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SEVENTEENTH LEGISLATURE
SENATE JUDICIARY COMMITTEE BILL FILE

Bill Number: SB65
Abbreviated Title: Mental Health Lands

Sponsor: Duncan Original Received: May 6, 1991
Written Request to Schedule Rcv'd: _____ From: _____
Sponsor's Statement Rcv'd: _____ From: _____
Sectional Analysis Rqst'd: _____ From: _____
Sectional Analysis Received: _____

Fiscal Note (Original)
Rqst'd Of: _____ Rcv'd From: _____ Date: _____
Rqst'd Of: _____ Rcv'd From: _____ Date: _____
Rqst'd Of: _____ Rcv'd From: _____ Date: _____

Fiscal Note (C.S.)
Rqst'd Of: _____ Rcv'd From: Fund 0? Date: _____
Rqst'd Of: _____ Rcv'd From: DNR 1,471 Date: 6 May 91
Rqst'd Of: _____ Rcv'd From: Revenue 7589 Date: 3-12-91

Five Day Notice Given: B. HES Notice of Hearings Given: May 3, 1991
Committees of Referral: First: _____ Second: _____ Third: _____
LAA Contact: Cheamuth - To Senate Secretary: _____
2450

COMMITTEE ACTION

DATE: _____

PERSONS TO BE NOTIFIED OF HEARING

1. Sponsor Duncan
2. Agency _____
3. Ray Horgan 3727
4. Duncan Lebaugh
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSSB 65

Revision Date: May 16, 1991
 Title: An Act establishing the Mental Health Trust
 Authority and defining its powers and duties;
 Sponsor: Senator Duncan
 Requestor: _____

Department Affected: Revenue
 BRU: Treasury
 Component: _____

Component Serial No.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: See attached bill analysis.

Prepared by: Brian C. Andrews *BA* Phone: 465-2350
 Division: Treasury Date: May 16, 1991
 Approved by Commissioner: *by Daniel Rasmussen*
 Agency: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Bill Analysis
CSSSSB_65

The Department of Revenue views the investment management of the assets of the Alaska Mental Health Trust as the responsibility of the State's Treasury. The statutory purpose of the Permanent Fund Corporation (37.13.030) is to manage and invest the assets allocated by law (37.13.010) to the Alaska Permanent Fund. The purpose of the State's Treasury is to manage all other investment and trust funds for the State. Currently, there are nine funds under Treasury's investment management which total more than six billion dollars. Of these nine funds there are two, the Public School Investment Trust Fund and the University of Alaska Investment Trust Fund, which are managed as endowment trust funds for which the corpus or principal is invested for perpetuity.

The Treasury has investment management expertise equal to the Permanent Fund Corporation. Simply stated, the State's Treasury has a track record which is competitive in all areas of investment management such as operational costs, investment performance, accounting, auditing etc. The State has a Treasury which is governed by laws and regulations that are based on the prudent-investor rule.

The State's Treasury is the proper organizational entity from either a statutory or competitive perspective. The Department of Revenue believes that the State's Treasury is the proper entity to carry out the investment management functions of the assets of the Alaska Mental Health Trust.



Alaska State Legislature
Senate

Office of the Secretary

OFFICIAL BUSINESS

PO BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

FOR YOUR IMMEDIATE ATTENTION

DATE: May 9, 1991

TO SENATE
COMMITTEE: Judiciary/Senator Halford

FROM: Office of the Senate Secretary *JR*

The attached fiscal note(s) relate to the following bill(s) pending in your Committee.

Please place the fiscal note inside the front cover of the blue or yellow committee folder.

SPONSOR SUBSTITUTE FOR SENATE BILL NO 65

Alaska Mental Health Trust Authority

Thank you.

SIGNATURE OF PERSON RECEIVING THIS NOTE

JR/s

STATE OF ALASKA
1991 LEGISLATIVE SESSION

FISCAL NOTE

No. 4

Version: CS 555B 65

(S) Publish Date: 5/10/91

Revision Date: May 6, 1991
 Title: An Act establishing the Ak. Mental Health Trust
Authority and defining its powers and duties..."
 Sponsor: Duncan
 Requestor: _____

Department Affected: Revenue
 BRU: Treasury
 Component: _____

Component Serial No.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: See attached bill analysis.

Prepared by: Brian C. Andrews

Phone: 465-2350

Division: Treasury

Date: May 6, 1991

Approved by Commissioner: 

Agency: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Bill Analysis
SB_65

The Department of Revenue views the investment management of the assets of the Alaska Mental Health Trust as the responsibility of the State's Treasury. The statutory purpose of the Permanent Fund Corporation (37.13.030) is to manage and invest the assets allocated by law (37.13.010) to the Alaska Permanent Fund. The purpose of the State's Treasury is to manage all other investment and trust funds for the State. Currently, there are nine funds under Treasury's investment management which total more than six billion dollars. Of these nine funds there are two, the Public School Investment Trust Fund and the University of Alaska Investment Trust Fund, which are managed as endowment trust funds for which the corpus or principal is invested for perpetuity.

The Treasury has investment management expertise equal to the Permanent Fund Corporation. Simply stated, the State's Treasury has a track record which is competitive in all areas of investment management such as operational costs, investment performance, accounting, auditing etc. The State has a Treasury which is governed by laws and regulations that are based on the prudent-investor rule.

The State's Treasury is the proper organizational entity from either a statutory or competitive perspective. The Department of Revenue believes that the State's Treasury is the proper entity to carry out the investment management functions of the assets of the Alaska Mental Health Trust.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSS SB 65 (HESS)

Revision Date: _____
Title: An Act establishing the Alaska Mental Health Trust
Authority: _____
Sponsor: Duncan
Requestor: _____

Department Affected: Administration
BRU: Older Alaskans Commission
Component: Older Alaskans Services

COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	59.4	61.0	62.4	64.2	65.7	67.5
TRAVEL	20.1	20.1	20.1	20.1	20.1	20.1
CONTRACTUAL	3.5	3.5	3.5	3.5	3.5	3.5
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	3.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	88.5	86.6	88.0	89.8	91.3	93.1

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER/MHT	88.5	86.6	88.0	89.8	91.3	93.1
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.) To meet its expanded duties under this bill, the Older Alaskans Commission (OAC) needs: (1) funds to increase commission meetings from three to four per year, one meeting for mental health (Alzheimer's) planning duties and public hearings; and (2) one staffer to carry out OAC's new planning duties and to monitor the mental health services funded by OAC. Staffer will attend, report back, and coordinate with the meetings, planning sessions, and regulatory requirements of the new Mental Health Authority, the Division of Mental Health, and the other three "coordinating" boards for mental health services.

Prepared by: Connie J. Sipe *Connie J. Sipe*
Division: Older Alaskans Commission

Phone: 465-3250
Date: May 9, 1991

Approved by Commissioner: Millett Keller *Millett Keller*
Agency: Administration

Date: 5/13/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Department of Administration
Older Alaskans Commission
May 9, 1991

DETAIL OF FISCAL NOTE ON CSSS SB 65

100	<u>PERSONAL SERVICES</u>	
	1 PFT Health Program Spec. II (Range 19) Juneau -	\$59.4
200	<u>TRAVEL</u>	
	1 three-day Commission meeting in Anchorage including a half-day statewide teleconference to specifically focus on OAC's responsibilities under the mental health trust (\$14.0); travel funds to allow the position and Commission member to attend numerous meetings of the Alaska Mental Health Authority, the Mental Health Board, and the annual planning session of the Division of Mental Health and Developmental Disabilities (\$6.1).	\$20.1
300	<u>CONTRACTUAL</u>	
	RSA with DOA word processing for reports, copying, and mailing; telephone and related fixed costs.	\$ 3.5
400	<u>SUPPLIES</u>	\$ 2.0
500	<u>EQUIPMENT</u>	
	Includes as one time expenses: computer, software, related office equipment	<u>\$ 3.5</u>
	FY 92 TOTAL:	\$88.5

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. CS SSSB 65 (Judiciary)

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act establishing the Alaska BRU: Appellate Courts
Mental Health Trust Authority... Components: _____
 Sponsor: _____
 Requestor: Duncan COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	19.5	39.0	39.0	39.0	39.0	39.0
TRAVEL	7.5	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	148.8	297.5	297.5	297.5	297.5	297.5
SUPPLIES	1.5	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	18.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	195.3	354.5	354.5	354.5	354.5	354.5

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	195.3	354.5	354.5	354.5	354.5	354.5
FEDERAL FUNDS						
OTHER						
TOTAL	195.3	354.5	354.5	354.5	354.5	354.5

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

See attached analysis

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]* Phone: 264-8228
 Division: Alaska Court System Date: 05/16/91

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]*
 Agency: Alaska Court System Date: 05/16/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska Court System

Fiscal Analysis
CS SSSB 65 (Judiciary)

<u>Personal Services</u>	<u>Full-year Cost</u>			<u>1/2-year FY 92 Cost</u>
	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>	
In-Court Clerk, 12B, Anchorage, permanent full-time	\$26,592	\$12,408	\$39,000	\$19,500
<u>Travel</u>				
Travel by special master to view parcels and conduct hearings and investigations			15,000	7,500
<u>Contractual Services</u>				
Professional services -- special master for 1,500 hours at \$125 an hour			187,500	
Professional services -- paralegal assistant, full-time position			45,000	
Professional services -- secretary, full-time position			35,000	
Office rental -- 1,000 square feet at \$2.50 a foot			30,000	
		Total	297,500	148,750
<u>Supplies</u>				
Office supplies			3,000	1,500
<u>Equipment</u>				
Desks, chairs, computers, typewriters, filing cabinets, printer, statutes and reference materials			18,000	18,000
		Total Cost (full-year and 1/2-year)	\$372,500	\$195,250

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSSSB 65 (Jud)

Revision Date: _____ Department Affected: Department of Law
 Title: "...establishing the Alaska Mental Health Trust Authority...powers & duties..." BRU: Legal Services
 Component: Operations
 Sponsor: Senator Duncan
 Requestor: Senate Judiciary COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	240.8	240.8	240.8	118.5	-0-	-0-
TRAVEL	9.0	9.0	9.0	3.0	-0-	-0-
CONTRACTUAL	336.0	336.0	232.5	173.5	-0-	-0-
SUPPLIES	12.3	12.3	12.3	6.0	-0-	-0-
EQUIPMENT	28.5					
LAND & STRUCTURES						
GRANTS, CLAIMS	1,000.0	1,000.0	800.0	500.0	-0-	-0-
MISCELLANEOUS						
TOTAL OPERATING	1,626.6	1,598.1	1,294.6	801.0	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	626.6	598.1	494.6	301.0	-0-	-0-
FEDERAL FUNDS						
OTHER MHTIA/GF	1,000.0	1,000.0	800.0	500.0	-0-	-0-
TOTAL	1,626.6	1,598.1	1,294.6	801.0	-0-	-0-

POSITIONS:

FULL-TIME	4.0	4.0	4.0	2.0	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: The Department of Law has already expended \$25,000 from a reimbursable account which must be returned from the general fund.

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: May 15, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: May 15, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSSSB 65 (Jud)

The Senate Judiciary Committee substitute for SB 65 provides a mechanism to resolve the long-standing mental health trust lands dispute, arising from Weiss v. State. This fiscal note request addresses those parts of the bill that will have an impact on the Department of Law, as well as the impact that will be felt by the plaintiffs.

The bill authorizes reconstitution of the land trust. To the extent possible, original trust lands will be reconstituted, and additional selections from other state lands will be used to reconstitute the trust. About 10,000 original mental health trust land parcels are involved. Of this number, at least 6,500 parcels will involve trades for new lands, and some part of the remaining original 3,500 parcels may also involve trades.

An analysis of all individual land trades will be required to determine values between the original trust parcels and newly selected substitute parcels. Any disputes arising from the 6,500+ transactions would be settled by a special master under the jurisdiction of the state's supreme court. Any particular transaction could cause a dispute between the plaintiffs and the state involving value, comparable characteristics, or best interest of the public findings of the Commissioner of Natural Resources.

It is anticipated that the trust will be fully reconstituted by December 31, 1993, or slightly more than two and one-half years from now. In order to make this process work, it will be necessary to hire four new Department of Law employees to handle all necessary legal work involved in the analysis and dispute resolution process. These include two attorneys, one paralegal, and one legal secretary. It will also be necessary to provide expert witness consultants in mineral and land appraisal, and to provide for some expert legal advice. It is anticipated that a majority of the work will be completed by December 31, 1993, but some of the disputes may not be completely resolved within a year or two from that date. For this reason, fiscal note costs have been shown as decreasing sharply after FY94. The Department of Law's costs should be funded from the state's general fund account.

Plaintiffs' costs, which are also included in this request, include the same kind of expenses for determining land values and processing land transactions and disputes. Plaintiffs' costs should be funded from the Mental Health Trust Interagency/General Fund Account.

Resolution of Weiss v. State, as contemplated in this bill, will be an ambitious undertaking. The funds being requested in this fiscal note request are the minimum amount necessary to insure that the trust will be reconstituted within an acceptable period of time, and to insure that this dispute, which has been ongoing for nearly nine years, is satisfactorily concluded.

FISCAL ANALYSIS - CSSSSB 65 (Fin)

	<u>Attorney IV</u>	<u>Attorney III</u>	<u>Paralegal Asst II</u>	<u>Legal Secretary I</u>	<u>Total</u>
Personal Services	82.2	73.0	49.3	36.3	240.8
Travel	3.0	3.0	3.0		9.0
Contractual					
In-house	7.5	7.5	6.6	4.4	26.0
Experts	125.0	125.0			250.0
O/S Counsel	30.0	30.0			60.0
Supplies	3.3	3.3	3.3	2.4	12.3
Equipment	6.5	6.5	6.5	9.0	28.5
	—	—	—	—	—
TOTAL	257.5	248.3	68.7	52.1	626.6
Plaintiffs' Costs	1,000.0				1,000.0
TOTAL COSTS	1,275.5	248.3	68.7	52.1	1,626.6

Position Title		Attorney IV		No. of Positions	1	Range / Step	24 A	Barg. Unit	PX
Time Status	PFT	Staff Months	12	Location	AWA - Juneau		Election District	4	
TYPE OF EXPENDITURE			Amount	Justification This is one of two attorney positions needed to handle the legal work that will be required to implement the mental health trust authority legislation. An accelerated timetable is required so that the trust is reconstituted by December 31, 1993. This is the lead position for the state's legal effort to settle the dispute, allocation to Attorney IV is therefore requested. Position costs include \$125,000 for expert minerals and land appraisal consultants, and \$30,000 for expert legal advice.					
Salary			61,000						
Benefits			21,200						
Premium Pay									
Other									
Total Personal Services			82,200						
Travel			3,000						
Contractual			162,500						
Commodities			3,300						
Equipment			6,500						
Other									
Total Cost:			257,500						
FUNDING SOURCE FOR TOTAL COST									
Federal Receipts 1002									
G.F. Match 1003									
General Fund 1004			257,500						
I-A Receipts 1007									
CIP Receipts 1061									
Other									

Request For New Position

AGENCY Department of Law

BRU Legal Services

COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title		Attorney III		No. of Positions	1	Range / Step	22 A	Barg. Unit	PY	
Time Status	PFT	Staff Months	12	Location	AWA - Juneau		Election District	4		
TYPE OF EXPENDITURE			Amount	Justification This is the second of two attorney positions needed to implement the mental health trust authority legislation. An accelerated timetable is required so that the trust is reconstituted by December 31, 1993. This involves evaluating more than 6,500 land trade transactions and resolving any dispute arising therefrom, before a special master appointed by the supreme court. This position will assist the lead attorney in this effort, and allocation to the Attorney III level is therefore appropriate. Position costs include \$125,000 for expert minerals and land appraisal consultants and \$30,000 for expert legal advice.						
Salary			53,300							
Benefits			19,700							
Premium Pay										
Other										
Total Personal Services			73,000							
Travel			3,000							
Contractual			162,500							
Commodities			3,300							
Equipment			6,500							
Other										
Total Cost			248,300							
FUNDING SOURCE FOR TOTAL COST										
Federal Receipts			1002							
G.F. Match			1003							
General Fund			1004							
IA Receipts			1007							
CIP Receipts			1061							
Other										

**Request For
New Position**

AGENCY Department of Law
BRU Legal Services
COMPONENT Operations

FY 92

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Revised Date: _____

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16 A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location AWA - Juneau		Election District 4
TYPE OF EXPENDITURE		Amount		
Salary		35,200		
Benefits		14,100		
Premium Pay				
Other				
Total Personal Services		49,300		
Travel		3,000		
Contractual		6,600		
Commodities		3,300		
Equipment		6,500		
Other				
Total Cost		68,700		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004		68,700		
I-A Receipts 1007				
CIP Receipts 1061				
Other				
Justification The position is needed to handle the documentation needs for the two attorneys who will handle the legal work required to implement the Mental Health Trust Authority legislation. This work will involve more than 6,500 land trade transactions and substantial document preparation and organization of evidence will occur. Allocation to the Paralegal Assistant II classification is requested.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location AWA - Juneau		Election District 4
TYPE OF EXPENDITURE		Amount		
Salary		24,600		
Benefits		11,700		
Premium Pay				
Other				
Total Personal Services		36,300		
Travel				
Contractual		4,400		
Commodities		2,400		
Equipment		9,000		
Other				
Total Cost		52,100		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004		52,100		
IA Receipts 1007				
CIP Receipts 1061				
Other				
Justification This position is needed to handle the office activities of the two attorneys and one paralegal involved in implementing the Mental Health Trust Authority legislation. This work will generate a huge number of legal documents and require the full-time services of a legal secretary. Most of this work must be completed in a relatively short timeframe. Allocation to the Legal Secretary I classification is therefore recommended.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____



Alaska State Legislature

HOUSE OF REPRESENTATIVES

HB59 Position Paper

Representative Ronald Larson

Official Business
March 11, 1991

P.O. Box V
State Capitol
Juneau, Alaska 99811

The mental health trust lands litigation settlement reminds me of an earlier, similar settlement. The University of Alaska received trust land grants from the Federal Government by two Acts of Congress, in 1915 and 1929. Under the Acts the University was given 110,000 acres of land to be held in trust and managed to produce income to help support the University. Instead of managing the lands for maximum income production, the State treated the University grant lands as though they were State lands and made them available at less than fair market value.

In 1978 the University of Alaska challenged the Legislature's inclusion of University lands in a State park. In 1981, the Alaska Supreme Court in State v. University of Alaska found that the Legislative action was contrary to the terms of the Federal legislation which granted University lands to the State and required that they be used for the "exclusive use and benefit" of the University. Accordingly, the Court held that inclusion of those lands in a State park from which no revenues would be derived was a breach of trust. At the same time, however, the Court held that judicial invalidation of the Legislative action was inappropriate. Instead, the Court held that the proper remedy was compensation, either in money or land.

To compensate the University a settlement was reached providing for the transfer of title, management, and control of University grant lands to the University and for the appropriation of funds (\$4.2 million in Ch 21 SLA 1983 - Trust fund balance on 6/30/90 statement \$14.5 million) and the conveyance of State "replacement" lands (51,391 +/- acres fee simple of the 138,954 fee simple acre land trust currently held) to equal the dollar value of the compensation owed the University for transactions such as:

- easements and rights of way granted by the State
- residential, utility, commercial, agricultural, and private recreation leases let
- material (gravel/sand) removed for use by State agencies
- uncollected revenues from State sales of resources such as coal, oil and gas, and timber
- free use permits, and land management transfers
- Legislative withdrawals of University lands for parks

HB59 would follow the model of the University lands settlement and do what the Alaska Supreme Court directed in State v Weiss, 706P.2d 681 (Alaska 1985)

...Those general grant lands which were once mental health lands will return to their former trust status. In the event exchanges have been made, those properties which can be traced to an exchange involving mental health lands will also be included in the trust. To the extent that former mental health lands have been sold since the date of the conveyance the trust must be reimbursed for the fair market value at the time of sale. In calculating the total amount owed, the trial court should grant a set-off for mental health expenditures made by the state during the same period. ... The goal is to restore the trust to its position just prior to the conveyance effected by the redesignation legislation.

LAND-GRANT TRUST FUNDS

The University is required to report annually to the legislature on funds derived from lands conveyed to the University of Alaska in settlement of the claim by the University to federal lands granted to the state by the acts of March 4, 1915 and January 21, 1929, as amended. The following statement of changes in fund balances for the University of Alaska Land-Grant Trust Funds represents this report to the legislature for the fiscal year ended June 30, 1990.

Funds derived from sales, leases, exchanges, and transfer of the University's trust lands, as required by law, are deposited with the State Department of Revenue for investment in a trust fund. Investment income from the trust fund is made available quarterly to the University. The expenditure of these funds by the University is governed by regents' policy and University regulation which provide: (1) that a portion of the annual earnings will be utilized for expenditures to manage the University's lands, (2) that a portion of the annual earnings will be set aside for separate investment in order to "inflation-proof" the trust funds held by the Department of Revenue at an amount equal to the increase in the federal consumer price index, and (3) that the remaining annual earnings be transferred to a Natural Resources Fund primarily for the purpose of funding programs in support of agriculture, fisheries, natural resource management and marketing, and natural resource management education.

Land-Grant Trust Funds Statement of Changes in Fund Balances For the Year Ended June 30, 1990

	<u>Endowment Funds</u>		<u>Designated Unrestricted Funds</u>		
	<u>Land-Grant Trust Fund</u>	<u>Inflation- Proofing Fund</u>	<u>Land-Grant Trust Revenue Fund</u>	<u>University Earned Revenues Fund</u>	<u>Natural Resources Fund</u>
Fund Balance July 1, 1989	\$12,642,960	\$ 2,433,138	\$ 674,047	\$ 586,168	\$ 873,086
Additions to the Land - Grant Trust Fund	1,820,675	--	--	--	--
Investment Earnings	--	--	1,195,017	357,263	--
Expenditures:					
Land Management	--	--	(140,725)	--	--
Natural Resources Program	--	--	--	--	(593,073)
Transfers:					
Inflation-Proofing Fund	--	623,452	(623,452)	--	--
Natural Resources Fund	--	--	(430,840)	(357,263)	788,103
Fund Balance June 30, 1990	<u>\$14,463,635</u>	<u>\$ 3,056,590</u>	<u>\$ 674,047</u>	<u>\$ 586,168</u>	<u>\$ 1,068,116</u>

NOTES:

1. The land-grant trust fund principal of \$14,463,635 on June 30, 1990, held in trust by the Alaska Department of Revenue, is invested for the benefit of the university in U.S. Treasury Notes yielding 7.37% to 11.75%, and corporate bonds yielding 9% to 9.75%. All other funds are administered by the university.
2. Additions to the land grant trust fund represent total proceeds for the year from the sale, lease or transfer of land, materials and mineral interests acquired as grant lands.
3. The natural resources fund represents funds designated to provide support funding for agriculture, forestry, fisheries, minerals and other academic programs.
4. The inflation-proofing fund includes an investment in unimproved real estate adjacent to the Palmer agricultural experiment station at a cost of \$307,635. The remainder of the principal of the inflation-proofing fund, the land-grant trust revenue fund and the university earned revenue fund is invested in short-term certificates of deposit.

January 21, 1920.
[H. R. 10167.]
[Public, No. 670.]

Alaska.
Agricultural College
and School of Mines.

Additional public
lands granted to.
Vol. 33, p. 1214.

Territory to have ex-
clusive control.

Lands, and proceeds
thereof to be held in
trust and disposed of
only as herein pro-
vided.

Any other disposition
a breach of trust.

Mortgages, etc., not
valid.

Sales or leases, except
to highest bidder after
specified publication,
forbidden.

Sales of timber, etc.,
subject to same provi-
sions.

Proviso.
Leases on terms for
five years, without ad-
vertisement allowed.

Appraisal at true
value, and no disposal
at less than as so ascer-
tained.

Minimum price for
the land.

Fund established and
receipts to be deposited
in Territorial treasury.

Investment in inter-
est-bearing securities.

Bond required.

Income exclusively
for the college.

Proviso.
Application thereof
for building, etc., for-
bidden.

Sales, etc., not in con-
formity herewith null
and void.

Attorney General to
enforce in Federal
courts necessary pro-
ceedings relative to
application of lands,
etc.

CHAP. 92.—An Act Making an additional grant of lands for the support and maintenance of the Agricultural College and School of Mines of the Territory of Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the provision made by the Act of Congress approved March 4, 1915 (Thirty-eighth Statutes at Large, page 1214), for the use and benefit of the Agricultural College and School of Mines, there is hereby granted to the Territory of Alaska, for the exclusive use and benefit of the Agricultural College and School of Mines, one hundred thousand acres of vacant nonmineral surveyed unreserved public lands in the Territory of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the Territory, and subject to the following conditions and limitations:

SEC. 2. That the college and school provided for in this Act shall forever remain under the exclusive control of the said Territory, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any sectarian or denominational college or school.

SEC. 3. That it is hereby declared that all lands hereby granted to said Territory are hereby expressly transferred and confirmed to the said Territory and shall be by the said Territory held in trust, to be disposed of, in whole or in part, only in the manner herein provided and for the objects specified in the granting provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same. Disposition of any of said lands or of any money or thing of value directly or indirectly derived therefrom for any object other than that for which such particular lands or the lands from which such money or thing of value shall have been derived or granted or in any manner contrary to the provisions of this Act shall be deemed a breach of trust.

SEC. 4. That no mortgage or other encumbrance of said lands shall be valid in favor of any person for any purpose or under any circumstances whatsoever. Said lands shall not be sold nor leased, in whole or in part, except to the highest bidder at public auction, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with full description of the lands to be offered, published once each week for not less than ten successive weeks in a newspaper of general circulation published regularly at the capital and in a newspaper of like circulation which shall then be regularly published nearest to the location of the lands so offered; nor shall any sale or contract for the sale of any timber or other natural product of such lands be made, save at the place, in the manner, and after the notice thus provided for sales and leases of the lands themselves: *Provided,* That nothing herein contained shall prevent said Territory from leasing any of said lands referred to in this section for a term of five years or less without such advertisement herein required.

SEC. 5. That all lands, leasehold, timber, and other products of the land before being offered shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained, nor, in case of the sale of the land, less than a minimum price of \$5 per acre; nor upon credit unless accompanied by ample security, and the legal title shall not be deemed to have passed until the consideration shall have been paid.

SEC. 6. That a fund shall be established in the Territorial treasury to carry out the purposes of this Act, and whenever any money shall be in any manner derived from any of the land granted same shall be deposited in the Territorial treasury in the fund. The Territorial treasurer shall keep all such money invested in safe interest-bearing securities, which securities shall be approved by the governor and the secretary of state of the Territory, and shall at all times be under a good and sufficient bond or bonds conditioned for the faithful performance of his duties in regard thereto, as defined by this Act and the laws of the Territory not in conflict herewith. The income from said fund may and shall be used exclusively for the purposes of such Agricultural College and School of Mines: *Provided,* That no portion of said income shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

SEC. 7. That every sale, lease, conveyance, or contract of or concerning any of the lands hereby granted or confirmed or the use thereof of the natural products thereof, not made in substantial conformity with the provisions of this Act, shall be null and void. It shall be the duty of the Attorney General of the United States to prosecute in the name of the United States and in its courts such proceedings at law or in equity as may from time to time be necessary and appropriate to enforce the provisions hereof relative to the application and disposition of the said lands and the products thereof and the funds derived therefrom.

Approved, January 21, 1920.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

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

May 9, 1991

Hon. Rick Halford
Alaska State Senator
Chairman, Senate Judiciary Committee
P. O. Box V
Juneau, AK 99811-3100

Re: CSSSSB 65 (HES)

Dear Senator Halford:

On your behalf, Douglas B. Baily asked this morning whether there are any constitutional questions presented by the provisions of CSSSSB 65 (HES). Several constitutional questions are presented.

The most significant constitutional issue is presented in section 11, which would add new sections to AS 37.14 addressing the mental health trust. Under proposed AS 37.14.001(a) (page 8, beginning on line 9), the governor, the legislature, and a new Alaska Mental Health Trust Authority would be made co-trustees of the mental health trust. To the extent that the bill would mix the duties and responsibilities of the governor and the legislature, it would seem to violate the separation of powers doctrine under which the legislature enacts the laws and the governor executes them.

In addition, each action by the governor and the legislature would be subject to judicial review for compliance with fiduciary duties. Under our constitutional form of government, however, state action is not completed until the state acts as a whole, which requires joint action by both the legislature and the governor. By making both legislative and executive action individually subject to judicial review, the bill would have the courts effectively giving advisory opinions prior to final state action.

The new Alaska Mental Health Trust Authority would have a legal status co-equal to that of the governor and the legislature. It would have substantial executive authority, including the powers to: establish subaccounts within the mental health

trust income account (proposed AS 37.14.021(c), beginning on page 18, line 4); veto certain regulations of the Department of Health and Social Services (see secs. 20 and 21 on pages 21-22); adopt regulations (proposed AS 47.30.031(b), beginning on page 27, line 30); use money appropriated to it (proposed AS 47.30.056(a), beginning on page 31, line 17, and proposed AS 47.30.472(2), beginning on page 36, line 17), presumably by independently contracting with and making grants to service providers; and apparently prepare "the plan for the integrated comprehensive mental health program for the people of the state." (See proposed AS 47.30.472(1), beginning on page 36, line 11.) These are obviously executive branch functions which, under the strong governor contemplated by the constitutional framers, should be under the Department of Health and Social Services with a commissioner responsible directly to the governor. In fact, a proposed amendment to AS 47.30.660 (see page 41, lines 19-20) would require the Department to "conform to regulations adopted by the Alaska Mental Health Trust Authority." (There also would be substantial duplication between the Authority and the Department, as a comparison of the Department's responsibilities under that section and the Authority's powers and duties reveals.)

There also is a dedicated fund question presented by the bill. Article IX, sec. 7, of the Alaska Constitution prohibits dedicating state funds "to any special purpose, except as provided in section 15 of this article [the Alaska Permanent Fund section] or when required by the federal government for state participation in federal programs." There seems to be agreement that the 1956 federal law establishing the mental health trust does not dedicate trust proceeds to mental health programs. Instead, mental health trust proceeds must first be used to meet the necessary expenses of the mental health program of Alaska, and any remainder may be used for other public purposes. Upon initial review, it appears that the bill is carefully crafted to satisfy the constitutional concern in this respect (although, as drafted, it presents a practical problem in implementation).

But the framers of our constitution were concerned about two problems when they prohibited the dedication of funds. The first was direct dedications, something which apparently is not now a problem with the bill. The second is the establishment of separate funds within the treasury which are treated separately in the budgeting process. The constitutional framers were concerned that, by establishing such separate funds subject to separate treatment, dedicated funds could be created indirectly even though they could not be created directly. There are no cases addressing this aspect of the constitutional framers' concern, but the separate budget process for making appropriations from the mental health trust income account (see proposed AS 37.14.005(b), beginning on page 9, line 24, which would

mandate a separate appropriation of money from the mental health trust income account) may very well conflict with this aspect of the dedicated fund prohibition.

Proposed AS 37.14.015 (beginning on page 14, line 30) would require the state to make equal installment payments to the authority for original mental health land not retained by the state, and proposed AS 37.14.017(a) would require the state to make annual rental payments to the authority for original mental health lands retained in state ownership. As you know, no legislature can bind a succeeding legislature. If the required payments are not made, however, proposed AS 37.14.019 (beginning on page 16, line 16) provides an enforcement mechanism which, in subsection (f) (beginning on page 17, line 10), would permit the authority to satisfy a judgment against the state for the required payments by executing against state assets, including "any bank or other financial accounts of the state." Such execution against the Alaska Permanent Fund would be an obvious violation of art. IX, sec. 15, of the Alaska Constitution, which provides that the principal of the permanent fund "may be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments." To the extent that execution would be against the general fund, it would violate art. IX, sec. 13, of the Alaska Constitution, which provides that money may not be withdrawn from the treasury "except in accordance with appropriations made by law."

Those are the constitutional questions presented by CSSSSB 65 (HES) which we have been able to identify at this time. Should we discover additional constitutional questions, we will bring them to your attention as soon as possible. We also point out that the administration has several other concerns with the bill in its present form which we could address before your committee, but it may be more appropriate to present them in some other forum; we will abide by your desires in that regard.

We hope this submittal is responsive to Mr. Baily's request on your behalf. If you have further questions, we will try to answer them as quickly as we can.

Sincerely yours,



Charles E. Cole
Attorney General

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
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May 7, 1991

Hon. Richard I. Eliason
President, Alaska State Senate
P. O. Box V
Juneau, AK 99811

HAND DELIVERED

Dear Senator Eliason:

In furtherance of our conversation this morning about the right of the State to offset against the amount owing by the State for breach of its mental healthlands obligations, I enclose a copy of the opinion of the Alaska Supreme Court in State v. Weiss, 706 P.2d 681 (Alaska 1985).

I direct your attention to the last paragraph of the opinion which reads as follows:

Those general grant lands which were once mental health lands will return to their former trust status. In the event exchanges have been made, those properties which can be traced to an exchange involving mental health lands will also be included in the trust. To the extent that former mental health lands have been sold since the date of the conveyance the trust must be reimbursed for the fair market value at the time of sale. In calculating the total amount owed, the trial court should grant a set-off for mental health expenditures made by the state during the same period. In the event that expenditures exceeded the value of lands sold, the state need not furnish cash as part of the reconstitution. The goal is to restore the trust to its position just prior to the conveyance effected by the redesignation legislation. (Emphasis mine.)

