Corporation  
Petrofina Delaware, Inc.  
Petro Star, Inc.  
Phillips Petroleum Company  
Rowan Companies, Inc.  
Shell Western E&P Inc.  
Texaco Inc.  
Union Texas Petroleum Alaska Corp.  
UNOCAL**

**HB**

**201**

**HFIN**

**FILE**

8-LS0728N  
Chenoweth  
3/18/94

CS FOR HOUSE BILL NO. 201( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the mental health land trust and the mental health land  
2 trust litigation, Weiss v. State, 4FA-82-2208 Civil; and providing for an effective  
3 date."

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

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

6 (1) the United States Congress passed the Alaska Mental Health Enabling Act,  
7 P.L. 84-830, 70 Stat. 709 (1956), "[t]o confer upon Alaska autonomy in the field of mental  
8 health, transfer from the Federal Government to the Territory the fiscal and functional  
9 responsibility for the hospitalization of committed mental health patients, and for other  
10 purposes;"

11 (2) in sec. 202 of the Alaska Mental Health Enabling Act, the Congress  
12 granted the territory the right to select up to 1,000,000 acres of federal land to serve as a  
13 source of funds to support the territory's mental health program;

14 (3) in subsection 202(e) of the Alaska Mental Health Enabling Act, the

1 Congress provided that the land so granted, along with the income from the land and proceeds  
2 from dispositions of the land, were to be administered "as a public trust and such proceeds  
3 and income shall first be applied to meet the necessary expenses of the mental health program  
4 of Alaska," that "[s]uch lands, income, and proceeds shall be managed and utilized in such  
5 manner as the Legislature of Alaska may provide," that the land "may be sold, leased,  
6 mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska  
7 may provide, in order to obtain funds or other property to be invested, expended, or used by  
8 the Territory of Alaska," and that the Alaska legislature must exercise this broad authority "in  
9 a manner compatible with the conditions and requirements imposed by this Act";

10 (4) the Alaska Mental Health Enabling Act grant was "confirmed and  
11 transferred to the State of Alaska upon its admission" to the Union under sec. 6(k) of the  
12 Alaska Statehood Act, P.L. 85-508, 72 Stat. 339 (1958);

13 (5) in *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981), the Alaska  
14 Supreme Court held that the Alaska State Legislature has plenary authority over all state land  
15 under art. VIII, sec. 2, of the Alaska Constitution, and that the legislature may remove from  
16 trust status any land obtained by the state in trust if the trust is compensated for the fair  
17 market value of that land;

18 (6) chapters 181 and 182, SLA 1978, removed from trust status all original  
19 mental health land obtained by the state under the Alaska Mental Health Enabling Act and  
20 redesignated it as general grant land, but the trust was not directly compensated for that land;

21 (7) in *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the Alaska Supreme Court  
22 held that the 1978 legislation removing mental health land from trust status and redesignating  
23 it as general grant land was a breach of the federally created trust because the trust was never  
24 directly compensated for that land, that it was not reasonable to infer that the legislature  
25 intended to compensate the mental health trust for all of the original mental health land, that  
26 the 1978 redesignation legislation therefore was invalid, and that the appropriate remedy was  
27 to return the original mental health land still in state ownership to trust status but, "[t]o the  
28 extent former mental health lands have been sold" between 1978 and the date of the court's  
29 decision, "the trust must be compensated for the fair market value of the land at the time of  
30 sale" with the state entitled to a set-off against that monetary liability for state mental health  
31 expenditures during the same period;

1 (8) since statehood, approximately 500,000 acres of original mental health land  
2 have been purchased by, conveyed to, or leased by third parties, have been the object of  
3 significant development expenditures by third parties, have been conveyed or tentatively  
4 approved for conveyance to municipalities, have been placed in legislatively designated areas  
5 such as parks, wildlife refuges, and state forests, and have been used by state agencies;

6 (9) the plaintiffs in the Weiss litigation have questioned the validity of those  
7 dispositions and uses of original mental health land and in 1990 filed lis pendens on all  
8 original mental health land, but have not yet presented the question of the validity of those  
9 dispositions and uses to the court for adjudication;

10 (10) not validating those dispositions and uses of original mental health land  
11 and, as a result, not removing the legal basis for the lis pendens filed by the Weiss plaintiffs  
12 would be contrary to the requirement of art. VIII, sec. 2, of the Alaska Constitution that the  
13 legislature "provide for the utilization, development, and conservation of all natural resources  
14 belonging to the State, including land and waters, for the maximum benefit of its people;"

15 (11) the questions the Weiss plaintiffs have raised regarding the validity of  
16 those dispositions and uses and the lis pendens that they have filed have resulted in substantial  
17 criticism of and hostility directed against the mental health trust and the trust's beneficiaries;

18 (12) the original 1,000,000 acre mental health land grant has not generated in  
19 the past, and is not likely to generate in the future, sufficient income and proceeds to fully  
20 fund the state's mental health program, and the beneficiaries of the mental health trust have  
21 been, and will continue to be, dependent on unrestricted state revenue to fund much of the  
22 state's mental health program;

23 (13) because of the criticism and hostility directed against the mental health  
24 trust and the trust's beneficiaries, failure to resolve the Weiss litigation and validate the  
25 dispositions and uses of original mental health land and remove the legal basis for the lis  
26 pendens filed by the Weiss plaintiffs will make it increasingly difficult for the beneficiaries  
27 of the mental health trust and those concerned about the beneficiaries to obtain appropriations  
28 of unrestricted state revenue to fund the state's mental health program;

29 (14) it therefore is in the public interest and in the best interests of the mental  
30 health trust and the trust's beneficiaries to exercise the legislature's power under the Alaska  
31 Mental Health Enabling Act and art. VIII, sec. 2, of the Alaska Constitution to confirm and

1 ratify the validity of the dispositions and uses of original mental health land and, by answering  
2 the questions regarding the validity of those dispositions and uses of original mental health  
3 land, ~~ratify~~ the legal basis for the lis pendens filed by the Weiss plaintiffs;

4 (15) it is in the best interests of both the public and the beneficiaries of the  
5 mental health trust to resolve the Weiss litigation on terms that are fair to both the public and  
6 the beneficiaries of the mental health trust;

7 (16) such a resolution can be accomplished by exercising the legislature's  
8 power under the Alaska Mental Health Enabling Act and art. VIII, sec. 2, of the Alaska  
9 Constitution, through amending ch. 66, SLA 1991,

10 (A) to return certain original mental health land to trust status;

11 (B) to ratify and confirm the removal from trust status of certain  
12 original mental health land and the validity of dispositions and uses of that land,  
13 including but not necessarily limited to certain original mental health land

14 (i) that has been purchased by, conveyed to, or leased by third  
15 parties;

16 (ii) on which third parties have made significant development  
17 expenditures;

18 (iii) that has been conveyed to or tentatively approved for  
19 conveyance to municipalities;

20 (iv) that has been placed in legislatively designated areas like  
21 parks, wildlife refuges, and state forests; or

22 (v) that is used by state agencies;

23 (C) to make clear that the legislature intends to compensate the mental  
24 health trust for the original mental health land removed from trust status by this Act  
25 through a combination of replacement land and state general fund money;

26 (D) to designate certain other state land as mental health land as partial  
27 compensation and in exchange for original mental health land not returned to trust  
28 status;

29 (E) to identify state mental health expenditures since 1978 to be set-off  
30 against state monetary liability to the trust for original mental health land not returned  
31 to trust status; and

1 (F) to satisfy additional state monetary liability to the trust for original  
2 mental health land not returned to trust status with state general funds, to provide that  
3 those funds will first be appropriated to fund the state's mental health program, and  
4 to provide for the transfer of any unappropriated balance to the unrestricted general  
5 fund for appropriation for other public purposes as permitted by the Alaska Mental  
6 Health Enabling Act;

7 (17) since 1978, state mental health expenditures have totaled more than  
8 \$1,300,000,000;

9 (18) the sum of the value of the other state land designated as mental health  
10 trust land under this Act and the total of state mental health expenditures since 1978 exceeds  
11 the value of the original mental health land not returned to trust status under this Act;

12 (19) the management of land designated under this Act as mental health trust  
13 land will have significant administrative costs that will reduce the trust's net income and  
14 proceeds;

15 (20) the Department of Natural Resources has considerable expertise in  
16 managing state land, and it already has in place the facilities, personnel, and other necessary  
17 infrastructure for efficient, cost-effective land management of land designated as mental health  
18 trust land under this Act;

19 (21) it therefore is in the best interest of the public and of the trust and its  
20 beneficiaries that the Department of Natural Resources manage the land designated as mental  
21 health trust land under this Act; and

22 (22) if, by December 15, 1994, a final determination has been made by the  
23 superior court that the state has satisfied its obligation to reconstitute the mental health trust  
24 under *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the superior court has entered a final order  
25 dismissing *Weiss v. State*, 4FA-82-2208 Civil, and the time for appeals of that determination  
26 and that order has expired with no appeals having been taken, even though it is not legally  
27 required by the Alaska Mental Health Enabling Act or the Alaska Constitution, it is in the best  
28 interest of both the public and the beneficiaries of the mental health trust

29 (A) to have the provisions of ch. 66, SLA 1991, that establish the  
30 Alaska Mental Health Trust Authority become law;

31 (B) to amend the provisions of ch. 66, SLA 1991, that establish a

1 procedure for appropriating funds from the mental health trust income account to give  
2 the mental health community, acting through the authority, some discretionary control  
3 over the expenditure of those funds while retaining the governor's and the legislature's  
4 ultimate control over expenditures from the state treasury as required by the Alaska  
5 Constitution and to have the provisions, as amended, become law;

6 (C) to have the provisions of ch. 66, SLA 1991, that improve the state's  
7 mental health program become law; and

8 (D) to allocate to the mental health trust income account \$225,000,000  
9 in 15 annual installments of \$15,000,000 each as additional compensation for original  
10 mental health land not returned to trust status.

11 (b) The purposes of this Act are

12 (1) to reconstitute the mental health trust with approximately 500,000 acres of  
13 original mental health land and approximately 400,000 acres of other state land;

14 (2) to ratify and confirm the removal from trust status of approximately  
15 500,000 acres of original mental health land;

16 (3) to ratify and confirm the validity of the dispositions and uses of the original  
17 mental health land removed from trust status;

18 (4) to define state mental health expenditures since 1978 and provide for them  
19 to be considered as additional compensation for original mental health land removed from trust  
20 status;

21 (5) to satisfy any additional state monetary liability to the trust for original  
22 mental health land not returned to trust status with state general funds, to provide that those  
23 funds will first be appropriated to fund the state's mental health program, and to provide for  
24 the transfer of any unappropriated balance to the unrestricted general fund for appropriation  
25 for other public purposes as permitted by the Alaska Mental Health Enabling Act; and

26 (6) if, by December 15, 1994, a final determination has been made by the  
27 superior court that the state has satisfied its obligation to reconstitute the mental health trust  
28 under *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the superior court has entered a final order  
29 dismissing *Weiss v. State*, 4FA-82-2208 Civil, and the time for appeals of that determination  
30 and that order has expired with no appeals having been taken,

31 (A) to have the provisions of ch. 66, SLA 1991, that establish the

1 Alaska Mental Health Trust Authority become law;

2 (B) to amend the provisions of ch. 66, SLA 1991, governing the  
3 management by the authority of the land of the reconstituted mental health trust to  
4 provide additional safeguards of the public interest in the management of that land and  
5 to have the provisions, as amended, become law;

6 (C) to amend the provisions of ch. 66, SLA 1991, that establish a  
7 procedure for appropriating funds from the mental health trust income account to give  
8 the mental health community, acting through the authority, some discretionary control  
9 over the expenditure of those funds while retaining the governor's and the legislature's  
10 ultimate control over expenditures from the state treasury as required by the Alaska  
11 Constitution and to have the provisions, as amended, become law;

12 (D) to have the provisions of ch. 66, SLA 1991, that improve the  
13 state's mental health program become law; and

14 (E) to allocate to the mental health trust income account: \$225,000,000  
15 in 15 annual installments of \$15,000,000 each as additional compensation for original  
16 mental health land not returned to trust status.

