

Original sponsor: Malone

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 151 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an act entitled: "An Act relating to the mental health trust fund and
7 its administration; and providing for an effective
8 date."

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

10 * Section 1. AS 37.14.030 is amended by adding a new paragraph to read:

11 (4) to assess and report to the legislature by the 15th day
12 of the first session of each legislature

13 (A) the needs for mental health services in the state;

14 (B) the degree to which the needs for mental health
15 services are being met in the state;

16 (C) its recommendations and priorities for use of the
17 income of the mental health fund established under AS 37.14.010.

18 * Sec. 2. AS 37.14.040 is amended to read:

19 Sec. 37.14.040. FUND UTILIZATION. The principal of the fund
20 established in AS 37.14.010 shall be retained in that fund for invest-
21 ment as specified in AS 37.14.170. The income of the fund shall [MAY
22 NOT] be appropriated first for [A PURPOSE OTHER THAN] the support of the
23 state mental health program. The balance of the income of the fund that
24 is not required for support of the state mental health program may be
25 appropriated for any other public purpose.

26 * Sec. 3. AS 37.14.050 is amended to read:

27 Sec. 37.14.050. CONTRIBUTIONS. During each fiscal year [, SUBJECT
28 TO LEGISLATIVE APPROPRIATION OF SUFFICIENT FUNDS,] the commissioner of
29 revenue [THE DEPARTMENT OF REVENUE] shall transfer to the fund estab-

1 lished in AS 37.14.010 a sum equal to one and one-half percent of the
2 total receipts [REVENUE] derived from [THE MANAGEMENT OF STATE LAND,
3 INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR ANNUAL RENT
4 OF SURFACE RIGHTS,] mineral lease rentals, royalties, royalty sale
5 proceeds, and federal mineral revenue-sharing payments or bonuses.

6 * Sec. 4. AS 37.14 is amended by adding a new section to read:

7 Sec. 37.14.055. REVIEW BY BUDGET AND AUDIT COMMITTEE. The Legis-
8 lative Budget and Audit Committee shall annually review the performance
9 of the commissioner of revenue regarding the custody, management, and
10 investment of the mental health trust fund established by AS 37.14.010
11 and report its findings to the legislature and the governor.

12 * Sec. 5. This Act takes effect July 1, 1982.
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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SB 710 (Resources) / CSHB 151 (Finance)
Title Relating to the mental health trust fund
Requested by Senate Resources Committee Date 4/12/82

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

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

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

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CSSB 710, / CSHB 151 (Finance)
 Title: Relating to state trust funds and their administration
 Requested by: _____ Date: 4/12/82

II. FISCAL DETAIL

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING

IN MILLIONS OF DOLLARS

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

POSITIONS

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

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

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

A. Stack

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

STATE OF ALASKA
THE LEGISLATURE

PROPOSED CS(FIN) FOR HB151

IS IDENTICAL TO
CSSB710 (RES)

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
997-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 6, 1982

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

TO: Senator Arliss Sturgulewski

FROM: Richard A. Bradley *B*
Legislative Counsel

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

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

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

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

Senator Arliss Sturgulewski
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April 6, 1982

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

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

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

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

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

Senator Arliss Sturgulewski

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April 6, 1982

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

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

RAB:ljb

STATE OF ALASKA

DEPARTMENT OF LAW

FEB - 8 1982

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

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

February 8, 1982

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

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

Dear Representative Malone:

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

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

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

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

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

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

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

for mental health treatment in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*/ The state has partially waived its immunity from suit in state courts for contract, quasi-contract and certain tort claims. AS 09.50.250. It is doubtful that a suit to enforce a federal trust obligation could be brought under this statute.

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

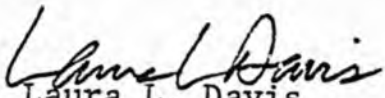
Hon. Hugh Malone
Alaska House of Representatives

February 8, 1982
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appropriate. We cannot advise you on the likelihood of obtaining such a repeal. However, we expect that Congress would be more favorably disposed toward the state if our actions demonstrated a commitment to carrying out our obligations under the Alaska Mental Health Enabling Act.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Laura L. Davis
Assistant Attorney General

LLD/pjg

cc: Hon. Charles Parr
Alaska State Senate

Carole Burger
Office of the Governor

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

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

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

Recovery of
value of facility.