Accordingly, the State is entitled to a set-off, together with interest, for all mental health expenditures it made during the period the State breached its trust responsibilities.

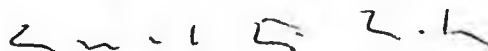
No question exists about the State's right of offset; the Supreme Court has directed the trial court to grant the

Hon. Richard I. Eliason
May 7, 1991
Page 2

State this offset and the trial court is required as a matter of law to comply with this order.

Although I do not have presently compiled the amount of this offset, and although there is apt to be a dispute about it, certainly no question exists but that the amount of the offset is in excess of \$1 billion. Needless to say, I am unable to support any settlement of the Weiss litigation which does not recognize this offset amount.

Very truly yours,



Charles E. Cole
Attorney General

CEC:pml

att.

REPLACEMENT LAND POOL

The Department of Natural Resources is working with representatives of the plaintiffs to assemble a pool of general grant state land to fulfill the requirements of Sec. 55 of HB 79 and SB 65. Entitled "Lands Hypothecated to the Mental Health Trust: May, 1991," this pool will include, to the extent possible, state land similar in terrain, use, location, development potential and accessibility to the original mental health trust to be replaced. The pool is expected to include the following land types.

- surveyed subdivision lots; including lots available over-the-counter and future land disposal offerings scheduled for FY 92-97. Includes land in Southeast, Southcentral, and Northern regions.
- commercial and industrial lease tracts in the railbelt; such as the MAPCO refinery at North Pole
- large tracts of contiguous state land near existing mental health land; including Beluga coal and timber lands, the Willow Capitol site, Kenai timber tracts
- blocks of commercial timber land, including Fredrick Point near Petersburg, Thorne Bay, Mat-Su tracts
- agricultural tracts in Mat-Su, Delta, Nenana, etc.

These areas were identified primarily through examination of the department's adopted area plans, focusing on lands designated for settlement, forestry and minerals. Therefore, most of these lands have already received at least one round of public notice and review. It is intended that there be more land in the pool than will be ultimately needed to reconstitute the trust in accord with the legislation.

GENERAL FUND UNRESTRICTED REVENUES

(Millions of Dollars)

TAXES	FY 1990 Actuals	FY 1991 ESTIMATES			FY 1992 ESTIMATES			FY 1993 ESTIMATES		
		Scen A	Scen B	Scen C	Scen A	Scen B	Scen C	Scen A	Scen B	Scen C
Income										
Corporate General	45.3	31.0	44.0	54.0	35.0	45.0	55.0	35.0	45.0	55.0
Corporate - Petroleum	117.2	109.0	142.0	171.0	115.0	140.0	165.0	117.0	145.0	167.0
Income from Prior Years (1)	22.6	30.3	30.3	30.3	0.0	0.0	0.0	0.0	0.0	0.0
Total (2)	185.1	170.3	216.3	255.3	150.0	185.0	220.0	152.0	190.0	222.0
Severance										
Oil & Gas Production	972.3	1135.0	1218.7	1309.7	519.4	822.6	1104.3	676.3	965.3	1273.0
Oil & Gas Conservation	2.4	2.3	2.3	2.3	2.3	2.3	2.3	2.2	2.2	2.2
Oil & Hazardous Release (3)	26.9	28.3	28.3	28.3	28.5	28.5	28.5	27.5	27.5	27.5
ELF Revision Payments (4)	102.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Income from Prior Years (1)	0.0	0.7	0.7	0.7	0.0	0.0	0.0	0.0	0.0	0.0
Total	1103.8	1166.3	1250.0	1341.0	550.2	853.4	1135.2	706.0	995.1	1302.8
Property										
Oil & Gas (5)	117.8	84.7	84.7	84.7	80.7	80.7	80.7	77.0	77.0	77.0
Sale/Use										
Alcoholic Beverages	12.0	12.0	12.0	12.0	12.0	12.0	12.0	12.0	12.0	12.0
Fuel Taxes - Aviation (6)	9.4	9.5	9.5	9.5	10.0	10.0	10.0	10.2	10.2	10.2
Fuel Taxes - Highway	22.9	23.0	23.0	23.0	23.5	23.5	23.5	23.5	23.5	23.5
Fuel Taxes - Marine	9.2	9.0	9.0	9.0	9.1	9.1	9.1	9.2	9.2	9.2
Tobacco Products (7)	11.0	13.5	13.5	13.5	13.0	13.0	13.0	13.0	13.0	13.0
Total	64.5	67.0	67.0	67.0	67.6	67.6	67.6	67.9	67.9	67.9
Miscellaneous - Other Taxes										
Alaska Business License (8)	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Fish - Canned/Shorebased (9)	15.3	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0
Fish - Floating	9.8	9.5	9.5	9.5	9.7	9.7	9.7	9.7	9.7	9.7
Salmon Enhancement (10)	6.5	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Seafood Marketing (11)	3.3	3.5	3.5	3.5	4.0	4.0	4.0	4.0	4.0	4.0
Insurance Companies	22.7	22.5	22.5	22.5	22.5	22.5	22.5	23.0	23.0	23.0
Electric & Telephone Coops (12)	2.1	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Gaming (13)	1.6	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Mining License Tax	0.9	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Estate	1.1	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Total	63.4	61.8	61.8	61.8	62.5	62.5	62.5	63.0	63.0	63.0
TOTAL TAXES	1534.6	1550.1	1679.8	1809.8	911.0	1249.2	1566.0	1065.9	1393.0	1732.7

	Actuals	Scen A	Scen B	Scen C	Scen A	Scen B	Scen C	Scen A	Scen B	Scen C
LICENSES & PERMITS										
Business (8)(14)	6.7	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0
Non-Business	21.1	21.3	21.3	21.3	21.0	21.0	21.0	21.0	21.0	21.0
Total	27.8	28.3	28.3	28.3	28.0	28.0	28.0	28.0	28.0	28.0
INTERGOVERNMENTAL RECEIPTS										
Federal Shared Revenues (15)	10.0	11.5	11.5	11.5	10.4	10.4	10.4	10.2	10.2	10.2
Section 8(g) Funds (15)(16)	2.0	2.0	2.0	2.0	4.6	4.6	4.6	4.6	4.6	4.6
Total	12.0	13.5	13.5	13.5	15.0	15.0	15.0	14.8	14.8	14.8
STATE RESOURCE REVENUE										
Sale/Use										
Bonus Sales (15)(17)(18)	0.0	15.0	15.0	15.0	0.0	0.0	0.0	0.0	0.0	0.0
Rents (15)(18)	5.3	5.3	5.3	5.3	6.1	6.1	6.1	6.9	6.9	6.9
Royalties (15)	747.4	866.2	934.2	1025.2	379.5	666.5	917.5	527.3	782.2	1049.1
Sale of State Property	4.3	6.6	6.6	6.6	6.7	6.7	6.7	6.7	6.7	6.7
Gravel, Timber, etc.	0.8	0.5	0.5	0.5	0.7	0.7	0.7	0.7	0.7	0.7
Total	757.8	893.6	961.6	1052.6	393.0	680.0	931.0	541.6	796.5	1063.4
Investment Earnings	117.9	117.3	119.5	130.5	91.5	128.4	155.5	85.6	155.6	223.2
Facilities Related Charges										
Airports	1.5	1.6	1.6	1.6	1.5	1.5	1.5	1.6	1.6	1.6
Ferry System—SE (19)	30.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Ferry System—SW (19)	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other	1.7	2.5	2.5	2.5	2.1	2.1	2.1	2.4	2.4	2.4
Total	37.2	4.1	4.1	4.1	3.6	3.6	3.6	4.0	4.0	4.0
Services Related Charges										
Court System	5.8	5.7	5.7	5.7	5.8	5.8	5.8	5.9	5.9	5.9
Other	3.2	2.5	2.5	2.5	3.7	3.7	3.7	3.9	3.9	3.9
Total	9.0	8.2	8.2	8.2	9.5	9.5	9.5	9.8	9.8	9.8
TOTAL RESOURCE REVENUE	921.9	1023.2	1093.4	1195.4	497.6	821.5	1099.6	640.9	955.9	1300.4
MISCELLANEOUS REVENUE	10.9	11.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0
TOTAL UNRESTRICTED REVENUE (20)	2507.2	2626.1	2826.0	3058.0	1462.6	2124.7	2719.5	1760.6	2412.7	3086.5
MENTAL HEALTH TRUST INCOME ACCOUNT (21)	122.0	157.5	169.6	181.5	87.3	127.5	163.2	105.6	154.8	185.2

* Footnotes on the following page

13.120

§ 37.14.011

PUBLIC FINANCE

§ 37.14.021

Article 1. Mental Health Trust Income Account.

Section

- 11. Mental health trust income account
- 21. Utilization of the mental health trust income account

Sec. 37.14.011. Mental health trust income account. (a) The mental health trust income account is established as a separate account in the general fund.

(b) The amount determined under (c) of this section as the rental value of the land constituting the mental health trust corpus is the earnings of the trust and the commissioner of revenue shall annually allocate that amount from the general fund to the mental health trust income account.

(c) The rental value of the land constituting the mental health trust corpus is equal to six percent of the unrestricted general fund revenue of the state for the fiscal year. (§ 2 ch 48 SLA 1987; am §§ 1, 2 ch 210 SLA 1990)

Effect of amendments. — The 1990 amendment, effective July 12, 1990, substituted "rental value" for "fair market rental" in subsection (b), and rewrote subsection (c).

Sec. 37.14.021. Utilization of the mental health trust income account. Money in the mental health trust income account established in AS 37.14.011(a) shall first be appropriated by the legislature to meet the necessary expenses of the mental health program of the state. In making annual appropriations from the mental health trust income account, the legislature shall consider the recommendations of the Alaska Mental Health Board established under AS 47.30.661, including recommendations regarding capital improvements. After the necessary expenses of the state's mental health program have been funded, the legislature may authorize transfer of the unobligated and unappropriated fiscal year-end balance in the mental health trust income account as of June 30 to the unreserved portion of the general fund for other public purposes. (§ 3 ch 48 SLA 1987; am § 3 ch 210 SLA 1990)

Effect of amendments. — The 1990 amendment, effective July 12, 1990, substituted the language beginning with "authorize transfer of the unobligated" for "make appropriations from the mental health trust income account for other public purposes" in the last sentence.

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Senate

CURRENT MENTAL HEALTH LAND STATUS, May 16, 1991

1 million acres

		Compensate/Exch. Negot. - Sec.54	Return to Trust - Sec.53
Unencumbered			341,275
Encumbered			
coal leases	54,600 acres		
oil and gas leases	40 acres		
timber sales	28,000 acres		
(Sec. 53 (2)) Subtotal	82,640 acres		82,640
land leases	6,585 acres		
ILMA's	4,500 acres		
material sales	1,900 acres		
mining claims	60,000 acres		
Subtotal	72,985 acres	72,985	
Conveyed			
sold	46,000 acres		
condemmed	5,000 acres		
municipal conveyances	43,000 acres		
Native corporation	36,000 acres		
university	3,000 acres		
Subtotal	133,000 acres	133,000	
Legislatively Designated areas			
(Sec.53 (5))			
Tanana Forest (total forest is 1,786,000)			32,062
Haines Forest (total forest is 247,000)			81,227
(Sec.54 (b))			
Parks, Refuges, critical habitats, etc.		254,711	
Total		460,696	537,204
(Total acreage represented here - 997,900)			



217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

May 17, 1991

TO: All Legislators
FROM: Scott A. Burgess, Executive Director
SUBJECT: Mental Health Lands Trust Settlement

The Alaska Municipal League endorses the negotiated settlement between the administration and the attorneys for the plaintiffs in the mental health lands litigation. The League urges the 17th Legislature to pass legislation (HB 79/SB 65) that incorporates the settlement without major amendments this year. The settlement now incorporated in legislation reflects a delicate compromise to meet the directives of the Alaska Supreme Court to reconstitute the Mental Health Trust and to settle the dispute on a bilateral basis, meeting the major concerns of the plaintiffs, the state, municipalities, and other third parties in the best interests of all the people of Alaska.

Resolution of the Mental Health Trust dispute is a top legislative priority of the Alaska Municipal League for 1991. Municipal officials are concerned as representatives of Alaska's communities, where the potential beneficiaries live and work and receive services. Municipal officials also represent the other Alaskans who, along with the potential beneficiaries, depend on all the services provided by local tax dollars and revenues from the state. Municipalities, which are entitled to land for revenue generation and community expansion, are also affected third parties, along with the others who live in our communities whose land or interest in land has been clouded as a result of the litigation.

The recent negotiations, which are embodied in CS SS HB 79 (Finance) and proposed CS SS SB 65 (Judiciary), resolve these issues in a fair and equitable manner. The Alaska Municipal League urges passage this year of the legislation incorporating the negotiated settlement between the administration and the plaintiffs' attorneys without major amendments to preserve the delicate compromise reached and necessary for final agreement before the Court.

cc: AML Board of Directors

C/MENHEAL.517

Submitted by: Assemblyman Begich
Prepared by: Assembly Budget Analyst

1
2
3
4 ~~PRESENTED AND APPROVED~~

For reading:

5
6 Date: 5-7-91

ANCHORAGE, ALASKA
AR NO. 91-88(S) as amended

7
8
9 A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY RELATING TO THE
10 ALASKA MENTAL HEALTH TRUST LAND
11

12
13 WHEREAS, the State of Alaska has violated its trust in the
14 disposal of Mental Health Lands without just compensation to the
15 Mental Health Trust Fund; and

16
17 WHEREAS, as a result of this action of the State regarding
18 Mental Health Lands, property titles are clouded, development
19 projects, new industries and financing for individual mortgages are
20 stalled, and the status of huge tracts of public lands now in State
21 parks and other public use areas is uncertain; and

22
23 WHEREAS, it is in the best interest of all the citizens of the
24 State to justly compensate the Mental Health Trust Fund for the
25 land the State has illegally taken; and

26
27 WHEREAS, it is in the best interest of the citizens of the
28 Municipality of Anchorage to resolve this problem in order that the
29 lands of the Municipality, as well as those in the rest of the
30 State, are no longer encumbered by this cloud of uncertainty; and

31
32 WHEREAS, the lack of adequate services too often finds the
33 mentally handicapped in the public safety and criminal justice
34 system, receiving the most expensive and least appropriate types of
35 services.

36
37 NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

38
39 Section 1: That the Anchorage Assembly calls upon the State
40 to fairly reinstate and/or justly compensate the Mental Health
41 Trust Fund as soon as possible.

42
43 Section 2: That the Anchorage Assembly supports any
44 legislation accomplishing the following:

- 45
46 a. Receives support by the beneficiaries;
47 b. establishes fair value for the lands;
48 c. ensures an integrated mental health service delivery for
49 the people of Alaska;
50 d. clears all titles clouded by the decision of State vs.
51 Weiss, 706 P.2d 681 (Alaska 1985); and
52 e. develops a reasonable and acceptable fiscal plan for the
53 State to repay its debt.
54

CS SB 263 — (0:6)

set P2 a 9-660
as amended

For Committee

3727

Jay Horan

PUBLIC LAW 830 - July 28, 1956

TITLE I - AUTHORITY OF THE TERRITORY OF ALASKA
IN THE FIELD OF MENTAL HEALTH

Powers of the Territorial Government

Sec. 101. For the purpose of vesting in the Territory of Alaska authority comparable in scope to that of the States and other Territories of the United States in the field of mental health, the Territorial legislature is hereby authorized to enact such laws on the subject of mental health as it may deem appropriate, and such legislation may supersede any of the Acts cited in section 301.

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 ...

(c) All grants made or confirmed under this section shall include mineral deposits: . . .

(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.

THE GRANTS-IN-AID PROVISION

Under the Senate amendment, the grants-in-aid are identical, in substance, to those approved by the House. That is, three different grants for different purposes are provided:

(1) \$6 1/2 million is authorized to be appropriated for construction of mental health facilities in Alaska. At present, there are none of any kind. Persons "convicted" by the mandatory jury trial are held in jail until arrangements can be made for transporting them away from Alaska to the private institution in Oregon.

(2) \$6 million is authorized to be appropriated over a 10-year period to assist the Territory in developing a rounded mental health program for its people until it can itself assume full financial responsibility. This amount would be available, subject to approval of appropriations bills for the purpose, as follows:

Fiscal year ---		Fiscal year -- Continued	
1958	\$1,000,000	1963	\$600,000
1959	1,000,000	1964	400,000
1960	800,000	1965	400,000
1961	800,000	1966	200,000
1962	600,000	1967	200,000

(3) One million acres of the "vacant, unappropriated, and unreserved" public lands of Alaska, to be selected by the Territory within a 10-year period. The income and proceeds from disposition of these lands must be administered as a public trust, with the expenses of the mental health program having first call on such funds. Amounts not needed for the mental health program can be used for other public purposes as the legislature may determine.

. . .

Public land grants for public purposes in the Territory of the United States are, of course, older than the Constitution itself, dating from at least the Northwest Ordinance of the Continental Congress in 1787. (See 1 Stat. 50, 51.) In all of the public land States of the West the Federal Government has made grants of the public lands in order to provide funds for schools or other public purposes. In five States, namely, Idaho, Oklahoma, South Dakota, Utah, and Wyoming, grants of public lands have been made specifically to provide means for the care of the insane.

. . .

The purpose of the grant is to afford revenues to the Territory for support of its mental-health program. If such revenues are in excess of needs for the program, they may be used, as a public trust, for other public purposes.

During Congressional markup of the 1956 Alaska mental health enabling legislation Alaska Delegate E.L. "Bob" Bartlett said in opposition to proposed "earmarking" of land proceeds exclusively for mental health purposes:

MR. BARTLETT. When previous legislation on this matter was being considered words substantially the same as those proposed by the gentleman were offered. My understanding is that they were not incorporated in this bill for this reason: No one knows what the land is going to be worth - 500,000 acres. It might have very slight value, it might be of average value; or again, we hope it might be enormously rich land containing oil. You might arrive at a situation where, if it did have oil, you would have revenues piled up there far in excess of the needs of any mental institution. The thought was that in any case the Territory of Alaska will have an obligation to appropriate money required for the care of the mentally ill, and it was thought it would not be desirable to hobble us possibly in that manner.

MR. DAWSON. Then I am to understand that the gift of this land is not for the purpose of the mentally ill alone, but you are to use it for any purpose you want in Alaska? Is that right?

MR. BARTLETT. It might very well be, Mr. Dawson, that the land would never provide more than a fraction of the funds required for the mentally ill.

Hearing before the Subcommittee of the Interior and Insular Affairs Committee of the House of Representatives April - July 1955 on bills providing for the care of Alaskan mentally ill.

ALASKA MENTAL HEALTH ENABLING ACT

Senate Report No. 2053, May 25, 1956 (To accompany H.R.6376)

LETTERS TO THE SENATE COMMITTEE

United States Department of the Interior,
Office of the Secretary,
Washington 25, D.C., January 9, 1956

Hon. James E. Murray,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D.C.

MY DEAR SENATOR MURRAY: This will refer further to your request for the views of the Department on S.2518, a bill to provide for the hospitalization and care of the mentally ill of Alaska, and for other purposes.

. . .

Finally, section 202 (e) was amended by the House committee to provide for the earmarking of funds derived from the land grants to the sole purpose of the hospitalization and care of the mentally ill. While it is, of course, anticipated that the land revenues will be used for this purpose, we are inclined to believe that it would be wiser not to restrict them in this manner. It is impossible at this time to predict accurately the cost to the Territory of the program envisaged by S. 2518. It is equally difficult to predict the amount of revenue that will accrue to the Territory under the land grant. It is possible that revenue resulting from the land grant will substantially exceed the costs of the program, in which case the Territory ought to be free to use such revenues for other purposes. It is also possible, however, that the land grant may be insufficient to sustain the Territory's financial responsibility under the program, and if that is so, the Territory should not be deterred from using funds from other sources to sustain it. We believe that it might be deterred if the earmarking requirement remains in the bill.

. . .

Wesley A. D'Ewart,
Assistant Secretary of the Interior

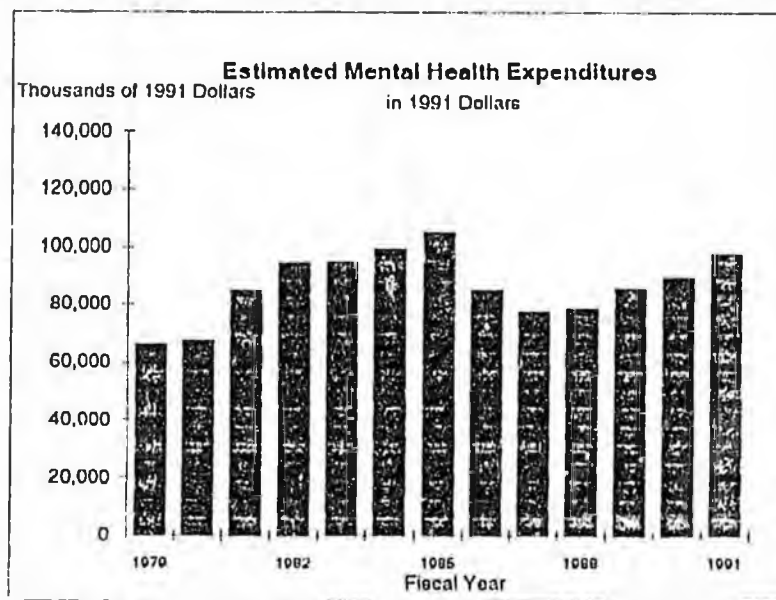
MENTAL.XLS

*Mental Health
Lands Trust
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...
...*

Estimated Mental Health Expenditures from Unrestricted General Fund Revenue

(In Thousands of Dollars)

Agency/Budget Request Unit	Fiscal Year												
	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Department of Administration	530	586	754	1,119	1,154	1,184	1,217	1,683	1,600	1,682	1,847	1,953	1,588
Department of Law	13	30	44	48	43	40	38	73	42	54	52	59	67
Department of Education	3,147	3,560	4,155	4,803	5,493	6,017	6,715	1,844	1,694	1,676	1,751	1,859	2,226
Dept. of Health and Social Services	29,881	33,246	46,619	53,391	55,193	59,019	64,822	62,501	59,528	63,452	72,779	80,009	92,930
Department of Public Safety	1,095	2,418	3,595	3,972	3,511	3,278	3,152	826	483	619	587	673	0
Department of Corrections	2,042	2,222	2,479	3,320	3,981	5,955	7,043	966	952	1,039	1,178	1,185	1,222
Total Estimated Expenditure	36,708	42,062	57,646	66,655	69,374	75,494	82,987	67,892	64,380	68,521	78,195	85,749	98,092
Cumulative Estimated Expenditure	36,708	78,770	136,416	203,071	272,445	347,939	430,926	498,819	553,198	631,720	709,914	795,663	893,755
FY 79 - FY 85	36,708	78,770	136,416	203,071	272,445	347,939	430,926						
FY 86 - FY 91								67,892	132,272	200,793	278,988	364,737	462,829
Total Estimated Expenditure in 1991 Dollars	66,340	67,632	85,083	94,714	94,972	99,419	105,317	85,197	77,377	78,869	85,881	89,607	98,092
Cumulative Estimated Expenditure in 1991 Dollars	66,340	133,972	219,055	313,769	408,740	508,160	613,476	698,673	776,050	854,919	940,799	1,030,407	1,128,499
Mental Health Expenditures As Percentage of General Fund Unrestricted Revenues	3.24%	1.68%	1.55%	1.62%	1.91%	2.23%	2.55%	2.21%	3.58%	2.97%	3.58%	3.42%	3.47%



*From -
Charlie
Cole*

Prepared by the Legislative Research Agency (91.242)

Source: Mental Health Lands Trust Review, Summary Schedule and Analysis - Potential State Mental Health Expenditures
State of Alaska, Office of Management and Budget - Division of Budget Review, Operating Budget Funding Summary, All Funds, By Agency, BRU & Component, January 28, 1991
Note: Program Receipts have been removed from totals given.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

MEMORANDUM

DATE: May 3, 1991

TO: Senator Arliss Sturgulewski, Chair
Senate Health, Education, and Social Services Committee

FROM: Nancy J. Slagle, *NJS*
Fiscal Analyst

SUBJ: Mental Health Program Expenditures

Attached is a summary of potential mental health expenditures for the State of Alaska for the fiscal years 1979 through 1991 as prepared by the Legislative Finance Division. This report contains estimated costs developed using the same or similar methods used by the House and Senate in formulating their respective fiscal year 1992 budgets. In developing estimates for a few areas for fiscal years 1979 through 1985, we depended on numbers formulated by the Legislative Audit Division, otherwise we used actual expenditures contained in budget documents. We feel that this report is a conservative estimate. Our total general fund expenditure estimate is \$839,290,700.

If you require any further information concerning these calculations, please give me a call.

**STATE OF ALASKA
SUMMARY OF ESTIMATED MENTAL HEALTH EXPENDITURES
FY79-FY91 (GENERAL FUND)**

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Medicaid	56,532.5
Includes MH clinic services, inpatient psychiatric services, ICF-MR, and Intermediate Care - MI/MR.	
Division of Family and Youth Services	25,591.3
Includes portions of foster care, residential child care, adult services and youth services.	
Alcohol Abuse Grants and Administration	156,354.6
Includes 100% of alcohol abuse grants and a percentage of administrative costs.	
Division of Public Health	13,888.1
Includes Infant Learning Program.	
Division of Mental Health & Developmental Disabilities	444,014.1
Includes community mental health grants, DD grants, API, Harborview and Alaska Youth Initiative.	
Administrative Services	1,444.5
Includes Governor's Council for Handicapped and Gifted, Alaska Mental Health Board, and Office of Prevention grants.	
Capital	52,262.2

DEPARTMENT OF ADMINISTRATION

Older Alaskan's Commission	996.0
Office of Public Advocacy	578.1

DEPARTMENT OF CORRECTIONS

Facilities and Statewide	5,840.8
Includes mental health clinicians, psychological counselors, and contractual services related to mental health.	

EDUCATION

Special Education	55,595.9
Includes intensive special education units	
Schools for the Handicapped	10,036.6
Vocational Rehabilitation	16,091.3

DEPARTMENT OF LAW

Legal Services	64.7
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TOTAL	839,290.7
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STATE OF ALASKA										
GENERAL FUNDS EXPENDITURES FOR MENTAL HEALTH PROGRAMS										
		FY79 - FY85	1986	1987	1988	1989	1990	1991		
	PER LEG AUDIT							AUTH	TOTAL	
	Total Funds									
HEALTH & SOCIAL SERVICES										
Medicaid	52,072.0	16,024.9	3,919.6	4,895.1	4,678.6	7,885.4	8,190.2	10,935.7	56,532.5	Legislature's Base Analysis (FY79-91)
Div of Family & Youth Svcs	4,717.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	Deny audit. Need time study for staff.
Adult Services	19,178.9	1,390.5	160.0	98.7	99.1	99.1	10.9	21.6	1,879.8	5.8% as noted in Legislature's Base Analysis
Foster Care	0.0	1,050.0	150.0	150.0	150.0	150.0	649.3	1,140.7	3,400.0	Legislature's Base Analysis. Conservative estimate from 79-89 for psych eval/diagnostic and counseling svcs
Residential Child Care	12,798.6	12,798.6	899.2	800.8	817.9	858.6	886.0	3,064.2	20,125.2	8.3% per Leg. Audit report. FY91 see Legislature's Base Analysis.
Youth Facilities	30,614.7	0.0	0.0	0.0	0.0	0.0	0.0	62.9	62.9	Unable to calculate mental health svcs - see Legis. Base Analysis.
Fairbanks Youth Facility	0.0	0.0	0.0	0.0	0.0	0.0	0.0	82.6	82.6	Unable to calculate mental health svcs - see Legis. Base Analysis.
Nome Youth Facility	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.8	0.8	Unable to calculate mental health svcs - see Legis. Base Analysis.
Probation Services	7,110.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	Unable to calculate mental health svcs - see Legis. Base Analysis.
Manilaq Mental Health	0.0	0.0	278.1	218.7	207.8	207.8	207.8	283.8	1,404.0	100%
Manilaq Alcohol & Drug Abuse	0.0	0.0	568.9	501.8	476.5	476.5	476.5	476.5	2,976.6	86.1%
Norton Sound Public Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	69.9	69.9	
Norton Sound Mental Health	0.0	0.0	385.5	285.0	278.3	278.3	278.3	278.3	1,783.7	100%
Norton Sound Alcohol & Drug	0.0	0.0	541.6	450.1	488.7	488.7	488.7	488.7	2,946.5	86.1%
SEARHC Alcohol & Drug Abuse	0.0	0.0	0.0	0.0	0.0	0.0	0.0	172.2	172.2	
TCC Mental Health	0.0	0.0	249.0	207.0	196.6	196.6	196.6	221.6	1,267.4	100%
TCC Alcohol & Drug Abuse	0.0	0.0	244.9	203.5	221.0	221.0	221.0	294.2	1,405.7	86.1%
YKHC Mental Health	0.0	0.0	0.0	0.0	0.0	436.9	436.9	583.0	1,456.8	100%
YKHC Alcohol & Drug Abuse	0.0	0.0	0.0	0.0	0.0	252.0	252.0	252.0	756.0	86.1%
Public Health Admin	0.0	0.0	0.0	0.0	0.0	128.0	0.0	0.0	128.0	
Vital Statistics	0.0	0.0	0.0	0.0	0.0	131.5	150.0	0.0	281.5	
Infant Learning Program	0.0	4,604.5	1,372.5	1,222.4	1,399.5	1,521.7	1,719.9	1,568.1	13,408.7	70.6% see Legislature's Base Analysis
SOADA/Admin	0.0	0.0	1,214.3	1,153.9	949.2	972.2	1,646.9	951.5	6,288.1	Calculated at same percentage as alcohol grants to total alcohol and drug grants
Alcohol Abuse Grants	95,846.7	86,647.4	10,238.7	8,197.9	8,126.0	7,800.3	9,110.8	11,688.4	141,809.5	100% of alcohol grants. FY79-91 includes admin costs.
ASAP	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	Evaluating & referring people charged with alcohol and drug abuse related offenses
Div of MH & DD		172,886.0	0.0	0.0	0.0	0.0	0.0	0.0	172,886.0	100%
Comm Mental Health Grants	32,170.0	*	8,160.7	6,885.9	7,103.4	8,931.2	10,701.2	10,861.2	52,640.6	100%. FY79-91 shown in Div of MH & DD
Fairbanks Comm Mental Health	0.0	0.0	0.0	1,509.2	1,571.9	2,228.2	0.0	0.0	5,309.3	100%
Svc/Chronically Mentally Ill	0.0	0.0	0.0	690.2	3,376.2	7,825.8	9,725.4	11,021.3	32,638.9	100%
Designated Eval & Treatment	0.0	0.0	0.0	0.0	0.0	0.0	573.4	688.3	1,261.7	100%
OBRA '87	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1,225.0	1,225.0	100%
Comm Dev Disability Grants	32,386.0	*	8,483.0	7,417.6	7,488.7	9,934.8	11,434.5	13,318.1	56,076.7	100%. FY79-91 shown in Div of MH & DD
Mental Health Admin	0.0	0.0	1,814.0	1,381.3	1,713.8	2,366.1	2,839.4	3,289.3	13,403.9	100%
API	77,616.0	*	13,574.2	11,593.2	11,483.6	11,511.7	13,516.8	14,004.3	75,683.8	100%. FY79-91 shown in Div of MH & DD
Harborview	46,992.0	*	5,079.0	4,154.2	1,448.2	3,183.1	3,742.3	4,153.9	21,760.7	100%. FY79-91 shown in Div of MH & DD
Alk Youth Initiative	0.0	0.0	0.0	0.0	328.7	649.5	1,126.7	1,110.7	3,215.6	100%
Governor's Council	0.0	0.0	0.0	0.0	0.0	0.0	0.0	45.0	45.0	

STATE OF ALASKA										
GENERAL FUNDS EXPENDITURES FOR MENTAL HEALTH PROGRAMS										
		FY79 - FY85	1986	1987	1988	1989	1990	1991 AUTH	TOTAL	
PER LEG AUDIT										
Total Funds										
Office of Prevention	0.0	0.0	0.0	0.0	0.0	0.0	0.0	255.8	255.8	MH grants
Al Mental Health Board	0.0	0.0	0.0	0.0	139.9	324.4	311.1	368.3	1,143.7	100%
Capital	26,265.0	26,265.0	7,586.0	3,042.0	2,050.0	4,839.0	4,049.0	4,431.2	52,262.2	
H&SS TOTAL	437,767.5	321,666.9	64,919.2	55,061.5	54,790.7	73,898.4	82,341.6	97,409.1	750,007.4	
ADMINISTRATION										
Pioneer Homes	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Older Alaskans' Commission	0.0	0.0	0.0	0.0	0.0	0.0	0.0	996.0	996.0	
Office of Public Advocacy	0.0	0.0	0.0	0.0	0.0	0.0	0.0	578.1	578.1	
Admin Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1,574.1	1,574.1	
CORRECTIONS										
Facilities & Statewide	28,886.0	733.5	546.4	821.8	669.9	852.3	995.2	1,221.7	5,840.8	MH clinicians, psych counselors and contracts back to FY83
EDUCATION										
Special Education	26,795.4	25,246.5	4,477.6	4,477.6	4,893.5	5,477.7	5,275.3	5,747.6	55,595.9	33% of instructional value for intensive special ed units FY86 and FY87 are estimates based on other year's information
Youth Correctional Facilities	4,546.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Schools for the Handicapped	0.0	0.0	0.0	2,763.3	1,749.7	1,880.4	1,749.5	1,893.7	10,036.6	68.3% as in OMB audit and accepted by Leg. AYI. Providence Heights Not available prior to FY87.
Basic Ed & Instructional Imp	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Vocational Rehabilitation	14,295.5	6,433.0	1,619.9	1,635.7	1,650.0	1,593.4	1,530.1	1,629.2	16,091.3	39.4% of counseling and placement, 46.2% svcs to clients, and 39.4 of Voc Rehab Admin as calculated in OMB audit and accepted by Leg Not available prior to FY84.
Education Total	45,637.1	31,679.5	6,097.5	8,876.7	8,293.2	8,951.4	8,554.9	9,270.6	81,723.8	
LAW										
Legal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	64.7	64.7	
Indirect Costs	0.0	0.0	0.0	0.0	0.0	0.0	0.0		0.0	
STATEWIDE TOTAL	512,290.6	354,079.8	71,563.0	64,760.0	63,753.8	83,702.1	91,891.8	109,540.2	839,290.7	