17 \* Sec. 2. AS 29.65.060 is amended by adding a new subsection to read:

18 (h) To obtain replacement land for mental health land that was conveyed by  
19 the state to the municipality under former AS 29.18.190 - 29.18.200, former  
20 AS 29.18.201 - 29.18.202, or under this chapter, a municipality may reconvey to the  
21 state mental health land that had been conveyed by the state to the municipality.  
22 When a municipality reconveys land to the state under this subsection, the municipality  
23 has the right to select an equal number of acres of replacement land. The municipality  
24 may exercise its right to select replacement land under this subsection only within two  
25 years of the date of the reconveyance of land to the state.

26 \* Sec. 3. AS 37.14.007(b), added by sec. 10, ch. 66, SLA 1991, is amended to read:

27 (b) In exercising the powers, duties, and responsibilities as trustee, the  
28 authority is under a duty to the public and the trust beneficiaries to

29 (1) administer the trust consistent with AS 37.14.009 [SOLELY] in the  
30 interest of the beneficiaries;

31 (2) keep and render clear and accurate accounts with respect to the

1 administration of the trust;

2 (3) make public and available complete and accurate information as to  
3 the nature and amount of the trust property;

4 (4) exercise a high degree of care in administering the trust;

5 (5) take reasonable steps to take and keep control of the trust property;

6 (6) use care and skill to preserve the trust property;

7 (7) take reasonable steps to realize on claims that are held in trust;

8 (8) defend against actions that may result in a loss to the trust estate,  
9 unless under all the circumstances, considering the other duties owed to the trust, it is  
10 reasonable not to make the defense;

11 (9) separately account for trust property;

12 (10) ensure that trust property is designated as property of the trust;

13 (11) use care and skill to make the trust property productive; however,  
14 nothing in this paragraph shall prevent the state from using trust property directly or  
15 indirectly, by contractual stipulation or otherwise, as a component of the state's mental  
16 health trust program; and

17 (12) deal impartially with the different trust beneficiaries as provided  
18 in AS 47.30.056.

19 \* Sec. 4. AS 37.14.009(a), added by sec. 10, ch. 66, SLA 1991, is amended to read:

20 (a) The Alaska Mental Health Trust Authority

21 (1) shall manage the assets of the trust, except assets the management  
22 of which is provided for in (2) of this subsection, in a fiduciary manner to fulfill the  
23 purposes of the trust;

24 (2) shall [MAY, CONSISTENT WITH (1) OF THIS SUBSECTION  
25 AND AS 47.30.036(1), SELL, LEASE, EXCHANGE, OR OTHERWISE DISPOSE OF  
26 LAND IN THE TRUST;

27 (3) MAY, CONSISTENT WITH (1) OF THIS SUBSECTION, USE  
28 LAND THAT IS AN ASSET OF THE TRUST DIRECTLY FOR THE INTEGRATED  
29 COMPREHENSIVE MENTAL HEALTH PROGRAM;

30 (4) MAY] contract with the Department of Natural Resources to  
31 manage the land assets of the trust; when the Department of Natural Resources

1 manages land assets of the trust under a contract entered into under this  
2 paragraph, the department shall manage in conformity with AS 38.05.801; and

3 (3) [(5)] shall contract with the Alaska Permanent Fund Corporation for  
4 management of the trust's cash assets, unless the authority finds that the best interests  
5 of trust beneficiaries would be served by contracting with another entity.

6 \* Sec. 5. AS 37.14 is amended by adding a new section to read:

7 Sec. 37.14.013. MENTAL HEALTH TRUST INCOME AND PROCEEDS  
8 ACCOUNT. (a) The mental health trust income and proceeds account is established  
9 as a separate account in the general fund.

10 (b) The mental health trust income and proceeds account consists of

11 (1) the net income and net proceeds received by the state from the use,  
12 sale, or other disposal of the state land designated as mental health trust land; and

13 (2) money deposited in the account in accordance with appropriations  
14 or allocations made by law.

15 \* Sec. 6. AS 37.14 is amended by adding a new section to read:

16 Sec. 37.14.023. UTILIZATION OF THE MENTAL HEALTH TRUST  
17 INCOME AND PROCEEDS ACCOUNT. (a) Money in the mental health trust  
18 income and proceeds account established in AS 37.14.013(a) shall first be appropriated  
19 by the legislature to pay the necessary expenses of the mental health program of the  
20 state. In making annual appropriations from the mental health trust income and  
21 proceeds account, the legislature shall consider the recommendations of the Alaska  
22 Mental Health Board established under AS 47.30.661.

23 (b) After appropriations have been made to pay the necessary expenses of the  
24 mental health program of the state, the legislature may authorize the transfer of the  
25 unobligated and unappropriated fiscal year-end balance in the mental health trust  
26 income and proceeds account as of June 30 to the unrestricted portion of the general  
27 fund for use for other public purposes.

28 \* Sec. 7. AS 37.14.036(c), added by sec. 11, ch. 66, SLA 1991, is repealed and reenacted  
29 to read:

30 (c) During each state fiscal year that begins on or after July 1, 1995, and ends  
31 not later than June 30, 2010, the commissioner of natural resources shall annually

1 deposit in the mental health trust income account in the general fund, established in  
2 (a) of this section, \$15,000,000 from the state's royalty share as lessor of oil and gas  
3 leases.

4 \* Sec. 8. AS 38.05 is amended by adding a new section to read:

5 Sec. 38.05.801. MANAGEMENT OF MENTAL HEALTH TRUST LAND.

6 (a) Mental health trust land shall be managed consistent with the requirements of the  
7 Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956).

8 (b) Subject to (a) of this section, the department

9 (1) shall manage mental health trust land under those provisions of law  
10 applicable to other state land;

11 (2) may exchange other state land for mental health trust land under the  
12 procedures set out in AS 38.50; and

13 (3) may correct errors or omissions in the legal descriptions of mental  
14 health trust land.

15 (c) The commissioner shall adopt regulations under AS 44.62 (Administrative  
16 Procedure Act) to implement this section.

17 \* Sec. 9. AS 47.30.016(b), added by sec. 26, ch. 66, SLA 1991, is amended to read:

18 (b) The board consists of seven members appointed by the governor. The  
19 members appointed under this subsection shall be appointed

20 (1) based upon their ability in financial management and investment [,  
21 IN LAND MANAGEMENT,] or in services for the beneficiaries of the trust;

22 (2) after the governor has considered a list of persons prepared by a  
23 panel of six persons who are beneficiaries, or who are the guardians, family members,  
24 or representatives of beneficiaries; the panel shall consist of

25 (A) one person selected by the Alaska Mental Health Board  
26 (AS 47.30.661);

27 (B) one person selected by the Governor's Council for the  
28 Handicapped and Gifted (AS 47.80.030);

29 (C) one person selected by the Advisory Board on Alcoholism  
30 and Drug Abuse (AS 44.29.110);

31 (D) one person selected by the Older Alaskans Commission

1 (E) one person selected by the Alaska Native Health Board; and

2 (F) one person selected by the authority.

3 \* Sec. 10. AS 47.30.470(9), added by sec. 27, ch. 66, SLA 1991, is amended to read:

4 (9) use money appropriated from the mental health trust income  
5 account established under AS 37.14.036 and the general fund to provide the  
6 necessary services identified in (8) of this section and in accordance with  
7 AS 47.30.056.

8 \* Sec. 11. AS 47.30.660(a)(3), added by sec. 36, ch. 66, SLA 1991, is amended to read:

9 (3) implement an integrated comprehensive system of care that, within  
10 the limits of money appropriated for that purpose, meets the service needs of the  
11 beneficiaries of the trust established under the Alaska Mental Health Enabling Act of  
12 1956, as determined by the plan.

13 \* Sec. 12. AS 47.30.910(d), as amended by sec. 41, ch. 66, SLA 1991, is further amended  
14 to read:

15 (d) All money paid by the patient or on the patient's behalf to the department  
16 under this section shall be deposited in the general fund [MENTAL HEALTH TRUST  
17 INCOME ACCOUNT ESTABLISHED IN AS 37.14.036].

18 \* Sec. 13. Section 58, ch. 66, SLA 1991, is repealed and reenacted to read:

19 Sec. 58. (a) This Act takes effect only if, not later than December 15, 1994,

20 (1) the superior court of the State of Alaska has made a final  
21 determination that the state has satisfied its obligation to reconstitute the mental health  
22 trust under State v. Weiss, 706 P.2d 681 (Alaska 1985);

23 (2) the superior court has entered a final order dismissing Weiss v.  
24 State, 4FA-82-2208 Civil; and

25 (3) the time for appeals of that determination and that order has expired  
26 with no appeals having been taken.

27 (b) The attorney general shall advise the lieutenant governor and the revisor  
28 of statutes whether the determination required by (a)(1) of this section has been made,  
29 whether the final order required by (a)(2) of this section has been entered, and  
30 whether, as required by (a)(3) of this section, the time for appeals of that determination  
31 and that order has expired with no appeals having been taken as of that date.

1 \* Sec. 14. Chapter 66, SLA 1991, is amended by adding a new section to read:

2 Sec. 59. If, under sec. 58 of this Act, this Act takes effect, it takes effect  
3 December 16, 1994.

4 \* Sec. 15. AS 37.14.011, 37.14.021; AS 38.05.800; secs. 1, 2, 4, and 5, ch. 132, SLA  
5 1986; secs. 7 - 10, ch. 48, SLA 1987; and secs. 49, 50, and 54 - 57, ch. 66, SLA 1991, are  
6 repealed.

7 \* Sec. 16. MENTAL HEALTH TRUST RECONSTITUTED. (a) For the purpose of  
8 reconstituting the mental health trust established under the Alaska Mental Health Enabling  
9 Act, P.L. 84-830, 70 Stat. 709 (1956), as required by the Alaska Supreme Court's decision in  
10 Weiss v. State, 706 P.2d 681 (Alaska 1985), the following land is designated as mental health  
11 trust land:

12 (1) the original mental health land listed in "Original Mental Health Land To  
13 Be Designated as Mental Health Trust Land, May 1994," and located in the office of the  
14 director of the division of lands, Department of Natural Resources, in Anchorage, Alaska; and

15 (2) the state land listed in "Other State Land To Be Designated as Mental  
16 Health Trust Land, May 1994," and located in the office of the director of the division of  
17 lands, Department of Natural Resources, in Anchorage, Alaska.

18 (b) All land designated as mental health trust land under this section remains subject  
19 to all encumbrances of record, noted on records maintained by the Department of Natural  
20 Resources, or otherwise existing on the effective date of this section.

21 \* Sec. 17. CONFIRMATION AND RATIFICATION OF CONVERSION OF CERTAIN  
22 ORIGINAL MENTAL HEALTH LAND TO GENERAL GRANT LAND AND ACTIONS  
23 TAKEN BY THE STATE WITH RESPECT TO THAT LAND. (a) The conversion to  
24 general grant land by sec. 3(a), ch. 181, SLA 1978, of the former mental health land listed in  
25 "Original Mental Health Land Not To Be Returned to Mental Health Trust Status, May 1994,"  
26 and located in the office of the director of the division of lands, Department of Natural  
27 Resources, in Anchorage, Alaska, is confirmed and ratified.

28 (b) All dispositions and uses of the land identified under (a) of this section, including  
29 without limitation the creation by the state or the transfer by the state of an interest in the land  
30 or the designation of the land as part of a state park, state forest, state game refuge, state  
31 wildlife refuge, state game sanctuary, state recreational area, state recreational river, state

1 wilderness park, state marine park, state special management area, state public use area,  
2 critical habitat area, bald eagle preserve, bison range, or moose range are confirmed and  
3 ratified.

4 \* Sec. 18. STATE MENTAL HEALTH EXPENDITURES TO BE SET-OFF AGAINST  
5 STATE MONETARY LIABILITY FOR ORIGINAL MENTAL HEALTH LAND NOT  
6 RETURNED TO TRUST STATUS. To the extent the state is liable to the mental health trust  
7 for the fair market value of any original mental health land not returned to trust status under  
8 sec. 16(a)(1) of this Act, after taking into account the fair market value of the state land  
9 designated as mental health trust land under sec. 16(a)(2) of this Act, the set-off against that  
10 liability for state mental health expenditures since 1978 to which the state is entitled under  
11 State v. Weiss, 706 P.2d 681 (Alaska 1985), totals \$1,300,000,000.