LAND GRANT

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

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

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

Mineral deposits.

Leases: sales

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

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

EFFECTIVE DATE

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

TITLE III—TRANSITIONAL AND GENERAL PROVISIONS

AMENDMENTS AND REPEALS

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

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

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

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

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

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

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

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

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 17, 1982

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

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

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

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

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

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

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

Representative Hugh Malone
Page 2
February 17, 1982

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

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

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

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

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

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

Representative Hugh Malone

Page 3

February 17, 1982

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

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

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

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

RAB:ljb

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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

April 20, 1981

Hon. Don Clocksin
Hon. Patrick O'Connell
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 151, relating to school
and mental health trust funds
Our file: J-66-676-81

Dear Representatives Clocksin and O'Connell:

Enclosed is a revised draft of a proposed committee substitute for HB 151, relating to the public school and mental health trust funds.

After consultation with the director of mental health and Mr. Malone's assistant, we have concluded that AS 37.14.030 should be repealed. The Advisory Council already reviews the preparation of its part of the mental health budget and the Council on the Handicapped and the Gifted does the same with respect to its part. The role of each council will be increased, and the Department of Revenue will furnish monthly reports on fund income. Accordingly, the review sought to be achieved under AS 37.14.030 as it would be revised by Mr. Malone's bill is already achieved under existing law.

The same is true with respect to the public school trust fund. The Board of Education is at the head of the Department of Education and reviews and approves the department's budget prior to its submission to the governor's budget review committee. Accordingly, there is no need to provide for it to advise on the matter, and AS 37.14.130 should also be repealed.

As in the previous draft, we propose to amend AS 37.14.040 to make the trust a first-call trust. The federal law requires only that the money from the trust be used first for the mental health program, and it allows excess money to be used for other public purposes. Any of the income which is not appropriated is to be deposited in the general fund. Under the Alaska Constitution, the statutory dedication here can be no more than that required by the federal law.

A principal purpose of the 1978 legislation to convert the corpus of these trusts from lands to money was to free

Hon. Don Clocksin
Hon. Patrick O'Connell:

April 20, 1981
Page #2

the lands in the trust for non-economic uses, for example, for parks or for lease at rentals below market value. Therefore, the language of AS 37.14.050, 37.14.100, and 37.14.150 which includes revenue derived from "the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights," should be deleted. It was precisely the perceived need to receive less than full-market value from managing the state land which was the corpus of the trusts that led to a conversion of the trust corpus from the land to the money. As the statute was enacted, however, the income from all the land was included in the trust. The result is the existence of a trust duty to get full market value from all land, precisely the opposite of what was intended.

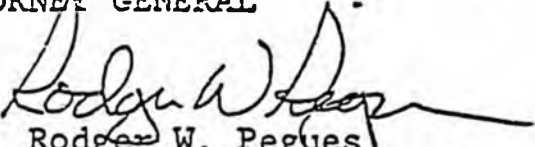
We believe that a patent error in the law which provided for the conversion of the trust corpus can be rectified. Accordingly, we recommend that the language which we have quoted be deleted. The revised draft of a proposed committee substitute makes that deletion.

We have also proposed some clean-up amendments to eliminate an unintended disparity in terminology in sections 37.14.050, 37.14.100, and 37.14.150.

Please advise if we may be of any further assistance.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Rodger W. Pegues
Assistant Attorney General

RWP/pjg

Enc.

Original sponsor: Malone

Offered: 5/7/81
Referred: Rules

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 151 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state trust funds and their
7 administration; and providing for an effective date."

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

9 * Section 1. AS 37.14.040 is amended to read:

10 Sec. 37.14.040. FUND UTILIZATION. The principal of the fund
11 established in AS 37.14.010 shall be retained in that fund for invest-
12 ment as specified in AS 37.14.170. The income of the fund shall [MAY
13 NOT] be appropriated first for [A PURPOSE OTHER THAN] the support of
14 the state mental health program and the balance of the fund which is
15 not required for support of the state mental health program may be
16 appropriated for any other public purpose.