Only operating, not capital

STATE OF ALASKA
OFFICE OF MANAGEMENT & BUDGET
DIVISION OF BUDGET REVIEW

DATE: 04/24/91
TIME: 13:04:43
PROG: SWFLXCUT

OPERATING BUDGET FUNDING SUMMARY, COMPONENTS UTILIZING MENTAL HEALTH TRUST FUNDS, BY AGENCY, BRU & COMPONENT

AGENCY: Department of Administration

BUDGET REQUEST UNIT/COMPONENT	<i>GF Match</i>		<i>GF</i>		<i>GF Prop. Rec. MH Trust</i>					
	FY91	AU03	FY91	AU04	FY91	AU05	FY91	AU06	FY91	AUAL
Older Alaskans Commission										
Older Alaskan Services		934.6		3,103.3		0.0		996.0		10,951.0
*** BRU TOTALS ***		934.6		3,103.3		0.0		996.0		10,951.0
Office of Public Advocacy										
Office of Public Advocacy		0.0		4,460.6		0.0		592.2		5,052.8
*** BRU TOTALS ***		0.0		4,460.6		0.0		592.2		5,052.8
*** AGENCY GRAND TOTALS ***		934.6		7,563.9		0.0		1,588.2		16,003.8
AGENCY FUNDING SUMMARY										
Federal Funds		0.0		0.0		0.0		0.0		5,807.1
General Fund		934.6		7,563.9		0.0		1,588.2		10,086.7
Other Funds		0.0		0.0		0.0		0.0		110.0

S T A T E O F A L A S K A
 OFFICE OF MANAGEMENT & BUDGET
 DIVISION OF BUDGET REVIEW

DATE: 04/24/91
 TIME: 13:06:09
 PROG: SHFLXCUT

OPERATING BUDGET FUNDING SUMMARY, COMPONENTS UTILIZING MENTAL HEALTH TRUST FUNDS, BY AGENCY, BRU & COMPONENT

AGENCY: Department of Law

BUDGET REQUEST UNIT/COMPONENT	FY91 AU03	FY91 AU04	FY91 AU05	FY91 AU06	FY91 AUAL
Legal Services					
Operations	0.0	5,592.7	224.1	66.7	12,440.4
*** BRU TOTALS ***	0.0	5,592.7	224.1	66.7	12,440.4
*** AGENCY GRAND TOTALS ***	0.0	5,592.7	224.1	66.7	12,440.4
AGENCY FUNDING SUMMARY					
Federal Funds	0.0	0.0	0.0	0.0	0.0
General Fund	0.0	5,592.7	224.1	66.7	5,883.5
Other Funds	0.0	0.0	0.0	0.0	6,556.9

S T A T E O F A L A S K A
 OFFICE OF MANAGEMENT & BUDGET
 DIVISION OF BUDGET REVIEW

DATE: 04/24/91
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 PROG: SWFLXCUT

OPERATING BUDGET FUNDING SUMMARY, COMPONENTS UTILIZING MENTAL HEALTH TRUST FUNDS, BY AGENCY, BRU & COMPONENT

AGENCY: Department of Education

BUDGET REQUEST UNIT/COMPONENT	FY91 AU03	FY91 AU04	FY91 AU05	FY91 AU06	FY91 AUAL
K-12 Support					
Schools for the Handicapped	0.0	1,834.1	0.0	938.5	2,872.6
*** BRU TOTALS ***	0.0	1,834.1	0.0	938.5	2,872.6
Vocational Rehabilitation					
Counseling and Placement	523.4	751.5	52.3	516.1	4,064.5
Services to Clients	462.9	466.0	0.0	640.2	3,632.1
Vocational Rehabilitation Administration	132.1	188.9	0.0	130.9	1,005.8
*** BRU TOTALS ***	1,118.4	1,406.4	52.3	1,287.2	8,702.4
*** AGENCY GRAND TOTALS ***	1,118.4	3,240.5	52.3	2,225.7	11,575.0
AGENCY FUNDING SUMMARY					
Federal Funds	0.0	0.0	0.0	0.0	4,938.1
General Fund	1,118.4	3,240.5	52.3	2,225.7	6,636.9
Other Funds	0.0	0.0	0.0	0.0	0.0

S T A T E O F A L A S K A
OFFICE OF MANAGEMENT & BUDGET
DIVISION OF BUDGET REVIEW

DATE: 04/24/91
TIME: 13:09:11
PROG: SWFLXCUT

OPERATING BUDGET FUNDING SUMMARY, COMPONENTS UTILIZING MENTAL HEALTH TRUST FUNDS, BY AGENCY, BRU & COMPONENT

AGENCY: Department of Health and Social Services

BUDGET REQUEST UNIT/COMPONENT	FY91 AU03	FY91 AU04	FY91 AU05	FY91 AU06	FY91 AUAL
Medical Assistance					
Medicaid Non-Facility	32,735.8	0.0	169.0	2,096.5	69,765.8
Medicaid-Facilities	48,576.0	0.0	422.5	8,839.2	115,212.0
*** BRU TOTALS ***	81,311.8	0.0	591.5	10,935.7	184,977.8
Purchased Services					
Adult Services	0.0	350.5	0.0	21.6	372.1
Foster Care	900.7	7,889.0	375.0	1,140.7	11,206.1
Residential Child Care	348.0	7,441.9	0.0	3,064.2	11,202.1
*** BRU TOTALS ***	1,248.7	15,631.4	375.0	4,226.5	22,780.3
Youth Services					
McLaughlin Youth Center	0.0	6,940.3	0.0	62.9	7,188.2
Fairbanks Youth Facility	0.0	2,350.3	0.0	82.6	2,538.9
Nome Youth Facility	0.0	972.4	0.0	0.8	985.2
*** BRU TOTALS ***	0.0	10,263.0	0.0	146.3	10,712.3
Maniilaq					
Maniilaq Alcohol and Drug Abuse Services	0.0	76.9	0.0	476.5	553.4
Maniilaq Mental Health/Developmental Disab	0.0	0.0	0.0	283.8	283.8
*** BRU TOTALS ***	0.0	76.9	0.0	760.3	837.2
Norton Sound Health Corporation					
Norton Sound Public Health Services	0.0	1,056.8	0.0	69.9	1,213.3
Norton Sound Alcohol and Drug Abuse Servic	0.0	78.9	0.0	488.7	567.6
Norton Sound Mental Health and Development	0.0	0.0	0.0	278.3	278.3
*** BRU TOTALS ***	0.0	1,135.7	0.0	836.9	2,059.2
Southeast Alaska Regional Health Corporation					
Southeast Alaska Regional Health Corporati	0.0	27.8	0.0	172.2	200.0
*** BRU TOTALS ***	0.0	27.8	0.0	172.2	200.0
Tanana Chiefs Conference					

AGENCY: Department of Health & Social Services (Cont'd)

BUDGET REQUEST UNIT/COMPONENT	FY91 AU03	FY91 AU04	FY91 AU05	FY91 AU06	FY91 AUAL
Tanana Chiefs Conference Alcohol and Drug	0.0	47.5	0.0	294.2	341.7
Tanana Chiefs Conference Mental Health Ser	0.0	0.0	0.0	221.6	221.6
*** BRU TOTALS ***	0.0	47.5	0.0	515.8	563.3
Yukon-Kuskokwim Health Corporation					
Yukon-Kuskokwim Alcohol/Drug Services	0.0	40.7	0.0	252.0	292.7
Yukon-Kuskokwim Mental Health Services	0.0	0.0	0.0	583.0	583.0
*** BRU TOTALS ***	0.0	40.7	0.0	835.0	875.7
Health Grants					
Infant Learning Program Grants	0.0	1,568.0	0.0	1,568.1	3,466.8
*** BRU TOTALS ***	0.0	1,568.0	0.0	1,568.1	3,466.8
Alcohol and Drug Abuse Services					
Administration	0.0	173.7	0.0	1,067.3	1,528.9
Alcohol Abuse Grants	0.0	0.0	0.0	11,688.4	16,106.9
*** BRU TOTALS ***	0.0	173.7	0.0	12,755.7	17,635.8
Community Mental Health Grants					
Community Mental Health Grants	0.0	0.0	0.0	10,861.2	11,392.2
Services to the Chronically Mentally Ill	0.0	0.0	0.0	11,021.3	11,021.3
Designated Evaluation and Treatment	0.0	0.0	0.0	688.3	688.3
Omnibus Budget Reconciliation Act of 1987	0.0	0.0	0.0	1,225.0	1,225.0
*** BRU TOTALS ***	0.0	0.0	0.0	23,795.8	24,326.8
Community Developmental Disabilities Grants					
Community Developmental Disabilities Grant	0.0	0.0	0.0	13,318.1	13,318.1
*** BRU TOTALS ***	0.0	0.0	0.0	13,318.1	13,318.1
Institutions and Administration					
Mental Health Administration	0.0	51.9	0.0	3,237.4	4,032.7
Alaska Psychiatric Institute	0.0	41.0	1,007.8	13,963.3	15,412.1
Harborview Development Center	0.0	11.0	104.0	4,142.9	7,646.3
Alaska Youth Initiative	0.0	0.0	0.0	1,110.7	1,110.7
*** BRU TOTALS ***	0.0	103.9	1,111.8	22,454.3	28,201.8
Administrative Services					

AGENCY: Department of Health & Social Services (Cont'd)

BUDGET REQUEST UNIT/COMPONENT	FY91 AU03	FY91 AU04	FY91 AU05	FY91 AU06	FY91 AUAL
Governor's Council/Handicapped and Gifted	0.0	0.0	0.0	45.0	672.9
Office of Prevention	0.0	974.6	0.0	255.8	1,270.5
Alaska Mental Health Board	0.0	0.0	0.0	368.3	368.3
*** BRU TOTALS ***	0.0	974.6	0.0	669.1	2,311.7
*** AGENCY GRAND TOTALS ***	82,560.5	30,093.2	2,078.3	92,989.8	312,266.8
AGENCY FUNDING SUMMARY					
Federal Funds	0.0	0.0	0.0	0.0	98,921.2
General Fund	82,560.5	30,093.2	2,078.3	92,989.8	207,721.8
Other Funds	0.0	0.0	0.0	0.0	5,623.8

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 OFFICE OF MANAGEMENT & BUDGET
 DIVISION OF BUDGET REVIEW

DATE: 04/24/91
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 PROG: SWFLXCUT

OPERATING BUDGET FUNDING SUMMARY, COMPONENTS UTILIZING MENTAL HEALTH TRUST FUNDS, BY AGENCY, BRU & COMPONENT

AGENCY: Department of Corrections

BUDGET REQUEST UNIT/COMPONENT	FY91 AU03	FY91 AU04	FY91 AU05	FY91 AU06	FY91 AUAL
Statewide Operations					
Statewide Programs	0.0	6,730.5	215.0	177.0	7,750.9
Fairbanks Correctional Center	0.0	7,099.6	0.0	74.7	7,174.3
Palmer Correctional Center	0.0	7,278.9	0.0	70.3	7,349.2
Combined Hiland Mountain Correctional Cent	0.0	6,727.9	0.0	175.7	6,903.6
Cook Inlet Correctional Center	0.0	8,147.3	0.0	363.2	8,510.5
Wildwood Correctional Center	0.0	7,126.2	0.0	115.9	7,242.1
Spring Creek Correctional Center	0.0	11,803.0	824.7	172.4	12,800.1
Lemon Creek Correctional Center	0.0	6,135.5	0.0	72.5	6,208.0
*** BRU TOTALS ***	0.0	61,048.9	1,039.7	1,221.7	63,938.7
*** AGENCY GRAND TOTALS ***	0.0	61,048.9	1,039.7	1,221.7	63,938.7
AGENCY FUNDING SUMMARY					
Federal Funds	0.0	0.0	0.0	0.0	0.0
General Fund	0.0	61,048.9	1,039.7	1,221.7	63,310.3
Other Funds	0.0	0.0	0.0	0.0	628.4

STATE OF ALASKA
 OFFICE OF MANAGEMENT & BUDGET
 DIVISION OF BUDGET REVIEW

DATE: 04/24/91
 TIME: 13:25:51
 PROG: SWFLXCUT

OPERATING BUDGET FUNDING SUMMARY, COMPONENTS UTILIZING MENTAL HEALTH TRUST FUNDS, STATEWIDE TOTALS

AGENCY NAME/FUNDING SOURCE	FY91 AU03	FY91 AU04	FY91 AU05	FY91 AU06	FY91 AUAL
* * * STATEWIDE GRAND TOTALS * * *					
FEDERAL RECEIPTS	0.0	0.0	0.0	0.0	109,666.4
GENERAL FUND	84,613.5	107,539.2	3,394.4	98,092.1	293,639.2
OTHER FUNDS	0.0	0.0	0.0	0.0	12,919.1
*** TOTAL FUNDS ***	84,613.5	107,539.2	3,394.4	98,092.1	416,224.7

STATE OF ALASKA

STEVE COWPER, GOVERNOR

OFFICE OF THE GOVERNOR

POUCH AM
JUNEAU, ALASKA 99811
PHONE: (907) 465-3568

OFFICE OF MANAGEMENT AND BUDGET DIVISION OF BUDGET REVIEW

May 2, 1990

The Honorable John Binkley
The Honorable Ron Larson
Conference Committee on
the Budget
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Binkley and Representative Larson:

Attached for the consideration of the Conference Committee on the Budget is documentation in support of the appropriation of an additional \$44,881,300 from the Mental Health Trust Income Account (MHTIA) of the General Fund to meet the necessary expenses of the state's comprehensive mental health program. These changes have already been incorporated in the Senate version of HB 500. The increase in MHTIA funds shown does not represent an increase in funding for mental health programs above the amounts included in either the Governor, House or Senate versions of the FY 91 budget. Rather, each increase in MHTIA funds is offset by a reduction in either general funds or general fund match funds. In total, this request is a net-zero in terms of all classes of general funds.

The purpose of this exercise is to more accurately reflect the total funding for mental health programs. To accomplish this, the affected departments have reviewed their FY 90 base budgets to determine which activities currently funded with general funds or general fund match funds should more appropriately be funded from the MHTIA. The departments were greatly assisted in this effort by the House Finance Committee, Department of Health and Social Services Budget Subcommittee, which held extensive hearings on this subject early in the legislative session. This request is a direct result of the subcommittee's efforts.

Although the Administration is confident that this change represents a sizable step forward in identifying mental health program activities included in the budget base, we recognize that there is additional work that must be done in this regard. The approach taken here has been conservative and the process will be ongoing. There are a number of areas, e.g., the Pioneer Homes system, Special Education and several programs within the Division of Family & Youth Services which, due to time and other administrative constraints, have not yet been reviewed and consequently are not included in the proposal.

May 2, 1990

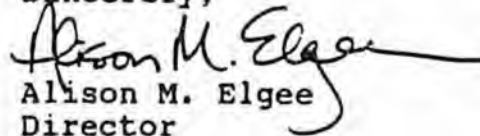
Page 2

Likewise, the amounts identified as appropriate for MHTIA funding in those areas which are included in the proposal before the Committee should not be regarded as fixed. Under OMB direction, a formal audit plan will be developed for each of the components in which Mental Health Trust beneficiary services are found. Audits will begin during the interim. This may result in adjustments in the FY 92 budget to the base level in the already identified components and to new components being identified. This audit plan will lay the groundwork for annual or biannual reassessments of the appropriate allocation of MHTIA, GF and GFM fund sources for those components that rely on more than one. No effort will be made in any component to require MHTIA funds appropriated to track to individual clients. Rather, aggregate data will be compiled and analyzed on a periodic basis, probably annually, to determine the level of service provided to Mental Health Trust beneficiaries, which will drive the allocation of MHTIA funds for the succeeding fiscal year.

To assist agencies in their ongoing review of mental health program funding, the Governor's FY 91 budget request includes additional audit staff in the Office of Management & Budget, Division of Management Services. The Conference Committee's approval of this increment would be most helpful as part of our continuing mental health program review efforts.

Attached for your review are individual C-5 forms which provide detail on the individual transactions at the budget component level. Your consideration of this request will be appreciated.

Sincerely,


Alison M. Elgee
Director

Attachments

STATE OF ALASKA
MENTAL HEALTH LANDS TRUST REVIEW
Explanation of the Summary Schedule and Analysis of
Potential State Mental Health
Expenditures and Program Receipts
July 1, 1978 - September 30, 1985

The Summary Schedule and Analysis of Potential State Mental Health Expenditure and Program Receipts was prepared for the Interim Mental Health Trust Commission. The schedule was designed to assist the Commission in their review and identification of State expenditures. The Commission is required by law to submit recommendations regarding what State expenditures relate to the State's Mental Health Program to the 1987 Legislature.

We have attempted to provide sufficient information to allow the Commission to analyze services provided by various state agencies. In order to provide the Commission with the most extensive range of options, and mindful of the intent of the House Finance Committee (see Purpose of the Report) we have presented expenditures based on differing views and definitions of mental health services.

The schedule identifies aspects of various programs identified in the Alaska State Comprehensive Statewide Mental Health Plan, FY 77 (FY77 PLAN), analyzes programs in terms of Alaska Statute definitions and the professional diagnostic publication Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III), and analyzes programs in terms of the working definition of mental health programs provided by the Commissioner of Health and Social Services (see Appendix A).

For the purposes of developing a "menu of costs" for the Commission's review, professionals from the Division of Mental Health and Developmental Disabilities (MHDD) assisted us in interpreting and applying DSM-III and Alaska statutory definitions of mental illness. Although cost estimates that were developed using this technical assistance are labeled "Allocation Per Mental Health Analysis," it is not meant to imply that MHDD necessarily endorses or accepts the analyzed agency's services as being mental health related.

The following is a discussion of the information presented in each column of the Summary Schedule and Analysis of Potential Mental Health Expenditures:

Column One - Program Title and 1977 Mental Health Plan Aspects

Column One presents state programs identified as potentially being part of the State's Mental Health Program. The column also contains our analysis of how the identified State programs relate to the FY77 PLAN which has been adopted by the Commission as a basis for the State's Mental Health Program.

Column Two - Program Receipts

Column Two presents revenues collected by the various State agencies identified in Column One. Program revenues are primarily Federal receipts. Amounts presented represent revenues collected from July 1, 1978 to September 30, 1985, as recorded in the State's accounting records or audited information reported by school districts. Revenues are presented at the request of the Commission in order that net State General Fund expenditures could better be estimated.

Column Three - Program Expenditures

Column Three presents the total expenditures from July 1, 1978 to September 30, 1985, as recorded in the State's accounting records for programs presented in Column One. Expenditures presented for MHDD and the State Office on Alcoholism and Drug Abuse have been audited. Other expenditure totals are presented as recorded in the State's accounting records as unaudited. However, these departments and programs have been audited for most, though not every, fiscal year for the period presented.

Column Four - Allocation Per Mental Health Analysis

Column Four presents an allocation of mental health-related program costs. The Commission requested that expenditures be allocated based on how various programs served individuals that could be classified as mentally ill either under DSM-III diagnoses and/or Alaska Statutes. (For further discussion of the statutory definition of mental illness, see the Mental Health Lands Suit - History and Issues section of this report.)

Based upon the analysis provided by an MHDD mental health professional, we allocated program expenditures in order to quantify mental health service aspects of the programs presented. Procedures used at arriving at estimates are discussed in Column Seven.

A major issue that was identified when applying both the DSM-III and the statutory criteria for mental illness was the unclear status of substance abusers and the developmentally disabled. Both of these populations of individuals are specifically excluded from the statutory definition of mental illness, but both are included under the diagnostic criteria of DSM-III. According to the MHDD analyst, how the Commission classifies services provided to these groups is a major underlying policy decision that will affect which of the programs will be identified as mental health related.

Column Five - Allocation Per Program Management Analysis

Column Five presents an allocation of mental health-related program costs. Based upon the analysis provided by program managers, expenditures were allocated, in order to quantify, in dollars, mental health service aspects of the programs presented. Procedures used at arriving at estimates are discussed in Column Seven.

Essentially, the analysis was based on how managers interpreted the "working" definition of mental health programs developed by the Commissioner of Health and Social Services, and/or the manager's own perceptions. As stated in the introduction, this different view was used in developing cost estimates in order to provide a more extensive "menu of costs" for consideration of the Commission.

All program services provided to individuals who could be classified as mentally ill, were included in the estimates and allocation of costs, even though the services were not treatment oriented in nature. We felt this was consistent with how services at Alaska Psychiatric Institute would be viewed. That is, costs associated with personnel, meals, administration, laundry, etc., would be considered mental health related as well as the more direct psychiatric treatment and nursing costs.

Column Six - Program Description and Analyses of Mental Health Professionals and Program Managers.

Column Six presents program descriptions that were developed from discussions with management and review of State budget documents. As discussed previously, the MHDD professional essentially analyzed the program descriptions and services provided using criteria set out in DSM-III and statutes.

Due to time constraints, we used the representations, estimates, and evaluations of program managers when applying the mental health analytical criteria. In order to apply the MHDD criteria more accurately would require a case-by-case review of various agency's client files.

As discussed in the Mental Health Lands Suit - History and Issues section of this report, there is not a clear definition of mental illness nor mental health. There is disagreement even among mental health professionals. The differences in the analyses of management and MHDD, where it occurs, reflects the uncertainty and debate involving mental health services. These differences also frequently came about because program management used the broader "working" definition of mental health services developed by the DHSS Commissioner, rather than the more restrictive DSM-III and/or statutory criteria applied by MHDD as requested by the Commission.

In addition, program managers also were more likely to consider programs that dealt with antisocial behavior as being mental health related. MHDD points out that DSM-III classifies much of antisocial behavior as "V" codes, and as such does not consider them a diagnosable mental disorder.

Column Seven - Nature and Extent of Audit Review, Allocation Procedures, and Other Comments.

The Commission requested that Legislative Audit document in the report our allocation and audit procedures applied in developing the mental health expenditures. This Column provides a narrative of the rationale, information, assumptions, and procedures used in the expenditure allocations presented in Columns Four and Five.

STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
 SUMMARY SCHEDULE AND ANALYSIS OF
 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
 July 1, 1978 - September 30, 1985

Department Program	Program Receipts	Program Expenditures	Per Mental Health Analysis	Per Program Management Analysis	Nature and Extent of Audit Review, Allocation Procedures, and Other Comments
<u>Department of Health and Social Services</u>					
Division of Mental Health and Developmental Disabilities (MHDD)	\$42,543,000	\$215,429,000	\$215,429,000	\$215,429,000	Program Receipts and Expenditures for MHDD and SOADA have been audited for the period FY 79 (see Section 1 of this report). Program Receipts and Expenditures for the period July 1, 1978 to September 30, 1985 have been compiled, unaudited from the State's accounting records, and the audited totals for the purposes of further analysis as presented in this schedule (see 2 of this report for the summary of this compilation). Allocations of identified and compiled expenditures were made based on the analysis and management of individual programs (Allocation per Program Management Analysis). Due to time constraints and the nature of the programs involved, we did not apply any verification, review, or audit procedures to these estimates for MHDD, SOADA, or any of the other programs presented on this and subsequent schedules.
State Office of Alcoholism and Drug Abuse (SOADA)	9,199,181	95,846,650	95,846,650	19,169,329	
Division of Family and Youth Services (DFYS)	1,150,987	262,097,495	74,419,880	199,769,885	Program Receipts and Expenditures for DFYS were compiled, unaudited from the State's accounting records for the entire period presented. As stated in the Notes to the Schedules in Section 2, DFYS Program Receipts and Expenditures include juvenile custody transactions recorded under the now-defunct DHSS, Division of Corrections for the period FY 79 - FY 83.
Division of Medical Assistance	64,398,000	133,359,000	52,072,000	88,592,000	Program Expenditures for the Division of Medical Assistance were compiled, unaudited from the State's accounting records for the entire period presented. As stated in the Notes to the Schedules in Section 2, Program Receipts were not directly identifiable in the State's accounting records, but rather were calculated based on the level and degree of Federal funding participation in the program.
<u>Total Department of Health and Social Services</u>	<u>117,291,168</u>	<u>706,732,145</u>	<u>437,767,530</u>	<u>522,960,214</u>	
<u>Department of Education</u>					
Special Education Programs	397,097,434	1,748,679,413	31,341,573	57,974,149	Program Expenditures for Special Education Programs were compiled from a variety of sources. Program Expenditures were compiled from the annual audit reports received from the State's school districts. Federal Program Expenditures were compiled from grant documents and accounting records. The indirect expenditure component was compiled from audited annual school district reports. The contract schools component was compiled from audited annual school district reports and State contract records (for further discussion of how receipts and expenditures were compiled for the Special Education category, see Notes to the Schedules in Section 2).
Division of Vocational Rehabilitation (DVR)	23,289,705	45,118,494	14,295,530	17,822,400	Program Receipts and Expenditures for DVR were compiled, unaudited from the State's accounting records.
<u>Total Department of Education</u>	<u>420,387,139</u>	<u>1,793,797,907</u>	<u>45,637,103</u>	<u>75,796,549</u>	
<u>Department of Corrections</u>					
Adult Confinement	1,900,000	352,265,000	28,886,000	28,886,000	Program Receipts and Expenditures for DOC were compiled, unaudited from the State's accounting records. As stated in the Notes to the Schedules in Section 2, DOC Program Receipts and Expenditures include adult confinement transactions recorded under the now-defunct DHSS, Division of Corrections for the period FY 79 - FY 83.
<u>Department of Administration</u>					
Division of Pioneers' Benefits	7,721,000	137,215,000	Indeterminate	Indeterminate	Program Receipts and Expenditures for Pioneers' Homes were compiled, unaudited from the State's accounting records.
Older Alaskans Commission (OAC)	18,818,000	54,640,000	Indeterminate	Indeterminate	Program Receipts and Expenditures for OAC were compiled, unaudited from the State's accounting records. As stated in the Notes to the Schedules in Section 2, OAC Program Receipts and Expenditures include transactions recorded under the now-defunct DHSS, Division of Adult and Aging Services for the period FY 79 - January 1982.
Municipal Grant Program (MGP)	-0-	11,728,720	Indeterminate	Indeterminate	Program Expenditures for MGP were compiled, unaudited from the State's accounting records.
<u>Total Department of Administration</u>	<u>26,539,000</u>	<u>203,583,720</u>	<u>Indeterminate</u>	<u>Indeterminate</u>	
<u>Department of Public Safety</u>					
Council on Domestic Violence and Sexual Assault (CDVSA)	2,179,790	26,467,668	-0-	26,467,668	Program Receipts and Expenditures for CDVSA were compiled, unaudited from the State's accounting records.
<u>Total</u>	<u>\$568,297,097</u>	<u>\$3,082,846,440</u>	<u>\$512,290,633</u>	<u>\$654,110,431</u>	

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Description and Analysis of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services (DHSS)</u>						
<u>Division of Mental Health and Developmental Disabilities (DHDD)</u>	42,543,000	215,429,000				
<u>Alaska Psychiatric Institution (API)</u>					<p><u>Program Description:</u> API is a 188-bed institutional facility that provides inpatient diagnostic and treatment mental health services not available in local communities. Communities are usually unable to provide treatment due to the complexity or severity of the illness, small number of clients, or the need for security. API is the only designated mental health facility in the State, and as such can accept involuntarily committed patients under Alaska's civil commitment statutes.</p> <p>API is also responsible for treatment of criminally committed mentally ill persons. An 18-bed Secure Treatment Unit and a 14-day bed Psychiatric Security Unit are currently used to provide care and treatment to the State's population of criminally committed patients.</p>	<p>Program Receipts include 529,356 in restricted revenues and 511,111 in unrestricted revenues. Receipts from both sources are presented because API recorded most of the revenues, primarily from Federal receipts, in unrestricted receipt codes during this time period.</p>
<p>The FY77 PLAN features API prominently. The FY77 PLAN describes the nature and structure of API's treatment units as they existed at the time of the FY77 PLAN, and discusses the prospective construction and type of treatment anticipated to be put in place in API's security unit. (VOL I, PP 15-17)</p> <p>In a discussion of present services available in the Anchorage area, the FY77 PLAN states that "inpatient services are provided by the Alaska Psychiatric Institute." (VOL III, P 48)</p> <p>Inpatient mental health services as defined for Community Mental Health Centers appear to apply to API. The FY77 PLAN states that a major goal of inpatient services, defined as a therapeutic environment for persons requiring 24-hour care, is "rapid evaluation and effective treatment of persons with severe emotional disturbances . . ." (VOL I, PP 70-71)</p>			77,616,000	77,616,000	<p><u>Mental Health and Program Management Analysis:</u> API is an institution for the diagnosis/treatment of mental illness. The Commission has designated 100% of DHDD mental health expenditures to the Mental Health Program. No program evaluation was done.</p>	<p>Expenditures recorded in the accounting records for API account code allocated to the Mental Health Program are 100%.</p>
<u>Community Mental Health Grants</u>					<p><u>Program Description:</u> DHDD funds grants/contracts with local Community Mental Health Centers (CMHC) across the State. These local centers provide mental health services such as:</p> <ul style="list-style-type: none"> - outpatient services - specialized programs for children, adolescents, elderly and minorities - patient services for individuals acutely or chronically mentally ill - pre-hospitalization screening and evaluation - psychiatric emergency treatment - inpatient services - crisis intervention - consultation and education - residential beds - non-residential community support services 	
<p>The FY77 PLAN focuses primarily on Community Mental Health Grants. Mental health services are defined in terms of Community Mental Health Centers. (VOL I, PP 72-90)</p> <p>The FY77 PLAN cites community-based mental health services as the "most apparent urgent need" in the State according to the 1975 Mental Health Needs Assessment. (VOL I, P 164)</p>					<p>DHDD evaluates local grant applications and presents them to the Governor's Mental Health Advisory Board for their review and recommendations. The Board recommends funding levels to the Commissioner of DHSS for each of the local CMHCs.</p>	

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Department Division Program Sub-Program	1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analysis of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Health and Social Services (DHSS)							
Division of Mental Health and Developmental Disabilities (DMDD)							
	<u>Community Mental Health Grants (cont.)</u>			12,170,000	12,170,000	<u>Mental Health and Program Management Analysis</u> DMDD is responsible for developing and implementing a coordinated mental health system through the funding of local CHHCs. The Commission has designated 100% of DMDD mental health expenditures to the Mental Health Program.	Expenditures recorded in the accounting records for Community Mental Health Grants/Contracts are allocated 100% to the Mental Health Program.
	<u>Capital Improvement Projects, Miscellaneous Programs - Mental Health (PM) and Mental Health Administration - MI</u>			17,227,000	17,227,000	<u>Program Description:</u> Capital Improvement Projects for mental health mainly consist of repair, maintenance and construction at API. Miscellaneous Programs - MI consist of programs that are not classified as API or as mental health grants. (These programs are immaterial compared to the other programs.) Mental Health Administration - Mental Health is the estimated mental health portion of the Administration component in DMDD. <u>Mental Health and Program Management Analysis:</u> These DMDD program expenditures are all included as part of the Mental Health Program. No program evaluation was done.	Expenditures recorded in the accounting records for these programs are allocated at 100% to the Mental Health Program. The mental health portion of the Administration component was based on an estimated proportion of employees in that component working on mental health administrative duties plus direct mental health expenditures coded to accounts within the Administration component. Expenditures for capital projects include both DMDD projects (related to mental health) and projects administered by other divisions, such as the Division of Planning, that are related to mental health.
	The FY77 PLAN also developed several general administrative objectives to be implemented in subsequent fiscal years. For example, its FY 78 objectives for administration and support were, in part:						
	1. . . . 3. Expand public information system to education programs through increased utilization of the media and the development of mental health curriculum in the primary school system.						
	4. Examine the feasibility of private providers participating in the management data system.						
	5. Request additional position of mental health lands specialist to administer the mental health lands program. . . .						
	8. Expand management data system to include an evaluation section to develop outcome data which will be used in conjunction with cost data to determine cost effectiveness and efficiency." (VOL 1, P 267)						
	<u>Harborview Developmental Center (HDC)</u>					<u>Program Description:</u> HDC is a certified Intermediate Care Facility for the developmentally disabled. HDC serves those residents of Alaska in need of specialized services. Emphasis is towards meeting the needs of the severely and profoundly impaired individual. HDC provides a wide range of rehabilitative services. Programs range from life support services to preparation for community living. Specific services include vocational and occupational training; recreational and physical therapy; psychological and social services; contractual medical, dental, and psychiatric services; nursing and life training programs. Special education is also provided in cooperation with local school districts and the Department of Education.	
	The FY77 PLAN was developed when HDC was known as Harborview Memorial Hospital. In the inventory of Direct Mental Health Services for the Valdez area, Harborview Memorial Hospital was prominently listed as a provider of: inpatient services, 24-hour emergency care, consultation and education, and rehabilitative services. (VOL 111, P 159)						