12 \* Sec. 19. TRANSITIONAL PROVISIONS; DEVELOPMENT OF MENTAL HEALTH  
13 TRUST INCOME ACCOUNT MECHANISM. Not later than January 1, 1996, the Board of  
14 Trustees of the Alaska Mental Health Trust Authority, after consulting with organizations and  
15 persons affected by this Act, shall

16 (1) consistent with AS 47.30.056(h), added by sec. 26, ch. 66, SLA 1991,  
17 adopt regulations regarding persons who are to receive services funded by money in the  
18 mental health trust income account under AS 37.14.036, as added by sec. 11, ch. 66, SLA  
19 1991, and amended by sec. 7 of this Act;

20 (2) publish its findings and estimates regarding the number of persons in need  
21 under the regulations adopted under (1) of this section;

22 (3) consistent with AS 47.30.056(j), added by sec. 26, ch. 66, SLA 1991, adopt  
23 regulations regarding the services and facilities upon which expenditures are to be made from  
24 money in the mental health trust income account under AS 37.14.036, added by sec. 11, ch.  
25 66, SLA 1991, and amended by sec. 7 of this Act; and

26 (4) publish its findings and projections regarding the necessary expenditure of  
27 money from the mental health trust income account under AS 37.14.036, as added by sec. 11,  
28 ch. 66, SLA 1991, and amended by sec. 7 of this Act.

29 \* Sec. 20. ADDITIONAL COMPENSATION TO MENTAL HEALTH TRUST. (a) To  
30 the extent the state has any additional monetary liability to the mental health trust for original  
31 mental health land not returned to trust status under sec. 16(a)(1) of this Act after taking into

1 mental health land not returned to trust status under sec. 16(a)(1) of this Act after taking into  
2 account the fair market value of the other state land under sec. 16(a)(2) of this Act and the  
3 set-off for state mental health expenditures under sec. 18 of this Act, the commissioner of  
4 revenue shall allocate sufficient unrestricted state general funds to the mental health trust  
5 income and proceeds account (AS 37.14.013), established by sec. 5 of this Act, to satisfy that  
6 liability. The money so allocated is additional compensation to the mental health trust for the  
7 original mental health land not returned to trust status under sec. 16(a)(1) of this Act. An  
8 allocation under this subsection may not exceed \$100,000,000 during any one state fiscal year.

9 (b) After appropriations from the mental health trust income and proceeds account  
10 have been made to pay for the state's mental health program, the legislature may

11 (1) transfer to the general fund an amount equal to the remaining unrestricted  
12 state general funds allocated by the commissioner of revenue to the mental health trust income  
13 and proceeds account under (a) of this section; and

14 (2) appropriate any part or all of the amount transferred under (1) of this  
15 subsection for other public purposes.

16 \* **Sec. 21.** If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 13 of this  
17 Act, are not met on or before December 15, 1994, then ch. 66, SLA 1991, is repealed and  
18 secs. 3, 4, 7, 9 - 12, and 19 of this Act do not take effect.

19 \* **Sec. 22.** If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 13 of this  
20 Act, are met on or before December 15, 1994, then AS 37.14.013, added by sec. 5 of this Act,  
21 AS 37.14.023, added by sec. 6 of this Act, and sec. 20 of this Act are repealed.

22 \* **Sec. 23.** Subject to sec. 21 of this Act, secs. 3, 4, 7, 9 - 12, and 19 of this Act take effect  
23 December 16, 1994.

24 \* **Sec. 24.** Sections 21 and 22 of this Act take effect December 16, 1994.

25 \* **Sec. 25.** Sections 1, 2, 5, 6, 8, 13 - 18, and 20 of this Act take effect immediately under  
26 AS 01.10.070(c).

8-LS0728V;  
Chenoweth  
4/27/94

**CS FOR HOUSE BILL NO. 201(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RESOURCES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the mental health land trust and the mental health land  
2 trust litigation, Weiss v. State, 4FA-82-2208 Civil; and providing for an effective  
3 date."

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

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

6 (1) the United States Congress passed the Alaska Mental Health Enabling Act,  
7 P.L. 84-830, 70 Stat. 709 (1956), "[t]o confer upon Alaska autonomy in the field of mental  
8 health, transfer from the Federal Government to the Territory the fiscal and functional  
9 responsibility for the hospitalization of committed mental health patients, and for other  
10 purposes;"

11 (2) in sec. 202 of the Alaska Mental Health Enabling Act, the Congress  
12 granted the territory the right to select up to 1,000,000 acres of federal land to serve as a  
13 source of funds to support the territory's mental health program;

14 (3) in subsection 202(e) of the Alaska Mental Health Enabling Act, the

1 Congress provided that the land so granted, along with the income from the land and proceeds  
2 from dispositions of the land, were to be administered "as a public trust and such proceeds  
3 and income shall first be applied to meet the necessary expenses of the mental health program  
4 of Alaska," that "[s]uch lands, income, and proceeds shall be managed and utilized in such  
5 manner as the Legislature of Alaska may provide," that the land "may be sold, leased,  
6 mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska  
7 may provide, in order to obtain funds or other property to be invested, expended, or used by  
8 the Territory of Alaska," and that the Alaska legislature must exercise this broad authority "in  
9 a manner compatible with the conditions and requirements imposed by this Act";

10 (4) the Alaska Mental Health Enabling Act grant was "confirmed and  
11 transferred to the State of Alaska upon its admission" to the Union under sec. 6(k) of the  
12 Alaska Statehood Act, P.L. 85-508, 72 Stat. 339 (1958);

13 (5) in *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981), the Alaska  
14 Supreme Court held that the Alaska State Legislature has plenary authority over all state land  
15 under art. VIII, sec. 2, of the Alaska Constitution, and that the legislature may remove from  
16 trust status any land obtained by the state in trust if the trust is compensated for the fair  
17 market value of that land;

18 (6) chapters 181 and 182, SLA 1978, removed from trust status all original  
19 mental health land obtained by the state under the Alaska Mental Health Enabling Act and  
20 redesignated it as general grant land, but the trust was not directly compensated for that land;

21 (7) in *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the Alaska Supreme Court  
22 held that the 1978 legislation removing mental health land from trust status and redesignating  
23 it as general grant land was a breach of the federally created trust because the trust was never  
24 directly compensated for that land, that it was not reasonable to infer that the legislature  
25 intended to compensate the mental health trust for all of the original mental health land, tha  
26 the 1978 redesignation legislation therefore was invalid, and that the appropriate remedy was  
27 to return the original mental health land still in state ownership to trust status but, "[t]o the  
28 extent former mental health lands have been sold" between 1978 and the date of the court's  
29 decision, "the trust must be compensated for the fair market value of the land at the time of  
30 sale" with the state entitled to a set-off against that monetary liability for state mental health  
31 expenditures during the same period;

1 (8) since statehood, approximately 500,000 acres of original mental health land  
2 have been purchased by, conveyed to, or leased by third parties, have been the object of  
3 significant development expenditures by third parties, have been conveyed or tentatively  
4 approved for conveyance to municipalities, have been placed in legislatively designated areas  
5 such as parks, wildlife refuges, and state forests, and have been used by state agencies;

6 (9) the plaintiffs in the Weiss litigation have questioned the validity of those  
7 dispositions and uses of original mental health land and in 1990 filed lis pendens on all  
8 original mental health land;

9 (10) not validating those dispositions and uses of original mental health land  
10 and, as a result, not removing the legal basis for the lis pendens filed by the Weiss plaintiffs  
11 would be contrary to the requirement of art. VIII, sec. 2, of the Alaska Constitution that the  
12 legislature "provide for the utilization, development, and conservation of all natural resources  
13 belonging to the State, including land and waters, for the maximum benefit of its people;"

14 (11) the questions the Weiss plaintiffs have raised regarding the validity of  
15 those dispositions and uses and the lis pendens that they have filed have resulted in substantial  
16 criticism of and hostility directed against the mental health trust and the trust's beneficiaries;

17 (12) the original 1,000,000 acre mental health land grant has not generated in  
18 the past, and is not likely to generate in the future, sufficient income and proceeds to fully  
19 fund the state's mental health program, and the beneficiaries of the mental health trust have  
20 been, and will continue to be, dependent on unrestricted state revenue to fund much of the  
21 state's mental health program;

22 (13) because of the criticism and hostility directed against the mental health  
23 trust and the trust's beneficiaries, failure to resolve the Weiss litigation and validate the  
24 dispositions and uses of original mental health land and remove the legal basis for the lis  
25 pendens filed by the Weiss plaintiffs will make it increasingly difficult for the beneficiaries  
26 of the mental health trust and those concerned about the beneficiaries to obtain appropriations  
27 of unrestricted state revenue to fund the state's mental health program;

28 (14) it therefore is in the public interest and in the best interests of the mental  
29 health trust and the trust's beneficiaries to exercise the legislature's power under the Alaska  
30 Mental Health Enabling Act and art. VIII, sec. 2, of the Alaska Constitution to confirm and  
31 ratify the validity of the dispositions and uses of original mental health land and, by answering

1 the questions regarding the validity of those dispositions and uses of original mental health  
2 land, remove the legal basis for the lis pendens filed by the Weiss plaintiffs;

3 (15) it is in the best interests of both the public and the ~~beneficiaries~~ of the  
4 mental health trust to resolve the Weiss litigation on terms that are fair to the public and  
5 the beneficiaries of the mental health trust;

6 (16) such a resolution can be accomplished by exercising the legislature's  
7 power under the Alaska Mental Health Enabling Act and art. VIII, sec. 2, of the Alaska  
8 Constitution, through amending ch. 66, SLA 1991,

9 (A) to return certain original mental health land to trust status;

10 (B) to ratify and confirm the removal from trust status of certain  
11 original mental health land and the validity of dispositions and uses of that land,  
12 including but not necessarily limited to certain original mental health land

13 (i) that has been purchased by, conveyed to, or leased by third  
14 parties;

15 (ii) on which third parties have made significant development  
16 expenditures;

17 (iii) that has been conveyed to or tentatively approved for  
18 conveyance to municipalities;

19 (iv) that has been placed in legislatively designated areas like  
20 parks, wildlife refuges, and state forests; or

21 (v) that is used by state agencies;

22 (C) to make clear that the legislature intends to compensate the mental  
23 health trust for the original mental health land removed from trust status by this Act  
24 through a combination of replacement land and state money;

25 (D) to designate certain other state land as mental health land as partial  
26 compensation and in exchange for original mental health land not returned to trust  
27 status;

28 (E) to identify state mental health expenditures since 1978 to be set-off  
29 against state monetary liability to the trust for original mental health land not returned  
30 to trust status; and

31 (F) to satisfy additional state monetary liability to the trust for original

1 mental health land not returned to trust status with state general funds and to provide  
2 that those funds will first be appropriated to fund the state's mental health program;

3 (17) since 1978, state mental health expenditures have totaled more than  
4 \$1,300,000,000;

5 (18) the sum of the value of the other state land designated as mental health  
6 trust land under this Act and the total of state mental health expenditures since 1978 exceeds  
7 the value of the original mental health land not returned to trust status under this Act;

8 (19) the management of land designated under this Act as mental health trust  
9 land will have significant administrative costs that will reduce the trust's net income and  
10 proceeds;

11 (20) the Department of Natural Resources has considerable expertise in  
12 managing state land, and it already has in place the facilities, personnel, and other necessary  
13 infrastructure for efficient, cost-effective land management of land designated as mental health  
14 trust land under this Act;

15 (21) it therefore is in the best interest of the public and of the trust and its  
16 beneficiaries that the Department of Natural Resources manage the land designated as mental  
17 health trust land under this Act; and

18 (22) if, by December 15, 1994, a final determination has been made by the  
19 superior court that the state has satisfied its obligation to reconstitute the mental health trust  
20 under State v. Weiss, 706 P.2d 681 (Alaska 1985), the superior court has entered a final order  
21 dismissing Weiss v. State, 4FA-82-2208 Civil, and the time for appeals of that determination  
22 and that order has expired with no appeals having been taken, even though it is not legally  
23 required by the Alaska Mental Health Enabling Act or the Alaska Constitution, it is in the best  
24 interest of both the public and the beneficiaries of the mental health trust

25 (A) to have the provisions of ch. 66, SLA 1991, that establish the  
26 Alaska Mental Health Trust Authority become law;

27 (B) to amend the provisions of ch. 66, SLA 1991, that establish the  
28 mental health trust fund, to provide for preserving the corpus of the mental health trust,  
29 including an initial appropriation of \$200,000,000 to that fund, in perpetuity and to  
30 have the provisions, as amended, become law;

31 (C) to provide for the Alaska Mental Health Trust Authority to use the

1 income from the mental health trust fund to assist it in fulfilling its purpose of  
2 ensuring an integrated comprehensive mental health program for the state; and

3 (D) to have the provisions of ch. 66, SLA 1991, that improve the  
4 state's mental health program become law.