17 * Sec. 2. AS 37.14.050 is amended to read:

18 Sec. 37.14.050. CONTRIBUTIONS. During each fiscal year, [SUBJECT
19 TO LEGISLATIVE APPROPRIATION OF SUFFICIENT FUNDS,] the commissioner of
20 revenue [THE DEPARTMENT OF REVENUE] shall transfer to the fund estab-
21 lished in AS 37.14.010 a sum equal to one and one-half percent of the
22 total receipts [REVENUE] derived from [THE MANAGEMENT OF STATE LAND,
23 INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR ANNUAL RENT
24 OF SURFACE RIGHTS,] mineral lease rentals, royalties, royalty sale
25 proceeds, and federal mineral revenue-sharing payments or bonuses.

26 * Sec. 3. AS 37.14.100 is amended to read:

27 Sec. 37.14.100. CONTRIBUTIONS. During each fiscal year the
28 commissioner of revenue [THE DEPARTMENT OF REVENUE] shall transfer to
29 the fund established [CREATED] in AS 37.14.060 a sum equal to one-half

1 of one percent of the total receipts derived from [THE MANAGEMENT OF
2 STATE LAND, INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR
3 ANNUAL RENT OF SURFACE RIGHTS,] mineral lease rentals, royalties,
4 royalty sale proceeds, and federal mineral revenue-sharing payments or
5 bonuses.

6 * Sec. 4. AS 37.14.150 is amended to read:

7 Sec. 37.14.150. CONTRIBUTIONS. During each fiscal year the
8 commissioner of revenue [THE DEPARTMENT OF REVENUE] shall transfer to
9 the fund established [CREATED] in AS 37.14.110 a sum equal to one-half
10 of one percent of the total receipts derived from [THE MANAGEMENT OF
11 STATE LAND, INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR
12 ANNUAL RENT OF SURFACE RIGHTS,] mineral lease rentals, royalties,
13 royalty sale proceeds, and federal mineral revenue-sharing payments or
14 bonuses.

15 * Sec. 5. AS 37.14.170(a) is amended to read:

16 (a) The commissioner of revenue [, WITH THE APPROVAL OF EACH
17 ADVISORY BOARD CREATED IN AS 37.14.020, 37.14.070, AND 37.14.120,] may
18 invest the principal of the funds created in AS 37.14.010, 37.14.060,
19 and 37.14.110 in the same manner as specified for the investment of
20 surplus pension funds under AS 39.35.110.

21 * Sec. 6. AS 14.07.170 is amended by adding a new paragraph to read:

22 (3) review the amount of money annually transferred by the
23 commissioner of revenue to the public school fund (AS 37.14.110) in
24 accordance with AS 37.14.150, and the amount of money annually appropri-
25 ated from the income of the public school fund; the board may annually
26 submit its report and recommendations concerning the public school fund
27 to the governor and the legislature.

28 * Sec. 7. AS 18.07.011 is amended to read:

29 Sec. 18.07.011. STATEWIDE HEALTH COORDINATING COUNCIL. (a)

1 There is created the Statewide Health Coordinating Council. The
2 council shall be organized in the manner described by sec. 1524(b),
3 P.L. 93-641, sec. 237(a)(1)(A), P.L. 94-63 and AS 47.30.605(a).

4 (b) The council shall

5 (1) perform the functions listed in sec. 1524(c), P.L.
6 93-641, sec. 237(a)(1)(A), P.L. 94-63 and AS 47.30.605(b);

7 (2) review the amount of money annually transferred by the
8 commissioner of revenue to the mental health fund (AS 37.14.010) in
9 accordance with AS 37.14.050, and the amount of money annually ap-
10 propriated from the income of the mental health fund; the council
11 shall annually submit its report and recommendations concerning the
12 mental health fund to the governor and the legislature.

13 * Sec. 8. AS 47.30.350(a) is amended by adding a new paragraph to read:

14 (5) review the amount of money annually transferred by the
15 commissioner of revenue to the mental health fund (AS 37.14.010) in
16 accordance with AS 37.14.050, and the amount of money annually appropri-
17 ated from the income of the mental health fund; the department shall
18 annually submit its report and recommendations concerning the mental
19 health fund to the governor and the legislature.