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Department Division Program Sub-Program	1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
<u>Department of Health and Social Services (DHSS)</u>							
<u>Division of Mental Health and Developmental Disabilities (DMDD)</u>							
<u>Harborview Developmental Center (HDC) (cont.)</u>							
	To the extent that HDC serves children it would come under the purview of the FY77 PLAN's discussion of targeted services to children and the elderly. The FY77 PLAN states that the Federal Community Mental Health Center Act requires "special attention be paid to the mental health needs of children and the elderly."			46,992,000	46,992,000	<u>Mental Health and Program Management Analysis:</u> HDC provides institutional services to the developmentally disabled population. Mental retardation is diagnosed as a mental disorder under DSM-III, but is specifically excluded from the statutory definition of mental illness. Given its status under DSM-III, the statutory definition notwithstanding, all HDC program expenditures may be regarded as mental health related.	Expenditures recorded in the acc records for HDC are allocated 100% to the Mental Health Program.
	The FY77 Plan also states that "services for children can include the full range of services made available through the center, appropriately geared to the needs of children at different stages of development." (VOL 1, PP 77-78)						
	<u>Developmental Disabilities Grants/Contracts</u>					<u>Program Description:</u> DMDD funds grants to local nonprofit agencies in order to provide comprehensive community developmental disabilities services such as: - respite care for families - vocational training - community residential support - daily living skills training - community education - protection and advocacy	
	The FY77 PLAN also states that "services for children can include the full range of services made available through the center, appropriately geared to the needs of children at different stages of development." (VOL 1, PP 77-78)						
	Historically, the developmentally disabled population in the State have received a significant amount of mental health services. Mental retardation was identified in the March 1976 addendum to Volume V of the FY77 PLAN, as one of the primary presenting problems in Community Mental Health Centers' (CMHC) admissions in 1975. (ALDEHDUM)			32,386,000	32,386,000	<u>Mental Health and Program Management Analysis:</u> DMDD is responsible for developing and implementing a statewide, coordinated community services program for the developmentally disabled population. Mental retardation is diagnosed as a mental disorder under DSM-III, but is specifically excluded from the statutory definition of mental illness. Given its status under DSM-III, the statutory definition notwithstanding, all developmental disability program expenditures may be regarded as mental health related.	Expenditures recorded in the acc records for Developmental Disabilities Grants are allocated 100% to the Mental Health Program.
	At the time the FY77 PLAN was written API had a separate treatment unit for mental retardation. The FY77 PLAN anticipated the eventual transfer of many of the patients in this unit when it noted "long range planning conceives of the phasing out of this unit as community alternatives for the mentally retarded and developmentally disabled are developed." (VOL 1, P 15)						

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services (DHSS)</u>						
<u>Division of Mental Health and Developmental Disabilities (DHDD)</u>						
<u>Developmental Disabilities Grants/Contracts (cont.)</u>						
In general, the API treatment program described in the FY77 PLAN appears to be essentially the same type of services delivered in recent years by either HDC or by local community contract service providers.						
<u>Capital Improvement Projects, Miscellaneous Programs - Develop- mental Disabilities (DD), and Mental Health Administration - DD</u>					<u>Program Description:</u> Capital Improvement Projects mainly consist of repair, renovation and construction at HDC. Miscellaneous Programs - DD include programs not categorized under HDC or Developmental Disabilities Grants. (These are immaterial compared to the other programs.) Mental Health Administration - Developmental Disabilities is the estimated developmental disabilities portion of the Administration component.	
-57- The FY77 PLAN also developed several general administrative objectives to be implemented in subsequent fiscal years. For example, its FY 78 objectives for administration and support were, in part:			9,038,000	9,038,000	<u>Mental Health and Program Management Analysis:</u> Services are provided to the developmentally disabled population. Mental retardation is diagnosed as a mental disorder under DSM-III, but is specifically excluded from the statutory definition of mental illness. Given its status under DSM-III, the statutory definition notwithstanding, all HDC program expenditures may be regarded as mental health related.	Expenditures recorded in the accounts for these programs are allocated 100% to the Mental Health since mental retardation is a diagnosis in DSM-III. The Developmental Disabilities portion of the Administration component was based on an entire proportion of employees in work on developmental disabilities administrative duties plus direct DD expenditures coded to accounts within the Administration component. Expenses for capital projects include both projects (related to developmental disabilities) and projects administered by other divisions, such as the Division of Planning, that are related to developmental disabilities.
" . . . 2. Request additional administration staff in Developmental Disabilities Section to provide proper support and program administration. . . .						
7. Request a children's services specialist to concentrate on the development of prevention and education programs as well as remedial programs." (VOL I, P 207)						
<u>Total Division of Mental Health and Developmental Disabilities</u>	<u>\$42,543,000</u>	<u>\$215,429,000</u>	<u>\$215,429,000</u>	<u>\$215,429,000</u>		

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Health and Social Services State Office of Alcoholism and Drug Abuse (SOADA) Aftercare	9,199,181	95,046,650	657,971	131,594	<p><u>Program Description:</u> Aftercare provides care to patients who have progressed sufficiently through emergency, inpatient, intermediate, and/or outpatient services to a point in their recovery where they will benefit from a level of continued contact which will support and increase the gains made in the treatment process. Aftercare must be delivered through the development of an individualized aftercare plan developed between the aftercare counselor and the client.</p> <p><u>Mental Health Analysis:</u> The Aftercare component of SOADA's program, like all of SOADA's programs, addresses alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III). However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MHH.</p> <p><u>Program Management Analysis:</u> National studies conducted in recent years, have generally indicated that approximately 20% of individuals suffering from alcohol and/or substance abuse problems also suffer from a diagnosable mental illness or disorder. Given the average age and circumstance of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.</p>	<p>FOR ALL SOADA PROGRAM COMPONENTS Expenditures presented were allocated based on the number of workhours that various SOADA grantees reported they spent providing various services. For example, the allocated expenditures presented in the columns to the left were based on the reported hours worked by SOADA grantees in services related to Aftercare.</p> <p>Grantee administrative costs were allocated to the grantee's various service components based on the number of workhours reported spent on each direct service component.</p> <p>SOADA administrative costs were allocated to grant service components based on each grantee's reported workhours broken down by service component (such as Aftercare, Alcohol Safety Action Program, Outreach, Outpatient, etc.).</p> <p>Reported grantee workhours for a three year period FY 84 - FY 86 broken down by service component were used for allocation of all expenditures for the period presented.</p> <p>Program management's allocation represents 20% of the total estimated Aftercare services expenditures.</p>

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Health and Social Services <u>State Office of Alcoholism and Drug Abuse</u> <u>Alcohol Safety Action Program</u> The FY77 PLAN acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the affects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug related problems, or refer them to other appropriate programs." (Vol. I, P 19)			4,290,197		<u>Program Description:</u> The Alcohol Safety Action Program (ASAP) is a systematic means of evaluating and referring persons convicted of alcohol and drug abuse-related offenses by the District Court of the State of Alaska. ASAP is viewed as a means of differentiating the effect of the drinking problems and referring them to appropriate agencies for treatment depending on the client's needs. It is seen as a very structured system that is governed by a set of predetermined standards designed to assist in diagnosing problem levels of clients involved with the system. <u>Mental Health Analysis:</u> The ASAP component of SOADA's program, like all of SOADA's programs, addresses alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	For explanation of how expenditures were allocated for SOADA programs see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
				854,039	<u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.	Program management's allocation represents 20% of the total estimated ASAP expenditures.
<u>Consultation/Education/Prevention</u> The FY77 PLAN acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the affects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug-related problems or refer them to other appropriate programs." (VOL I, P 19)			5,389,159		<u>Program Description:</u> The dissemination of relevant information specifically aimed at increasing the awareness, receptivity, and sensitivity of the community and stimulating social action to increase the services provided for people with problems associated with the use of alcohol or of providing information and/or technical assistance to a particular group or individual seeking resolution of a specific problem(s). It also includes those activities that are designed to prevent individuals and groups from becoming dependent on the regular use of alcohol and/or other drugs. Prevention services may vary widely but are generally associated with information, education alternatives, literature distribution, media campaigns, clearinghouse activities, speakers' bureau, and school or peer group situations. These services may be directed at any segment of the population. <u>Mental Health Analysis:</u> The Consultation/Education/Prevention component of SOADA's program, like all of SOADA's programs, addresses alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	For explanation of how expenditures were allocated for SOADA programs see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).

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<u>Department of Health and Social Services</u>						
<u>State Office of Alcoholism and Drug Abuse</u>						
<u>Consultation/Education/Prevention (cont.)</u>						
				1,077,832	<p>Program Management Analysis: National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.</p>	Program management's allocation represents 20% of the total estimated Consultation/Education/Prevention service expenditures.
				1,541,699	<p>Program Description: The process of providing to individuals incarcerated in a correctional facility diagnostic and alcoholism and drug abuse treatment services on a scheduled basis utilizing traditional outpatient counseling techniques.</p> <p>Mental Health Analysis: The Inmate Counseling component of SOADA's program, like all of SOADA's programs, addresses alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.</p>	For explanation of how expenditures were allocated for SOADA programs see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
				308,340	<p>Program Management Analysis: National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.</p>	Program management's allocation represents 20% of the total estimated Inmate Counseling Program expenditures.
					<p>Program Description: Emergency Care Systems provide for twenty-four hour availability of the following services to all persons and their families with problems related to alcohol or drug use and abuse:</p> <ol style="list-style-type: none"> (1) immediate medical evaluation and care, (2) supervision of persons by properly trained staff until they are no longer incapacitated by the effects of alcohol, (3) evaluation of medical, psychological, and social needs, leading to the development of a plan for continuing care, and (4) effective transportation services. <p>Emergency Care comprises a network of services that provides all persons having acute problems related to alcohol or drug use and abuse immediate diagnosis and care, as well as appropriate referral for continuing care after emergency treatment. Primary emergency services in Alaska are community service patrols and medical or social detoxification.</p>	
<u>Inmate Counseling Program</u>						
				1,541,699		
				308,340		
<u>Emergency Care Systems</u>						
				308,340		

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<u>Department of Health and Social Services</u>						
<u>State Office of Alcoholism and Drug Abuse</u>						
<u>Emergency Care System: (cont.)</u>			8,771,706		<u>Mental Health Analysis:</u> The Emergency Care component of SOADA's program, like all of SOADA's programs, addresses alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	For explanation of how expenditures were allocated for SOADA program see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
				1,754,341	<u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.	Program management's allocation represents 20% of the total cost of Emergency Care System expenditures.
<u>Hospital Care</u>					<u>Program Description:</u> The process of providing care to persons who require 24-hour medical supervision in a hospital or other suitably equipped medical setting as a result of acute or chronic medical, social, cultural, spiritual, and psychological problems associated with alcohol abuse, drug abuse, and/or alcoholism. The average planned length of stay in these units is twenty-eight days and incorporates intoxicant-free therapy, promoting involvement with available aftercare planning, and community support resources.	
The FY77 PLAN acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the affects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug-related problems or refer them to other appropriate programs." (VOL I, P 19)			5,640,751		<u>Mental Health Analysis:</u> The Hospital Care component of SOADA's program, like all of SOADA's programs, addresses alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	For explanation of how expenditures were allocated for SOADA program see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
As for drug treatment, the FY77 PLAN states that MIDD does provide service "to many drug and substance abusers whose primary presenting problem is labeled mental illness." (VOL I, P 20)				1,128,150	<u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.	Program management's allocation represents 20% of the total cost of Hospital Care service expenditures.

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Health and Social Services State Office of Alcoholism and Drug Abuse Intermediate Residential Care					<p><u>Program Descriptions:</u> Intermediate Residential Care is designed to facilitate the rehabilitation of the alcohol or drug abusing persons by placing them in an organized therapeutic environment in which they may receive diagnostic services, counseling, vocational rehabilitation, and/or work therapy while benefiting from the support which a full 24-hour or partial (less than 24 hours) residential setting can provide.</p> <ol style="list-style-type: none"> Short-term intermediate residential care is the provision of counseling and social adjustment services to persons who require 24-hour supervision as a result of alcohol or drug abuse. This process is more intensive than other forms of intermediate care with an average length of stay of twenty-eight days. This process is similar to inpatient care without the medical staff and the hospital setting. Transitional care is delivered in halfway houses and involves a one to six-month length of stay. At the start of transitional care, clients spend most of their time at the house in a therapeutic and support environment. As they advance through treatment more time may be spent on habilitation or rehabilitation until re-entry into the community is made. Most individuals will enter this care from some other component of service. Long-term care is a long-term therapeutic environment for a period of six months to two years. Each of the clients is required to assist in the upkeep and operation of the facility as well as attending therapeutic activities. Such care may be rather intense (e.g. in a Therapeutic Community (TC)) or be closer to transitional care in treatment intensity. 	
			26,462,336		<p><u>Mental Health Analysis:</u> The Intermediate Residential Care component of SOADA's program, like all of SOADA's programs, addresses alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside HMDD.</p>	For explanation of how expenditures were allocated for SOADA programs see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
				5,292,467	<p><u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.</p>	Program management's allocation represents 20% of the total estimated Intermediate Residential Care service expenditures.

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Description and Analysis of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
<u>Department of Health and Social Services</u>						
<u>State Office of Alcoholism and Drug Abuse</u>						
<u>Methadone Treatment</u>						
As for drug treatment, the FY77 PLAH states that MIDD does provide service "to many drug and substance abusers whose primary presenting problem is labeled mental illness." (VOL I, P 20)			1,108,103		<p><u>Program Description:</u> Provides methadone (or other drugs approved by the Department) as a substitute for opiates, in addition to counseling and other types of psychological or social therapy.</p> <p><u>Mental Health Analysis:</u> The Methadone Treatment component of SOADA's program, like all of SOADA's drug abuse grant programs, addresses substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.</p>	For explanation of how expenditures were allocated for SOADA program see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
				221,621	<p><u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.</p>	Program management's allocation represents 20% of the total estimated Methadone Treatment expenditures.
<u>Outpatient Care Services</u>						
The FY77 PLAH acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the affects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug-related problems or refer them to other appropriate programs." (VOL I, P 19)			14,380,084		<p><u>Program Description:</u> Outpatient Care services provide non-residential diagnostic and primary alcoholism and drug abuse treatment services on both a scheduled and a non-scheduled basis. Outpatient services can either be delivered on a drug-free or drug-assisted basis.</p> <p><u>Mental Health Analysis:</u> The Outpatient Care component of SOADA's program, like all of SOADA's programs, addresses the problems of alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.</p>	For explanation of how expenditures were allocated for SOADA program see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
As for drug treatment, the FY77 PLAH states that MIDD does provide service "to many drug and substance abusers whose primary presenting problem is labeled mental illness." (VOL I, P 20)				2,876,017	<p><u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.</p>	Program management's allocation represents 20% of the total estimated Outpatient Care services expenditures.

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
<u>Department of Health and Social Services</u>						
<u>State Office of Alcoholism and Drug Abuse</u>						
<u>Outreach</u>					<u>Program Description:</u> Outreach is the process of reaching into a community system-atically for the purpose of identifying persons in need of services, alerting persons and their families to the availability of services, and locating and enabling persons to enter and accept the service delivery system.	
The FY77 PLAN acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the effects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug-related problems or refer them to other appropriate programs." (VOL 1, P 19)			1,942,521		<u>Mental Health Analysis:</u> The Outreach component of SOADA's program, like all of SOADA's programs, addresses the problems of alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	For explanation of how expenditures were allocated for SOADA program see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
As for drug treatment, the FY77 PLAN states that MIDD does provide service "to many drug and substance abusers whose primary presenting problem is labeled mental illness." (VOL 1, P 20)				388,504	<u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.	Program management's allocation represents 20% of the total est. Outreach services expenditures.
<u>Community Programs</u>					<u>Program Description:</u> Community programs are comprehensive alcoholism and drug abuse treatment and referral services. Programs generally do "a little of everything" and are found in the State's smaller communities.	
The FY77 PLAN acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the effects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug-related problems or refer them to other appropriate programs." (VOL 1, P 19)			17,443,168		<u>Mental Health Analysis:</u> The Community Program aspect of SOADA, like all of SOADA's programs, addresses the problems of alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	For explanation of how expenditures were allocated for SOADA program see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this schedule).
As for drug treatment, the FY77 PLAN states that MIDD does provide service "to many drug and substance abusers whose primary presenting problem is labeled mental illness." (VOL 1, P 20)				3,488,634	<u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.	Program management's allocation represents 20% of the total est. Community Program expenditures.

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
<u>Department of Health and Social Services</u>						
<u>State Office of Alcoholism and Drug Abuse</u>						
<u>Training and Education</u>						
The FY77 PLAN acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the affects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug related problems, or refer them to other appropriate programs." (VOL 1, P 19)			1,962,942		<u>Program Descriptions:</u> Training activities are comprised of all procedures directed towards increasing the knowledge, skills or competency of those providing substance abuse treatment services. The primary delivery of training services is accomplished through the regional training network and directed towards counselor trainee attainment to level I or level II certification. The delivery of training is also provided through the support of special purpose conferences, symposiums, and schools.	For explanation of how expenditures were allocated for SOADA program, see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this section).
As for drug treatment, the FY77 PLAN states that MIDD does provide service "to many drug and substance abusers whose primary presenting problem is labeled mental illness." (VOL 1, P 20)				392,588	<u>Mental Health Analysis:</u> Training and Education component of SOADA's program, like all of SOADA's programs, addresses the problems of alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	
					<u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.	Program management's allocation represents 20% of the total cost of Training and Education services expenditures.
<u>Youth Alternatives</u>						
The FY77 PLAN acknowledges that although MIDD has no statutory responsibility for the treatment of alcoholism, it states that the affects of alcohol abuse "cannot be separated and treated by the different divisions. Consequently, the regional clinics treat a large number of persons for alcohol and drug-related problems or refer them to other appropriate programs." (VOL 1, P 19)			6,256,013		<u>Program Descriptions:</u> Provide structured prevention/education and recreational activities to youth target groups. Consultative and educational information are targeted to all area youth defined as "at risk" concerning alternatives to drug abuse. Services also include the operation of a variety of recreational activities.	For explanation of how expenditures were allocated for SOADA program, see the discussion in this column for the Aftercare service component (the first program presented in the SOADA section of this section).
As for drug treatment, the FY77 PLAN states that MIDD does provide service "to many drug and substance abusers whose primary presenting problem is labeled mental illness." (VOL 1, P 20)				1,251,202	<u>Mental Health Analysis:</u> The Youth Alternatives component of SOADA's program, like all of SOADA's programs, addresses the problems of alcoholism and substance abuse. Historically, alcoholism and substance abuse have been classified as mental disorders under DSM-III. However, under Alaska Statutes alcoholism and substance abuse are excluded from the definition of mental illness and funds addressing these problems have, for the most part, been administered by agencies outside MIDD.	
					<u>Program Management Analysis:</u> National studies conducted in recent years have generally indicated that 20% of individuals suffering from alcohol and/or substance abuse problems suffer from a diagnosable mental illness or disorder. Given the average age and circumstances of Alaskans suffering from alcoholism and/or substance abuse problems, it could reasonably be expected that this percentage may be higher for State residents.	Program management's allocation represents 20% of the total cost of Youth Alternative expenditures.
<u>Total State Office of Alcoholism and Drug Abuse</u>	<u>\$9,199,181</u>	<u>\$95,846,650</u>	<u>\$95,846,650</u>	<u>\$19,169,329</u>		

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Plan and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>	1,150,987					
<u>Family/Social Services</u>		176,874,296				
<u>Ongoing Social Services</u>					<u>Program Descriptions:</u> Ongoing social workers work on cases that have passed through the preliminary intake and screening process. Ongoing social workers in larger communities essentially act as a coordinator and "broker" of available local services for children and families in their caseload. In smaller communities, workers generally provide more direct services, such as counseling. Ongoing social workers often utilize local mental health services such as private practice psychologists who may be under contract to the State and the local Community Mental Health Centers (CMHC). The primary goal of ongoing social workers is the development and implementation of a treatment plan to reunify dysfunctional families.	
The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children. (VOL I, PP 77-79)						
The FY77 PLAN calls for a full range of diagnostic, treatment, liaison, and follow-up services to be provided.						
When assessing the need for mental health services in various parts of the State, one of the key indices that the FY77 PLAN considers is the rate of child abuse in the area compared to the State average. (VOL V, P 11)			2,135,161		<u>Mental Health Analysis:</u> To the extent that DFYS provides counseling services and funding for appropriate psychological treatment for individuals in the agency's caseload that have DSM-III diagnosed disorders, DFYS is supplying mental health services. However, many of the children and adults in DFYS' caseload engage in antisocial behavior or are undergoing typical parent/child conflicts that, although disruptive, do not constitute a DSM-III diagnosable mental disorder.	Expenditures for Intake Services, Ongoing Services, and Adult Protective Services were separated based on a prior study conducted by program management in January 1985. Estimates were developed from a survey of how social workers spend their time in five offices of the State: Juneau, Fairbanks, Anchorage, Eagle River, Galena, and Seward.
This suggests that programs that address either the prevention or treatment of victims and/or perpetrators of child abuse could be considered as mental health related expenditures.			2,581,815		In addition, DFYS program management estimated that approximately 10% of their caseloads were also a result of alcohol and substance problems. These DFYS expenditures for Ongoing Social Services may be determined to be mental health related based on DSM-III's classification of alcohol and substance abuse problems as mental disorders.	The Ongoing Services costs were allocated based on program management's estimates of the percentage of clients with DSM-III diagnoses in their current caseloads. Estimates were developed from a survey of selected caseloads in Fairbanks and Anchorage office management's estimates of DSM-III individuals in their current caseload. The final weighted average estimate of the percentage of DSM-III cases was 6.
						The second allocated cost figure presented in the mental health column represents an estimate of costs for services provided to individuals having alcohol and substance abuse problems. These individuals may have received a formal DSM-III diagnosis but represent a significant portion of DFYS' caseload. Costs associated with individuals who have received a formal diagnosis and have alcohol/substance abuse problems may be included in allocation figures.

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Family/Social Services</u>						
<u>Ongoing Social Services (cont.)</u>				25,018,155	<p><u>Program Management Analysis:</u> Ongoing social workers, as mental health professionals, provide services almost entirely to individuals with disabling/emotional conditions. Limited resources have prevented social workers from offering ongoing social work services to others. DFYS does not keep track of DSM-III diagnoses of its clients as a matter of course, although the agency feels a significant part of its caseload is in response to family problems brought on by alcoholism and substance abuse, both of which are DSM-III diagnosed illnesses.</p>	<p>This allocation also contains a of administrative and general capital project costs. These non-direct service expenditures allocated to the Ongoing Social Services category based on its per- of total Social Services expendi- for the FY 79 - 9/30/85 period.</p>
<u>Adult Protective Services</u>			19,178,873		<p><u>Program Description:</u> Until FY 86, DFYS was responsible for providing protective services to adults. Social workers in this area provide direct counseling and casework coordination services to adults who cannot care for themselves. Social workers arrange for the provision of homemaker support, residential care, and adult foster care services.</p> <p>Adult Protective Services provides a continuum of services to dependent adults who may be elderly, mentally ill, physically handicapped, or developmentally disabled. A 1985 DFYS study found that a high percentage of Adult Protective Service clients had professionally diagnosed mental illnesses or developmental disabilities. The study indicated that 78% of the clients in Residential Care and 45% of those in Foster Care were chronically mentally ill, developmentally disabled, or both. The Adult Protective Services responsibilities, with the exception of elder abuse reports, were transferred to the Division of Mental Health and Developmental Disabilities (MHDD) during FY 86.</p> <p><u>Mental Health Analysis:</u> All professionals agree that DFYS' Adult Protective Services program historically has met a need for providing a non-institutional, less restrictive setting for a group of adults who, as studies indicate, had a large incidence of diagnosed, chronic mental illness.</p>	<p>80% of identified Adult Protective Services (APS) expenditures were allocated to Mental Health based the findings of a 1985 DFYS study found that approximately 8 the individuals in APS had DSM-III diagnosed mental disorders.</p>
<p>The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of the elderly. (VOL I, PP 77-79)</p> <p>The FY77 PLAN calls for a full range of diagnostic, treatment, liaison, and follow-up services to be provided.</p> <p>Outreach services and home visits were identified as an "integral part of any program of service to the elderly." (VOL I, P 79)</p> <p>"Additionally, liaison services should focus on those resources and agencies which regularly deal with elderly populations so as to promote coordination and more ready access to other health and human services." (VOL I, P 79)</p>						

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
Department of Health and Social Services Division of Family and Youth Services (DFYS) Family/Social Services Residential Care (cont.)						
patients, return to the community must be passed through transitional facilities such as halfway houses, and for other patients, residential facilities may be required for more than mental health treatment. It is expected that community mental health centers will coordinate activities and collaborate with other community agents in the identification and development of such resources." (VOL I, P 73)			4,375,040		<p>Category IV - Intensive Care (Staff Secure) Residential and Treatment Homes: A setting that provides 24-hour treatment in interdisciplinary psychotherapeutic treatment for children with conduct, anxiety, affect, or adjustment disorders or who pose a danger to themselves or others.</p> <p>Mental Health Analysis: Since there is little or no formal psychological evaluative criteria used by DFYS to place youth in these various residential facilities, mental health professionals are reluctant to accept the DFYS categorization of services. Essentially, only a portion of the Category III treatment beds could qualify as being mental health related. Category IV residential programs are more likely to be therapeutically structured, provide more intensive therapy, and better address the mental illness problems of residents.</p> <p>Since Category II, Emergency Shelter, provides custodial care without therapeutically structured treatment, these expenditures are not mental health related.</p> <p>In addition, DFYS program management estimated that approximately 10% of their caseloads were also a result of alcohol and substance problems. These DFYS expenditures for Residential Care services may be determined to be mental health related based on DSM-III's classification of alcohol and substance abuse problems as mental disorders.</p>	<p>Although the four categories of residential care have only recently been established, they were used to separate historical costs for Residential Care. Program management assisted us in retrospectively classifying these historical expenditures based on the current category of care definitions.</p> <p>Allocation of expenditures identified as Category IV and Category II Residential Care costs were based on program management's estimate of the percentage of clients with a diagnosis in their current original caseload. The final weighted average of the percentage of DF cases was 8.3%.</p> <p>The second allocated cost figure presented in the mental health column represents an estimate of services provided to individuals having alcohol and substance abuse problems. These individuals may have received a formal DSM-III diagnosis but represent a significant DFYS caseload. Costs associated with individuals who have received a diagnosis and have alcohol/substance abuse problems may be included in allocation figures.</p> <p>This allocation also contains costs of administrative and general capital project costs. These non-direct service expenditures allocated to the Residential Care category based on its percentage of total Social Services expenditures for the FY 79 - 9/30/85 period.</p>
			290,254			

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Family/Social Services</u>						
<u>Residential Care (cont.)</u>				52,902,545	<p><u>Program Management Analysis:</u> Although conceding that little or no therapy or treatment goes on in Category II - Emergency Shelter programs, DFYS workers feel that the other residential care categories do provide useful treatment services that meet the needs of their clients. DSM-III diagnosed individuals in DFYS' caseload receive treatment, to some extent, from providers of the other three categories of care.</p>	<p>Although the four categories of residential care have only recently been established, they were used separate historical costs for Residential Care. Program Management assisted us in retrospectively classifying these historical expenditures based on the current category of care definitions.</p>
					<p><u>Program Description:</u> Contractual Services are those expenditures made under contract with other providers needed to meet the casework and program activities of DFYS. Mental health related expenditures in this area include expenditures made under contracts with appropriate mental health professionals such as: psychologists, psychiatrists, counselors, mental health centers, etc.</p>	<p>This allocation also contains a portion of administrative and general capital project costs. These non-direct service expenditures are allocated to the Residential Care category based on its percentage total Social Services expenditure the FY 79 - 9/30/85 period.</p>
<u>Contract/Purchased Services</u>					<p><u>Mental Health Analysis:</u> To the degree that DFYS contracts for and uses the professional services of mental health professionals in meeting the needs of its DSM-III caseload for both children and adults, the agency is providing a valid mental health function.</p>	<p>Expenditures were allocated based on a review of contracts for the period. The scope of services in contracts in the FY 81 - FY 85 period were reviewed with program management to determine if the contract met definition of mental health services.</p>
The FY77 PLAN lists the following as one of the characteristics of the State's mental health system:						
"There will be a network of mental health units throughout the State that can provide comprehensive mental health services to all consumers. This will include mental health services for promotive and preventive mental health care to acute care transition and rehabilitation. These mental health service units may be solo practitioners, health maintenance organizations, public or private agencies or other types of units." (VOL I, PP 68-69)			980,193			
				1,185,240	<p>In addition, DFYS program management estimated that approximately 10% of their caseloads were also a result of alcohol and substance problems. These DFYS expenditures for Contract/Purchased Services may be determined to be mental health related based on DSM-III's classification of alcohol and substance abuse problems as mental disorders.</p>	<p>The amount of mental health related contracts, as identified above, compared to total contractual Social expenditures for the FY 81 - FY 85 period to develop a ratio. This was then applied to Contractual Social expenditures for the entire period under review.</p>
The FY77 PLAN goes on to state that another characteristic of the State's mental health system is "maximum use . . . of allied health personnel in the delivery of mental health services." (VOL I, P 70)						

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
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Department of Health and Social Services

Division of Family and
Youth Services (DFYS)

Family/Social Services

Contract/Purchased Services (cont.)

	11,852,395	<p>Program Management Analysis: Program managers agree that direct service contracts for mental health services are clearly mental health related.</p>
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Using these adjusted contractual service costs, the mental health allocation was made based on program management's estimates of the percentage of clients with DSM-III diagnosis in current DFYS caseloads. ETC were developed from a survey of selected caseloads in Fairbanks Anchorage office management's estimates of DSM-III individual their current caseload. The first weighted average estimate of the percentage of DSM-III cases was

The second allocated cost figure presented in the mental health column represents an estimate of for services provided to individuals having alcohol and substance abuse problems. These individuals may have received a formal DSM-III diagnosis but represent a significant DFYS' caseload. Costs associated individuals who have received a diagnosis and have alcohol/substance abuse problems may be included in allocation figures.

This allocation also contains a of administrative and general capital project costs. These non-direct service expenditures allocated to the Contract/Purchased Services category based on the percentage of Social Services expenditures the FY 79 - 9/30/85 period.

Expenditures were allocated based a review of contracts for the period. The scope of services on contracts in the FY 83 - FY 85 period were reviewed with program managers to determine if the contract met definition of mental health services.

It appears that program managers has a broader definition of mental health related contractual services than that of mental health professionals.