5 (b) The purposes of this Act are

6 (1) to reconstitute the mental health trust with some original mental health land  
7 and some other state land;

8 (2) to ratify and confirm the removal from trust status of some original mental  
9 health land;

10 (3) to ratify and confirm the validity of the dispositions and uses of the original  
11 mental health land removed from trust status;

12 (4) to define state mental health expenditures since 1978 and provide for them  
13 to be considered as additional compensation for original mental health land removed from trust  
14 status;

15 (5) to satisfy any additional state monetary liability to the trust for original  
16 mental health land not returned to trust status with state general funds, to provide that those  
17 funds will first be appropriated to fund the state's mental health program, and to provide for  
18 the transfer of any unappropriated balance to the unrestricted general fund for appropriation  
19 for other public purposes as permitted by the Alaska Mental Health Enabling Act; and

20 (6) if, by December 15, 1994, a final determination has been made by the  
21 superior court that the state has satisfied its obligation to reconstitute the mental health trust  
22 under *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the superior court has entered a final order  
23 dismissing *Weiss v. State*, 4FA-82-2208 Civil, and the time for appeals of that determination  
24 and that order has expired with no appeals having been taken,

25 (A) to have the provisions of ch. 66, SLA 1991, that establish the  
26 Alaska Mental Health Trust Authority become law;

27 (B) to amend the provisions of ch. 66, SLA 1991, that establish the  
28 mental health trust fund to provide for preserving the corpus of the mental health trust,  
29 including an initial appropriation of \$200,000,000, in perpetuity and to have the  
30 provisions, as amended, become law;

31 (C) to provide for the Alaska Mental Health Trust Authority to use the

1 income from the mental health trust fund to assist it in fulfilling its purpose of  
2 ensuring an integrated comprehensive mental health program for the state; and

3 (D) to have the provisions of ch. 66, SLA 1991, that improve the  
4 state's mental health program become law.

5 \* Sec. 2. AS 29.65.060 is amended by adding a new subsection to read:

6 (h) To obtain replacement land for mental health land that was conveyed by  
7 the state to the municipality under former AS 29.18.190 - 29.18.200, former  
8 AS 29.18.201 - 29.18.202, or under this chapter, a municipality may reconvey to the  
9 state mental health land that had been conveyed by the state to the municipality.  
10 When a municipality reconveys land to the state under this subsection, the municipality  
11 has the right to select an equal number of acres of replacement land. The municipality  
12 may exercise its right to select replacement land under this subsection only within two  
13 years of the date of the reconveyance of land to the state.

14 \* Sec. 3. AS 37.13.300, added by sec. 9, ch. 66, SLA 1991, is amended to read:

15 Sec. 37.13.300. CORPORATION TO MANAGE CERTAIN ASSETS OF THE  
16 MENTAL HEALTH TRUST. (a) The [SUBJECT TO AGREEMENT WITH THE  
17 ALASKA MENTAL HEALTH TRUST AUTHORITY (AS 47.30.011) ENTERED  
18 INTO UNDER AS 37.14.009(a)(5), THE] corporation shall manage the mental health  
19 trust fund [CASH ASSETS OF THE CORPUS OF THE TRUST ESTABLISHED  
20 UNDER THE ALASKA MENTAL HEALTH ENABLING ACT OF 1956, P.L. 84-  
21 830, 70 STAT. 709].

22 (b) The corporation shall

23 (1) hold and invest the mental health trust fund [CASH ASSETS OF  
24 THE CORPUS OF THE TRUST THAT ARE TRANSFERRED TO ITS CUSTODY]  
25 subject to AS 37.13.120;

26 (2) at least quarterly, prepare, publish, and distribute to the Board of  
27 Trustees of the Alaska Mental Health Trust Authority a financial report showing  
28 investment revenue and expenditures, including the allocation of the cash assets of the  
29 mental health trust fund among investments;

30 (3) annually prepare, publish, and distribute to the Board of Trustees  
31 of the Alaska Mental Health Trust Authority financial statements prepared in

1 accordance with generally accepted accounting principles consistently applied, and an  
2 audit report prepared by a certified public accountant; [AND]

3 (4) periodically advise the Board of Trustees of the Alaska Mental  
4 Health Trust Authority when revisions to long-range investment policy, including asset  
5 allocation changes, are contemplated, and provide an opportunity for consultation and  
6 comment on the changes before they are implemented; and

7 (5) transfer to the mental health trust income account the net  
8 income available for distribution attributable to the mental health trust fund at  
9 the end of each fiscal year.

10 (c) Net income from the mental health trust fund [CASH ASSETS OF THE  
11 CORPUS OF THE TRUST MANAGED UNDER THIS SECTION] may not be  
12 included in the computation of net income available for distribution under  
13 AS 37.13.140.

14 \* Sec. 4. AS 37.14.003(a), added by sec. 10, ch. 66, SLA 1991, is amended to read:

15 (a) [IN REVIEWING APPROPRIATIONS FROM THE MENTAL HEALTH  
16 TRUST INCOME ACCOUNT PROPOSED BY THE AUTHORITY, THE  
17 GOVERNOR SHALL CONSIDER THE NEEDS OF THE BENEFICIARIES OF THE  
18 TRUST WITHOUT REGARD TO OTHER POTENTIAL OBJECTS OF STATE  
19 EXPENDITURE.] The governor shall, at the time the governor submits the  
20 proposed comprehensive operating and capital improvements program and  
21 financial plan under AS 37.07.060(b) [BY DECEMBER 15 OF EACH YEAR],  
22 submit to the legislature a separate appropriation bill limited to appropriations for the  
23 state's integrated comprehensive [FROM THE] mental health program [TRUST  
24 INCOME ACCOUNT].

25 \* Sec. 5. AS 37.14.003(b), added by sec. 10, ch. 66, SLA 1991, is amended to read:

26 (b) If the appropriations in the bill submitted by the governor under (a) of this  
27 section differ from those proposed by the authority, the bill must be accompanied by  
28 a report [CONTAIN FINDINGS] explaining the reasons for the differences between  
29 the proposed appropriations in the governor's bill and the authority's  
30 recommendations for expenditures from the general fund for the state's integrated  
31 comprehensive mental health program [AND PROVIDING THE BASIS FOR

1 DETERMINING THAT THE PROPOSED APPROPRIATIONS MEET THE NEEDS  
2 OF THE BENEFICIARIES OF THE TRUST. IF THE GOVERNOR PROPOSES TO  
3 INCREASE THE AMOUNT OF MONEY TO BE TRANSFERRED FROM THE  
4 MENTAL HEALTH TRUST INCOME ACCOUNT TO THE UNRESTRICTED  
5 GENERAL FUND OVER THE AUTHORITY'S RECOMMENDATION MADE  
6 UNDER AS 47.30.046(a)(3), THE BILL MUST CONTAIN FINDINGS  
7 SUPPORTING THE DETERMINATION THAT THE ADDITIONAL MONEY IS  
8 NOT REASONABLY NECESSARY TO MEET THE PROJECTED OPERATING  
9 AND CAPITAL EXPENSES OF THE INTEGRATED COMPREHENSIVE MENTAL  
10 HEALTH PROGRAM TO BE FINANCED FROM THE TRUST].

11 \* Sec. 6. AS 37.14.003(c), added by sec. 10, ch. 66, SLA 1991, is repealed and reenacted  
12 to read:

13 (c) If the governor vetoes all or a part of an appropriation for the integrated  
14 comprehensive mental health program, the governor's veto message must explain the  
15 vetoes in light of the authority's recommendations for expenditures from the general  
16 fund for the state's integrated comprehensive mental health program.

17 \* Sec. 7. AS 37.14.005, added by sec. 10, ch. 66, SLA 1991, is amended to read:

18 Sec. 37.14.005. RESPONSIBILITIES OF THE LEGISLATURE. (a) The  
19 legislature shall annually pass and transmit to the governor a bill making  
20 appropriations of money for the state's integrated comprehensive [FROM THE]  
21 mental health program [TRUST INCOME ACCOUNT NO LATER THAN THE  
22 75TH DAY OF THE REGULAR SESSION].

23 (b) [BEFORE TAKING ACTION ON APPROPRIATIONS FROM THE  
24 MENTAL HEALTH TRUST INCOME ACCOUNT PROPOSED BY THE  
25 GOVERNOR, THE LEGISLATURE SHALL CONSIDER THE NEEDS OF THE  
26 BENEFICIARIES OF THE TRUST WITHOUT REGARD TO OTHER POTENTIAL  
27 OBJECTS OF STATE EXPENDITURE.] The legislature shall make appropriations  
28 for the state's integrated comprehensive [FROM THE] mental health program  
29 [TRUST INCOME ACCOUNT] in a separate appropriation bill limited to  
30 appropriations for the state's integrated comprehensive [FROM THE] mental health  
31 program [TRUST INCOME ACCOUNT].

1 (c) If the appropriations in the bill passed by the legislature differ from those  
2 proposed by the authority, the bill must be accompanied by a report [CONTAIN  
3 FINDINGS] explaining the reasons for the differences between the appropriations  
4 in the bill and the authority's recommendations for expenditures from the general  
5 fund for the state's integrated comprehensive mental health program [AND  
6 PROVIDING THE BASIS FOR DETERMINING THAT THE APPROPRIATIONS  
7 MEET THE NEEDS OF THE BENEFICIARIES OF THE TRUST. IF THE  
8 LEGISLATURE INCREASES THE AMOUNT OF MONEY TO BE TRANSFERRED  
9 FROM THE TRUST TO THE GENERAL FUND OVER THE AUTHORITY'S  
10 RECOMMENDATION MADE UNDER AS 47.30.046(a)(3), THE BILL MUST  
11 CONTAIN FINDINGS SUPPORTING THE DETERMINATION THAT THE  
12 ADDITIONAL MONEY IS NOT REASONABLY NECESSARY TO MEET THE  
13 PROJECTED OPERATING AND CAPITAL EXPENSES OF THE INTEGRATED  
14 COMPREHENSIVE MENTAL HEALTH PROGRAM TO BE FINANCED FROM  
15 THE TRUST].

16 \* Sec. 8. AS 37.14.007(b), added by sec. 10, ch. 66, SLA 1991, is amended to read:

17 (b) In exercising the powers, duties, and responsibilities as trustee the authority  
18 is under a duty to the public and the trust beneficiaries to

19 (1) administer the trust consistent with AS 37.14.009 [SOLELY] in the  
20 interest of the beneficiaries;

21 (2) keep and render clear and accurate accounts with respect to the  
22 administration of the trust;

23 (3) make public and available complete and accurate information as to  
24 the nature and amount of the trust property;

25 (4) exercise a high degree of care in administering the trust;

26 (5) take reasonable steps to take and keep control of the trust property;

27 (6) use care and skill to preserve the trust property;

28 (7) take reasonable steps to realize on claims that are held in trust;

29 (8) defend against actions that may result in a loss to the trust estate,  
30 unless under all the circumstances, considering the other duties owed to the trust, it is  
31 reasonable not to make the defense;

- 1 (9) separately account for trust property;
- 2 (10) ensure that trust property is designated as property of the trust;
- 3 (11) use care and skill to make the trust property productive; however,
- 4 nothing in this paragraph shall prevent the state from using trust property directly or
- 5 indirectly, by contractual stipulation or otherwise, as a component of the state's mental
- 6 health trust program; and
- 7 (12) deal impartially with the different trust beneficiaries as provided
- 8 in AS 47.30.056.