20 * Sec. 9. AS 47.30.605(b) is amended by adding a new paragraph to read:

21 (7) review the amount of money annually transferred by the
22 commissioner of revenue to the mental health fund (AS 37.14.010) in
23 accordance with AS 37.14.050, and the amount of money annually appropri-
24 ated from the income of the mental health fund; the council shall
25 annually submit its report and recommendations concerning the mental
26 health fund to the governor and the legislature.

27 * Sec. 10. AS 47.80.090 is amended by adding a new paragraph to read:

28 (12) review the amount of money annually transferred by the
29 commissioner of revenue to the mental health fund (AS 37.14.010) in

1 accordance with AS 37.14.050, and the amount of money annually ap-
2 propriated from the income of the mental health fund; the council shall
3 annually submit its report and recommendations concerning the mental
4 health fund to the governor and the legislature.

5 * Sec. 11. AS 37.14.020, 37.14.030, 37.14.120, and 37.14.130 are
6 repealed.

7 * Sec. 12. This Act takes effect July 1, 1981.
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POSITION PAPER

HOUSE BILL NO. 151

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

Effect of the Bill

a) This bill replaces the role of the mental health fund board with the Mental Health Advisory Council.

b) Charges the Council to be advisory to the Commissioner of Health & Social Services in the administration of the mental health fund.

c) Charges the Council to advise the Commissioner of Health & Social Services in the expenditure of the income earned by the mental health fund.

Discussion

The current board charged with the oversight of the mental health fund has three members. The Director of the Division of Mental Health & Developmental Disabilities provides the board with a perspective and balance from the ongoing Department of Health & Social Services/Division of Mental Health & Developmental Disabilities' programs. The Chairperson of the Mental Health Advisory Council represents the Council perspective and the community mental health programs. The Commissioner of Revenue provides the money management and financial expertise for the board.

The proposed change in the oversight of the fund places this role singularly with the Mental Health Advisory Council. This will upset the existing balance of representation. The Mental Health Advisory Council is constituted of persons such that to concentrate such advisory authority as is proposed in House Bill 151 will result in serious interest conflicts as many of the board membership are in a position to benefit directly from the expenditure of the fund revenues, i.e., 40% of the board membership are direct or indirect service providers.

The board is a voluntary Governor's appointed board and the impact of the addition of this awesome and most responsible task to the already heavy workload of the board must be considered, especially given the interest conflict issues.

A third area for consideration is the cumbersome nature of a requirement that a statewide board convene and agree regarding investment principles and practice of a large amount of funds. The board is chosen for its capacity to advise on matters of community mental health programs rather than financial matters.

Conclusion

Program advisory boards are valuable and effective in providing a public voice in matters of program content and delivery. They are not constituted to have a role in the direct control and management of public finance.

Position Paper
House Bill 151

House Bill 151 combines the role of the Mental Health Advisory Council with program and public finance. The dual role and the potential for optimum responsible advice in the two areas simultaneously is a matter of serious question. We suggest that the existing clear distinction of roles be maintained with its balance of public, financial and program elements.

Recommended by:

Verner Stillner

Verner Stillner, M.D., M.P.H.
Director, Division of Mental
Health & Developmental Dis-
abilities

Date:

4/6/81

Approved by:

Heien D. Beirne

Heien D. Beirne, Commissioner
Department of Health & Social
Services

Date:

4/6/81

POSITION PAPER / Department of Health & Social Services

1 IN THE HOUSE

BY MALONE

2 HOUSE BILL NO. 151

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state trust funds; and providing
7 for an effective date."

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

9 * Section 1. AS 37.14.030 is amended to read:

10 Sec. 37.14.030. POWERS AND DUTIES OF COUNCIL [BOARD]. The Mental
11 Health Advisory Council (AS 47.30.605) serves as an advisory board to
12 the commissioner of health and social services in the administration of
13 the mental health fund. The council [BOARD CREATED IN AS 37.14.020]
14 has the following powers and duties:

15 (1) to hold regular meetings and special meetings considered
16 necessary;

17 (2) to have prepared an annual accounting of the total prin-
18 cipal and income of the fund established in AS 37.14.010; and

19 [(3) TO PREPARE LONG-RANGE INVESTMENT PLANS FOR THE FUND
20 ESTABLISHED IN AS 37.14.010.]