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Family/Social Services</u>						
<u>Contract/Purchased Services (cont.)</u>						
<u>Out-of-State Residential Care</u>		967,825			<p><u>Program Description:</u> The Out-of-State category reflects the use by both Youth Services and Family Services of out-of-state programs. DFYS has and continues to try to develop in-state services so that individuals can receive treatment closer to home. Historically, out-of-state treatment has been used primarily for the most severely disturbed children who require very specialized and intensive treatment.</p>	<p>The amount of mental health related contracts, as identified above, compared to total contractual expenditures for the FY 81 - FY period to develop a ratio. This was then applied to contractual expenditures for the entire period under review.</p> <p>This allocation also contains a portion of administrative and general capital project costs. These non-direct service expenditures allocated to the Contract/Purchased Services category based on its percentage of total Social Services expenditures for the FY 79 - 9/30/85 period.</p>
<p>The FY77 PLAN identified inpatient services that provided short-term, intensive treatment, and/or evaluation as an element of mental health services. (VOL 1, PP 70-72)</p> <p>The FY77 PLAN also seems to consider that facilities with differing programs could be part of the mental health system. The FY77 PLAN states "it is to be recognized that for certain patients, return to the community must be phased through transitional facilities such as halfway houses, and for other patients, residential facilities may be required for more than mental health treatment. It is expected that community mental health centers will coordinate activities and collaborate with other community agents in the identification and development of such resources." (VOL 1, P 73)</p>			967,825	967,825	<p><u>Mental Health and Program Management Analysis:</u> Program management believes that virtually all youth who have been treated in out-of-state programs since FY 79 fall in the category of having serious mental disorder/illness problems. Mental health professionals generally agree with that assessment and recognize that most, if not all, of out-of-state treatment costs could be classified as mental health related expenditures.</p>	<p>All expenditures identified as related to Out-of-State Care for the FY 9/30/85 period are presented.</p> <p>These costs do not contain an allocation of administrative and general capital project costs.</p>

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Youth Services</u>		84,255,374				
<u>Intake Probation Services</u>			-0-	4,054,463	<p><u>Program Description:</u> Intake within the Youth Services section of DFYS involves an assessment of juveniles arrested by law enforcement officers for further action and possible adjudication. Probation officers review the circumstances surrounding the arrests of various juveniles in accordance with a standard set of criteria in order to make a determination on how to proceed with the arrested juvenile.</p> <p><u>Mental Health Analysis:</u> Intake Probation Services are not mental health related expenditures. Intake involves preliminary assessment and screening of arrested juveniles and has little relationship to identifying and treating any mental disorder.</p> <p><u>Program Management Analysis:</u> Intake Probation Services are directly related to mental health. Intake probation officers are mental health professionals as defined by statute and are responsible for preventing or relieving disabling emotional conditions of adolescents. Disabling is defined in AS 12.47.090 as "any mental condition that increases likelihood of the individual to be dangerous to him/herself, to the public, or to personal property."</p>	<p>None.</p> <p>Intake youth service expenditures were separated from total probation officer expenditures based on a weighted average of management estimate of how each current probation officer allocated their time between intake and formal supervision duties. Since DFYS not always been responsible for intake function for the entire period of our review, some historical adjustments of the ratios were made to reflect the changing duties of probation officers.</p> <p>This allocation also contains a portion of administrative and general capital project costs. These non-direct service expenditures are allocated to the Intake Probation category based on its percentage of total Youth Services expenditures for the FY 79 - 9/30/85 period.</p>
<p>The FY77 PLAN considered the presence of juvenile intake officers in communities when it conducted an inventory of resources available in various regions in the State.</p> <p>The FY77 PLAN noted, at the time it was prepared that "... In the 4th Judicial District there are two juvenile intake officers who do some counseling and social work. They are based in Fairbanks. In the 3rd Judicial District there are three juvenile intake officers. . ." (VOL V, P 98)</p> <p>Juvenile intake officers were identified as part of the "few auxiliary services" provided by the Alaska Court System.</p>						

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Youth Services</u>						
<u>Formal Probation Services</u>						
At the time the FY77 PLAN was prepared, formal probation services were part of the Division of Corrections. The FY77 PLAN addresses mental health services for individuals involved with correction agencies as follows:			3,781,928		<u>Program Description:</u> Ongoing probation is the formal supervision of adjudicated juveniles by staff probation officers. Probation officers, like ongoing social workers, often "broker" available local community treatment resources for juveniles being supervised. Ongoing probation officers frequently provide direct counseling services.	
"The Division of Corrections has, by the very nature of those persons in their custody, historically required the availability of mental health services. Those services have traditionally been provided by the State operated mental health clinics and API [Alaska Psychiatric Institute]. These services have included inpatient treatment, consultation and education, evaluations, individual and group therapy, and services to children and adolescents." (VOL 1, P 29)			3,328,831		<u>Mental Health Analysis:</u> To the extent that individuals under formal supervised probation have been identified by psychological evaluations as having a DSM-III diagnosed mental disorder, ongoing probation services may qualify as mental health related expenditures. In addition, Youth Services management estimates another 29% of their caseload is a result of alcohol and/or substance abuse problems.	Formal probation supervision services expenditures were separated from total probation officer expenditures based on a weighted average of management's estimate of how current probation officer allocate their time between intake and supervision duties.
When inventorying mental health manpower resources in various areas of the State, the FY77 PLAN included a count of probation/parole officers in each region of the State. (VOL V, P 109)						These separated probation supervision costs were further allocated based on management's estimate of the incidence of formally DSM-III diagnosed individuals it had among current caseloads. Estimates were developed by reviewing a sample caseload files in Fairbanks, Anchorage, and Juneau. The weighted average DSM-III cases was determined to approximately 33%. The allocation presented is based on this percentage.
						The second allocated cost figure presented in the mental health column represents an estimate of for services provided to individuals having alcohol and substance abuse problems. These individuals may have received a formal DSM-III diagnosis but represent a significant DFYS' caseload. Costs associated with individuals who have received a diagnosis and have alcohol/substance abuse problems may be included in allocation figures.
						This allocation also contains costs of administrative and general capital project costs. These non-direct service expenditures are allocated to the Formal Probation category based on its percentage of total Youth Services expenditures for the FY 79 - 9/30/85 period.

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Per and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Youth Services</u>						
<u>Formal Probation Services (cont.)</u>				11,470,815	<p><u>Program Management Analysis:</u> Ongoing probation officers are mental health professionals, who are critical in the prevention or relief of a disabling mental or emotional condition. As such, costs of providing supervising probation officers would qualify in total as mental health related expenditures.</p>	<p>Formal probation supervision expenditures were separated to total probation officer expense based on a weighted average of management's estimate of how current probation officer allocate their time between intake and supervision duties.</p> <p>This allocation also contains administrative and general capital project costs. These non-direct service expenditures allocated to the Formal Probation category based on its percentage total Youth Services expenditures the FY 79 - 9/30/85 period.</p>
<u>Detention Program</u>			-0-		<p><u>Program Description:</u> Detention is the short-term aspect of juvenile custody. Generally, juveniles are placed in detention if the intake probation officer determines that they present a danger to themselves or others or to assure their appearance in court. Virtually no formal structured rehabilitative treatment takes place in detention, although there is strict disciplined supervision of the youth.</p> <p><u>Mental Health Analysis:</u> Little treatment goes on in detention. Detention in many ways is a holding area for juveniles awaiting formal evaluation and adjudication. Usually no determination is made whether or not an individual even has a diagnosable mental disorder until he/she has been put into detention.</p> <p><u>Program Management Analysis:</u> Detention serves youth with either a mental or emotional condition that causes the youth to present a danger to themselves or others. As such, it serves as prevention against a disabling mental/emotional condition and thus is mental health related.</p>	<p>None.</p> <p>Detention costs were determined by adding expenditures for detention facilities and allocated detention expenditures from facilities at McLaughlin Youth Center, Fairbanks Youth Facility, and Kona Youth Detention. Detention costs were separated treatment costs for these facilities based on a ratio of the average census for detention and treatment each year covered in the period review.</p>
				21,519,371		

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation In- and Other Comments
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Department of Health and Social Services

Division of Early and
Youth Services (DEYS)

Youth Services

Detention Program (cont.)

Long-Term Treatment Program

As in the case with Formal Probation Services, the FY77 PLAN discusses the mental health aspects of treatment facilities, as follows:

"The Division of Corrections has, by the very nature of those persons in their custody, historically required the availability of mental health services. Those services have traditionally been provided by the State operated mental health clinics and API. These services have included inpatient treatment, consultation and education, evaluations, individual and group therapy, and services to children and adolescents." (VOL 1, P 29)

When inventorying mental health manpower resources in various areas of the State, the FY77 PLAN included a count of youth counselors, the primary service provider in juvenile confinement facilities, for each region of the State. (VOL V, P 108)

23,681,96.

Program Description:

The term "facilities" refers to the long-term custody of juveniles who have been appropriately adjudicated. The three DEYS facilities that provide secured long term, structured, rehabilitation treatment programs are: McLaughlin Youth Center, Fairbanks Youth Facility (FYF), and Home Youth Facility. Juveniles in these facilities receive rehabilitative treatment and counseling from staff youth counselors. McLaughlin Youth Center has differing levels of secured treatment based on the level of danger that a youth presents.

Mental Health Analysis:

To the extent that individuals in juvenile confinement facilities suffer from DSM-III diagnosed mental disorders, treatment and housing costs in the facilities may qualify as mental health related expenditures. This also presumes that the youth facility is, in fact, designed to treat diagnosed mental disorders rather than designed to primarily incarcerate youth for punishment and protect society at large.

This allocation also contains a of administrative and general capital project costs. These non-direct service expenditures allocated to the Detention category based on its percentage of total Youth Services expenditures for the FY 79 - 9/30/85 period.

Juvenile facility costs were allocated between treatment and detention based on a ratio of 11 average daily census for each of those respective sections. Our ratio analysis was for each facility, for each year opened during the period of our review.

Mental health related expenditures were estimated from identified costs based on the percentage of residents with DSM-III diagnosed mental disorders currently at FYF.

This allocation also contains a of administrative and general capital project costs. These non-direct service expenditures allocated to the Long-Term Treatment Program category based on its percentage of total Youth Services expenditures for the FY 79 - 9/30/85

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Per- centage and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Youth Services</u>						
<u>Long-Term Treatment Program (cont.)</u>						
			32,598,720		<p>Program Management Analysis: Juvenile facilities offer secure therapeutic settings. As such, their costs are mental health related, even though all individuals in confinement have not been formally diagnosed as having mental disorders. The youth is under confinement because it has been judicially determined that he/she presents a danger to themselves, others, or personal property. As such, they are exhibiting a disabling emotional/mental condition which the facility's treatment program is addressing.</p>	<p>Juvenile facility costs were allocated between treatment and detention based on a ratio of (1) average daily census for each of those respective sections. Our ratio analysis was for each facility, for each year opened during the period of our review.</p> <p>This allocation also contains a portion of administrative and general capital project costs. These non-direct service expenditures allocated to the Long-Term Treatment category based on its percentage of total Youth Services expenditures for the FY 79 - 9/30/85 period.</p>
			3,687,243		<p>Program Description: In FY 86, DFYS developed a Request for Proposals that categorized and described the types of residential care that DFYS needed for their clients. These categories of care were defined as follows:</p> <p>Category I - Day Treatment: An intensive daytime program of structured, supervised, rehabilitative activities for adolescents with behavioral and emotional problems.</p> <p>Category II - Emergency Shelter: A temporary residential care shelter for children who are in immediate danger in their present environment. There is little or no emphasis on treatment due to the short-term stays of children placed.</p> <p>Category III - Specialized Group Homes: Residential programs with more highly structured programs providing 24-hour care, supervision and treatment services for children with moderate to severe emotional and behavioral problems.</p> <p>Category IV - Intensive Care (Staff Secure) Residential and Treatment Homes: A setting that provides 24-hour treatment in interdisciplinary psychotherapeutic treatment for children with conduct, anxiety, affect, or adjustment disorders or who pose a danger to themselves or others.</p>	
					<p>Mental Health Analysis: Since there is little or no formal psychological evaluative criteria used by DFYS to place youth in these various residential facilities, mental health professionals are reluctant to accept the DFYS categorization of services. Essentially, only a portion of the Category IV treatment beds could qualify as being mental health related. Category IV residential programs are more likely to be therapeutically structured, provide more intensive therapy, and better address the mental illness problems of residents.</p>	<p>Mental health related residential costs were estimated by allocating identified in-state residential expenditures based on the percentage of DSH-III diagnosed individuals carried in the current formal caseload. This percentage, based on estimates made by regional Youth Services supervisors in Alaska,</p>
					<p>Residential Care</p> <p>The FY77 PLAN often uses the term "residential care facility" without clearly stating what type of facility is contemplated by use of the term.</p> <p>The FY77 PLAN identified inpatient services that provided short-term, intensive treatment, and/or evaluation as an element of mental health services. (VOL I, PP 70-72)</p> <p>The FY77 PLAN also seems to consider that facilities with differing programs could be part of the mental health system. The FY77 PLAN states "It is to be recognized that for certain patients, return to the community must be phased through transitional facilities such as halfway houses, and for other patients, residential facilities may be required more than mental health treatment. It is expected that community mental health centers will coordinate activities and collaborate with other community agents in the identification and development of such resources." (VOL I, P 73)</p>	

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Youth Services</u>						
<u>Residential Care (cont.)</u>			1,245,490		In addition, Youth Services management estimates another 29% of their caseload is a result of alcohol and/or substance abuse problems.	and Juneau. The weighted average DSM-III cases was determined to approximately 33%. The allocation presented is based on this percentage. The second allocated cost figure presented in the mental health column represents an estimate of for services provided to individuals having alcohol and substance abuse problems. These individuals may have received a formal DSM-III diagnosis but represent a significant DFYS' caseload. Costs associated with individuals who have received a diagnosis and have alcohol/substance abuse problems may be included in allocation figures. This allocation contains a portion of administrative and general capital project costs. These non-direct service expenditures were allocated to the Residential Care category based on its percentage of total Youth Services expenditures for the FY 9/30/85 period. Costs presented are the total allocated Residential Care costs identified in our review of juvenile custody expenditures for the period under review. This allocation contains a portion of administrative and general capital project costs. These non-direct service expenditures were allocated to the Residential Care category based on its percentage of total Youth Services expenditures for the FY 79 - 9/30/85 period.
				11,842,321	<u>Program Management Analysis:</u> All categories of residential services are utilized by Youth Services in various sections of the State. As part of the continuum of services provided by the agency, all expenditures are mental health related. Youth Services uses these residential facilities in carrying out its goal of supervising adolescents arrested for crimes that pose a danger to themselves, others, or personal property. As such, these youth are exhibiting a disabling emotional/mental condition which the agency, as a whole, is addressing.	

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Health and Social Services</u>						
<u>Division of Family and Youth Services (DFYS)</u>						
<u>Youth Services</u>						
<u>Foster Care</u>						
<p>We could not identify any aspects of foster care that were identified by the FY77 PLAN.</p>				<p style="text-align: center;">-0-</p>	<p><u>Program Description:</u> DFYS' Youth Services has developed and supervises a Foster Care program for juveniles needing formal probation supervision but who can function in a less restrictive environment. DFYS' Youth Services has recruited adults who are willing to provide a home environment setting for youth who cannot or will not be able to appropriately function living at home.</p> <p><u>Mental Health Analysis:</u> Foster parents are not trained to deliver appropriate treatment or counseling services to adolescents who have DSM-III diagnosed disorders. Although food and shelter are being provided, these costs are more for the sake of public protection rather than establishing a therapeutic setting.</p>	<p>Recognizing that foster parents necessarily trained to deliver health services, an argument could be made that associated costs, prior room and board, could be identified as mental health related based on estimates of the Youth Services caseload. Such an approach would result in the following costs:</p> <p>DSM-III Diagnoses (33%) \$ 79 Alcohol/Substance Abuse (29%) 79 Total DSM-III/Abuse Costs \$158</p>
				<p style="text-align: center;">2,769,683</p>	<p><u>Program Management Analysis:</u> Foster parent services are utilized by Youth Services in carrying out its statutory responsibilities. As part of the continuum of services provided by the agency, all expenditures are mental health related. Youth Services uses foster parents in carrying out its goal of supervising adolescents arrested for crimes that pose a danger to themselves, others, or personal property. As such, they are exhibiting a disabling emotional/mental condition which the agency, as a whole, is addressing.</p>	<p>Costs presented are the total unallocated Foster Care costs identified in our review of juvenile custody expenditures for the period under review.</p> <p>This allocation contains a portion of administrative and general capital project costs. These non-direct expenditures were allocated to the Foster Care category based on the percentage of total Youth Services expenditures for the FY 79 - 80 period.</p>
<u>Total Division of Family and Youth Services</u>	<u>\$1,150,987</u>	<u>\$262,097,495</u>	<u>\$74,419,880</u>	<u>\$199,769,885</u>		

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Health and Social Services (DHSS)						
<u>Division of Medical Assistance</u>	64,398,000	133,359,000				
<u>Medicaid-nursing homes</u>					<u>Program Description:</u> Medicaid is a joint Federal/State program which pays providers of medical care for medical services delivered to eligible low-income Alaskans. Reimbursement for nursing home services are among the services provided to eligible persons. Nursing home services include skilled intermediate care and intermediate care for mentally retarded (ICF/MR). (See program description for Hope Cottage below.) General Relief - Medical (GRM) also provides nursing home services to eligible persons and is funded entirely by the State. GRM nursing home services are included in this allocation.	
			36,520,000		<u>Mental Health Analysis:</u> The Medicaid and GRM programs serve persons in nursing homes, some of which have been diagnosed with mental disorders as classified under the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III). Residents are diagnosed with a primary diagnosis and a secondary diagnosis. Nursing home residents with a primary diagnosis of a mental disorder as defined by DSM-III should be included in the computation for allocating mental health programs. Those diagnosed with a secondary diagnosis of a mental disorder should be excluded if the primary diagnosis for admitting the person to a nursing home is a non-mental illness disorder.	Statistical information on the incidence of mental disorders in nursing homes receiving Medicaid GRM payments was readily available for calendar years 1986, 1985 and 1984. Statistical information provided to us by the Division of Medical Assistance. Expenditure allocations for all fiscal periods presented are based on the overall incidence of various mental disorders from 1984 - 1986. There are no material variances between 3 years' statistics.
The FY77 Plan anticipated that Medicaid would play a large part in the funding of mental health services. The FY77 PLAN cited passage of 1976 legislation that would expand the State Medicaid law to allow mental health clinics to receive Medicaid reimbursement for nearly all services rendered to eligible clients. (VOL I, P 223)						
The FY77 PLAN also notes that one of the characteristics of the State's mental health system is a "network of mental health units" providing comprehensive mental health services to all consumers. The FY77 PLAN identifies "public or private agencies" among these mental health units. (VOL I, P 69)						
The FY77 PLAN states that mental health services should be organized and arranged in a "logical, continuous sequence of service, follow-up, and surveillance." Along this continuum the FY77 PLAN contemplates a "spectrum of institutional services" ranging from intensive treatment and psychiatric services to less elaborate services such as "partial hospitalization, skilled nursing care, home care and care in facilities providing general custodial care." (VOL I, P 153)						The following percentages of nursing home residents were diagnosed with primary diagnosis of a psychiatric disorder according to DSM-III. Although primary diagnosis of traumatic brain syndrome, traumatic cerebral degeneration and toxic encephalopathy if being treated. Thorazine are not categorized as mental disorder in DSM-III, they are included as a psychiatric disorder for statistical purposes. Due to time constraints, we were unable to segregate these diagnoses. We estimate no material impact on the percentage of residents with a primary psychiatric disorder diagnosis presented even though the non-psychiatric diagnoses are included.
In the inventory of mental health resources by community, the FY77 PLAN identified private nursing homes, where they existed, as either health facilities or residential transitional facilities. For example, in Anchorage, the listed inventory identified Glenacre, Careage House, and Ridgeview as health facilities; and two other nursing homes as being transitional facilities. (VOL III, PP 52-53)						Also included in these percentages are diagnoses of mental retardation and psychiatric disorders related to alcoholism. Mental retardation and alcoholism are specifically identified in DSM-III as a mental disorder but are excluded by statute. If percentage of nursing home residents with a primary diagnosis meeting DSM-III was 31%. However, individuals with mental deterioration caused by the aging process are not included.

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<u>Department of Health and Social Services (DHSS)</u>												
<u>Division of Medical Assistance</u>												
<u>Medicaid-nursing Homes (cont.)</u>				73,040,000	<u>Program Management Analysis:</u> Program management agrees with using DSM-III to classify residents of nursing homes. However, the program management allocation of expenditures includes both primary and secondary diagnoses of mental disorders as categorized in DSM-III and also includes dementias related to the aging process.	Expenditures for nursing homes allocated in the program management analysis column based on the percentage of residents in nursing homes with a primary and secondary diagnosis of a mental disorder as defined by DSM-III. Also included are persons diagnosed with dementias related to aging (both primary and secondary). Statistical data of nursing home residents with diagnoses of mental disorders as gathered for us by the Division of Medical Assistance. The following percentages of nursing home residents were diagnosed with mental disorders. These percentages were used to allocate expenditures: <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Primary Diagnosis</td> <td>52%</td> </tr> <tr> <td>Secondary Diagnosis</td> <td>16%</td> </tr> <tr> <td>Total</td> <td>68%</td> </tr> </table>	Primary Diagnosis	52%	Secondary Diagnosis	16%	Total	68%
Primary Diagnosis	52%											
Secondary Diagnosis	16%											
Total	68%											
<u>Hope Cottage</u>				11,348,000	<u>Program Description:</u> Hope Cottage is an intermediate care facility for the mentally retarded (ICF/MR). Medicaid payments are made on behalf of residents who are eligible for the Medicaid program. <u>Mental Health Analysis:</u> DSM-III classifies mental retardation as a mental disorder, however, it is excluded from the Alaska Statutes. Accordingly, all associated expenditures are included in the mental health analysis.	Expenditures recorded for Hope Cottage are allocated as mental health related at 100%. Mental retardation is included as a diagnosis in DSM-III but it is excluded as a mental disorder from the Alaska Statutes.						
The FY77 PLAN anticipated that Medicaid would play a large part in the funding of mental health services. (VOL I, P 223)				11,348,000	<u>Program Management Analysis:</u> Program management also agrees with using DSM-III in classifying residents in Hope Cottage. Accordingly, Hope Cottage would be classified as part of the State's Mental Health Program.	Expenditures for Hope Cottage are allocated consistent with the mental health analysis.						
Hope Cottage residential units for the mentally retarded were identified as among institutions for children in the FY77 PLAN's inventory of Anchorage mental health resources. (VOL III, P 54)				11,348,000								
To the extent that Hope Cottage serves children it would come under the purview of FY77 PLAN's discussion of targeted services to children and the elderly. The FY77 PLAN states that the Federal Community Mental Health Center Act requires "special attention be paid to the mental health needs of children and the elderly." The FY77 PLAN also states that "services for children can include the full range of services made available through the center, appropriately geared to the needs of children at different stages of development." (VOL I, PP 77-78) (VOL I, P 223)												

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pr. and Other Comments
<u>Department of Health and Social Services (DHSS)</u>						
<u>Division of Medical Assistance</u>						
<u>Medicaid-Mental Health Clinics</u>						
The FY77 PLAN anticipated that Medicaid would play a large part in the funding of mental health services.					<u>Program Description:</u> Medicaid-Mental Health Clinics reimburse mental health clinics for services rendered to eligible recipients in the Medicaid program.	
The FY77 PLAN noted that the State Medicaid law was expanded to include payment for clinic services in addition to physician services by Chapter 221, SLA 1976 (cited in the FY77 PLAN as Senate Bill 542).			4,204,000		<u>Mental Health Analysis:</u> Treatment for mental disorders provided by a mental health clinic would be considered part of the State's Mental Health Program.	Medicaid-Mental Health Clinics' expenditures are allocated as mental health related at 100%.
This legislation, the FY77 PLAN noted "... allows [Community Mental Health Centers] to opt to receive Medicaid reimbursement for nearly all services rendered to eligible clients." (VOL 1, P 223)				4,204,000	<u>Program Management Analysis:</u> Program management concurs with the mental health analysis.	Expenditures for Medicaid-Mental Health Clinics are allocated consistent with the mental health analysis.
Total Division of Medical Assistance	<u>\$64,398,000</u>	<u>\$133,359,000</u>	<u>\$52,072,000</u>	<u>\$88,592,000</u>		

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 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Error and Other Comments
Department of Education (DOE)						
<u>Special Education - State Program</u>	374,090,189	1,707,204,789			<p>Program Description: In providing a Free Appropriate Public Education (FAPE) to all children, school districts are required to offer special education and related services to handicapped children, ages 3 - 21, who reside within their district. "Special education" means specifically designed instruction to meet the unique needs of handicapped children including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.</p> <p>Special education serves children who are mentally retarded, seriously emotionally disturbed, and multihandicapped with either of these conditions. Mentally handicapped children are diagnosed by a psychiatrist or by a psychologist who is licensed by the State or certified under DOE requirements.</p> <p>School districts also provide support services and incur indirect costs for educating all children including mentally handicapped. Support services include psychological evaluation and counseling, administration and overhead costs for special and regular education, pupil transportation, and school operating and maintenance costs.</p> <p>Mental Health Analysis: Mental retardation is classified as a mental disorder under the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III) but is specifically excluded in the definition of mental illness under Alaska Statutes.</p> <p>DOE's classification of seriously emotionally disturbed children is broader than the mental disorder definitions of both DSM-III and the Alaska Statutes.</p> <p>DOE's classification of multihandicapped may include children with mental disorders classified under DSM-III and/or Alaska Statutes as well as children with multiple physical handicaps.</p> <p>Expenditures for children diagnosed with a mental disorder classified under DSM-III or Alaska Statutes may be considered mental health-related expenditures. Only an analysis of the diagnosis in a child's case file would provide an accurate count of the children with mental disorders diagnosed under DSM-III or the statutes.</p>	<p>Total expenditures presented are audited direct and indirect special education expenditures from all districts' annual audit reports, FY 79 - FY 85. Data for the 4th quarter of FY 86 was not yet available.</p> <p>Direct expenditures include salaries, teachers, equipment, and supplies for special education instructional handicapped children alone. Indirect expenditures include school district support services, general support services, pupil transportation, operation and maintenance.</p> <p>Direct expenditures were allocated each fiscal year using the ratio of the number of children in the mentally retarded category to the total handicapped children in the State. Child counts were taken from annual reports to the Federal Office of Special Education. For FY 82 through FY 86, an average ratio for all years was used as the Federal ratios were not available. The ratios used to allocate expenditures for each year averaged 6.4%.</p> <p>Indirect expenditures were allocated for each fiscal year using the ratio of the number of mentally retarded children to the average daily membership of all children in all school districts in the State. Ratios used to allocate expenditures for each year averaged 0.6%.</p> <p>Although some children in other categories may have disorders classified under DSM-III or Alaska Statutes, as discussed in the mental health analysis, these children could not be identified without review of the diagnosis in each child's case file maintained at school districts.</p>
			25,246,531			

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
<u>Department of Education (DOE)</u>						
<u>Special Education - State Program (cont.)</u>						
			42,465,134		<p><u>Program Management Analysis:</u> Special education expenditures for mentally retarded, seriously emotionally disturbed, autistic, and multihandicapped children with these conditions are mental health-related expenditures.</p>	<p>The allocation also contains a portion of DOE's administration. These costs were allocated to State and Federal special education programs based upon the percentage of the program expenditures to total State and Federal expenditures.</p> <p>Direct expenditures were allocated each fiscal year using the ratio of the number of children in the seriously emotionally disturbed, and multihandicapped categories to the total of all handicapped children in the State. The child counts were taken from annual reports to the Federal Office of Special Education. For FY 82 and FY 80, average ratio of all other years used as the Federal reports were available. The ratios used to allocate expenditures for each year averaged 10.5%.</p> <p>Indirect expenditures were allocated for each fiscal year using the ratio of the number of mentally retarded, seriously emotionally disturbed, multihandicapped children to the average daily membership of all children in all school districts in the State. The ratios used to allocate expenditures for each year averaged 1.4%.</p> <p>The allocation also contains a portion of DOE's administration. These costs were allocated to State and Federal special education programs based upon the percentage of the program expenditures to total State and Federal expenditures.</p> <p><u>National Statistics:</u> A contractor report entitled, "Statistical Profile of Special Education in Elementary and Secondary Schools in the United States" prepared for the National Center for Education Statistics in January 1985, indicated the following statistics. For the 1982-1983 school year, 17.8% of the children served by special education programs were mentally retarded and 8.1% seriously emotionally disturbed. In terms of all children in public school systems in the United States, this becomes 1.91% mentally retarded and 0.89% seriously emotionally disturbed.</p>

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Education (DLE)						
<u>Special Education - State Program (cont.)</u>						
<u>Special Education - Federal Program</u>	23,007,245	24,845,606			<u>Program Description:</u> Federal funds are granted annually to school districts through DOE to supplement the districts' State and locally funded expenditures for special education. The same children diagnosed with mental disorders under the State-funded special education program are served with Federal grant funds.	This report was provided by the Division of Mental Health and Developmental Disabilities (DMHD).
The FY77 PLAN does not specifically address the mental health aspects of special education services. The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children.					The mentally handicapped children served are mentally retarded, seriously emotionally disturbed, and multihandicapped children with these conditions.	Expenditures presented are a combination of audited expenditures and amounts of Federal grants. FY 85 expenditures are from Division of Legislative Audit's annual financial reports. Due to structure of DOE's accounting for FY 79 - FY 81 Federal handicapped program expenditures were not identifiable, so Federal grants were used.
∞ The FY77 PLAN also states that "services for children can include the full range of services, made available through the center, appropriately geared to the needs of children at different stages of development." (VOL 1, PP 77-78)			1,548,868		<u>Mental Health Analysis:</u> See mental health analysis for Special Education - State Program.	Expenditures were allocated for fiscal year using the ratio of number of children in the mental retarded category to the total handicapped children in the State. The child counts were taken from annual reports to the Federal (2 of Special Education. For FY 82 FY 86, an average ratio for 4 1/2 years was used as the Federal reports were not available. The ratios used to allocate expenditures for each year averaged 6.4%.
When identifying and inventorying mental health resources in various regions of the State, the FY77 PLAN includes special education teachers for the emotionally disturbed among its manpower inventory category (for example, see VOL III, P 51, for Anchorage's inventory.)						Although some children in other categories may have disorders classified under DSM-III or ALA Statutes, as discussed in the mental health analysis, these children could not be identified without review of the diagnosis in each child's case file maintained at school districts.
				2,584,801	<u>Program Management Analysis:</u> See program management analysis for Special Education - State Program.	The allocation also contains a portion of DOE's administration. These costs were allocated to State and Federal special education programs based upon the percentage of the program expenditures to total State and Federal expenditures.
						Expenditures were allocated for fiscal year using the ratio of number of children in the mental retarded, seriously emotionally disturbed, and multihandicapped categories to the total handicapped children in the State.