9 \* Sec. 9. AS 37.14.009(a), added by sec. 10, ch. 66, SLA 1991, is amended to read:

10 (a) The Alaska Mental Health Trust Authority

11 (1) has a fiduciary obligation to ensure that the assets of the trust

12 are managed consistent with the requirements of the Alaska Mental Health

13 Enabling Act, P.L. 84-830, 70 Stat. 709 (1956);

14 (2) shall [MANAGE THE ASSETS OF THE TRUST IN A

15 FIDUCIARY MANNER TO FULFILL THE PURPOSES OF THE TRUST;

16 (2) MAY, CONSISTENT WITH (1) OF THIS SUBSECTION AND

17 AS 47.30.036(1), SELL, LEASE, EXCHANGE, OR OTHERWISE DISPOSE OF

18 LAND IN THE TRUST;

19 (3) MAY, CONSISTENT WITH (1) OF THIS SUBSECTION, USE

20 LAND THAT IS AN ASSET OF THE TRUST DIRECTLY FOR THE INTEGRATED

21 COMPREHENSIVE MENTAL HEALTH PROGRAM;

22 (4) MAY] contract with the Department of Natural Resources to

23 manage the land assets of the trust; the contract must provide for the recording of

24 at least one conveyance to the authority by quitclaim deed of mental health trust

25 land in each recording district in the state in which mental health trust land is

26 located; a conveyance to the authority is exempt from the platting and surveying

27 requirements of AS 38.04.045(b) and municipal ordinances adopted under

28 AS 29.40; when the Department of Natural Resources manages land assets of the

29 trust under a contract entered into under this paragraph, the department shall

30 (A) manage in conformity with AS 38.05.801;

31 (B) consult with the authority before adopting regulations

1           under AS 38.05.801(c);

2                           (C) provide notice to, and consult with, the authority  
3           regarding all proposed actions subject to public notice under AS 38.05.945  
4           before giving that public notice;

5                           (D) annually provide the authority with a report including

6   (i) a description of all land management activities  
7           undertaken under this section during the prior year;

8   (ii) an accounting of all income and proceeds  
9           generated from mental health trust land; and

10    (iii) an explanation of the manner in which the  
11           income and proceeds were allocated between the mental health trust  
12           land proceeds fund and the mental health trust income account; and

13                           (3) [(5) SHALL] contract with the Alaska Permanent Fund Corporation  
14           for management of the mental health trust fund [TRUST'S CASH ASSETS,  
15           UNLESS THE AUTHORITY FINDS THAT THE BEST INTERESTS OF TRUST  
16           BENEFICIARIES WOULD BE SERVED BY CONTRACTING WITH ANOTHER  
17           ENTITY].

18   \* Sec. 10. AS 37.14 is amended by adding a new section to read:

19                           Sec. 37.14.013. MENTAL HEALTH TRUST INCOME AND PROCEEDS  
20           ACCOUNT. (a) The mental health trust income and proceeds account is established  
21           as a separate account in the general fund.

22                           (b) The mental health trust income and proceeds account consists of

23   (1) the net income and net proceeds received by the state from the use,  
24           sale, or other disposal of the state land designated as mental health trust land; and

25   (2) money deposited in the account in accordance with appropriations  
26           or allocations made by law.

27   \* Sec. 11. AS 37.14 is amended by adding a new section to read:

28                           Sec. 37.14.023. UTILIZATION OF THE MENTAL HEALTH TRUST  
29           INCOME AND PROCEEDS ACCOUNT. (a) Money in the mental health trust  
30           income and proceeds account established in AS 37.14.013(a) shall first be appropriated  
31           by the legislature to pay the necessary expenses of the mental health program of the

1 state. In making annual appropriations from the mental health trust income and  
2 proceeds account, the legislature shall consider the recommendations of the Alaska  
3 Mental Health Board established under AS 47.30.661.

4 (b) After appropriations have been made to pay the necessary expenses of the  
5 mental health program of the state, the legislature may authorize the transfer of the  
6 unobligated and unappropriated fiscal year-end balance in the mental health trust  
7 income and proceeds account as of June 30 to the unrestricted portion of the general  
8 fund for use for other public purposes.

9 \* Sec. 12. AS 37.14.031, added by sec. 11, ch. 66, SLA 1991, is amended to read:

10 Sec. 37.14.031. TRUST FUND ESTABLISHED. (a) The mental health trust  
11 fund is established as a separate fund of the Alaska Mental Health Trust Authority  
12 [WITHIN THE STATE TREASURY].

13 (b) The fund consists of the cash assets of the principal of the trust, and  
14 includes

15 (1) money appropriated to the fund;

16 (2) the proceeds of sale or other disposals of mental health trust  
17 land, and the fees, charges, income earned, royalty proceeds, and other money  
18 received from the management of mental health trust land attributable to  
19 principal; and

20 (3) gifts, bequests, and contributions from other sources.

21 \* Sec. 13. AS 37.14.031, added by sec. 11, ch. 66, SLA 1991, is amended by adding new  
22 subsections to read:

23 (c) The net income of the fund shall be determined by the Alaska Permanent  
24 Fund Corporation in the same manner the corporation determines the net income of the  
25 Alaska permanent fund under AS 37.13.140.

26 (d) The provisions of AS 13.38 apply to determine amounts attributable to the  
27 principal under (b)(2) of this section.

28 \* Sec. 14. AS 37.14 is amended by adding new sections to read:

29 Sec. 37.14.033. MANAGEMENT OF TRUST FUND. The mental health trust  
30 fund shall be managed by the Alaska Permanent Fund Corporation under  
31 AS 37.13.300.

1           Sec. 37.14.035. TRUST FUND UTILIZATION. (a) The cash principal of the  
2 mental health trust fund shall be retained perpetually in the fund for investment by the  
3 Alaska Permanent Fund Corporation, as specified in AS 37.13.300.

4           (b) The net income of the fund shall be transferred by the corporation to the  
5 mental health trust income account at the end of each fiscal year.

6           (c) The net income of the fund may only be utilized by the Alaska Mental  
7 Health Trust Authority for the purposes listed in AS 37.14.041.

8 \* Sec. 15. AS 37.14.036(a), added by sec. 11, ch. 66, SLA 1991, is amended to read:

9           (a) The mental health trust income account is established as a separate account  
10 of the Alaska Mental Health Trust Authority [WITHIN THE GENERAL FUND OF  
11 THE STATE]. The mental health trust income account consists of

12           (1) fees, charges, income earned on assets, and other money received  
13 by the trust that is not attributable to the principal of the trust under AS 37.14.031(d);  
14 and

15           (2) money deposited in the account in accordance with appropriations  
16 or allocations made by law [;

17           (3) THE AMOUNTS ALLOCATED TO IT UNDER (c) OF THIS  
18 SECTION].

19 \* Sec. 16. AS 37.14 is amended by adding new sections to read:

20           Sec. 37.14.039. TRUST INCOME ACCOUNT ADMINISTRATION. (a) The  
21 mental health trust income account shall be administered by the Alaska Mental Health  
22 Trust Authority.

23           (b) If the authority determines that there is a surplus of money in the account  
24 above the amount sufficient to meet current and projected cash expenditure needs of  
25 the authority, the surplus shall be invested by the authority as provided in  
26 AS 37.10.071 for the making of investments by the fiduciary of a state fund. Income  
27 earned on investments made under this subsection may be retained by the authority and  
28 expended under AS 37.14.041.

29           Sec. 37.14.041. USE OF TRUST INCOME ACCOUNT. (a) Money in the  
30 mental health trust income account may only be used for the following purposes:

31           (1) the awarding of grants and contracts in fulfillment of the authority's

1 purpose to ensure an integrated comprehensive mental health program for the state;

2 (2) obtaining private and federal grants for a purpose described in (1)  
3 of this subsection;

4 (3) soliciting gifts, bequests, and contributions for a purpose described  
5 in (1) of this subsection;

6 (4) reimbursement to

7 (A) the Alaska Permanent Fund Corporation for the costs of  
8 managing the principal of the mental health trust fund; and

9 (B) the Department of Natural Resources for the cost of  
10 managing mental health trust land;

11 (5) offsetting the effect of inflation on the value of the principal of the  
12 mental health trust fund; and

13 (6) meeting the administrative expenses of the authority.

14 (b) If money in the mental health trust income account is not needed to meet  
15 the necessary expenses of the state's integrated comprehensive mental health program,  
16 the authority shall transfer the money to the unrestricted general fund for expenditure  
17 through legislative appropriation for other public purposes.

18 Sec. 37.14.045. LIMITATION ON GRANTS AND CONTRACTS PAID FOR  
19 FROM MENTAL HEALTH TRUST INCOME ACCOUNT. (a) The authority may  
20 award grants and contracts that are paid for from money in the mental health trust  
21 income account only in furtherance of its purpose to ensure an integrated  
22 comprehensive mental health program.

23 (b) In awarding grants and contracts that are paid for from money in the  
24 mental health trust income account, the authority shall consider proposals only from  
25 applicants submitting a detailed proposal in the form prescribed by the authority.

26 (c) The authority may not award a grant or contract that is to be paid for from  
27 money in the mental health trust income account unless the authority makes written  
28 findings explaining that

29 (1) the grant or contract awarded will further the authority's purpose  
30 to ensure an integrated comprehensive mental health program;

31 (2) the applicant has submitted an adequate plan for project

1 implementation, including both financial feasibility and project effectiveness;

2 (3) the applicant has demonstrated that sufficient expertise is available  
3 to accomplish the objectives of the proposed program or project; and

4 (4) the applicant has identified operating, maintenance, and other costs  
5 associated with the project, including those ancillary to the project, and future  
6 obligations associated with the project.

7 (d) The authority may establish other requirements for the award of grants and  
8 contracts under this section to ensure an integrated comprehensive mental health  
9 program.

10 (e) The authority shall award grants and contracts that are paid for from money  
11 in the mental health trust income account in amounts that

12 (1) are appropriate to the conditions of the applicant and the proposed  
13 program or project; and

14 (2) will make the most effective use of the funds in the mental health  
15 trust income account that are available for expenditure.

16 \* Sec. 17. AS 38.05 is amended by adding a new section to read:

17 Sec. 38.05.801. MANAGEMENT OF MENTAL HEALTH TRUST LAND.

18 (a) Mental health trust land shall be managed consistent with the trust principles  
19 imposed on the state by the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat.  
20 709 (1956).

21 (b) Subject to (a) of this section, the department

22 (1) shall manage mental health trust land under those provisions of law  
23 applicable to other state land;

24 (2) may, with the approval of the Alaska Mental Health Trust  
25 Authority, exchange other state land for mental health trust land under the procedures  
26 set out in AS 38.50; and

27 (3) may correct errors or omissions in the legal descriptions of mental  
28 health trust land.

29 (c) The commissioner shall adopt regulations under AS 44.62 (Administrative  
30 Procedure Act) to implement this section. The regulations adopted under this  
31 subsection must, at a minimum, address

- 1 (1) maintenance of the trust land base;  
2 (2) management for the benefit of the trust;  
3 (3) management for long-term sustained yield of products from the  
4 land; and  
5 (4) management for multiple use of trust land.

6 \* Sec. 18. AS 39.25.120(c) is amended by adding a new paragraph to read:

- 7 (23) employees of the unit established under AS 44.37.050.

8 \* Sec. 19. AS 44.37 is amended by adding a new section to read:

9 Sec. 44.37.050. DUTIES OF DEPARTMENT WITH RESPECT TO  
10 MANAGEMENT OF MENTAL HEALTH TRUST LAND. To carry out its duties  
11 under AS 38.05.801, the Department of Natural Resources shall establish a separate  
12 unit with responsibility for management of the mental health trust land.