21 (4) to advise the commissioner of health and social services
22 in the expenditure of the income earned by the mental health fund.

23 * Sec. 2. AS 37.14.130 is amended to read:

24 Sec. 37.14.130. POWERS AND DUTIES OF BOARD. The state Board of
25 Education (AS 14.07.075) serves as an advisory board to the commis-
26 sioner of education in the administration of the public school fund.

27 The board [CREATED IN AS 37.14.120] has the following powers and duties:

28 (1) to hold regular meetings and special meetings considered
29 necessary;

1 (2) to have prepared an annual accounting of the principal
2 and income of the fund established in AS 37.14.110; and

3 [(3) TO PREPARE LONG-RANGE INVESTMENT PLANS FOR THE FUND
4 ESTABLISHED IN AS 37.14.110.].

5 (4) to advise the commissioner of education in the expendi-
6 ture of the income earned by the public school fund.

7 * Sec. 3. AS 37.14.150 is amended to read:

8 Sec. 37.14.150. CONTRIBUTIONS. During each fiscal year, subject
9 to legislative appropriation of sufficient funds, the commissioner of
10 the Department of Revenue shall transfer to the fund created in AS 37.-
11 14.110 a sum equal to one-half of one percent of the total receipts
12 derived from the management of state land, including amounts paid to
13 the state as proceeds of sale or annual rent of surface rights, mineral
14 lease rentals, royalties, royalty sale proceeds, and federal mineral
15 revenue-sharing payments or bonuses.

16 * Sec. 4. AS 37.14.170(a) is amended to read:

17 (a) The commissioner of revenue [, WITH THE APPROVAL OF EACH AD-
18 VISORY BOARD CREATED IN AS 37.14.020, 37.14.070, AND 37.14.120,] may
19 invest the principal of the funds created in AS 37.14.010, 37.14.060,
20 and 37.14.110 in the same manner as specified for the investment of
21 surplus pension funds under AS 39.35.110.

22 * Sec. 5. AS 37.14.020 and 37.14.120 are repealed.

23 * Sec. 6. This Act takes effect July 1, 1981.
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Bradley
4/15/82

Original sponsor: Malone

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 151 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the mental health trust fund and
7 its administration; and providing for an effective
8 date."

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

10 * Section 1. AS 37.14.030 is amended by adding a new paragraph to read:

11 (4) to assess and report to the legislature by the 15th day
12 of the first session of each legislature

13 (A) the needs for mental health services in the state;

14 (B) the degree to which the needs for mental health
15 services are being met in the state;

16 (C) its recommendations and priorities for use of the
17 income of the mental health fund established under AS 37.14.010.

18 * Sec. 2. AS 37.14.040 is amended to read:

19 Sec. 37.14.040. FUND UTILIZATION. The principal of the fund
20 established in AS 37.14.010 shall be retained in that fund for invest-
21 ment as specified in AS 37.14.170. The income of the fund shall [MAY
22 NOT] be appropriated first for [A PURPOSE OTHER THAN] the support of the
23 state mental health program. The balance of the income of the fund that
24 is not required for support of the state mental health program may be
25 appropriated for any other public purpose.

26 * Sec. 3. AS 37.14.050 is amended to read:

27 Sec. 37.14.050. CONTRIBUTIONS. During each fiscal year [, SUBJECT
28 TO LEGISLATIVE APPROPRIATION OF SUFFICIENT FUNDS,] the commissioner of
29 revenue [THE DEPARTMENT OF REVENUE] shall transfer to the fund estab-

1 lished in AS 37.14.010 a sum equal to one and one-half percent of the
2 total receipts [REVENUE] derived from [THE MANAGEMENT OF STATE LAND,
3 INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR ANNUAL RENT
4 OF SURFACE RIGHTS,] mineral lease rentals, royalties, royalty sale
5 proceeds, and federal mineral revenue-sharing payments or bonuses.

6 * Sec. 4. AS 37.14 is amended by adding a new section to read:

7 Sec. 37.14.055. REVIEW BY BUDGET AND AUDIT COMMITTEE. The Legis-
8 lative Budget and Audit Committee shall annually review the performance
9 of the commissioner of revenue regarding the custody, management, and
10 investment of the mental health trust fund established by AS 37.14.010
11 and report its findings to the legislature and the governor.