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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Errors and Other Comments
<u>Department of Education (DAE)</u>						
<u>Special Education - Federal Program (cont.)</u>						
08 - Severe Multi-Handicapped School	-0-	4,627,677			<p><u>Program Description:</u> DOE contracts with the Anchorage School District to administer the Severe Multi-Handicapped School. Most of the students are from outside Anchorage and are placed in Anchorage facilities by the Department of Health and Social Services, Division of Mental Health and Developmental Disabilities (MHDD). These children require an intensive special education program which is not available in most districts.</p> <p><u>Mental Health Analysis:</u> Some of these expenditures will be for children diagnosed with a mental disorder classified under DSM-III or Alaska Statutes. However the percentage of these children cannot be determined without review of the diagnosis of each child in case files maintained at the school districts.</p> <p><u>Program Management Analysis:</u> The children in the Severe Multi-Handicapped School are almost all mentally retarded, and almost 100% of the expenditures would be mental health-related expenditures. Only an analysis of the diagnosis in the child's case file would give a more accurate count of the children with diagnosed mental disorders.</p>	<p>The child counts in these categories were taken from annual reports to the Federal Office of Special Education. For FY 83 and FY 84, average ratios for all other years was used as the Federal reports not available. The ratios use allocate expenditures for each averaged 10.5%.</p> <p>The allocation also contains a portion of DOE's administration. These costs were allocated to State and Federal special education based upon the percentage of the program expenditure to total State and Federal expenditures.</p> <p>Expenditures presented are FY 77-85 audited expenditures from the Anchorage School District audit reports for these years. For the first quarter of FY 86 available.</p> <p>The allocation per the mental health analysis is not presented because the actual number of children diagnosed with mental disorders classified under DSM-III or Alaska Statutes cannot be determined without review of case files maintained at school districts.</p> <p>Expenditures were allocated 100% mental health-related expenditures based upon DOE's program manager estimate that almost all of the children served are mentally retarded.</p>
			Indeterminate			
				4,627,677		

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Department of Education (DOE)						
Providence Heights School	-0-	853,735			<p>Program Description: DOE contracts with the Anchorage School District to administer the Providence Heights School which serves patients of the Alaska Psychiatric Institute (API), ages 3 - 22. These students require a very structured educational program closely related to their treatment.</p> <p>Mental Health Analysis: Some of these expenditures will be for children diagnosed with a mental disorder classified under DSM-III or Alaska Statutes. However the percentage of these children cannot be determined without review of the diagnosis of each child in case files maintained at the school districts.</p> <p>Program Management Analysis: At any given time, potentially all of these children attending Providence Heights School are seriously emotionally disturbed and all of the expenditures would be mental health-related expenditures. Only an analysis of the diagnosis in the child's case file would give us a more accurate count of the children with diagnosed mental disorders.</p>	<p>Expenditures presented are FY FY 85 audited expenditures from the Anchorage School District audit reports for these years, for the first quarter of FY 86 available.</p> <p>The allocation per the mental health analysis is not presented because the actual number of children diagnosed with mental disorder classified under DSM-III or Alaska Statutes cannot be determined without review of case files maintained at school districts.</p> <p>Expenditures were allocated to mental health-related expenditures based upon DOE's program management estimate that almost all of the children served are seriously emotionally disturbed.</p>
<p>The FY77 PLAN does not specifically address the mental health aspects of special education services. The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children.</p> <p>The FY77 PLAN also states that "services for children can include the full range of services, made available through the center, appropriately geared to the needs of children at different stages of development." (VOL 1, PP 77-78)</p> <p>When identifying and inventorying mental health resources in various regions of the State, the FY77 PLAN includes special education teachers for the emotionally disturbed among its manpower inventory category (for example, see VOL III, P 51, for Anchorage's inventory.)</p>		Indeterminate		853,735		
Alaska Resources for the Moderately Severely Impaired (ARMSI)	-0-	3,457,778			<p>Program Description: The Alaska Resources for the Moderately Severely Impaired program (ARMSI) provides services statewide to low incidence, severely handicapped students, ages 3 - 22, when the specialized educational services required by the student are not available locally.</p> <p>Mental Health Analysis: Some of these expenditures will be for children diagnosed with a mental disorder classified under DSM-III or Alaska Statutes. However the percentage of these children cannot be determined without review of the diagnosis of each child in case files maintained at the school districts.</p> <p>Program Management Analysis: Expenditures under this contract for mentally retarded, seriously emotionally disturbed, and multihandicapped children with these conditions would be mental health-related expenditures.</p>	<p>Expenditures presented are cost provided by DOE for this contract from 1983, the first year of the contract, through FY 85. Data for the first quarter of FY 86 not available.</p> <p>The allocation per the mental health analysis is not presented because the actual number of children diagnosed with mental disorder classified under DSM-III or Alaska Statutes cannot be determined without review of case files maintained at school districts.</p> <p>Expenditures were allocated to upon the ratio of mentally retarded, seriously emotionally disturbed, multihandicapped children to the total number of children served each year of the contract. Data of children were provided by the program managers.</p>
<p>The FY77 PLAN does not specifically address the mental health aspects of special education services. The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children.</p> <p>The FY77 PLAN also states that "services for children can include the full range of services, made available through the center, appropriately geared to the needs of children at different stages of development." (VOL 1, PP 77-78)</p> <p>When identifying and inventorying mental health resources in various regions of the State, the FY77 PLAN includes special education teachers for the emotionally disturbed among its manpower inventory category (for example, see VOL III, P 51, for Anchorage's inventory.)</p>		Indeterminate		1,331,374		

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Education (DOE)						
<u>McLaughlin Youth Center (MYC)</u>	-0-	5,173,387			<p>Program Description: DOE contracts with the Anchorage School District to provide education to young adults at McLaughlin Youth Center. The program provides basic skills, remedial services, and special education instruction.</p> <p>Mental Health Analysis: Expenditures for young adults diagnosed with a mental disorder classified under DSM-III or Alaska Statutes would be considered mental health-related expenditures.</p> <p>Program Management Analysis: Expenditures for young adults diagnosed with a mental disorder would be considered mental health-related expenditures. Only an analysis of the diagnosis in the young adult's case file would give us an accurate count of those with diagnosed mental disorders.</p>	<p>Expenditures presented are FY 77, FY 85 audited expenditures from the Anchorage School District audit reports for these years. For the first quarter of FY 86, available.</p> <p>Expenditures were allocated based upon the Division of Family and Youth Services' estimate that 10 young adults in the Center had classified mental disorders.</p> <p>Expenditures were allocated based upon the Division of Family and Youth Services' estimate that 10 young adults in the Center had classified mental disorders.</p>
<p>The FY77 PLAN does not specifically address the mental health aspects of special education services. The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children.</p> <p>The FY77 PLAN also states that "services for children can include the full range of services, made available through the center, appropriately geared to the needs of children at different stages of development." (VOL 1, PP 77-78)</p> <p>When identifying and inventorying mental health resources in various regions of the State, the FY77 PLAN includes special education teachers for the emotionally disturbed among its manpower inventory category (For example, see VOL III, P 51, for Anchorage's inventory.)</p>			3,594,987	3,594,987		
<u>Fairbanks Youth Facility (FYF)</u>	-0-	951,207			<p>Program Description: DOE contracts with the Fairbanks School District to provide education to young adults at the Fairbanks Youth Facility. The program provides basic skills, remedial services, and special education instruction.</p> <p>Mental Health Analysis: Expenditures for young adults diagnosed with a mental disorder classified under DSM-III or Alaska Statutes would be considered mental health-related expenditures, and then only if the facility is designed to treat such disorders rather than incarcerating young adults to protect society.</p> <p>Program Management Analysis: Expenditures for young adults diagnosed with a mental disorder would be considered mental health-related expenditures. Only an analysis of the diagnosis in the young adult's case file would give us a more accurate count of those with diagnosed mental disorders.</p>	<p>Expenditures presented are FY 77, FY 85 audited expenditures from the Fairbanks School District audit reports for these years. For the first quarter of FY 86, available.</p> <p>Expenditures were allocated based upon the Division of Family and Youth Services' estimate that 10 young adults in the Center had classified mental disorders.</p> <p>Expenditures were allocated based upon the Division of Family and Youth Services' estimate that 10 young adults in the Center had classified mental disorders.</p>
<p>The FY77 PLAN does not specifically address the mental health aspects of special education services. The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children.</p> <p>The FY77 PLAN does state that "services for children can include the full range of services, made available through the center, appropriately geared to the needs of children at different stages of development." (VOL 1, PP 77-78)</p> <p>When identifying and inventorying mental health resources in various regions of the State, the FY77 PLAN includes special education teachers for the emotionally disturbed among its manpower inventory category (For example, see VOL III, P 51, for Anchorage's inventory.)</p>			951,207	951,207		

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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Errors and Other Comments
Department of Education (DOE)						
<u>Out-of-District Transfers</u>	-0-	1,565,234			<p><u>Program Description:</u> Special education students are transferred out-of-district by DOE when a district cannot serve the student locally. These students are Alaska's most severely impaired children who are usually seriously emotionally disturbed and exhibit severe behavior problems. These students are generally placed out-of-state into highly specialized, residential institutions. DOE pays all expenses associated with the transfer student including residential and treatment costs.</p> <p><u>Mental Health Analysis:</u> Some of these expenditures will be for children diagnosed with a mental disorder classified under DSM-III or Alaska Statutes. However the percentage of these children cannot be determined without review of the diagnosis of each child in case files maintained at the school districts.</p> <p><u>Program Management Analysis:</u> These special education students transferred out-of-district almost always have a serious emotional disturbance and are often multihandicapped. Almost all of the expenditures under this program would be considered mental health-related expenditures.</p>	<p>Expenditures presented are DOE contract costs for FY 82 - FY 83. Data for FY 79 - FY 81 and the first quarter of FY 86 was not available. Costs were obtained from DOE's program managers' records.</p> <p>The allocation per the mental health analysis is not presented because the actual number of children diagnosed with mental disorder classified under DSM-III or Alaska Statutes cannot be determined without review of case files maintained at school districts.</p> <p>Expenditures were allocated for mental health-related expenditures based upon DOE's program manager estimate that almost all of the children are seriously emotionally disturbed.</p>
<p>The FY77 PLAN does not specifically address the mental health aspects of special education services. The FY77 PLAN states that the Federal Community Mental Health Centers Act of 1975 (PL 95-61) requires that special attention be paid to the mental health needs of children.</p> <p>The FY77 PLAN also states that "services for children can include the full range of services, made available through the center, appropriately tailored to the needs of children at different stages of development." (VOL I, PP 77-78)</p> <p>When identifying and inventorying mental health resources in various regions of the State, the FY77 PLAN includes special education teachers for the emotionally disturbed among its manpower inventory category (for example, see VOL III, P.51, for Anchorage's inventory.)</p>			Indeterminate	1,565,234		
<u>Total Special Education Programs</u>	<u>\$397,097,434</u>	<u>\$1,748,679,413</u>	<u>\$31,341,573</u>	<u>\$57,974,149</u>		

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<u>Department of Education (DVE)</u>						
<u>Division of Vocational Rehabilitation (DVR)</u>						
General Program	72,969,329					
DVE - Services to Clients		18,626,448				
<p>Men analyzing the needs and services in various regions of the State, MDD's 1977 PLAN examined each region's incidence of vocational rehabilitation clients in comparison with the State average. This ratio was identified as one of the indices of a region's need for mental health services.</p> <p>The FY77 PLAN cited estimates from DVR's FY 76 plan that stated that the agency served individuals who were mentally ill, had personality disorders, alcoholics, addicted to drugs, or were mentally retarded. (VOL V, PP 87-90)</p> <p>In the FY77 PLAN, vocational rehabilitative services were categorized as direct mental health services in each region's inventory of resources. (See VOL III, P 49, for an example of direct services identified in the Anchorage area.)</p>				<p>Program Description: The Division of Vocational Rehabilitation (DVR) provides the following services to rehabilitate both mentally and physically handicapped clients:</p> <ol style="list-style-type: none"> 1. Diagnostic and evaluation services - Includes medical, psychological, and vocational diagnostic and evaluation services to determine the nature of the handicap and the scope of services required. This includes transportation and hospitalization of clients for diagnostic and evaluation purposes. 2. Mental or physical restoration - Includes medical and related services necessary to correct the disabling condition. This can include surgery, therapy, treatment, and hospitalization. 3. Training - Includes all training and materials provided to the client. 4. Maintenance - Includes basic living expenses so that the client can derive the full benefit of other vocational rehabilitative services provided. 5. Services to other family members - Includes services provided to family members of a handicapped client for the purpose of contributing substantially to the rehabilitation of the client. 6. Other services - Includes services such as reader and interpreter services, occupational tools and equipment, initial stocks, licenses, and transportation. <p>Confirmation of a mental disability is provided to DVR by a physician skilled in the diagnosis and treatment of such disorders or by a psychologist licensed or certified in accordance with State laws and regulations. The nature of the client disability is categorized by DVR into Psychotic Disorders; Psychoneurotic Disorders; Alcoholism; Drug Addiction; Mental Retardation; and Other Character, Personality, or Behavior Disorders.</p>		
			7,186,826		<p>Mental Health Analysis: Costs of services to clients would be considered mental health-related expenditures if the client was diagnosed with a mental disorder classified in DSM-III and/or Alaska Statutes.</p> <p>The mental disorders in the Psychotic Disorders category are all classified as DSM-III disorders except senility. Korsakov's Syndrome (Alcoholic) is excluded as a mental disorder in the Alaska Statutes but is included in DSM-III.</p>	<p>Expenditures were allocated as ratios developed by the Division of Vocational Rehabilitation (DVR) their statistical reporting system which records client information nature of services provided, and total expenditures for each client.</p>

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<u>Department of Education (DOE)</u>						
<u>Division of Vocational Rehabilitation (DVR)</u>						
<u>General Program</u>						
<u>DVR - Services to Clients (cont.)</u>						
				3162	<p>The mental disorders in the Psychoneurotic Disorders category are all classified in DSM-III.</p> <p>The Alcoholism and Drug Addiction categories are excluded in the Alaska Statutes as a mental disorder but are classified in DSM-III.</p> <p>Mental Retardation is classified as a mental disorder in DSM-III but excluded as a mental disorder under Alaska Statutes.</p> <p>The disorders of clients in the Other Character, Personality, or Behavior Disorders category may be classified in DSM-III or statutes. The classification of the disorder can only be determined by a review of the diagnosis in the client's case file maintained at DVR field offices.</p>	<p>For cases closed during each fiscal year from FY 79 through the first quarter of FY 86, DVR compiled the expenditures for clients in each of the following categories of mentally disabling conditions: Psychotic Disorders; Psychoneurotic Disorders; Alcoholism; Drug Addiction; Mental Retardation; and Other Character, Personality, and Behavior Disorders. Expenditures were compiled for clients with either a confirmed primary or secondary mentally disabling condition in the above categories.</p> <p>The allocation was based on the ratio of total expenditures for all categories except Other Character, Personality, and Behavior Disorders to the total expenditures for all handicapped clients served during this same time period. This ratio was applied to each State fiscal year's expenditures for this program. The ratios used to allocate expenditures for each year averaged 39.1%.</p> <p>An allocation for the Other Character, Personality, and Behavior Disorders category is not presented because the actual number of clients in this category with mental disorders classified under DSM-III or Alaska Statutes cannot be determined without review of client case files maintained at DVR field offices.</p>
				8,223,377	<p><u>Program Management Analysis:</u> All of the clients classified by a psychiatrist or psychologist into the categories addressed above would be considered as having a mentally disabling condition. All costs of services for these clients would be considered mental health-related expenditures.</p>	<p style="text-align: center;">3,64</p> <p>The allocation was based on the ratio of expenditures for clients in the Psychotic Disorders; Psychoneurotic Disorders; Alcoholism; Drug Addiction; Mental Retardation; and Other Character, Personality, and Behavior Disorders categories to the total expenditures for all handicapped clients served. This ratio was applied to each State fiscal year's expenditures for this program. The ratios used to allocate expenditures for each year averaged 44.7%.</p>

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Department of Education (DOE)						
Division of Vocational Rehabilitation (DVR)						
General Program						
DVR - Services to Clients (cont.)						
		4.6 677				
DVR - Counseling & Placement		18,387,636				
<p>When analyzing the needs and services in various regions of the State, MDD's FY77 PLAN examined each region's incidence of vocational rehabilitation clients in comparison with the State average. This ratio was identified as one of the indices of a region's need for mental health services.</p> <p>The FY77 PLAN cited estimates from DVR's FY 76 plan that stated that the agency served individuals who were mentally ill, had personality disorders, alcoholics, addicted to drugs, or were mentally retarded. (VOL V, PP 87-90)</p> <p>In the FY77 PLAN, vocational rehabilitative services were categorized as direct mental health services in each region's inventory of resources. (See VOL III, P 49, for an example of direct services identified in the Anchorage area.)</p>		3.62		<p>Program Description: 3,641.2 Included in this program are costs for salaries, benefits, and travel for DVR's counselors and their clerical support staff. The counselors funded by this program provide the direct services of diagnosis and evaluation; vocational guidance and counseling; job placement and follow-up; and authorize physical restoration, mental restoration, and other related services to clients.</p> <p>Mental Health Analysis: 3,641.1 DVR costs to provide client services would be considered mental health-related expenditures if the client was diagnosed with a mental disorder classified in DSM-III and/or Alaska Statutes.</p> <p>The mental disorders in the Psychotic Disorders category are all classified as DSM-III disorders except senility. Korsakov's Syndrome (Alcoholic) is excluded as a mental disorder in the Alaska Statutes but is included in DSM-III.</p> <p>The mental disorders in the Psychoneurotic Disorders category are all classified in DSM-III.</p> <p>The Alcoholism and Drug Addiction categories are excluded in the Alaska Statutes as a mental disorder but are classified in DSM-III.</p> <p>Mental Retardation is classified as a mental disorder in DSM-III but excluded as a mental disorder under Alaska Statutes.</p> <p>The disorders of clients in the Other Character, Personality, or Behavior Disorders category may be classified in DSM-III or statutes. The classification of the disorder can only be determined by a review of the diagnosis in the client's case file maintained at DVR field offices.</p>	<p>All of the clients in these categories are diagnosed with a mental disorder by a physician or a psychologist, and all of these categories are considered mentally disabling handicaps by DVR.</p> <p>National Statistics on DVR clients: A report from the Federal Office of Special Education and Rehabilitative Services entitled, "Characteristics of Persons Rehabilitated and Reasons for Case Closure in Fiscal Year 1982," puts the number of rehabilitated clients whose major disabling condition was mental illness at 19.1% of the total. If mental retardation is added (12.4%), the total becomes 31.5%. If both alcoholism and drug addiction are added to these (6.7%), the total becomes 38.2%. This is a percentage of rehabilitated clients and not a percentage of such clients on active caseloads. This national report was provided by the Division of Mental Health and Developmental Disabilities.</p> <p style="text-align: center;">3,641</p> <p>The allocation was based on the ratio of total closed cases in all categories except Other Character, Personality, and Behavior Disorders to the total closed cases for all handicapped clients served during each year from FY 79 - FY 86. This ratio was applied to each State fiscal year's expenditures for this program. The ratios used to allocate expenditures for each year averaged 30.1%.</p> <p>An allocation for the Other Character, Personality, and Behavior Disorders category is not included because the actual number in this category with mental disorders classified under DSM-III Alaska Statutes cannot be determined without review of client case files maintained at DVR field offices.</p>	

STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Procedures, and Other Comments
Department of Education (DOE)						
Division of Vocational Rehabilitation (DVR)						
General Program						
DVR - Counseling & Placement (cont.)			3.62 6,500,976		<p>Program Management Analysis: All of the clients classified by a psychiatrist or psychologist into the categories addressed above would be considered as having a mentally disabling condition. All costs of services including indirect costs for these clients would be considered mental health-related expenditures.</p>	3.64 <p>The allocation was based on the ratio of total closed cases in all categories of mentally disabling conditions to the total closed cases for all handicapped clients served during each year from FY 79 - FY 86. This ratio was applied to each State fiscal year's expenditures for this program. The ratios used to allocate expenditures for each year averaged 34.8%.</p>
DVR Administration		4,887,124		3.62 1,480,536	<p>Program Description: Included in this program are all the costs for the administration of the vocational rehabilitation division statewide.</p> <p>Mental Health Analysis: 3.64.1 Indirect costs to provide client services would be considered mental health-related expenditures if the client was diagnosed with a mental disorder classified in DSM-III and/or Alaska Statutes.</p> <p>The mental disorders in the Psychotic Disorders category are all classified as DSM-III disorders except senility. Korsakov's Syndrome (Alcoholic) is included as a mental disorder in the Alaska Statutes but is included in DSM-III.</p> <p>The mental disorders in the Psychoneurotic Disorders category are all classified in DSM-III.</p> <p>The Alcoholism and Drug Addiction categories are excluded in the Alaska Statutes as a mental disorder but are classified in DSM-III.</p> <p>Mental Retardation is classified as a mental disorder in DSM-III but excluded as a mental disorder under Alaska Statutes.</p> <p>The disorders of clients in the Other Character, Personality, or Behavior Disorders category may be classified in DSM-III or statutes. The classification of the disorder can only be determined by a review of the diagnosis in the client's case file maintained at DVR field offices.</p>	3.64.1 <p>The allocation was based on the ratio of total closed cases in all categories except Other Character, Personality, and Behavior Disorders to the total closed cases for all handicapped clients served during each year from FY 79 - FY 86. This ratio was applied to each State fiscal year's expenditures for this program. The ratios used to allocate expenditures for each year averaged 30.1%.</p> <p>An allocation for the Other Character, Personality, and Behavior Disorders category is not presented because the actual number of clients in this category with mental disorders classified under DSM-III or Alaska Statutes cannot be determined without review of client case files maintained at DVR field offices.</p>
				3.62 1,712,270	<p>Program Management Analysis: 3.64 All of the clients classified by a psychiatrist or psychologist into the categories discussed in the mental health analysis section would be considered as having a mentally disabling condition. All costs of services including indirect costs for these clients would be considered mental health-related expenditures.</p>	3.64 <p>The allocation was based on the ratio of total closed cases in all categories of mentally disabling conditions to the total closed cases for all handicapped clients served during each year from FY 79 - FY 86. This ratio was applied to each State fiscal year's expenditures for this program. The ratios used to allocate expenditures for each year averaged 34.8%.</p>

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4.6
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STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
 SUMMARY SCHEDULE AND ANALYSIS AND
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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Proc. and Other Comments
Department of Education (DSE)						
Division of Vocational Rehabilitation (DVR)						
General Program						
<u>Specialized Facilities Grants</u>	370,376	1,217,286			<p>Program Description: Included in this program are grants to nonprofit organizations that provide services to mentally and physically handicapped individuals. Some of these organizations primarily provide services to mentally retarded individuals and individuals with other mental disorders. Some of the major grantees and types of services offered are:</p> <ol style="list-style-type: none"> 1. Homer Mental Health Center - This program provides services to rural mentally ill individuals. The major services provided are individual counseling, interest and aptitude testing, and community job development. 2. Anchorage Community College Food Service Program - This program provides initial evaluation of mentally retarded individuals' ability to function in the food industry and also provides skill training of entry-level dishwashers, cooks, food processors, and food servers. 3. Gateway Opportunity Center - This program provided a sheltered workshop in Ketchikan for developmentally disabled individuals. This program closed in July 1985. 4. Alpine Alternatives - This is a children's recreation program serving the mentally retarded. <p>A variety of other organizations received grants from DVR to provide work adjustment, occupational skill training, and other rehabilitative services to mentally retarded and mentally ill clients.</p> <p>Mental Health Analysis: Some of these expenditures will be for individuals diagnosed with a mental disorder classified under DSM-III or Alaska Statutes. However the percentage of these clients cannot be determined without review of the diagnosis in each case file maintained by the grantee.</p> <p>Program Management Analysis: Since almost all of the individuals being served have mentally disabling conditions, all of these expenditures would be considered mental health-related expenditures. Only an analysis of the diagnosis in the individual's case file would give us an accurate count of clients served who have diagnosed mental disorders. The client case files are maintained by grantees.</p>	<p>An allocation for grants to organizations who provide services to mentally handicapped individuals not presented because the actual number of individuals with mental disorders classified under DSM-III or Alaska Statutes cannot be determined without review of client files. These are maintained by DVR grantees.</p> <p>Allocated expenditures represent total of DVR grants to organizations serving mentally retarded and mentally ill clients from FY 81 FY 85. Grant amounts were provided by DVR. The grant costs for FY 80, and the first quarter of FY 86 were not readily available.</p>
			Indeterminate	1,385,777		
Total Division of Vocational Rehabilitation	\$21,289,705	\$45,118,494	\$14,295,530	\$17,822,400		

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STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
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Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Process and Other Comments
Department of Corrections (DOC)	1,900,000					
Adult Confinement - Operating Programs		283,112,000				
The FY77 PLAN recognizes mental health treatment as an integral need of the corrections program:						
"It is recognized that the Alaska Court System, the Alaska Division of Corrections, plus State and local law enforcement agencies all require the availability of mental health resources. . . . The Division of Corrections has, by the very nature of those persons in their custody, historically required the availability of mental health services. Those services have traditionally been provided by the State operated mental health clinics and the Alaska Psychiatric Institute. These services have included inpatient treatment, consultation and education, evaluations, individual and group therapy, and services to children and adolescents." (VOL I, P 29)			23,215,000			See allocation method in program management analysis for DOC operating programs.
"Virtually all components of the criminal justice system are intrinsically related to and sometimes dependent upon mental health services. It is anticipated that this relationship will tend to become more crystallized in the future, not necessarily by virtue of a philosophical compatibility but rather as a result of an increased awareness of the capabilities of each agency involved." (VOL I, P 31)				23,215,000		Expenditures presented for adult corrections were allocated based on the finding that 8.2% of the inmate population is suffering in one of the major mental disorder categories mentioned in the needs assessment (discussed at left) conducted by the Department of Corrections. Due to time constraints, specific expenditures were not identified that were associated with contract services for mental health treatment and with departmental employees providing mental health-related services. Rather, total operating and capital expenditures were allocated as mental health related based on the 8.2% incidence of disorders found in prison population. This percentage was considered consistent for the period of our review.
					<p>Program Description: The Department of Corrections, formerly the Department of Health and Social Services, Division of Corrections - Adult Confinement (FY 79 - FY 83), has two major areas of responsibility: (1) protection of the public and (2) reformation of the offender. In that pursuit, facilities are located around the State to house offenders, in addition to sending offenders to out-of-state facilities. The operating budget provides for facility operations, parole functions, and general administrative duties. The capital budget mainly provides for the construction of facilities to house inmates.</p> <p>Mental Health Analysis: Treatment for mental health disorders is available to correction facility residents. It is difficult to say whether persons receiving mental health treatment in correctional facilities meet the diagnoses for disorders identified in DSM-III unless a review is done of each inmate's psychological evaluation. A person in jail could be diagnosed in a DSM-III "V" code category which would preclude a person from being categorized as having a mental disorder. (A person is diagnosed under a "V" code when a focus of attention or treatment is adult antisocial behavior that is apparently not due to a mental disorder.)</p> <p>Program Management Analysis: A needs assessment was conducted on April 30, 1986 in an attempt to more accurately quantify the incidence or prevalence of mental illness in State correctional centers. The review found that an average of 8.2% of the inmates were diagnosed as suffering from a major mental disorder. Major mental disorders include: (1) organic mental disorders, (2) schizophrenic disorders, (3) paranoid disorders, (4) other psychotic disorders, and (5) major affective disorders; i.e., major depression and bipolar disorders. (According to the Division of Mental Health and Developmental Disabilities professionals, the aforementioned disorders are all within mental disorders as defined under DSM-III.)</p>	

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STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
 SUMMARY SCHEDULE AND ANALYSIS OF
 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
 July 1, 1978 - September 30, 1985

Department Division Program Sub-Program	Program Receipts	Program Expenditures Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Plan and Other Comments
Department of Corrections (DOC) (cont.)						
Adult Confinement - Capital Programs		69,153,000			<p><u>Program Descriptions:</u> For description see discussion under DOC, Adult Confinement - Operating Programs.</p>	
For 1977 PIAH Aspects, see discussion under DOC, Adult Confinement - Operating Programs.			5,671,000		<p><u>Mental Health Analysis:</u> For analysis see discussion under DOC, Adult Confinement - Operating Programs.</p>	See allocation method in program management analysis for DOC capital programs.
				5,671,000	<p><u>Program Management Analysis:</u> For analysis see discussion under DOC, Adult Confinement - Operating Programs.</p>	Expenditures presented for adult corrections were allocated based on the finding that 8.2% of the inmate population is suffering from one of the major mental disorder categories mentioned in the needs assessment (discussed at left) conducted by the Department of Corrections. Due to time constraints specific expenditures were not identified that were associated with contractual services for mental health treatment and with departmental employees providing mental health related services. Rather, total operating and capital expenditures were allocated as mental health related based on the 8.2% incidence of mental disorders found in prison populations. This percentage was considered to be consistent for the period of our review.
<u>Total Department of Corrections</u>	<u>\$1,900,000</u>	<u>\$352,265,000</u>	<u>\$28,886,000</u>	<u>\$28,886,000</u>		

STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
 SUMMARY SCHEDULE AND ANALYSIS OF
 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
 July 1, 1978 - September 30, 1985

Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
Department of Administration (DOA)						
Division of Pioneers' Benefits						
Pioneers' Homes	7,721,000	137,215,000			<p><u>Program Description:</u> The Pioneers' Homes program provides elderly Alaskans who qualify under the Statute with a residential program which allows them to live their lives with dignity and contentment. Homes are located in Sitka, Fairbanks, Palmer, Anchorage, and Ketchikan. Both residential care and nursing care services are provided to residents of the homes.</p> <p><u>Mental Health and Program Management Analysis:</u> The purpose of the Pioneers' Homes is to provide a home for pioneer Alaskans. Although an application for admission to a home includes a description of any physical or medical disability of the applicant, the reason for admission is not because of the disability. If a resident requires specialized treatment such as mental health treatment, that person would be sent to an appropriate facility for treatment. Residents diagnosed as having Alzheimer's disease are admitted to the homes. Persons suffering from a personality defect that would threaten the health or safety of other residents will not be admitted to a home. Except for residents with Alzheimer's disease, it is believed that the homes do not meet the definition of a mental health program.</p>	<p>Expenditures and revenues were from the State accounting records for the period presented. Cost associated with the care of patients with Alzheimer's disease were identified in the accounting records. DSH-III classifies Alzheimer's disease as a mental disorder. In reading the FY77 PLAN, it appears that services provided to the elderly are to be considered a part of the Mental Health Program. There is expenditures are presented in it but they are not allocated. The Division of Medical Assistance that 31% of the residents in homes have a mental disorder. section on Division of Medical Assistance programs in this Schedule.</p>
<p>The FY77 PLAN notes that the "Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children and the elderly. . . . The specialized nature of their needs and the limited availability of appropriate services requires that community mental health centers devote greater attention to these opposite ends of the age spectrum."</p> <p>The FY77 PLAN states that "Programs for the elderly must similarly address the full range of services made available through the center geared to the physical and emotional needs of the elderly." (VOL I, PP 77-78)</p> <p>The FY77 PLAN also notes that one of the characteristics of the State's mental health system is a "network of mental health units" providing comprehensive mental health services to all consumers. The FY77 PLAN identifies "public or private agencies" among these mental health units. (VOL I, P 69)</p> <p>The FY77 PLAN states that mental health services should be organized and arranged in a "logical, continuous sequence of service, follow-up, and surveillance." Along this continuum the FY77 PLAN contemplates a "spectrum of institutional services" ranging from intensive treatment and psychiatric services to less elaborate services such as "partial hospitalization, skilled nursing care, home care and care in facilities providing general custodial care." (VOL I, P 153)</p> <p>The FY77 PLAN includes Pioneers' Homes beds in the inventory of various regions' health facility resources. (For an example, see VOL IV, P 35 for the Sitka region's inventory of facilities.)</p>			Indeterminate	Indeterminate		
Total Division of Pioneers' Benefits	7,721,000	137,215,000				

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STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVENUE
 SUMMARY SCHEDULE AND ANALYSIS OF
 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
 July 1, 1978 - September 30, 1985

Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Description and Analysis of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Administration</u>						
Older Alaskans Commission (OAC)	18,018,000	54,640,000			<p><u>Program Description:</u> The Older Alaskans Commission was created in July 1981. OAC is authorized to administer and coordinate State programs for the elderly and to administer Federal programs provided under the Older Americans Act of 1965. The goal of the Commission is to ensure honor, dignity, security, and independence for Alaskans and to assist in maintaining meaningful, quality life. Services provided include nutrition services, support services, information and referral, home care, home maintenance, adult day care for victims of Alzheimers disease, and various other services to maintain senior citizens' independent living at home. (Certain programs previously offered through the Division of Adult and Aging Services, Department of Health and Social Services (DISS), were transferred to OAC when it was established.)</p> <p><u>Mental Health and Program Management Analysis:</u> Program management indicates mental health services are provided that meet the definition as provided by the Department of Health and Social Services. Mental health concurs with program management that some mental health services are provided; however, it might be difficult to determine the amount spent on clients diagnosed with a mental disorder according to DSM-III because client profiles are not maintained by OAC.</p>	<p>Expenditures and revenues were from the State accounting records for the period presented. Prior to the establishment of OAC, the Division of Adult and Aging Services, DISS recorded expenditures in their account codes for programs transferred to OAC. These are presented under the OAC program.</p> <p>Due to time constraints, we were unable to identify specific payments made to specific mental health service providers that meet the definition of mental health as provided by DISS. In reading the FY77 PLAN, it appears as though services provided to the elderly are to be considered a mental health program. DSM-III is specific as to those diagnoses considered mental disorder.</p>
<p>The FY77 Plan notes that the "Federal Community Mental Health Centers Act of 1975 (PL 95-63) requires that special attention be paid to the mental health needs of children and the elderly. . . . The specialized nature of their needs and the limited availability of appropriate services requires that community mental health centers devote greater attention to these opposite ends of the age spectrum."</p> <p>The FY77 PLAN states that "Programs for the elderly must similarly address the full range of services made available through the center geared to the physical and emotional needs of the elderly." (VOL I, PP 77-78)</p> <p>The FY77 PLAN also notes that one of the characteristics of the State's mental health system is a "network of mental health units" providing comprehensive mental health services to all consumers. The FY77 PLAN identifies "public or private agencies" among these mental health units. (VOL I, P 69)</p> <p>The FY77 PLAN states that mental health services should be organized and arranged in a "logical, continuous sequence of service, follow-up, and surveillance." Along this continuum the FY77 PLAN contemplates a "spectrum of institutional services" ranging from intensive treatment and psychiatric services to less elaborate services such as "partial hospitalization, skilled nursing care, home care and care in facilities providing general custodial care." (VOL I, P 153)</p>			Indeterminate	Indeterminate		
<u>Total Older Alaskans Commission</u>	<u>\$18,018,000</u>	<u>\$54,640,000</u>	<u>Indeterminate</u>	<u>Indeterminate</u>		

STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
 SUMMARY SCHEDULE AND ANALYSIS OF
 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
 July 1, 1978 - September 30, 1985

Department Division Program Sub-Program 1977 Mental Health Plan Aspects	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments	
<u>Department of Administration</u>							
<u>Division of Administrative Services</u>							
<u>Municipal Grants</u>							
<u>Anchorage:</u>							
Anchorage Child Abuse Board/ Crisis Nursery Program		462,000			<p><u>Program Description:</u> The Department of Administration administers grants awarded by legis- lative appropriation to municipal governments. Some of these grant awards are for the purposes of mental health or related facilities or services.</p> <p><u>Mental Health Analysis:</u> None made.</p> <p><u>Program Management Analysis:</u> None made.</p> <p><u>For All Municipal Grants:</u> Most municipal grants administered by Department of Administration (FY FY 86) and selected those awards appeared to relate to mental he- alcohol and/or drug abuse treat- child abuse, and women's shelter programs. Actual expenditures allocated 100%.</p> <p>Prior to FY 81, any municipal go- appropriations were administered Department of Community and Regi- Affairs (DCRA). DCRA was contin- appropriation legislation was so No mental health related grants noted for FY 79 - FY 81. Commu- health facilities which may or serve mental health or related have been funded by legislative appropriation; however, no means allocating those expenditures re- to mental health has been deter- and thus excluded.</p>		
Family Institute of Alaska/ Family Therapy		65,000					
Alaska Semi-Supportive Homes		33,200					
Women's Shelter Facility		3,500,000					
Mental Health Facility		300,000					
Mental Health Facility		1,700,000					
Alcohol Treatment Facility		88,000					
Community Mental Health Center		100,000					
Community Mental Health Center		750,000					
Transition House - Transition Care Facility		50,000					
<u>Bethel:</u>							
Women's Shelter Construction, Phase II		900,000					
Phillips Alcohol Treatment Center/Expansion		769,800	Indeterminate				
<u>Fairbanks:</u>							
Women in Crisis - Building Funds		47,000		Indeterminate			
Alcohol Treatment Facility		1,200,000					
Native Association - Alcohol Treatment Facility Construction		200,000					
Alcohol Treatment Facility		191,200					
<u>Fairbanks North Star Borough:</u>							
Women in Crisis - Equipment		11,400					
Fairbanks Rehabilitation Association - Building Repairs/Master Plan		55,000					
Fairbanks Rehabilitation Associ- ation Group Home		72,000					
Group Home Purchase		211,000					
<u>Bobert:</u>							
Community Mental Health Building		245,200					
<u>Juneau:</u>							
Developmentally Disabled Adult Facility		200,000					
Detoxification Facility Improvements		116,853					
Reach, Inc. - Sheltered Workshop Construction		64,000					
Women's Shelter Facility Completion		140,000					
Reach, Inc. - Group Home		-0-					

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 SUPPLEMENTARY SCHEDULE AND ANALYSIS OF
 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Priorities and Other Comments
<u>Department of Administration</u>						
<u>Division of Administrative Services</u>						
<u>Municipal Grants (cont.)</u>						
<u>Kenai:</u>						
Women's Resource/Crisis Facility		50,000				
<u>Ketchikan:</u>						
Alcohol Treatment Center		80,000				
Mental Health Water & Sewer		35,000				
<u>Kodiak:</u>						
Battered Women & Rape Shelter		275,000				
<u>97 Sitka-Susitna Borough:</u>						
Valley Women's Shelter		199,067				
<u>North Slope Borough:</u>						
Barrow Group Home		-0-				
<u>Sitka:</u>						
Women's Shelter Renovation		50,000				
Shelter Repairs		10,000				
<u>Wasilla:</u>						
Crisis Center Equipment		25,000				
Crisis Line & Information Center		33,000				
<u>Total Division of Administrative Services</u>	<u>\$ -0-</u>	<u>\$11,728,720</u>	<u>Indeterminate</u>	<u>Indeterminate</u>		

STATE OF ALASKA
 MENTAL HEALTH LANDS TRUST REVIEW
 SUMMARY SCHEDULE AND ANALYSIS OF
 POTENTIAL STATE MENTAL HEALTH EXPENDITURES
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Department Division Program Sub-Program	Program Receipts	Program Expenditures	Allocation Per Mental Health Analysis	Allocation Per Program Management Analysis	Program Descriptions and Analyses of Mental Health Professionals and Program Managers	Nature and Extent of Audit Review, Allocation Pro- and Other Comments
<u>Department of Public Safety (DPS)</u>						
<u>Commissioner's Office</u>						
<u>Council on Domestic Violence and Sexual Assault (CDVSA)</u>	2,179,790	26,467,668			<p><u>Program Description:</u> CDVSA has the following service categories:</p> <p><u>Adult Victims:</u> Shelter, crisis intervention, counseling (group and individual), referral services, consultation, advocacy assistance pertaining to legal, employment, housing, day care, social service, medical, financial and educational needs; child care, safety checks and follow-up, and transportation.</p> <p><u>Child Victims:</u> Advocacy, support, counseling and shelter.</p> <p><u>Batterer:</u> Counseling, consultation and referral services.</p> <p><u>Public:</u> Prevention and education programs to change attitudes and behavior surrounding domestic violence and sexual assault.</p>	
<p>The FY77 PLAN does not directly address or identify any program aspects of CDVSA. In general, it seems that CDVSA activities would fall under the category of "comprehensive services." The FY77 PLAN states that "the concept of comprehensiveness embraces the notion that the full range of mental health services is available, including those services directed to primary prevention, mental health promotion and maintenance, prediction of mental health states, diagnosis, treatment, and rehabilitation. Within each category or type of service, specific services would be determined to match the specific needs of specific populations." (VOL I, PP 149-150)</p>			-0-		<p><u>Mental Health Analysis:</u> To the extent that individuals receiving counseling from CDVSA programs have been identified by psychological evaluations as having a DSM-III diagnosed mental disorder, the programs may qualify as mental health related expenditures. Antisocial behavior, such as domestic violence and sexual assault, while being perhaps a symptom of a mental disorder is not considered a diagnosable DSM-III mental illness. Additionally, domestic violence and sexual assault are not included in the statutory definition of mental illness.</p>	Expenditures recorded in the accounting records for CDVSA as codes are not mental health related.
<p>The FY77 PLAN develops a table of "indicators of need" for mental health services for various regions in the State. Included in this table is a comparison of the region's rate of "selected criminal offenses" to the State average. Among these "selected criminal offenses" considered indicators of mental health services needs are forcible rape and aggravated assault. CDVSA, in part, deals with some of the victims of these crimes. (VOL V, PP 18-21)</p>				26,467,668	<p><u>Program Management Analysis:</u> Because CDVSA provides services to recipients whose circumstances impact their mental health status, management recommends 100% allocation of CDVSA expenditures to the Mental Health Program. This recommendation is based on the program's nature of raising its clients' mental health through its services.</p>	Expenditures recorded in the accounting records for CDVSA as codes are allocated to the Mental Health Program 100%.
<u>Total Council on Domestic Violence and Sexual Assault (CDVSA)</u>	<u>\$2,179,790</u>	<u>\$26,467,668</u>	<u>\$ -0-</u>	<u>\$26,467,668</u>		

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SB65

Federal Act Creating Trust

70 STAT.]

PUBLIC LAW 830—JULY 28, 1956

709

Public Law 830

CHAPTER 772

AN ACT

To confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibility for the hospitalization of committed mental patients, and for other purposes.