13 \* Sec. 20. AS 47.30.011(c), added by sec. 26, ch. 66, SLA 1991, is amended to read:

- 14 (c) The authority  
15 (1) shall, as provided in AS 37.13.009, administer the trust established  
16 under the Alaska Mental Health Enabling Act of 1956;  
17 (2) may sue and be sued;  
18 (3) may retain the services of independent counsel when, in the  
19 judgment of the authority's board of trustees, independent counsel is needed;  
20 (4) shall insure or indemnify and protect the board, a member of the  
21 board, or an agent or employee of the authority against financial loss and expense,  
22 including reasonable legal fees and costs, arising out of a claim, demand, suit, or judg-  
23 ment by reason of alleged negligence, alleged violation of civil rights, or alleged  
24 wrongful act resulting in death or bodily injury to a person or accidental damage to  
25 or destruction of property if the board member, agent, or employee, at the time of the  
26 occurrence, was acting under the direction of the authority within the course or scope  
27 of the duties of the board member, agent, or employee; and  
28 (5) shall exercise the powers granted to it under AS 37.14.041,  
29 subject to the limitations imposed by AS 37.14.045.

30 \* Sec. 21. AS 47.30.016(b), added by sec. 26, ch. 66, SLA 1991, is amended to read:

- 31 (b) The board consists of seven members appointed by the governor. The

1 members appointed under this subsection shall be appointed

2 (1) based upon their ability in financial management and investment,  
3 in land management, or in services for the beneficiaries of the trust;

4 (2) after the governor has considered a list of persons prepared by a  
5 panel of six persons who are beneficiaries, or who are the guardians, family members,  
6 or representatives of beneficiaries; the panel shall consist of

7 (A) one person selected by the Alaska Mental Health Board  
8 (AS 47.30.661);

9 (B) one person selected by the Governor's Council on  
10 Disabilities and Special Education [FOR THE HANDICAPPED AND  
11 GIFTED (AS 47.80.030)];

12 (C) one person selected by the Advisory Board on Alcoholism  
13 and Drug Abuse (AS 44.29.110);

14 (D) one person selected by the Older Alaskans Commission  
15 (AS 44.21.200);

16 (E) one person selected by the Alaska Native Health Board; and

17 (F) one person selected by the authority.

18 \* Sec. 22. AS 47.30.016(c), added by sec. 26, ch. 66, SLA 1991, is amended to read:

19 (c) A member of the board appointed by the governor under (b) of this section  
20 may not

21 (1) be an officer or employee of the state; or

22 (2) within the preceding two years or during the member's term of  
23 office have an interest in, served on the governing board of, or been employed by an  
24 organization that has received, during that same period, money from the mental health  
25 trust income account under a grant or contract for services.

26 \* Sec. 23. AS 47.30.036(1), added by sec. 26, ch. 66, SLA 1991, is amended to read:

27 (1) preserve and protect the trust corpus under AS 37.13.009;

28 \* Sec. 24. AS 47.30.046(a), added by sec. 26, ch. 66, SLA 1991, is amended to read:

29 (a) The board shall annually, not later than September 15, submit to the  
30 governor and the Legislative Budget and Audit Committee a budget for the next fiscal  
31 year and a proposed plan of implementation based on the integrated comprehensive

1 mental health program plan prepared under AS 47.30.660(a)(1). The budget must  
2 include the authority's determination of the amount

3 (1) [RECOMMENDED FOR EXPENDITURE FROM THE MENTAL  
4 HEALTH TRUST INCOME ACCOUNT DURING THE NEXT FISCAL YEAR TO

5 (A) MEET THE ADMINISTRATIVE EXPENSES OF THE  
6 AUTHORITY;

7 (B) OFFSET THE EFFECT OF INFLATION ON THE VALUE  
8 OF THE TRUST CORPUS; AND

9 (C) MEET THE NECESSARY OPERATING AND CAPITAL  
10 EXPENSES OF THE INTEGRATED COMPREHENSIVE MENTAL HEALTH  
11 PROGRAM;

12 (2)] recommended for expenditure from the general fund [, IF ANY,] during  
13 the next fiscal year to meet the [NECESSARY] operating and capital expenses of the  
14 integrated comprehensive mental health program;

15 (2) [AND (3)] in the mental health trust income account, if any, that  
16 is not reasonably necessary to meet the projected operating and capital expenses of the  
17 integrated comprehensive mental health program that may be transferred into the  
18 general fund; and

19 (3) of the expenditures the authority intends to make under  
20 AS 37.14.041 and 37.14.045, including the specific purposes and amounts of any  
21 grants or contracts as part of the state's integrated comprehensive mental health  
22 program.

23 \* Sec. 25. AS 47.30.056(a), added by sec. 26, ch. 66, SLA 1991, is amended to read:

24 (a) The [IF APPROPRIATED BY LAW, THE] money in the mental health  
25 trust income account established in AS 37.14.036 shall be used as provided in  
26 AS 37.14.041, including to

27 (1) provide an integrated comprehensive mental health program as  
28 required by this section;

29 (2) meet the authority's annual administrative expenses; and

30 (3) offset the effect of inflation on the mental health trust fund  
31 [CORPUS OF THE TRUST].

1 \* Sec. 26. AS 47.30.470(9), added by sec. 27, ch. 66, SLA 1991, is amended to read:

2 (9) use money awarded to the board by grant or contract  
3 [APPROPRIATED] from the mental health trust income account established under  
4 AS 37.14.036 and appropriated from the general fund to provide the necessary  
5 services identified in (8) of this section and in accordance with AS 47.30.056.

6 \* Sec. 27. AS 47.30.660(a)(3), added by sec. 36, ch. 66, SLA 1991, is amended to read:

7 (3) implement an integrated comprehensive system of care that, within  
8 the limits of money appropriated for that purpose and using grants and contracts  
9 that are to be paid for from the mental health trust income account, meets the  
10 service needs of the beneficiaries of the trust established under the Alaska Mental  
11 Health Enabling Act of 1956, as determined by the plan.

12 \* Sec. 28. AS 47.30.910(d), as amended by sec. 41, ch. 66, SLA 1991, is further amended  
13 to read:

14 (d) All money paid by the patient or on the patient's behalf to the department  
15 under this section shall be deposited in the general fund [MENTAL HEALTH TRUST  
16 INCOME ACCOUNT ESTABLISHED IN AS 37.14.036].

17 \* Sec. 29. Section 58, ch. 66, SLA 1991, is repealed and reenacted to read:

18 Sec. 58. (a) This Act takes effect only if, not later than December 15, 1994,

19 (1) the superior court of the State of Alaska has made a final  
20 determination that the state has satisfied its obligation to reconstitute the mental health  
21 trust under State v. Weiss, 706 P.2d 681 (Alaska 1985);

22 (2) the superior court has entered a final order dismissing Weiss v.  
23 State, 4FA-82-2208 Civil; and

24 (3) the time for appeals of that determination and that order has expired  
25 with no appeals having been taken.

26 (b) The attorney general shall advise the lieutenant governor and the revisor  
27 of statutes whether the determination required by (a)(1) of this section has been made,  
28 whether the final order required by (a)(2) of this section has been entered, and  
29 whether, as required by (a)(3) of this section, the time for appeals of that determination  
30 and that order has expired with no appeals having been taken as of that date.

31 \* Sec. 30. Chapter 66, SLA 1991, is amended by adding a new section to read:

1                   Sec. 59. If, under sec. 58 of this Act, this Act takes effect, it takes effect  
2                   December 16, 1994.

3       \* **Sec. 31.** AS 37.14.003(c), 37.14.009(b), 37.14.011, 37.14.021, 37.14.031(c);  
4 AS 38.05.800; AS 47.30.031(b)(2); secs. 1, 2, 4, and 5, ch. 132, SLA 1986; secs. 7 - 10,  
5 ch. 48, SLA 1987; and secs. 49, 50, and 54 - 57, ch. 66, SLA 1991, are repealed.

6       \* **Sec. 32. MENTAL HEALTH TRUST RECONSTITUTED.** (a) For the purpose of  
7 reconstituting the mental health trust established under the Alaska Mental Health Enabling  
8 Act, P.L. 84-830, 70 Stat. 709 (1956), as required by the Alaska Supreme Court's decisio. in  
9 Weiss v. State, 706 P.2d 681 (Alaska 1985), the following land is designated as mental health  
10 trust land:

11                   (1) the original mental health land listed in "Original Mental Health Land To  
12 Be Designated as Mental Health Trust Land, April 28, 1994," located in the office of the  
13 director of the division of lands, Department of Natural Resources, in Anchorage, Alaska; and

14                   (2) the state land listed in "Other State Land To Be Designated as Mental  
15 Health Trust Land, April 28, 1994," located in the office of the director of the division of  
16 lands, Department of Natural Resources, in Anchorage, Alaska.

17                   (b) All land designated as mental health trust land under this section remains subject  
18 to all encumbrances or interests of record, noted on records maintained by the Department of  
19 Natural Resources, or otherwise existing on the effective date of this section.

20                   (c) To the extent the state's liability to the mental health trust for the fair market value  
21 of the land described in sec. 33 of this Act is not satisfied by the set-off for state mental  
22 health expenditures authorized by the Alaska Supreme Court in State v. Weiss, 706 P.2d 681  
23 (Alaska 1985), the state land described in (a)(2) of this section, the other compensation made  
24 by this Act, and appropriations from the general fund for the state's integrated comprehensive  
25 mental health program compensates the trust

26                   (1) first, for land conveyed or made subject to a contract for conveyance by  
27 the Department of Natural Resources to third parties that are not state agencies or political  
28 subdivisions of the state;

29                   (2) second, for land conveyed by the Department of Natural Resources to  
30 municipalities; and

31                   (3) third, for the other land described in sec. 33 of this Act.

1 \* Sec. 33. CONFIRMATION AND RATIFICATION OF CONVERSION OF CERTAIN  
2 ORIGINAL MENTAL HEALTH LAND TO GENERAL GRANT LAND, CONTINGENT  
3 CONVERSION OF CERTAIN ORIGINAL MENTAL HEALTH LAND TO GENERAL  
4 GRANT LAND, AND CONFIRMATION AND RATIFICATION OF ACTIONS TAKEN  
5 WITH RESPECT TO CONVERTED LAND. (a) Except for the land described in sec. 32 of  
6 this Act,

7 (1) the conversion to general grant land by sec. 3(a), ch. 181, SLA 1978, and  
8 sec. 1(a), ch. 182, SLA 1978, of all land obtained by the state under the Alaska Mental Health  
9 Enabling Act, P.L. 84-830, 70 Stat. 709 (1956), and not listed in "Original Mental Health  
10 Land To Be Designated as Mental Health Trust Land, April 28, 1994," located in the office  
11 of the director of the division of lands, Department of Natural Resources, in Anchorage,  
12 Alaska, is confirmed and ratified; and

13 (2) land patented to or approved for patent to the state under the Alaska Mental  
14 Health Enabling Act after July 1, 1978, and not listed in "Original Mental Health Land To Be  
15 Designated as Mental Health Trust Land, April 28, 1994," located in the office of the director  
16 of the division of lands, Department of Natural Resources, in Anchorage, Alaska, is  
17 redesignated as general grant land if it was not converted to general grant land by sec. 3(a),  
18 ch. 181, SLA 1978, and sec. 1(a), ch. 182, SLA 1978.

19 (b) The land affected by this section includes the land listed in "Original Mental  
20 Health Land Not To Be Returned to Mental Health Trust Status, April 28, 1994," located in  
21 the office of the director of the division of lands, Department of Natural Resources, in  
22 Anchorage, Alaska.

23 (c) All dispositions and uses of the land identified under (a) of this section, including  
24 without limitation the creation by the state or the transfer by the state of an interest in the land  
25 or the designation of the land as part of a state park, state forest, state game refuge, state  
26 wildlife refuge, state game sanctuary, state recreational area, state recreational river, state  
27 wilderness park, state marine park, state special management area, state public use area,  
28 critical habitat area, bald eagle preserve, bison range, or moose range are confirmed and  
29 ratified.