12 * Sec. 5. This Act takes effect July 1, 1982.
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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SB 710 (Resources) / CS HB 151 (Finance)
Title Relating to the mental health trust fund
Requested by Senate Resources Committee Date 4/12/82

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND		50,000	-0-	50,000	-0-	50,000
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

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

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

Introduced: 2/12/81
Referred: Health, Education &
Social Services

1 IN THE HOUSE

BY MALONE

2 HOUSE BILL NO. 151

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state trust funds; and providing
7 for an effective date."

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

9 * Section 1. AS 37.14.030 is amended to read:

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11 Health Advisory Council (AS 47.30.605) serves as an advisory board to
12 the commissioner of health and social services in the administration of
13 the mental health fund. The council [BOARD CREATED IN AS 37.14.020]
14 has the following powers and duties:

15 (1) to hold regular meetings and special meetings considered
16 necessary;

17 (2) to have prepared an annual accounting of the total prin-
18 cipal and income of the fund established in AS 37.14.010; and

19 [(3) TO PREPARE LONG-RANGE INVESTMENT PLANS FOR THE FUND
20 ESTABLISHED IN AS 37.14.010.]

21 (4) to advise the commissioner of health and social services
22 in the expenditure of the income earned by the mental health fund.

23 * Sec. 2. AS 37.14.130 is amended to read:

24 Sec. 37.14.130. POWERS AND DUTIES OF BOARD. The state Board of
25 Education (AS 14.07.075) serves as an advisory board to the commis-
26 sioner of education in the administration of the public school fund.

27 The board [CREATED IN AS 37.14.120] has the following powers and duties:

28 (1) to hold regular meetings and special meetings considered
29 necessary;

1 (2) to have prepared an annual accounting of the principal
2 and income of the fund established in AS 37.14.110; and

3 [(3) TO PREPARE LONG-RANGE INVESTMENT PLANS FOR THE FUND
4 ESTABLISHED IN AS 37.14.110.]

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6 ture of the income earned by the public school fund.

7 * Sec. 3. AS 37.14.150 is amended to read:

8 Sec. 37.14.150. CONTRIBUTIONS. During each fiscal year, subject
9 to legislative appropriation of sufficient funds, the commissioner of
10 the Department of Revenue shall transfer to the fund created in AS 37.-
11 14.110 a sum equal to one-half of one percent of the total receipts
12 derived from the management of state land, including amounts paid to
13 the state as proceeds of sale or annual rent of surface rights, mineral
14 lease rentals, royalties, royalty sale proceeds, and federal mineral
15 revenue-sharing payments or bonuses.

16 * Sec. 4. AS 37.14.170(a) is amended to read:

17 (a) The commissioner of revenue [, WITH THE APPROVAL OF EACH AD-
18 VISORY BOARD CREATED IN AS 37.14.020, 37.14.070, AND 37.14.120,] may
19 invest the principal of the funds created in AS 37.14.010, 37.14.060,
20 and 37.14.110 in the same manner as specified for the investment of
21 surplus pension funds under AS 39.35.110.

22 * Sec. 5. AS 37.14.020 and 37.14.120 are repealed.

23 * Sec. 6. This Act takes effect July 1, 1981.
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Original sponsor: Malone

Offered: 5/7/81
Referred: Rules

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BY THE JUDICIARY COMMITTEE

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23 INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR ANNUAL RENT
24 OF SURFACE RIGHTS,] mineral lease rentals, royalties, royalty sale
25 proceeds, and federal mineral revenue-sharing payments or bonuses.

26 * Sec. 3. AS 37.14.100 is amended to read:

27 Sec. 37.14.100. CONTRIBUTIONS. During each fiscal year the
28 commissioner of revenue [THE DEPARTMENT OF REVENUE] shall transfer to
29 the fund established [CREATED] in AS 37.14.060 a sum equal to one-half

1 of one percent of the total receipts derived from [THE MANAGEMENT OF
2 STATE LAND, INCLUDING AMOUNTS PAID TO THE STATE AS PROCEEDS OF SALE OR
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18 invest the principal of the funds created in AS 37.14.010, 37.14.060,
19 and 37.14.110 in the same manner as specified for the investment of
20 surplus pension funds under AS 39.35.110.