July 28, 1956
[H. R. 6376]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Mental Health Enabling Act".

Alaska Mental Health Enabling Act.

TITLE I—AUTHORITY OF THE TERRITORY OF ALASKA
IN THE FIELD OF MENTAL HEALTH

POWERS OF THE TERRITORIAL GOVERNMENT

SEC. 101. For the purpose of vesting in the Territory of Alaska authority comparable in scope to that of the States and other Territories of the United States in the field of mental health, the Territorial legislature is hereby authorized to enact such laws on the subject of mental health as it may deem appropriate, and such legislation may supersede any of the Acts cited in section 301.

FUNCTIONS OF COURTS

SEC. 102. In carrying out section 101, the Territorial legislature is authorized to confer upon United States commissioners, as ex officio probate judges, and upon the United States District Court for the Territory of Alaska, such jurisdiction, functions, and duties as it may deem appropriate for such purpose.

EFFECTIVE DATE

SEC. 103. This title shall become effective on the date of enactment of this Act.

TITLE II—GRANTS

SPECIAL GRANTS TO ALASKA FOR MENTAL HEALTH

SEC. 201. Title III of the Public Health Service Act, as amended, is hereby amended by adding thereto a new part as follows:

58 Stat. 691.
42 USC 201 note.

"PART H—GRANTS TO ALASKA FOR MENTAL HEALTH

"GRANTS FOR ALASKA MENTAL HEALTH PROGRAM

> "SEC. 371. (a) There are hereby authorized to be appropriated the following sums to be available to the Surgeon General of the Public Health Service for the purpose of making grants to the Territory of Alaska to assist it to carry out plans, submitted by the Governor of the Territory or his designee and approved by the Surgeon General, for an integrated mental health program for the Territory, including outpatient and inpatient care and treatment: For each of the fiscal years ending June 30, 1958, and June 30, 1959, the sum of \$1,000,000; for each of the fiscal years ending June 30, 1960, and June 30, 1961, the sum of \$800,000; for each of the fiscal years ending June 30, 1962, and June 30, 1963, the sum of \$600,000; for each of the fiscal years ending June 30, 1964, and June 30, 1965, the sum of \$400,000; and for each of the years ending June 30, 1966, and June 30, 1967, the sum of \$200,000.

Appropriations.

Estimated pay-
ments.

"(b) The Surgeon General shall, prior to the beginning of each calendar quarter or such shorter period as the Surgeon General may find necessary, estimate the cost of carrying out the approved plan, on the basis of estimates furnished by the Territory, including estimates of the amount of contractual obligations for hospitalization, and on the basis of such further investigations as he may find necessary. From the amounts appropriated for any fiscal year, the Surgeon General shall pay to the Territory the amount requested by it but not to exceed the amount so estimated by the Surgeon General for each such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that the amount paid for any prior period was greater or less than the amount which should have been paid. The amount of any balance of payments made to the Territory under this section and remaining unobligated on July 1, 1967, shall be repaid to the Treasury of the United States.

"(c) Whenever the Surgeon General finds, after affording opportunity for hearing, that the Territory has failed to comply substantially with any provisions of the approved plan, he shall notify the Governor that no further payments will be made under this section (or that further payments will not be made for parts of the plan affected by such failure) until he is satisfied that there will no longer be any such failure.

"(d) For the purpose of facilitating the administration of the Territory's mental health program, the Surgeon General is authorized to enter into arrangements with the Territorial government to provide for the care and treatment, in hospitals operated by the Service, of patients requiring hospitalization. Such arrangements shall be subject to the availability of suitable facilities therefor and shall provide for charges to the Territorial government in amounts determined by the Surgeon General which shall be sufficient to cover the full cost of such care and treatment. Upon payment by the Territory the amount of such charges shall be credited to the appropriation from which such costs were incurred: *Provided*, That, during the period of grants under this section, payment may be effected by deductions from the amount of such grants otherwise payable to the Territory, with such deductions to be credited to the appropriation from which such costs were incurred.

"PAYMENTS FOR CONSTRUCTION OF HOSPITAL FACILITIES

"SEC. 372. (a) There is hereby authorized to be appropriated an amount not exceeding the total sum of \$6,500,000, to remain available until expended, to enable the Surgeon General to make payments to the Territory of Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facilities in Alaska needed for the carrying out of a comprehensive mental health program.

"(b) Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by the Territory in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with plans and specifications for the project approved by the Surgeon General.

"(c) Upon certification by the Territory, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided, however*,

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.

Trustee

get

(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.

they appear as a part of the term "United States Veterans' Bureau facility" in section 6 of the Act of October 14, 1942, shall not be struck.

(2) The amendment, by this subsection, of any Act or part of Act specified in subsection (a) shall take effect on the two hundred and tenth day after the date of enactment of this Act and shall cease to be effective upon the repeal of the Act or part of Act which it amends, as provided in subsection (a).

(c) Effective upon the date of enactment of this Act, section 3 of the Act approved August 24, 1912 (37 Stat. 512; see 48 U. S. C. 24), entitled "An Act to create a legislative assembly in the Territory of Alaska, to confer legislative power thereon, and for other purposes", is amended by inserting the following at the end of the first sentence of such section, immediately before the period: "or to prevent the legislature from altering, amending, modifying, or repealing section 8 (relating to commitment of insane persons) of the aforesaid Act approved January twenty-seventh, nineteen hundred and five".

(d) (1) Any vested rights or liabilities existing, and any commitment proceeding commenced, under any Act or part thereof prior to the effective date of the amendment or repeal of such Act or part thereof by this section shall not be affected by such amendment or repeal.

(2) With respect to the money or property of any patient who has died or eloped prior to the enactment of this Act, or who will have died or eloped prior to the two hundred and tenth day following such enactment, the functions of the Secretary of the Interior under the Act of April 24, 1926, as amended (48 U. S. C. 50, 50a), and the requirement of certification of the claim to Congress if established more than five years after such death or elopement, shall remain in effect notwithstanding the amendment or repeal of such Act by this section.

EXISTING CONTRACT AND APPROPRIATIONS

SEC. 302. (a) Within two hundred and ten days after the date of enactment of this Act, the Secretary of the Interior, with the concurrence of the Governor of Alaska, may either (i) assign all of his rights and duties under contract numbered 14-04-001-31, entered into on June 18, 1953, between the Secretary of the Interior on behalf of the United States, and the Sanitarium Company of Portland, Oregon, to the Territory of Alaska, such assignment to become effective on the two hundred and tenth day after the date of enactment of this Act, or (ii) terminate the said contract in accordance with the terms thereof. Upon the effective date of any such assignment, such contract shall have the same binding effect upon the Territory as it had upon the United States prior to such assignment.

(b) On the two hundred and tenth day after the date of enactment of this Act, so much of all unexpended balances of appropriations as are available to the Department of the Interior for the care of the Alaska insane shall be transferred to the Governor of Alaska to be available for expenditure by him for the administration of the Acts specified in, and in part amended by, section 301 and for the administration of the laws of the Territory of Alaska enacted pursuant to section 101 of this Act, and the Secretary of the Interior shall, upon such transfer or as soon as practicable thereafter, transfer to the Governor of Alaska all papers and documents used primarily in the administration of all laws pertaining to the Alaska insane. For the remainder of the fiscal year ending June 30, 1957, there are hereby authorized to be appropriated to the Secretary of the Interior for transfer to the Governor of Alaska such additional sums as may be necessary for the care of the Alaska insane during that fiscal year.

Effective date.

Prior rights, etc.

Appropriation.

(c) Until July 1, 1957, expenses for the transportation to a mental institution outside of Alaska of all patients to be hospitalized pursuant to a commitment under section 8 of the Act of January 27, 1905 (33 Stat. 616, 619, 48 U. S. C. 47), or to be hospitalized in such a mental institution pursuant to a commitment under a law of the Territorial legislature superseding such Act of January 27, 1905, shall be paid by the Department of Justice.

Approved July 28, 1956.

STATE of Alaska,
Appellant/Cross-Appellee,

v.

Vern T. WEISS, et al.,
Appellee/Cross-Appellant.

Nos. S-653, S-678.

Supreme Court of Alaska.

Oct. 4, 1985.

Class action was brought against State for breach of public trust in enacting legislation redesignating federal mental health grant lands as general grant lands. The Superior Court, Fourth Judicial District, Fairbanks, Warren W. Taylor, J., ruled the legislation could not be invalidated, but that the State breached its duties as trustee by removing federal grant lands from the trust. The state appealed, and plaintiffs cross-appealed. The Supreme Court, Compton, J., held that: (1) the State breached its duties as trustee in redesignating the land, and (2) the redesignation legislation was invalid.

Affirmed in part, reversed in part and remanded.

1. Public Lands ⇄62

In passing the Alaska Mental Health Enabling Act, the United States Congress intended to create a trust, to be based on a corpus of one million acres of federal land, to help effectuate the creation and operation of mental health care facilities in the state, and the state, as trustee, had no power to alter the status of the property grant, thereby effectively terminating the trust. Alaska Mental Health Enabling Act, § 101 et seq., 70 Stat. 709; Laws 1978, c. 181, § 3(a).

2. Public Lands ⇄62

In passing act [Laws 1978, c. 181, § 3(a)] redesignating trust lands given state by United States Congress under Alaska Mental Health Enabling Act as general grant land, the State went beyond the power which had been granted it with re-

spect to the land by Congress and the redesignation act was therefore invalid. Alaska Mental Health Enabling Act, § 101 et seq., 70 Stat. 709.

G. Thomas Koester, Asst. Atty. Gen.,
Norman C. Gorsuch, Atty. Gen., Juneau,
for appellant/cross-appellee.

Stephen C. Cowper, Fairbanks, for appel-
lee/cross-appellant.

Russ Winner, McGrath & Associates, An-
chorage, for amicus curiae Cook Inlet Re-
gion, Inc.

Before RABINOWITZ, C.J., and
BURKE, MATTHEWS and COMPTON, JJ.

OPINION

COMPTON, Justice.

The State of Alaska ("state") appeals from a judgment of the superior court holding that the state breached its duty as trustee of federal mental health grant lands when the legislature redesignated the property as "general grant land." For the reasons set forth below, we affirm the holding to this extent, but reverse the superior court's conclusion that the redesignation legislation was valid.

I. FACTUAL AND PROCEDURAL BACKGROUND

In 1956 the United States Congress passed the Alaska Mental Health Enabling Act (AMHEA) which, insofar as it concerns this case, granted the Territory of Alaska one million acres of federal land to be held in public trust to help effectuate the creation and operation of mental health care facilities in Alaska. Pub.L. No. 84-830, 70 Stat. 709 (1956). Section 202(e) of the Act specifically provides:

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. (emphasis added)

The state managed these lands without maintaining a separate account until 1978. The Alaska State Legislature made its practice law in 1978 when it passed the following statutory provision:

REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND

(a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received by the state in exchange for land granted under that federal land grant is redesignated as general grant land and shall be managed and disposed of by the Department of Natural Resources under applicable provisions of law.

Ch. 181, § 3(a), SLA (1978).

Alaska has provided continuous mental health care since statehood. The record indicates that between 1959 and 1982 the state spent over \$222,000,000 on mental health care. Generally speaking, there has been a constant increase from 1959 to the present in mental health expenditures: slightly less than \$1,200,000 was expended in 1959, and slightly more than \$29,000,000 was expended in 1982. The record does not

indicate how much of the trust land at issue has been disposed of, nor the total value of such disposed land. In the state's answer to the complaint, it alleges that "state expenditures for mental health purposes exceeded revenues from mental health grant lands in all years for which revenues from those lands were tabulated separately." The record does indicate that as of 1973, total revenues from these mental health trust lands amounted to \$19,555,582. The state's total expenditures to that point amounted to \$66,726,176.

Weiss *et al.* filed a class action in 1982 alleging that the state breached the public trust by 1) failing to account for revenues realized, 2) using revenues for purposes other than mental health care and 3) passing legislation redesignating the property "general grant land." Plaintiffs sought declaratory relief invalidating the redesignation legislation; injunctive relief compelling the state to administer the trust according to the law; general relief establishing a trust account "for the receipt of funds generated from all lands selected by the State of Alaska under the aforesaid mental health land grant...."

The superior court ruled that invalidation of the redesignation legislation was not an available remedy, based on *State v. University of Alaska*, 624 P.2d 807, 815 (Alaska 1981). However, the court did hold that the state breached its duties as trustee by removing the federal grant lands from the trust. As a remedy, the court ordered that [t]he public trust established by P.L. 84-830, 70 Stat. 709, shall recover from the defendant State of Alaska an amount equal to the fair market value of all lands conveyed from the trust as of the date of conveyance, plus prejudgment interest from the date of each conveyance. For the purposes of this judgment, all lands remaining in the trust as of July 19, 1978, shall be considered as having been removed from trust status by the State of Alaska on that date....

The court also ordered a set-off for all monies spent by the state on mental health care.

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II. DID THE PUBLIC GROSS PROCEED "GENE"

A. Nature

The state redesignation because the s lic mental he: implicitly, wi. The state m programs ful to AMHEA, other public p this position Section 202(e and income s the necessar health progra ed that this tended that th nue base gu placed on th HEA which e

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The state appeals from the judgment, except the holding that the redesignation legislation was valid. Weiss *et al.* cross-appealed the trial court's failure to rule the legislation invalid.

II. DID THE STATE BREACH THE PUBLIC TRUST CREATED BY CONGRESS WHEN IT REDESIGNATED PROPERTY IN THE TRUST AS "GENERAL GRANT LAND?"

A. Nature of the Trust.

The state argues, essentially, that the redesignation is of no legal consequence because the state has always provided public mental health programs in the past and, implicitly, will provide them in the future. The state maintains that providing such programs fulfills its obligations according to AMHEA, freeing the grant lands for other public purposes. Textual support for this position comes from the portion of Section 202(e) which states that "proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska." It is suggested that this language means Congress intended that the land grant serve as a revenue base guarantee. Great emphasis is placed on the legislative history of AMHEA which establishes that Congress did

1. The debates in the House and Senate are too lengthy to reproduce in their entirety here, but certain remarks are representative of the discussions. Senator Jackson commented that "[t]he income from sales or leases will be used to support the mental health program in Alaska. The income will be held in trust for that purpose. Any money received over and above the need for the mental health program may be used for other public purposes." He further noted that the language change was not of a fundamental nature, and thus said that, "[t]he purpose of granting 1 million acres is the same as in all other similar grants, such as the public school land-grant program." 102 Cong.Rec. 9761 (June 7, 1956).

We note that the language in the federal grant was changed from designating the proceeds of the land grant to be used as a public trust for Alaska's mental health program, to saying that the proceeds "shall first be applied to meet the necessary expenses of the mental health program" only because of worry among members of Congress that the land may actually have a

not wish to limit the use of grant lands *exclusively* to mental health programs.¹

[1] Despite these observations, we think it irrefutable that Congress intended to create a trust, to be based on a corpus of one million acres of federal land. It is a commonplace of the law that without trust property there can be no trust. Restatement (Second) of Trusts § 74 (1959).² When the state, through the legislature, altered the status of the property grant the trust was thereby effectively terminated. The state, as trustee, had no power to do this and consequently breached its duty to preserve the corpus.³ The fact that the state has provided mental health care in the past and will most likely do so in the future is no justification for termination of the trust. Whether a beneficiary can rely on the *bona fides* of a trustee to continue voluntarily to uphold the terms of a defunct trust is quite beside the point. We decline the opportunity to encourage the state, or any trustee for that matter, to determine unilaterally when to terminate a trust without specific authority to do so.

B. Remedy.

[2] Having concluded that the state breached the trust, we find it necessary on the facts of this case to invalidate the redesignation statute, Ch. 181, § 3(a), SLA (1978). *State v. University of Alaska*, 624

value far in excess of the necessary health care expenses. The record in this case shows that income from the land grant was actually less than state expenditures for mental health programs.

2. Section 74 provides: "A trust cannot be created unless there is trust property."
3. Our reliance upon basic trust law principles finds ample support in the precedents of this court and the United States Supreme Court. See *Lassen v. Arizona*, 385 U.S. 458, 87 S.Ct. 584, 17 L.Ed.2d 515 (1967); *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981). Both *Lassen* and *University of Alaska* involved federal grants to be used by states for school purposes. Those cases stand for the proposition "that the same private trust law principles are to apply to federal land granted to the states for school purposes." *University of Alaska*, 624 P.2d at 813. There is no reason to treat federal lands granted for mental health purposes differently.

P.2d 807, 815 (Alaska 1981) does not compel a different result. In that case, the federal government had granted 100,000 acres to the state "for the exclusive use and benefit" of the University. *Id.* at 811. Years after the grant, the state included 5,040 acres of the trust land in a state park. This action was not in itself a breach of the trust so long as the University was paid fair market value for the land. We inferred that the legislature intended to pay the University for this disposition, stating:

It is also logical to assume that the legislature intended to compensate the University for the loss of its land. This view gives the statute creating [the park] a reading that is in accord with the well recognized canon of statutory construction that, when possible, legislation should be construed in a way that upholds its validity.

524 P.2d at 816.

Unlike the situation in *University of Alaska*, the present case does not involve a disposition of a portion of trust lands for a specific use. Instead, the entire corpus of the trust is intermingled with the general grant lands of the state. No particular use of the trust lands is specified and it may be years before much of the land is used. While it was reasonable to infer a legislative intent to pay for 5,040 acres for which there was a present park land use in *University of Alaska*, it is not reasonable to infer that the legislature meant to pay for a quantity of trust land approaching one million acres for which in large part there is no present use. Thus, the payment remedy imposed in *University of Alaska* is not appropriate here. Because the state in passing the redesignation act went beyond the power which had been granted it with respect to the trust lands by Congress, the redesignation act must be declared invalid.

It follows from our conclusion that the redesignation legislation is invalid that the trust must be reconstituted to match as nearly as possible the holdings which com-

4. Amicus raises questions regarding the title held by conveyances and bona fide purchasers of mental health lands. In view of our disposi-

tioned the trust when the 1978 law became effective. The case is remanded so that requisite findings can be made. We take this opportunity to provide some guidance to the trial court to simplify its task.

Those general grant lands which were once mental health lands will return to their former trust status. In the event exchanges have been made, those properties which can be traced to an exchange involving mental health lands will also be included in the trust. To the extent that former mental health lands have been sold since the date of the conveyance the trust must be reimbursed for the fair market value at the time of sale. In calculating the total amount owed, the trial court should grant a set-off for mental health expenditures made by the state during the same period. In the event that expenditures exceeded the value of lands sold, the state need not furnish cash as part of the reconstitution. The goal is to restore the trust to its position just prior to the conveyance effected by the redesignation legislation.⁴

AFFIRMED in part, REVERSED in part and REMANDED for further proceedings consistent with this opinion.

MOORE, J., not participating.



In the Matter of the Application of: John L. McKAY, Jr., An Applicant for admission to the Practice of Law in Alaska and Membership in the Alaska Bar Association.

No. S-667.

Supreme Court of Alaska

Sept. 27, 1985.

Applicant for Bar filed an appeal with Board of Governors of the Alaska Bar As-

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Remand
Opinion,
drawn.

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John L. McF
R. Eldridge
& Hicks, Anch.

In Brief:

MENTAL HEALTH LAND



Alaska Department of
**NATURAL
RESOURCES**

Division of Land and Water • January, 1991

The Mental Health Enabling Act

In 1956, the U.S. Congress granted the Territory of Alaska one million acres of land to be used first to fund mental health programs. Any funds left over could be used for other public purposes at the discretion of the legislature.

Land was selected under the Mental Health Enabling Act between 1956 and 1966¹, and included areas along transportation routes and near the state's population centers. Mental health lands were managed by the state as trust land, and, in 1976, the Mental Health Trust Board was established to provide oversight.

Under the enabling act, mental health land could be sold. By 1978, 19,800 acres had been sold to individuals. Income received from mental health land and resources was placed in a separate account within the general fund. As the state's population grew, so did pressure to use these lands for purposes that might produce little or no revenue. Among those uses were municipal expansion, public facilities, utilities, recreation and charitable activities.

Redesignation and Litigation

In 1978, the legislature redesignated the mental health land as general statehood grant land to be managed similar to other state land. In return, the legislature was to annually appropriate 1.5 percent of the state's annual income from land and resources to the mental health trust. However, the legislature did not appropriate the money,² and on November 26, 1982, a class action law suit was filed in Superior Court on behalf of several mental health beneficiaries (Weiss v. State of Alaska).

In 1984, the Superior Court directed the state to pay the trust for the mental health land redesignated as general statehood grant land in 1978. In order to value that land, the state produced an accounting of mental health land and assembled a panel of three appraisers to assign a 1978 value to the redesignated lands.³

The Superior Court decision was appealed to the Alaska Supreme Court and, on October 4, 1985 that court invalidated the 1978 redesignation.

The court required the state to restore the mental health land holdings as much as possible to their pre-1978 status and to compensate the trust for the value of the land already conveyed, minus prior state expenditures made for mental health programs⁴. The Supreme Court decision also returned the case to the Superior Court so that the remaining issues could be decided. As a result, income from mental health land transactions again began to flow into a specially designated mental health trust account within the state's general fund. In addition, the Department of Natural Resources adopted safeguards to prevent further diminution of the trust (Department Order 121); appointed an Interim Mental Health Trust Officer; and audited mental health land status as of the 1985 court decision.⁵

Legislative Action

In 1986, the legislature passed two bills affecting mental health land. The bills established two bodies: a five-member Interim Mental Health Trust Commission to oversee management of mental health trust land and to develop recommendations for legislation relating to those lands and mental health programs of the state; and a Joint Special Committee on Mental Health Trust Land to hold public hearings and develop a proposal to resolve the mental health trust litigation, particularly from the aspect of annual funding levels for mental health programs.

Based upon the recommendations of the Commission and the Committee, the 1987 legislature passed a bill initiating a mechanism for settlement. A three-member Interim Mental Health Trust Commission was established and charged with approving procedures for the Department of Natural Resources' commissioner to use to determine the fair-market-value of mental health land as of September 7, 1987 (the effective date of the bill); selecting land within legislative designations to equal the value of the original mental health land granted to the state; and continuing oversight of mental health land management. The framers of the bill envisioned a designation "switch," that would release existing mental land from trust status, and replace it with land within legislative designations, such as parks and refuges. The designated land would then be

leased from the trust at eight percent of its value. The proposal would secure the trust with land already removed from the Public Domain, and provide income to the trust through rental of the land. The 1987 bill also established a separate board to consider state mental health needs and funding levels.

Valuation

In 1988, the commission contracted with nine independent fee appraisers to determine the fair-market-value of the surface estate of mental health land. The appraisers set that value at \$511.9 million. However, attorneys for the plaintiffs and intervenors disagreed and hired their own review appraisers. These review appraisers, operating under the direction to determine "the highest value supported by market data" concluded that the surface estate was worth \$833.3 million.

The commission initially decided that there were insufficient data to establish a sub-surface value. Instead, lands with mineral potential were to be replaced with land of similar potential. However, the attorneys for the plaintiffs and intervenors hired a consultant who established a sub-surface value of \$1.5 billion. This value was challenged by several independent experts who concluded that it was not fair-market-value and could not be supported.

In December, 1989, the commission adopted a value of \$2.23 billion for all mental health land. A minority report was prepared by the department establishing the fair-market-value of mental health land at \$564 million. The Commissioner of Natural Resources disagreed with both values, stating that they did not reflect the fair-market-value required by the legislation, and declared an impasse.

1990 Actions

In the 1990 legislative session, several alternatives were proposed to resolve this issue. A bill was introduced removing the fair-market-value requirement from the 1987 legislation, adopting the commission's \$2.23 billion figure and providing for a periodic land revaluation index

based on municipal land assessments. This value would then be the basis for future mental health program expenditures. However, many legislators opposed this approach because it would cause the mental health revenue account to exceed the entire state general fund within a relatively short time-frame.

The 1990 legislature eventually passed SB 498 allocating up to six percent of the state's annual unrestricted general fund revenue to the mental health income account, and redesignating over nine million acres of legislatively designated land as mental health land to secure the trust. In return, the original mental health trust land was redesignated to general state land status. The legislature remains responsible for determining mental health program expenditure levels. However, mental health advocates did not support the bill.

On July 9, 1990, the Superior Court granted a temporary injunction preventing the state from taking any further action on mental health land. On September 7, 10, and 11, attorneys for the mental health litigants filed a Notice of Lis Pendens on the million acres of mental health land. The notice warns people that the title to the property is in litigation, and that they are in danger of being affected by an adverse judgement. This notice is affecting many private transactions as Alaskans attempt to sell their properties, or use them as collateral.

The state petitioned the court to mitigate the effects on third party owners of mental health land and allow the state to issue patent for land that has been paid for. The court refused, however, stating that the plaintiffs "would be within their rights to litigate the issue of third-party rights." Still pending is a motion by the state for declaratory judgement to determine whether the plaintiffs are entitled only to monetary compensation for the prior transfer of mental health land to third parties.

Another outstanding issue yet to be addressed by the court is whether the 1990 legislation complies with the 1985 Supreme Court Weiss decision.

Endnotes

1. State records show that 1,006,843.88 acres of mental health land have been received by the state under the mental health grant. The state is involved in a survey recalculation project to rectify this apparent over-conveyance.
2. The 1.5% appropriation would have amounted to approximately \$71 million by the end of FY 82; it would have grown to \$147 million by the 1985 Supreme Court decision.
3. The 1978 value of mental health land in state ownership as of the redesignation in 1978 was established under this process as \$281,997,805. Brought forward to July, 1985 at 10.5% settlement interest, the total was estimated at \$567,259,354.
4. Total income for mental health land from 1959-1977 was \$25,110,480. State mental health expenditures during this same period were \$115,364,054 with an additional \$16,430,771 being spent on alcohol and drug abuse programs.
5. 1985 mental health land status:

Mental Health Land no longer in state ownership

The following conveyances were not disputed by mental health plaintiffs in 1985:

- 46,000 acres were sold to individuals
- 5,000 acres were condemned for the Chena River Lakes flood control project.
- (Total remaining mental health land: 949,000 acres)

The following conveyances were disputed by the mental health plaintiffs:

- 43,000 acres conveyed to municipalities
- *36,000 acres were conveyed to Native corporations
- *3,000 acres were conveyed to the University of Alaska
- (Total remaining mental health land: 867,000 acres)
- *These conveyances were made under litigation settlement agreements and land exchanges.

Encumbrances

- 368,000 acres were legislatively designated for parks, etc.
- 6,685 acres were under land lease
- 54,600 acres were under coal lease
- 131,900 were under oil & gas lease
- 4,500 acres were covered by inter-agency land management assignments or transfers (e.g. for state facilities)
- 1,900 acres were covered by material sales
- 28,000 acres supported timber sales
- 62,000 acres were covered by state mining claims

MEMORANDUM

Department of Natural Resources

State of Alaska

Division of Land & Water Management

TO: Harold C. Heinze
Commissioner

DATE: January 28, 1991

FILE NO: 9346.2A

TELEPHONE NO: 762-2692

FROM: Gary Gustafson
Director

SUBJECT: Information to Respond to
Senator Duncan's Proposal to
Resolve Mental Health Trust
Litigation

Pursuant to your request for information to respond to Senator Duncan's proposal to resolve mental health trust litigation the following information has been jointly developed with the Division of Management.

As requested, we used the Interim Mental Health Commission's valuation of the original mental health lands of \$2.243 billion*. The following valuations have been calculated for each category of land status:

** 1. Unencumbered mental health land.

- a. Commission value of parcels — \$107,474,538.29 (209,415 Acres)
- b. Mineral Estate value of parcels only — value included in overall commission value above \$73,264,200.33

2. Original mental health trust land located within Legislative Designated Areas (LDA).

- a. Commission value of parcels in state ownership — \$762,113,782.30
- b. Commission value of parcels within LDA boundary but conveyed from state ownership — \$3,048,455.13

3. Encumbered mental health land.

This value is determined by subtracting the commission value of the unencumbered mental health level plus the commission value of the mental health trust land located within LDA from the total value of \$2.243 billion.

- ADD
- a. Commission value — \$1,370,363,224.28 (422,585 A)

GG:CS:eg

* The commission value consists of (1) the commission value of the land, (2) timber FMV, (3) coal FMV, (4) oil and gas FMV, (5) sand and gravel FMV and (6) high value for the minerals.

** The unencumbered parcels are determined by a computer run to the nearest section of mental health land by excluding specific LAS case types that could constitute an encumbrance. The case types include all rights-of-way and easements. Closed case files including closed patented files prior to 1993 were not entered in LAS.