30 \* Sec. 34. STATE MENTAL HEALTH EXPENDITURES TO BE SET-OFF AGAINST  
31 STATE MONETARY LIABILITY FOR ORIGINAL MENTAL HEALTH LAND NOT

1 RETURNED TO TRUST STATUS. To the extent the state is liable to the mental health trust  
2 for the fair market value of any original mental health land not returned to trust status under  
3 sec. 32(a)(1) of this Act, after taking into account the fair market value of the state land  
4 designated as mental health trust land under sec. 32(a)(2) of this Act, the set-off against that  
5 liability for state mental health expenditures since 1978 to which the state is entitled under  
6 State v. Weiss, 706 P.2d 681 (Alaska 1985), totals \$1,300,000,000.

7 \* Sec. 35. TRANSITIONAL PROVISIONS; DEVELOPMENT OF MENTAL HEALTH  
8 TRUST INCOME ACCOUNT MECHANISM. Not later than January 1, 1996, the Board of  
9 Trustees of the Alaska Mental Health Trust Authority, after consulting with organizations and  
10 persons affected by this Act, shall

11 (1) consistent with AS 47.30.056(h), added by sec. 26, ch. 66, SLA 1991,  
12 adopt regulations regarding persons who are to receive services funded by money in the  
13 mental health trust income account under AS 37.14.036, as added by sec. 11, ch. 66, SLA  
14 1991, and amended by secs. 15 and 31 of this Act;

15 (2) publish its findings and estimates regarding the number of persons in need  
16 under the regulations adopted under (1) of this section;

17 (3) consistent with AS 47.30.056(j), added by sec. 26, ch. 66, SLA 1991, adopt  
18 regulations regarding the services and facilities upon which expenditures are to be made from  
19 money in the mental health trust income account under AS 37.14.036, added by sec. 11,  
20 ch. 66, SLA 1991, and amended by secs. 15 and 31 of this Act; and

21 (4) publish its findings and projections regarding the necessary expenditure of  
22 money from the mental health trust income account under AS 37.14.036, as added by sec. 11,  
23 ch. 66, SLA 1991, and amended by secs. 15 and 31 of this Act.

24 \* Sec. 36. ADDITIONAL COMPENSATION TO MENTAL HEALTH TRUST. (a) To  
25 the extent the state has any additional monetary liability to the mental health trust for original  
26 mental health land not returned to trust status under sec. 32(a)(1) of this Act after taking into  
27 account the fair market value of the other state land under sec. 32(a)(2) of this Act and the  
28 set-off for state mental health expenditures under sec. 34 of this Act, the commissioner of  
29 revenue shall allocate sufficient unrestricted state general funds to the mental health trust  
30 income and proceeds account (AS 37.14.013), established by sec. 10 of this Act, to satisfy that  
31 liability. The money so allocated is additional compensation to the mental health trust for the

1 original mental health land not returned to trust status under sec. 32(a)(1) of this Act. An  
2 allocation under this subsection may not exceed \$100,000,000 during any one state fiscal year.

3 (b) After appropriations from the mental health trust income and proceeds account  
4 have been made to pay for the state's mental health program, the legislature may

5 (1) transfer to the general fund an amount equal to the remaining unrestricted  
6 state general funds allocated by the commissioner of revenue to the mental health trust income  
7 and proceeds account under (a) of this section; and

8 (2) appropriate any part or all of the amount transferred under (1) of this  
9 subsection for other public purposes.

10 \* Sec. 37. REPLACEMENT LAND OF MUNICIPALITIES. A municipality may obtain  
11 replacement land under AS 29.65.060(h), added by sec. 2 of this Act, for land that had been  
12 conveyed by the state to the municipality only if the land is on the list of "Original Mental  
13 Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," or on the list  
14 of "Other State Land To Be Designated as Mental Health Trust Land, April 28, 1994," both  
15 of which are located in the office of the director of the division of lands, Department of  
16 Natural Resources, in Anchorage, Alaska.

17 \* Sec. 38. If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 29 of this  
18 Act, are not met on or before December 15, 1994, then ch. 66, SLA 1991, is repealed and  
19 secs. 3 - 9, 12 - 16, 20 - 28, and 35 of this Act do not take effect.

20 \* Sec. 39. If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 29 of this  
21 Act, are met on or before December 15, 1994, then AS 37.14.013, added by sec. 10 of this  
22 Act, AS 37.14.023, added by sec. 11 of this Act, and sec. 36 of this Act are repealed.

23 \* Sec. 40. Subject to sec. 38 of this Act, secs. 3 - 9, 12 - 16, 20 - 28, and 35 of this Act  
24 take effect December 16, 1994.

25 \* Sec. 41. Sections 38 and 39 of this Act take effect December 16, 1994.

26 \* Sec. 42. Sections 1, 2, 10, 11, 17 - 19, 29 - 34, 36, and 37 of this Act take effect  
27 immediately under AS 01.10.070(c).

# Alaska State Legislature

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## House of Representatives

Committee on Finance  
State Capitol, Juneau, Alaska 99801-1182

### MEMORANDUM

TO: To All Members of the Alaska State Legislature

FROM: Representative Ron Larson, Co-Chair  
House Finance Committee

DATE: April 28, 1994

RE: **Mental Health Trust Lands Settlement**

Attached for your information, will find the most recent workdraft of a proposed CS for House Bill ~~210~~ (FIN). Also attached is a two page summary of the major features of this proposed Committee Substitute. This legislation has been a joint effort of the Departments of Law and Natural Resources, working closely with the Mental Health Alliances, Development Interests, Environmental Groups and Municipalities.

This is the proposed CS that will be put before the House Finance Committee at a meeting planned for Friday.

CSSB 201 (FIN)

- \* The bill has three components: (1) it reconstitutes the mental health trust as required by the Alaska Supreme Court in a way that protects private third parties' and municipalities' title to mental health land conveyed to them, mental health land leased for resource development, mental health land in state parks and wildlife refuges, and mental health land used by state agencies, and (2) as an incentive to the mental health community for early dismissal of the litigation, it provides that the beneficiaries of the mental health trust will receive a number of benefits if the case is dismissed and the time for appeal expires by December 15, 1994

Koester.

The reconstitution component

- \* The bill includes several findings as to the history of the Weiss litigation, the state's obligations and management options under the 1956 federal Alaska Mental Health Enabling Act, the legislature's power under the Alaska Constitution to remove land from trust status if the trust is compensated for the fair market value of the land, and how this bill serves the interests of both the beneficiaries of the mental health trust and the public
- \* It reconstitutes the mental health trust, as required by the Alaska Supreme Court, with some original mental health land
- \* For original mental health land not returned to the trust, it compensates the trust in three ways
- Some other state land is designated as trust land
  - Past state mental health expenditures of \$1.3 billion are claimed as a set-off against state monetary liability for the fair market value of the land not returned, as authorized by the Alaska Supreme Court
  - Future state mental health expenditures are claimed as an additional set-off against state monetary liability
- \* Reconstituted mental health trust land will be managed by the Department of Natural Resources consistent with the state's trust obligation under the Enabling Act and, to the extent consistent with the Enabling Act, other state laws governing state land management -- i.e., the land must be managed as the Enabling Act requires but other public interests may be taken into account and accommodated to the extent the Enabling Act permits
- \* Municipalities returning land to the state for transfer to the trust will have two years to select other municipal entitlement land

CSSB 201 (FIN)

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  - Past state mental health expenditures of \$1.3 billion are claimed as a set-off against state monetary liability for the fair market value of the land not returned, as authorized by the Alaska Supreme Court
  - Future state mental health expenditures are claimed as an additional set-off against state monetary liability
- \* Reconstituted mental health trust land will be managed by the Department of Natural Resources consistent with the state's trust obligation under the Enabling Act and, to the extent consistent with the Enabling Act, other state laws governing state land management -- i.e., the land must be managed as the Enabling Act requires but other public interests may be taken into account and accommodated to the extent the Enabling Act permits
- \* Municipalities returning land to the state for transfer to the trust will have two years to select other municipal entitlement land

- \* The current allocation of six percent of the unrestricted general fund to the mental health trust income account is repealed

The incentive component:

- \* If the litigation is dismissed and the time for appeals expires with no appeals filed before December 15, 1994, the mental health community receives several benefits
- \* The mental health trust authority is established largely as provided in chapter 66, SLA 1991, to oversee, coordinate, and make important decisions regarding the funding of the state's mental health program
- \* The authority makes recommendations regarding amounts of state general funds needed for the state's mental health program; after considering the recommendations, the governor prepares and the legislature passes a separate appropriation bill for the program; any differences between the bill and the authority's recommendations must be explained in an accompanying report
- \* The mental health trust fund from chapter 66 is established, to consist of a \$200 million up-front appropriation and trust land revenues attributable to the principal of the trust; the fund will be preserved in perpetuity and managed by the Alaska Permanent Fund Corporation to generate income
- \* The mental health trust income account from chapter 66 is established, to consist of the income from the mental health trust fund and the revenues from trust land not attributable to the principal of the trust (leases, etc.); the authority will use the money in the income account for grants and contracts to implement the state's mental health program
- \* The chapter 66 provisions that improve the state's mental health program become effective

4/29/94 #4

~~Final ed~~

ADMINISTRATION AMENDMENT #2

adopted / rescind /  
as amended  
↓

TO 4/27/94 "V" WORK DRAFT FOR CSSB 201 (FIN)

Page 17, line 19, after "needed;":

~~(NEW LANGUAGE)~~

Insert "following such a determination by the board, the contract for professional services with the independent counsel is subject to approval by the attorney general in accordance with AS 36.30.015(d)"

ADMINISTRATION AMENDMENT #3

TO 4/27/94 "V" WORK DRAFT FOR CSSB 201 (FIN)

adopted  
NO OBJ

Page 23, line 6:

Change "\$1,300,000,000" to "\$1,320,000,000"

- 2029

4/29/94 #3

UNOPPOSED AMENDMENTS

①

adopted  
NO OBJ

TO 4/27/94 "V" WORK DRAFT FOR CSSB 201 (FIN)

Page 7, line 9

Delete "mental health"

Page 12, line 9:

Delete "and"

Page 12, line 12:

Delete "land proceeds"

After "account:" add:

and

(E) obtain the approval of the authority before  
exchanging mental health trust land under AS  
38.05.301(b)(2);

Page 16, lines 24-25, after "may":

Delete ", with the approval of the Alaska Mental Health Trust  
Authority,"

Page 17, line 15:

Change "AS 37.13.009" to "AS 37.14.009"

Page 21, line 3:

Delete "AS 37.14.003(c)"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 201(RES)

Page 1, line 3, after "trust":

Insert ", and the provisions of that Act and the Executive Budget Act that relate to the preparation of a program budget and the making of appropriations to implement the integrated comprehensive mental health program; amending the description of the duties of the board of directors of the Alaska Mental Health Trust Authority as they relate to preparation of an annual program budget; amending ch. 66, SLA 1991, to clarify the obligations of the state to trust beneficiaries;"

Page 1, following line 11:

Insert new bill sections to read:

"\* Sec. 2. AS 37.07.020(a) is amended to read:

(a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which must cover all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. Except as provided in (e) of this section, the [THE] budget submitted by the governor shall be organized so that the proposed expenditures for each agency are presented separately. The budget must be accompanied by a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendation. . in the budget for new or additional revenue. The proposed general appropriation bill shall become public information on December 15 of each year at which time the governor shall submit copies to the legislature and make copies available to the public.

\* Sec. 3. AS 37.07.020 is amended by adding a new subsection to read:

(e) The governor shall prepare and submit the proposed budget based on the integrated comprehensive mental health program plan prepared under

AS 47.30.660(a)(1) as a program budget. The program budget prepared under this subsection shall propose expenditures to groups of activities designed to accomplish the mental health program plan goals regardless of which agency, division, or recipient administers the programs or activities.