21 * Sec. 6. AS 14.07.170 is amended by adding a new paragraph to read:

22 (3) review the amount of money annually transferred by the
23 commissioner of revenue to the public school fund (AS 37.14.110) in
24 accordance with AS 37.14.150, and the amount of money annually appropri-
25 ated from the income of the public school fund; the board may annually
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3 P.L. 93-641, sec. 237(a)(1)(A), P.L. 94-63 and AS 47.30.605(a).

4 (b) The council shall

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9 accordance with AS 37.14.050, and the amount of money annually ap-
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13 * Sec. 8. AS 47.30.350(a) is amended by adding a new paragraph to read:

14 (5) review the amount of money annually transferred by the
15 commissioner of revenue to the mental health fund (AS 37.14.010) in
16 accordance with AS 37.14.050, and the amount of money annually appropri-
17 ated from the income of the mental health fund; the department shall
18 annually submit its report and recommendations concerning the mental
19 health fund to the governor and the legislature.

20 * Sec. 9. AS 47.30.605(b) is amended by adding a new paragraph to read:

21 (7) review the amount of money annually transferred by the
22 commissioner of revenue to the mental health fund (AS 37.14.010) in
23 accordance with AS 37.14.050, and the amount of money annually appropri-
24 ated from the income of the mental health fund; the council shall
25 annually submit its report and recommendations concerning the mental
26 health fund to the governor and the legislature.

27 * Sec. 10. AS 47.80.090 is amended by adding a new paragraph to read:

28 (12) review the amount of money annually transferred by the
29 commissioner of revenue to the mental health fund (AS 37.14.010) in

1 accordance with AS 37.14.050, and the amount of money annually ap-
2 propriated from the income of the mental health fund; the council shall
3 annually submit its report and recommendations concerning the mental
4 health fund to the governor and the legislature.

5 * Sec. 11. AS 37.14.020, 37.14.030, 37.14.120, and 37.14.130 are
6 repealed.

7 * Sec. 12. This Act takes effect July 1, 1981.
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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

HB 151, 152

FISCAL NOTE

HB 151 + 152

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 151 & 152

Title Appropriations to the Dept. of Revenue for the Mental Health & Public School Funds

Requested by House Judiciary Committee Date 2/12/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection & Management

BRU, Program, or Subprogram(s) Affected Treasury Management

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		30.9	34.0	37.4	41.1	45.2
200 TRAVEL						
300 CONTRACTUAL		30.0	33.0	36.3	40.0	44.0
400 COMMODITIES						
500 EQUIPMENT		3.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		63.9	67.0	73.7	81.1	89.2

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		63.9	67.0	73.7	81.1	89.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

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

HB 151 makes technical changes which allow the Commissioner of Revenue to invest the Mental Health Fund and the Public School Fund similar to allowed Public Employees' Retirement System investments.

HB 152 appropriates \$84,295,000 to the Mental Health Fund and \$19,988,116 to the Public School Fund.

Above includes personal services for an Accounting Tech.II for necessary accounting recording, review and reporting for both separate funds. Contractual services are for additional related safekeeping fees, computer accounting costs, etc. Equipment is for new position including working file storage.

Anselm C. Staack

IV. DATE April 6, 1981

PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Dept. of Revenue/Treasury Division

Original: Legislative Finance

PHONE 465-2351

cc: Budget and Management

Prime Sponsor (First Legislator Named)