\* Sec. 4. AS 37.07.060(b) is amended to read:

(b) The governor shall present the proposed comprehensive operating and capital improvements programs and financial plans in a message to a joint session of the legislature before the fourth legislative day following the convening of the legislature in regular session. The message must be accompanied by an explanatory report that summarizes recommended goals, plans, and appropriations. The report must contain

(1) the coordinated program goals and objectives that [WHICH] the governor recommends to guide the decisions on the proposed program plans and budget appropriations;

(2) the governor's operating program and budget recommendations for the succeeding fiscal year

(A) organized by agency when [AS] required by AS 37.07.020(a); and

(B) organized as a program budget when required by AS 37.07.020(e);

(3) the governor's capital improvements program and budget recommendations for the succeeding fiscal year and capital improvements program for the succeeding six fiscal years that [WHICH] must include

(A) a description of each project, its estimated cost for the year construction is to start and the estimated cost of the project adjusted for inflation over the estimated period of construction, and the source of financing for the project; the project description for a new building or a new facility or for a major addition to a building or facility should include a site plan, preliminary drawings, and architect's or engineer's total cost estimate for the project;

(B) a summary of projects previously authorized and not yet completed;

# **CORRECTION**

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

- 2029

4/29/94 #3

UNOPPOSED AMENDMENTS

①

adopted  
NO OBJ

TO 4/27/94 "V" WORK DRAFT FOR CSSB 201 (FIN)

Page 7, line 9

Delete "mental health"

Page 12, line 9:

Delete "and"

Page 12, line 12:

Delete "land proceeds"

After "account;" add:

and

(E) obtain the approval of the authority before  
exchanging mental health trust land under AS  
38.05.801(b)(2);

Page 16, lines 24-25, after "may":

Delete ", with the approval of the Alaska Mental Health Trust  
Authority,"

Page 17, line 15:

Change "AS 37.13.009" to "AS 37.14.009"

Page 21, line 3:

Delete "AS 37.14.003(c)"

Amendment #1

page 2

Page 21, line 25, after "program":

Change "compensates" to "compensate"

Page 24, line 22, after the second "Act,":

Insert "AS 47.30.546,"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 201(RES)

Page 1, line 3, after "trust":

Insert ", and the provisions of that Act and the Executive Budget Act that relate to the preparation of a program budget and the making of appropriations to implement the integrated comprehensive mental health program; amending the description of the duties of the board of directors of the Alaska Mental Health Trust Authority as they relate to preparation of an annual program budget; amending ch. 66, SLA 1991, to clarify the obligations of the state to trust beneficiaries;"

Page 1, following line 11:

Insert new bill sections to read:

\*\* Sec. 2. AS 37.07.020(a) is amended to read:

(a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which must cover all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. Except as provided in (e) of this section, the [THE] budget submitted by the governor shall be organized so that the proposed expenditures for each agency are presented separately. The budget must be accompanied by a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenue. The proposed general appropriation bill shall become public information on December 15 of each year at which time the governor shall submit copies to the legislature and make copies available to the public.

\* Sec. 3. AS 37.07.020 is amended by adding a new subsection to read:

(e) The governor shall prepare and submit the proposed budget based on the integrated comprehensive mental health program plan prepared under

AS 47.30.660(a)(1) as a program budget. The program budget prepared under this subsection shall propose expenditures to groups of activities designed to accomplish the mental health program plan goals regardless of which agency, division, or recipient administers the programs or activities.

\* Sec. 4. AS 37.07.060(b) is amended to read:

(b) The governor shall present the proposed comprehensive operating and capital improvements programs and financial plans in a message to a joint session of the legislature before the fourth legislative day following the convening of the legislature in regular session. The message must be accompanied by an explanatory report that summarizes recommended goals, plans, and appropriations. The report must contain

(1) the coordinated program goals and objectives that [WHICH] the governor recommends to guide the decisions on the proposed program plans and budget appropriations;

(2) the governor's operating program and budget recommendations for the succeeding fiscal year

(A) organized by agency when [AS] required by AS 37.07.020(a); and

(B) organized as a program budget when required by AS 37.07.020(e);

(3) the governor's capital improvements program and budget recommendations for the succeeding fiscal year and capital improvements program for the succeeding six fiscal years that [WHICH] must include

(A) a description of each project, its estimated cost for the year construction is to start and the estimated cost of the project adjusted for inflation over the estimated period of construction, and the source of financing for the project; the project description for a new building or a new facility or for a major addition to a building or facility should include a site plan, preliminary drawings, and architect's or engineer's total cost estimate for the project;

(B) a summary of projects previously authorized and not yet completed;

(C) a summary, listed by agency, of all previously proposed projects that have been deferred beyond the six years covered by the plan and the year in which construction has been rescheduled to begin;

(D) a forecast of the debt structure of the state and the various debt ratios over the life of the state's bonds outstanding, bonds authorized and to be issued, and bond authorizations recommended in the plan;

(E) a description of additional revenue measures needed to finance the plan in lieu of debt;

(F) bond election bills to authorize the bonds required to fund the projects scheduled for the first three years of the plan;

(G) projections of population of the state and its regions and communities;

(H) economic data and projections necessary for the evaluation of the plan;

(4) a summary of state receipts in the last fiscal year, a revised estimate for the current fiscal year, and an estimate for the succeeding fiscal year;

(5) a summary of expenditures during the last fiscal year, those authorized for the current fiscal year, and an estimate for the succeeding fiscal year;

(6) any additional information that will facilitate understanding of the governor's proposed programs and financial plans by the legislature and the public.

\* Sec. 5. AS 37.14.003, as added by sec. 10, ch. 66, SLA 1991, is amended to read:

Sec. 37.14.003. RESPONSIBILITIES OF THE GOVERNOR. (a) In reviewing appropriations from the mental health trust income account proposed by the authority in the authority's proposed program budget submitted under AS 47.30.046(a), the governor shall consider the needs of the beneficiaries of the trust [WITHOUT REGARD TO OTHER POTENTIAL OBJECTS OF STATE EXPENDITURE]. The governor shall, by December 15 of each year, submit to the legislature an [A SEPARATE] appropriation bill containing proposed [LIMITED TO] appropriations from the mental health trust income account.

(b) If

(1) the appropriations in the bill submitted by the governor under (a) of this section differ from those proposed by the authority, the bill must contain

findings explaining the reasons for the differences and providing the basis for determining that the proposed appropriations meet the needs of the beneficiaries of the trust:

(2) [. IF] the governor proposes to increase the amount of money to be transferred from the mental health trust income account to the unrestricted general fund over the authority's recommendation made under AS 47.30.046(a)(3), the bill must contain findings supporting the determination [THAT THE ADDITIONAL MONEY IS NOT REASONABLY NECESSARY TO MEET THE PROJECTED OPERATING AND CAPITAL EXPENSES OF THE INTEGRATED COMPREHENSIVE MENTAL HEALTH PROGRAM TO BE FINANCED FROM THE TRUST].

(c) In reviewing the appropriations of money from the mental health trust income account for possible veto, the governor shall consider only the needs of the beneficiaries of the trust [WITHOUT REGARD TO OTHER POTENTIAL OBJECTS OF STATE EXPENDITURES]. If the governor vetoes all or a part of an appropriation of money from the mental health trust income account, the governor's veto message must include the reasons the governor believes the remaining appropriations meet the needs of the beneficiaries of the trust.

\* Sec. 6. AS 37.14.005, as added by sec. 10, ch. 66, SLA 1991, is amended to read:

Sec. 37.14.005. RESPONSIBILITIES OF THE LEGISLATURE. (a) The legislature shall annually pass and transmit to the governor a bill making appropriations of money from the mental health trust income account [NO LATER THAN THE 75TH DAY OF THE REGULAR SESSION].

(b) Before taking action on appropriations from the mental health trust income account proposed by the governor, the legislature shall first consider the needs of the beneficiaries of the trust [WITHOUT REGARD TO OTHER POTENTIAL OBJECTS OF STATE EXPENDITURE. THE LEGISLATURE SHALL MAKE APPROPRIATIONS FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT IN A SEPARATE APPROPRIATION BILL LIMITED TO APPROPRIATIONS FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT].

(c) If

(1) the appropriations in the bill passed by the legislature differ from

those proposed by the authority in the authority's proposed program budget submitted under AS 47.30.046(a), the bill must contain findings explaining the reasons for the differences and providing the basis for determining that the appropriations meet the needs of the beneficiaries of the trust;

(2) [. IF] the legislature increases the amount of money to be transferred from the trust to the general fund over the authority's recommendation made under AS 47.30.046(a)(3), the bill must contain findings supporting the determination [THAT THE ADDITIONAL MONEY IS NOT REASONABLY NECESSARY TO MEET THE PROJECTED OPERATING AND CAPITAL EXPENSES OF THE INTEGRATED COMPREHENSIVE MENTAL HEALTH PROGRAM TO BE FINANCED FROM THE TRUST]."

Renumber the following bill sections accordingly.

Page 2, line 24, after "Corporation":

Insert "or with the division of treasury, Department of Revenue."

Page 2, lines 25 - 26:

Delete "unless the authority finds that the best interests of trust beneficiaries would be served by contracting with another entity"

Insert "[UNLESS THE AUTHORITY FINDS THAT THE BEST INTERESTS OF TRUST BENEFICIARIES WOULD BE SERVED BY CONTRACTING WITH ANOTHER ENTITY]"

Page 3, following line 22:

Insert a new bill section to read:

\*\* Sec. 10. AS 37.14.031, added by sec. 11, ch. 66, SLA 1991, is amended to read:

Sec. 37.14.031. TRUST FUND ESTABLISHED. The mental health trust fund is established as a separate fund [WITHIN THE STATE TREASURY]. The fund consists of the cash assets of the principal of the trust. The mental health trust fund is established, as the board of directors of the Alaska Mental Health Trust Authority may determine,

- (1) within the state treasury; or
- (2) within the Alaska Permanent Fund Corporation."

Renumber the following bill sections accordingly.

Page 9, line 12:

Delete "AS 47.30.046(a)"

Insert "AS 47.30.046"

Page 9, line 13, before "(a)":

Insert "Sec. 47.30.046. BUDGET RECOMMENDATIONS; REPORTS."

Page 9, line 16, after "budget":

Insert "prepared and submitted under this subsection shall be presented as a complete and comprehensive program budget sufficient to meet the requirements of AS 37.07.020(e), and"

Page 10, following line 3:

Insert a new subsection to read:

"(b) When the authority submits its proposed program budget under (a) of this section, the authority shall also provide a report to the Legislative Budget and Audit Committee, the governor, the Office of Management and Budget, the commissioner of health and social services, and all entities providing services with money in the mental health trust income account, and shall make it available to the public. The report must describe at least the following:

- (1) the assets, earnings, and expenditures of the trust as of the end of the preceding fiscal year;
- (2) comparisons of the trust's assets, earnings, and expenditures with the prior five fiscal years;
- (3) projections of the trust's assets, earnings, and expenditures for the next five fiscal years;
- (4) the authority's budget recommendations submitted under (a) of this

section, and its reasons for making those recommendations;

(5) the authority's guidelines for the establishment of services; the provision of services shall be based on the principle that services paid for from the trust are provided to recipients as close to the recipient's home and family as practical with due consideration of demographics, mental health service requirements, use of mental health services, economic feasibility, and capital expenditures required for provision of minimum levels of service;

(6) forecasts of the number of persons needing services;

(7) projections of the resources required to provide the necessary services and facilities; and

(8) reviews of the status of the integrated comprehensive mental health program, including evaluation of program goals, objectives, targets and timelines, and overall effectiveness."

Page 10, following line 13:

Insert a new bill section to read:

"\* Sec. 18. Section 1, ch. 66, SLA 1991, is amended by adding a new subsection to read:

(c) Nothing in this Act is intended to change any obligation the state may have to provide for the health and welfare of the beneficiaries of the trust from the state's general fund."

Renumber the following bill sections accordingly.

Page 11, line 4:

Delete "sec. 8"

Insert "sec. 14"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 201(RES)

Page 11, following line 4:

Insert a new bill section to read:

"\* Sec. 17. ALASKA MENTAL HEALTH TRUST AUTHORITY'S FIRST RECOMMENDATIONS FOR EXPENDITURES FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT. (a) In making its first recommendations for expenditures from the mental health trust income account under AS 47.30.046(a)(1), the Alaska Mental Health Trust Authority shall consider the appropriations from the mental health trust income account that are in effect on the effective date of ch. 66, SLA 1991.

(b) If the initial recommendations made by the Alaska Mental Health Trust Authority differ from the appropriations from the mental health trust income account that are in effect on the effective date of ch. 66, SLA 1991, the Authority shall include findings in the recommendations explaining the reasons for the differences."

Renumber the following bill sections accordingly.