1	POSITION TITLE Accounting Technician II			RANGE/STEP 14A	BARG. UNIT. G	LOCATION Juneau	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. HB 152	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEC		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION: To implement additions to funds per HB 152. HB 152 will expand both the Mental Health Fund and the Public School Fund with attendant separate accounting. To do accounting, recording and reporting work necessary for both funds. Assure transactions are posted to the proper account, track income receipts, review and proof safekeeping reports and asset listings, aid in general ledger posting, preparation of monthly, quarterly and annual reports.			
	1	2	3						
4	PERSONAL SERVICES:								
	SALARY 1,995 x 12		23,940						
5	BENEFITS 23,940 x .1533		3,670						
6	FICA SBP @ .061?		1,468						
7	HEALTH INS. Mo. Fix 12 x 150		1,800						
8	TOTAL PERSONAL SERVICES 01		30,878						
9	TRAVEL 02								
10	CONTRACTUAL 03								
11	COMMODITIES 04								
12	EQUIPMENT 05		3,000						
13	OTHER								
14	TOTAL COST		33,878						
	CODE	FUNDING SOURCE							
15		FED RCPTS. 1002							
16		GF MATCH. 1003							
17		GEN. FUND 1004		33,878					
18		I-A RCPTS. 1005							
19		PGM RCPTS 1020							
20		OTHER							
21	CONTINUATION								
22	ADDITION	XX	FOR B&M USE ONLY						
4A KEY NUMBER _____ COLUMN NO. _____									

AGENCY Department of Revenue PROGRAM Revenue Collection and Management

BRU Treasury Management

13 REQUEST FOR NEW POSITION

COMPONENT _____

Page 1 of 1

REVISED HB 152
DATE 4/6/81

FY 82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

CSHB 151(Judiciary)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS FOR HOUSE BILL NO. 151(Judiciary)

Title Relating to state trust funds and their administration

Requested by House Rules Committee

Date 5/7/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected Treasury Management

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		30.9	34.0	37.4	41.1	45.2
200 TRAVEL						
300 CONTRACTUAL		30.0	33.0	36.3	40.0	44.0
400 COMMODITIES						
500 EQUIPMENT		3.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		63.9	67.0	73.7	81.1	89.2

FUNDING (Thousands of Dollars)

GENERAL FUND		63.9	67.0	73.7	81.1	89.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

CSHB 151 makes technical changes to allow the Commissioner of Revenue to invest the Mental Health Fund, University Fund, and Public School Fund similar to allowed Public Employees' Retirement System investments.

Companion bill HB 152 appropriates \$84.9 million to the Mental Health Fund and \$19.9 million to the Public School Fund.

Above includes personal services for an Accounting Tech. II for necessary recording, review, accounting, and reporting for separately invested funds. Contractual services for additional related safekeeping fees, computer accounting costs, etc. Equipment is for new position including working file storage.

Anselm C. Staack

IV. DATE May 18, 1981

PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Dept. of Revenue/Treasury Division

Original: Legislative Finance

PHONE 465-2351

cc: Budget and Management

Prime Sponsor (First Legislator Named)

1	POSITION TITLE Accounting Technician II			RANGE/STEP 4A	BARG. UNIT. G	LOCATION Juneau	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. CSHB 151(Jud)	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES:								
	SALARY 1,995 x 12		23,940						
5	BENEFITS 23,940 x .1533		3,670						
6	FICA SBP @ .0613		1,468						
7	HEALTH INS. 12 x 150		1,800						
8	TOTAL PERSONAL SERVICES		01	30,878	<p>To implement additions to funds per CSHB 151(Jud) HB 152 (companion bill) will expand all affected funds with attendant separate accounting. CSHB 151 requires the separate accounting.</p> <p>To do accounting, recording and reporting work necessary for funds involved. Assure transactions are posted to proper fund, track income for each fund separately, review and proof safekeeping reports and asset listings, aid in general ledger posting, preparation of monthly, quarterly and annual reports.</p>				
9	TRAVEL		02						
10	CONTRACTUAL		03						
11	COMMODITIES		04						
12	EQUIPMENT		05	3,000					
13	OTHER								
14	TOTAL COST			33,878					
15	CODE	FUNDING SOURCE							
16		FED RCPTS. 1002							
17		GF MATCH. 1003							
18		GEN. FUND 1004		33,878					
19		L-A RCPTS. 1005							
20		PGM RCPTS 1028							
21		OTHER							
21	CONTINUATION								
22	ADDITION		XX	FOR B&M USE ONLY					
4A KEY NUMBER				COLUMN NO.					

AGENCY Department of Revenue PROGRAM Revenue Collection and Management

BRU Treasury Management

COMPONENT CSHB 151 (Judiciary)

13 REQUEST FOR NEW POSITION.

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REVISED DATE 5/18/81

FY 82