MENTAL HEALTH TRUST LANDS INVENTORY

<u>KEY</u>	<u>CATEGORY</u>	<u>ACRES</u>
	1. TRUST LAND BASE	1,000,000
[]	2. LAND SALES	51,286
	*Land Sales to Individuals *Chena River Water Project Condemnation	
[]	3. LAND EXCHANGES	39,269
	*CIRI/USA (1979) *Seldovia (1979) *U of A Settlement (1982)	
[]	4. MUNICIPAL DISPOSAL	43,088
[]	5. PARKS, FORESTS, REFUGES, etc.	372,268
	*State Refuge and Habitat Areas *State Forests *State Parks *Interagency Transfers	
[]	6. ENCUMBERED WITH LEASE, CONTRACT, etc.	281,791
	*Land Leases *Mining Claims *Coal Leases *Oil and Gas Leases *Material and Timber Sale Contracts *Permits	
[]	7. UNENCUMBERED	212,300

SOURCE: Alaska Department of Natural Resources (all figures \pm 5%)

THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

VERN T. WEISS, father and next)
 friend of CARL WEISS, a minor)
 child, and EARL HILLIKER, on)
 behalf of themselves and all)
 others similarly situated; the)
 ALASKA MENTAL HEALTH ASSOCIATION,)
 MARY C. NANUWAK and JOHN MARTIN,)
 on behalf of themselves and all)
 others similarly situated,)
 ANITA BOSEL, FRANCES DOULIN,)
 SHARON GOODWIN, and GABRIEL)
 MAYOC and H.L., M.F. and ALASKA)
 ADDITION REHABILITATION SERVICES,)
 Plaintiffs,)
 vs.)
 STATE OF ALASKA,)
 Defendant.)

Case No. 4FA-82-2208 Civil

MEMORANDUM DECISION AND ORDER

This case comes before the court on two motions for preliminary injunction. On March 5, 1990, the State of Alaska, defendant, requested a preliminary injunction restraining the plaintiffs, intervenors, and all members of the classes they represent ("plaintiffs") from (1) challenging the current record title to any lands selected by and patented to the state under the Alaska Mental Health Enabling Act, P.L. 84-830; (2) filing lis pendens with the state recorder with respect to any such lands; and (3) taking any other action which would cast a legal cloud on the current record title to any such lands, whether that

legal title in the state, political subdivisions of the state, or third parties. On June 25, 1990, plaintiffs moved for a preliminary injunction and temporary restraining order prohibiting the State of Alaska from issuing any patents or any other documents or taking any further steps which convey or transfer mental health trust lands or any interest or interests therein, including without limitation, any permits to use or occupy mental health trust lands, or extract resources from any mental health trust lands, pending final resolution of this litigation. On June 29, 1990, the court granted the temporary restraining order associated with the second motion which is valid until July 9, 1990. The court indicated that this decision would issue on July 9, 1990.

To understand the current conflict, it is necessary to understand the history behind this litigation and the activities which have brought us to this point.

In 1956, the Congress of the United States enacted the Alaska Mental Health Enabling Act (AMHEA) in which Congress granted the Territory of Alaska one million acres of federal land to be held as a public trust whose proceeds and income were to be first applied to meet the necessary expenses of the comprehensive mental health program of Alaska. The state managed the lands without maintaining separate accounting until 1978. See State v. Weiss, 706 P.2d 681, 682 (Alaska 1985). In 1978, the Alaska State Legislature in Chapter 181, redesignated the mental health

lands which had been patented or approved for patent to the state as general grant land to be managed as all other state lands.

In 1982, the original Weiss plaintiffs filed this class action asserting that the state breached this public trust by failing to account for revenues realized, using revenues for purposes other than mental health care, and redesignating the mental health lands as general grant land. When first before it, the superior court ruled that the state breached its duties as trustee by removing the federal grant lands from the trust. As a remedy, the court ordered that the trust was to recover from the state an amount equal to the fair market value of lands conveyed from the trust as of the date of conveyance plus prejudgment interest from the date of each conveyance. Additionally, the court ordered a set-off for all monies spent by the state on mental health care. Both sides appealed from that decision. In State v. Weiss, 706 P.2d 681 (Alaska 1985), the Alaska Supreme Court held that the state breached the public trust created by Congress when it redesignated property in the trust as general grant land. The court thus invalidated the redesignation statute, Chapter 181, Section 3(a) SLA 1978. The Alaska Supreme Court, however, disagreed with the remedy proposed by the superior court. Instead, the court held "that the trust must be reconstituted to match as nearly as possible the holdings which compromised the trust when the 1978 law became effective." 706

P.2d at 684. The Alaska Supreme Court provided the following guidance to the trial court:

Those general grant lands which were once mental health lands will return to their former trust status. In the event exchanges have been made, those properties which can be traced to an exchange involving mental health lands will also be included in the trust. To the extent former mental health lands have been sold since the date of the conveyance the trust must be reimbursed for the fair market value at the time of the sale. In calculating the total amount owed, the trial court should grant a set-off for mental health expenditures made by the state during the same period. In the event that expenditures exceeded the value of lands sold, the state need not furnish cash as part of the reconstitution. The goal is to restore the trust to its position just prior to the conveyance effected by the redesignation legislation.

706 P.2d at 684. The court specifically declined to rule on questions raised by the amicus regarding the title held by conveyancees and bona fide purchasers of mental health lands. See Weiss, 706 P.2d at 684 n.4.

Following the Alaska Supreme Court's remand to this court, the parties engaged in complex negotiations in an attempt to settle the lawsuit. These negotiations led to the enactment of Chapter 48, SLA 1987. Chapter 48 provided a mechanism for reconstituting the trust and settling this litigation. In essence, four elements were involved. The first element involved the determination of fair market value of the original one million acre mental health land grant as of September 7, 1987, the effective date of Chapter 48. The second element involved an

exchange of those original mental health lands not in legislatively designated areas such as parks and wildlife refuge areas for lands of equal value within such areas so that the reconstituted mental health trust corpus would consist entirely of lands within areas such as parks and refuges. The original mental health lands not in such areas were to be released from trust status. The third element involved the state's rental of the reconstituted mental health trust corpus for eight percent of its fair market value to compensate the trust for administering the lands for legislative purposes. The fourth part was a transitional provision effective until the corpus of the trust was reconstituted. During this transitional period, the state is to compensate the trust by annually paying an amount equal to five percent of the state's unrestricted resources. Section 9 of Chapter 48 provided for the Interim Mental Health Trust Commission to assist in the valuation process.

The valuation process designed in Chapter 48 has broken down. Each side blames the other for problems. Whatever the source of the problems, the parties are at impasse. On November 7, 1989, the Interim Mental Health Trust Commission approved its final procedures for valuing mental health trust lands and on December 20, 1989 it issued its final report. On April 17, 1990, the Commissioner of the Department of Natural Resources wrote to the Chair of the Alaska Mental Health Board

announcing that the Department would not follow the procedures adopted by the Commission. The Commissioner declared an impasse.

During the final days of the legislative session in 1990, a bill was passed which modifies the procedures of Chapter 48. That bill, House Committee substitute for Committee substitute for Senate Bill 493(Fin) [SB 493], deletes the valuation step and ties rents not to the land value but to the state's gross revenues.

In January 1990, plaintiffs sent letters to various interested parties urging these parties to support plaintiffs' position in the political process. The letters indicate a possible intent to challenge title to about 750,000 acres of land.

On March 27, 1990, the Department of Natural Resources advised counsel for plaintiffs that it intended to issue 23 patents to various parcels of mental health trust lands. After that date, the Department announced its intent to issue patents and take other actions such as mineral sales, mining permits, and lease assignments, with respect to various other parcels of mental health trust lands. The Department intended to take these actions on June 30, 1990. On June 29, 1990, the court issued a temporary restraining order forbidding the Department from doing so.

Preliminary injunctions are designed to maintain the status quo pending the final resolution of a case where the

equities of the situations balance in favor of maintaining that position. Preliminary injunctions are not designed to be a final resolution of the legal issues involved in a case nor are they a final resolution of factual matters. As the parties have noted, it is not for the court at this time to determine the final law which will be applied to this case nor to determine which side should ultimately prevail.

While decisions involving preliminary injunctions are frequently difficult ones, the law regarding preliminary injunctions is fairly straight forward. In deciding whether to issue a preliminary injunction, the court must consider three factors: (1) the irreparable harm faced by the party requesting the preliminary injunction; (2) adequate protection for the party opposing the preliminary injunction; and (3) whether serious and substantial questions going to the merits of the case have been raised by the proponent of the preliminary injunction.¹ See, e.g., Betz v. Chena Hot Springs Group, 657 P.2d 831, 837 (Alaska 1982); Alaska Public Utilities Commission v. Greater Anchorage Borough, 534 P.2d 549, 554 (Alaska 1975). The court must balance the hardships by weighing the harm that will be suffered by the

¹It is arguable that a fourth element must be considered: the public interest. See Betz v. Chena Hot Springs Group, 657 P.2d 831, 837 (Alaska 1982); Powell v. Anchorage, 536 P.2d 1228, 1229 n.2 (Alaska 1973). The court concludes that this factor has not been adopted by the Alaska Supreme Court in light of its failure to mention it in recent cases. See, e.g., Messerli v. Department of Natural Resources, 768 P.2d 1112, 1122 (Alaska 1989).

proponent if an injunction is not granted against the harm that will be imposed upon the party opposing the injunction by the granting of the injunction. See A.J. Industries, Inc. v. Alaska Public Service Commission, 470 P.2d 537, 540 (Alaska 1970).

The two motions for preliminary injunction pending before the court are related in that each involves the creation of third-party rights in lands which were originally mental health trust lands prior to the 1978 redesignation. The state's principal arguments in each are that (1) the subsequent acts of the legislature in the enactment of Chapter 48 and the 1990 amendments in Senate Bill 493 have changed the situation so that the state is no longer in breach of its fiduciary duty to the trust, and (2) that the plaintiffs' sole remedy for breach of the trust is the payment of compensation given the subsequent actions of the legislature. The fallacy of these arguments is that they ignore the fact that the state may not unilaterally settle this lawsuit. The parties in this action and this court are under the mandatory remand of the Alaska Supreme Court in State v. Weiss, 706 P.2d at 684, to "reconstitut[e] to match as nearly as possible the holdings which compromise the trust when the 1978 law became effective." Moreover, the law of this case is that for the original breach a compensation remedy is not adequate. Id. This lawsuit will not come to its conclusion until a final adjudication on the merits reconstituting the trust is reached or a bilateral settlement is reached which is approved

by the court under the provisions of Alaska R. Civ. P. 23(e). The court is not yet persuaded by the State's arguments that all its actions must be judged under the new legislative standards. While it is true that Chapter 40 as amended is the law, it is equally true that where an appellate court issues a specific mandate, a trial court has no authority to deviate from it. See, e.g., Gaudiane v. Lundgren, 754 P.2d 742, 744 (Alaska 1988). With these principles in mind, the court turns to the specific issues raised by each motion for preliminary injunction.

In its March 5, 1990 motion for preliminary injunction, the state asked this court to issue an anti-lawsuit injunction barring the plaintiffs from challenging title to any mental health lands, filing lis pendens as to such lands, or taking any other action which would cast a legal cloud on the current record title to such lands. The state argues that the irreparable harm which it faces is the potential for political pressure brought by such litigation. The state argues that the use of litigation actions to influence the political process would be an abuse of process. The court concludes that this is not irreparable harm. In essence, the state is arguing that it might take precipitous actions favorable to plaintiffs without regard to the substantive merit of those actions because of the political pressure which may result from the multitudinous lawsuits which could be filed by plaintiffs. However, given the supreme court's decision in Weiss and the court's specific reservation as to the title held

by conveyances and bona fide purchasers of mental health lands in footnote 4 of that opinion, the court concludes that plaintiffs would be within their rights to litigate the issue of third-party rights.² Moreover, the state may protect itself from precipitous action through the sound exercise of discretion in its decision-making processes.

The court further concludes that plaintiffs cannot be adequately protected. The state argues that the plaintiffs are adequately protected because their remedy is limited to monetary compensation. The court disagrees. It is not at all clear at this point in the litigation that plaintiffs are limited to monetary compensation. That is an issue which is a complex and troubling one. Additionally, the protection to plaintiffs' rights from the January 25, 1990, decision of the Interim Mental Health Trust Commission disapproving any further transactions involving mental health lands will seemingly disappear given the legislature's 1990 amendments of Chapter 48. Under Senate Bill 493, the legislature has repealed the provisions which created and empowered the Interim Mental Health Trust Commission. Presumably, the orders of the Commission will no longer be valid.

²The state also argues that multiple suits could reek havoc with the courts and divest this court of jurisdiction. The court relies on plaintiffs' counsel's assurances of an orderly development of litigation under this court's supervision.

The state has presented a serious and substantial claim regarding third-party rights and whether any such rights may be "undone."

Taking all these factors into consideration and balancing the hardships as required by the law, the court must conclude that the State's motion for preliminary injunction is denied.³

In their June 25, 1990, motion for preliminary injunction, plaintiffs sought injunctive relief precluding the state from issuing patents or other title documents or taking any further steps which convey or transfer mental health trust lands or any interests therein including permits to use and occupy mental health trust lands or extract resources from mental health trust lands pending final resolution of the litigation. The state argues that such injunctive relief is not called for under the facts of this case given that the proposed transfers are of "vested rights," that is rights which attached prior to the Alaska Supreme Court's decision on October 4, 1985. The state

³The court is not unmindful of nor unsympathetic to the problems which may be created for third-party holders of lands originally designated as mental health trust lands. It is very possible that innocent third-parties will have their rights to those lands tied up in court for a period of time. There is no question that such actions may be harmful to individuals. However, it must be stressed that the problem arises not because of actions of plaintiffs or this court but because of the actions of the State in violating its trust responsibilities when it redesignated mental health trust lands as general grant lands in 1978. Had the legislature taken its trust obligation seriously, these innocent third-parties would not have been adversely affected.

argues that the plaintiffs are adequately protected without such injunctive relief given its rental payments to the trust under the provisions of Chapter 48 and SB 493. Further, the state argues that actions are clearly allowable under Section 202(e) of the Alaska Mental Health Enabling Act. Again, the problem with the state's reasoning is that it ignores the mandate of the Alaska Supreme Court in Weiss. If this court must reconstitute the trust as of the date of the redesignation, July 19, 1978, it necessarily follows that the court should take requested action to preserve the status quo. It is true that Section 202(e) of the Alaska Mental Health Enabling Act gave the Alaska Legislature the power to sell, lease, mortgage, exchange, or otherwise dispose of the mental health lands. However, as the Supreme Court has clearly held in this case, it must do so in light of its fiduciary responsibilities to the trust. One of those responsibilities is to preserve the corpus of the trust. Weiss, 706 P.2d at 683. It is similarly clear that it is the duty of the state in administering this trust to administer solely in the interest of the beneficiaries. See State v. University of Alaska, 624 P.2d 807, 813 (Alaska 1981). Given that these third-party interests were created prior to the Supreme Court's decision in Weiss in 1985, it is clear that they were created at a time when the state was not fulfilling its trust responsibilities. Thus, there is a serious and substantial question regarding the validity of these third-party rights.

The court further concludes that the plaintiffs are subject to irreparable harm if the preliminary injunction is not granted. The actions of the state have the potential of creating bona fide purchaser rights where it is possible that they would not otherwise be. In such an instance, there is no question that such lands could not be taken from third-party hands and placed into the reconstituted trust. These lands are clearly income-producing properties which could be managed to produce long term income for the trust itself. If the lands are lost they may be lost forever. Additionally, since the legislature's repeal of the statute creating the Interim Mental Health Trust Commission, there is no other way to protect the lands other than through court action.

The state can be adequately protected. The preliminary injunction would not undo any of the state's commitments; rather, it would delay execution. The effect of the preliminary injunction would be to temporarily prevent the state from transferring title to the mental health trust lands to third-parties pending resolution of the claims in this lawsuit. For these reasons and those set forth in the findings of fact issued by the court, the court concludes that the preliminary injunction should issue.

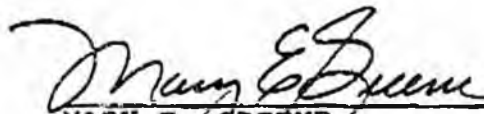
Plaintiffs have argued, and the state does not oppose, that the court should issue the preliminary injunction without bond. It is clear here that the plaintiffs themselves are financially unable to post a bond. It is also true that this is

public interest litigation. In light of these facts, the court concludes that the injunction will issue without bond.

Because of the impact on third-parties of this preliminary injunction, it is the court's desire to speedily resolve the issue of challenges to third-party holdings. The court urges the parties to move expeditiously to file whatever motions must be filed so that after complete and thorough briefing, the court may resolve the legal issue regarding potential challenges to title held in third-party hands. The court is concerned about the effect of this injunction on third-party rights and, thus, if the parties do unreasonably delay in moving this issue along, the court will schedule a status conference and set a briefing schedule.

IT IS SO ORDERED.

DATED this 9th day of July, 1990, at Fairbanks,
Alaska.



MARY E. GREENE
Superior Court Judge

DAVID T. WALKER
ATTORNEY AT LAW
MENDENHALL BUILDING
326 FOURTH STREET, SUITE B
JUNEAU, ALASKA 99801
(907) 586-3537

February 15, 1991

HAND DELIVERED

Senator Arliss Sturgulewski
Senate
Capitol Building, Room 427
Juneau, Alaska 99811

Re: Settlement of Mental Health
Trust Lands Litigation

Dear Senator Sturgulewski:

I am lead counsel¹ for the plaintiff class in the mental health trust lands litigation, Weiss v. State, 4FA-82-2208 Civ., and in connection with that action I am enclosing copies of:

1. Alaska Mental Health Trust Lands Atlas; and
2. Briefing Paper by the Alaska Mental Health Trust Coalition²;

The legislature is involved through the expressed desire of some legislators to "settle" or "resolve" the issue. I am sending this letter to each legislator as a means of communicating the Plaintiffs' position regarding settlement. To "settle" the litigation, the litigants (ie., the state and the

1/ James B. Gottstein, Jeffrey L. Jessee and Philip R. Volland are co-counsel.

2/ The Alaska Mental Health Trust Coalition is made up of persons concerned with a just resolution of the litigation and includes, among others, persons associated with all of the beneficiary groups specifically identified by Judge Greene in her April, 1988, Memorandum Decision and Order. While the Coalition is not a party in the litigation, the plaintiffs in the litigation and their attorneys work closely together and with the Coalition to arrive at consensus. The position presented in the Coalition Briefing paper is also the position of the plaintiffs in the litigation. In terms of negotiations, of course, it is the attorneys for the plaintiffs, and particularly, myself, as lead counsel, who have authority to negotiate.

plaintiffs), must agree on a settlement. That means negotiating a mutually acceptable resolution. The legislature does not have the power or ability to unilaterally resolve the litigation or to lift the land freeze through legislation. The Court spoke clearly on this in its Memorandum Decision and Order of July 9, 1991, "freezing" all mental health trust lands.³

In January of last year we widely distributed a legal analysis informing interested parties that the state's indicated course of action in failing to follow the Chapter 48 settlement scenario would result in the beneficiaries challenging title to protect their interest in approximately 750,000 acres of mental health trust land.⁴ The legislature's and administration's response was Chapter 210 SLA 1990, and the predicted land freeze followed naturally.

This problem exists because the State accepted the one million acres of mental health trust land as a trust to be administered "first for the necessary expenses of the mental health program of Alaska", but instead of using the trust land for the required purposes it attempted to abolish the trust and use the land for its own purposes. It is essentially the same as if you set up a trust to meet your children's needs, and the trustee used trust assets for his own purposes without providing for your children's education. Transfers of trust property to third parties are not valid unless strict conditions are met, and we believe few if any transactions concerning mental health trust lands meet these conditions.

3/ Page 8: "The fallacy of [the State's] arguments is that they ignore the fact that the state may not unilaterally settle this lawsuit. * * * This lawsuit will not come to its conclusion until a final adjudication on the merits reconstituting the trust is reached or a bilateral settlement is reached which is approved by the court under the provisions of Alaska R. Civ. P. 23(e)." This decision was issued two days before Chapter 210 SLA 1991 was signed by Governor Cowper purporting to do exactly what the court made clear was beyond legislative power. The State petitioned the Alaska Supreme Court to review and reverse this (and other) decisions by the court and the Supreme Court refused to consider the State's arguments. There are two aspects of the land freeze. The first is an injunction against any transfers or permits to use mental health trust lands unless and until the court allows it. The second is the placement in the land records of a public notice informing the public that title to mental health trust lands is clouded.

4/ Memorandum from James B. Gottstein, to Interested Parties, dated January 19, 1990, Re: Legal Analysis of Status of Mental Health Trust Lands and Related Issues.

In 1987, the plaintiffs and the state agreed on a proposed settlement mechanism, including a compensation approach, that was enacted as Chapter 48 SLA 1987 (Chapter 48)⁵. Chapter 48 provided for (1) an equal value exchange of lands so that the trust would be reconstituted with lands located within legislatively designated areas (ie., parks, refuges, forests, etc.), (2) payment by the State to the trust of "rent" at 8% per year on the value of the trust lands, to be determined under procedures approved by the Interim Mental Health Trust Commission, such value to be redetermined at least every five years, and (3) the creation of the Alaska Mental Health Board to determine the needs, including those unmet, of the mental health program, and the appropriation from the trust income account necessary to meet those needs. As an interim measure, until the land value had been determined, the State was to pay 5% of the unrestricted revenue of the State into the trust.

Unfortunately, the State did not honor its commitment to pay rent on the value arrived at under the procedures approved by the Interim Mental Health Trust Commission (8% of \$2,243 million annually), and by the enactment of Chapter 210 SLA 1990 attempted to unilaterally impose an unfair resolution of the litigation with predictable (and predicted) results, ie., the land freeze.

The foregoing is by way of background to set the stage for what will be required in any settlement. The first is that any compensation package that allows previous dispositions of mental health trust lands to remain undisturbed, must result in fair compensation to the trust. This is referred to as the "asset side" of the case. The second requirement is that procedures be established to insure that the trustee fulfills the trust obligation to first utilize the trust income to meet the necessary expenses of the mental health program of Alaska. This is the "program side" of the case.

SB 65 has recently been introduced with a different approach to trust reconstitution and compensation. It may be that the bill's reconstitution and compensation proposal is fair but we must know these elements before we can fully understand and respond to the proposal. We have indicated we could support such an approach if the compensation is fair to the Trust. The independent trust authority concept (with perfecting amendments) proposed in SB 65 satisfies our requirement for enforceability and assures that the trust will be managed for the benefit of the beneficiaries. Clearly, Sen. Duncan's SB 65 (which has been

5/ Part of that agreement on the Plaintiffs side has always been that any proposed settlement would have to be enforceable by the beneficiaries.

Trust Lands Settlement

February 15, 1991

Page 4

introduced by Representative Boyer in the House as HB 79) is a major step toward reaching settlement.⁶ To reiterate, with respect to the "asset side" of the case, the plaintiffs' only bottom line is that the approach must fairly compensate the trust.⁷

There is a similar simple bottom line with respect to utilization of trust funds (the "program side"). Since the enactment of Chapter 48, the expectation that the State, as Trustee, would utilize trust funds to "first meet the necessary expenses of the mental health program" as required by law, has remained unfulfilled. The Alaska Mental Health Board has diligently, competently, and in accordance with State⁸ and Federal⁹ law reported to the State the level of mental health program funding necessary to fulfill the State's legal obligation as trustee. Instead, the State has flouted its responsibilities and spent over a hundred million dollars of trust funds on non-trust purposes while we continue to have a grossly inadequate mental health program. The Mental Health Trust Income Account is trust money, it can not be viewed as general fund revenue. There is every indication that the State intends to perpetuate this intolerable and illegal situation. Under the law the Alaska Mental Health Board determines the mental health program of the State and the necessary expenses of that program. The Administration's budget provides for a cut in mental health program expenditures rather than proposing the \$29,666,800 operating budget increase and \$14,514,100 in capital improvements determined under law by the Alaska Mental Health Board as the amount required to "meet the necessary expenses of the mental health program" for FY 92. A settlement requires the Alaska Mental Health Board's funding determinations to be fully implemented, and the establishment of an enforceable system for insuring proper application of trust funds in the future. I have previously indicated in this letter that with perfecting amendments the trust authority provisions contained in SB 65 meet the enforceability requirement.

6/ The Plaintiffs are still willing to follow the Chapter 48 approach to reconstitution and compensation, with compensation based on the value determined under the procedures approved by the Interim Mental Health Trust Commission in its November 7, 1989 resolution.

7/ Part of this requirement is that the corpus of the trust (principle) must be preserved in perpetuity and protected from inflation. See briefing paper.

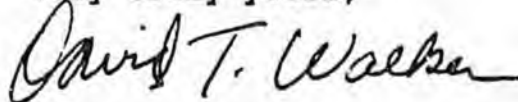
8/ AS 47.30.666.

9/ Section 202(e), Alaska Mental Health Enabling Act, Pub. L. 84-830.

Trust Lands Settlement
February 15, 1991
Page 5

During the campaign, there were numerous pronouncements that the mental health trust lands litigation would be resolved promptly and title to the desired trust lands released by the Trust this session. We share the belief that the litigation can be settled promptly and we are prepared to discuss a fair settlement. The failure to negotiate a settlement with the Plaintiffs will necessarily and predictably result in a continued freeze on mental health land, and many years of continuing and divisive litigation.

Very truly yours,

A handwritten signature in cursive script that reads "David T. Walker". The signature is written in dark ink and is positioned above the typed name.

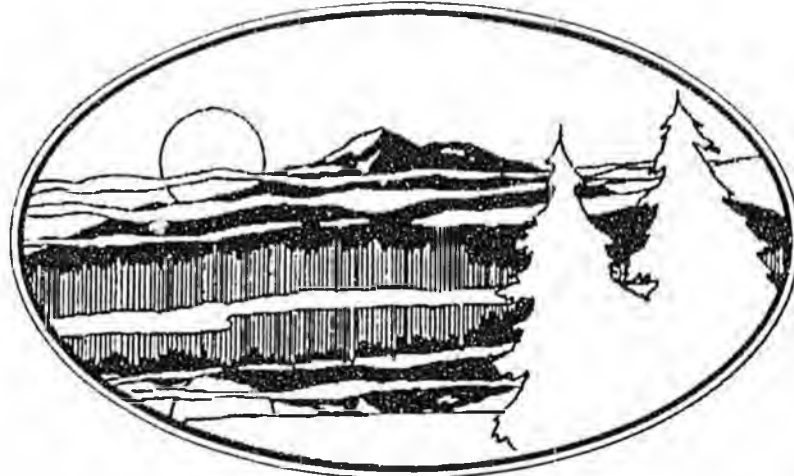
David T. Walker

DTW

Enclosures

Mental Health Trust Lands Litigation and Settlement Prospects

Briefing Paper



Prepared By:

The Mental Health Trust Coalition

October 2, 1990

The Federal Grant

During Territorial days, the Territory of Alaska was prohibited from enacting any laws with respect to mental health. At that time the federal government had complete control and only addressed the mentally ill by trying them under the crime of being "an insane person at large," and if convicted of that crime, transporting these "criminals" to Morningside Hospital in Portland, Oregon. In 1956, in response to public outrage in Alaska over this system, the U.S. Congress passed the Alaska Mental Health Enabling Act, granting authority to the Territory of Alaska to administer its own mental health program, and in order to provide funds to run the program, granting Alaska the right to select one million acres of land to be administered as a public trust, with the funds derived therefrom to "first be applied to the necessary expenses of the mental health program of Alaska." The mental health program was to be a comprehensive mental health program, with the trust serving those individuals suffering from a psychiatric illness who may require hospitalization, the mentally retarded and defective, chronic alcoholics with psychosis and senile people suffering major mental illness.

Recognizing that the purpose of the Trust was to earn income, the Territory, and then the State of Alaska¹ selected what was known to be the most valuable property in the State available at the time of selection. These included urban and suburban lands in Anchorage, Fairbanks, Juneau, Sitka, Ketchikan, Petersburg, Wrangell, Haines, Homer, Kodiak and Skagway, lands on the Kenai peninsula, in the Matanuska and Susitna Valleys and on Kachemak Bay. In addition high value resource lands were selected, such as 60

percent of what is now known as the Haines State Forest, forest lands at Cape Yakataga, a significant percentage of the known coal resources of Alaska, oil and gas prospects, and in the prime mineral districts of Alaska. As a result, this land is probably the most valuable million acres of land in the State, with the possible exception of Prudhoe Bay, and is better suited to the production of income in perpetuity than Prudhoe Bay.

Although the land was selected for the Trust, and was supposed to earn money in support of the mental health program, no trust administration was established, no trust fund was created, and the State Division of Lands received no direction on managing the trust lands as a trustee. In this vacuum some of the land was improperly disposed of and no proper accounting was made. In addition, due to the valuable nature of the land, there was tremendous pressure by municipalities and individuals to make Mental Health Trust Lands available.

The Legislative Redesignation

In response to this pressure, in 1978 the Alaska Legislature purported to abolish the Trust by "redesignating" Mental Health Trust Lands as general grant lands. This 1978 legislation also purported to compensate the Trust with 1.5 percent of revenues from all State lands. This was to be "subject to appropriation" which was never made.

1. Section 6(k) of the Alaska Statehood Act confirms the Mental Health Lands Trust Grant, and the State accepted the grant on its original terms.

The Weiss Litigation

After failing to achieve legislative redress of this blatant violation of federal law and the State's fiduciary obligation to the Mental Health Lands Trust, and after being told "we don't care if it is illegal - sue us," in 1982 the Alaska Mental Health Association sponsored commencement of the litigation. Vern Weiss, on behalf of his son Carl, and Earl Hilliker, on behalf of themselves and the class of people entitled to benefits under the trust (beneficiaries of the trust) were named as plaintiffs in the lawsuit. Since that time, the Alaska Mental Health Association, representatives of the mentally retarded and mentally defective (developmentally disabled) and chronic alcoholics with psychosis have formally intervened to participate together with the original plaintiffs in the lawsuit.

The 1985 Alaska Supreme Court Decision

In 1985, in what is known as the Weiss Decision, the Alaska Supreme Court rejected the State's arguments that there really was no trust, and even if there was a trust, that by having any mental health program it didn't really matter. The Alaska Supreme Court then ordered that the "trust must be reconstituted to match as nearly as possible the holdings which comprised the trust when the 1978 law became effective."

At the time of the Weiss Decision, the following legally questionable actions had been taken by the State with respect to Mental Health Trust Lands:

370,000	acres designated as state parks, refuges, etc.;
40,000	acres to Municipalities;
40,000	acres to Native corporations ² ;
45,000	acres to individuals;
3,000	acres to the University of Alaska; and
280,000	acres in less than total conveyances.
778,000	total

The 1987 Settlement Proposal

Not surprisingly, the State (and other third parties) didn't want to give the land back and reverse illegal dispositions of Mental Health Trust Lands. So in 1986, the legislature appointed a special committee to develop a means of settling the lawsuit without disturbing previous dispositions of Trust Lands. The Interim Mental Health Trust Commission was also created to oversee management of Trust Lands and make recommendations for settling the litigation. In addition to the problem of the status of the Trust Land and its administration, the Beneficiaries were concerned about the Legislature's conflict of interest in being legally obligated in administering the Trust to do so solely in the Trust's benefit, but also being able to use any funds not "necessary for the mental health program" for other public purposes. All parties

worked together and agreed on a proposed settlement mechanism, which was enacted as Chapter 48 Session Laws of Alaska 1987 (Chapter 48).

Chapter 48 had four elements. The first element involved the determination of fair market value of the original one million acre mental health land grant under procedures approved by the Interim Mental Health Trust Commission. The second element involved an equal value exchange of those original Mental Health Trust Lands not in legislatively designated areas such as parks and wildlife refuge areas for land of equal value within such areas so that the reconstituted Mental Health Lands Trust corpus would consist entirely of lands within such legislatively designated areas approved by the Interim Mental Health Trust Commission. The original Mental Health Trust Lands not in such areas were to be released from trust status and dispositions with respect to those lands would be ratified. The third element was for the State to "rent" the reconstituted trust for eight percent of its fair market per year, with the value to be redetermined at least every five years. Until the value was established, 5 percent of the State's unrestricted general fund revenues was to be the compensation to the Trust. The fourth element was the creation of the Alaska Mental Health Board to study and determine the needs of the mental health program, including those unmet and transmit to the Governor and Legislature its recommendations of the funding required to meet the necessary expenses of the mental health program, including capital needs.

The Plaintiffs, the State, and third parties saw numerous advantages in the Chapter 48 approach.

1. Assuming sufficient guaranties of enforceability, it satisfied the State's legal obligation under federal law to administer a permanent land trust for the benefit of people in need of mental health program services.
2. It allowed the original one million acres of Mental Health Trust Land to be used for general public purposes, removing the "cloud" on title and/or use of some 6,000+ dispositions of Mental Health Trust Lands.
3. It provided for immediate financial support for the mental health program, but doesn't require a major "up front" payment.
4. It provided a legitimate method for determining the necessary expenses of the mental health program.
5. It was designed to avoid costly and time consuming litigation.
6. It is relatively easy to administer.

The Obstruction to Implementation of Chapter 48

The Interim Mental Health Trust Commission worked from the passage of Chapter 48 until January of 1990, to determine and approve the appropriate valuation procedures to implement Chap-

2. It does not appear this would include a large portion of the Beluga Coal Field conveyed to Cook Inlet Region Inc., as a result of its exchange under the Alaska Native Claims Settlement Act.

ter 48. On November 7, 1989, the Commission adopted by a two to one vote (the State's representative dissenting) its final approved procedures for determining the value of the original Mental Health Trust Lands. Utilizing these approved procedures the value of Mental Health Trust Lands, as of September 7, 1987, is \$2.243 Billion. However, on January 23, 1990, the State Department of Natural Resources announced a creative interpretation of Chapter 48 that the Commission could not approve any valuation procedures that the Commissioner of Natural Resources did not accept. On February 1, 1990, the Department of Natural Resources issued its Minority Recommendations, indicating it believed the value of the Trust Lands were only \$565 Million. The Commissioner of Natural Resources then declared an "impasse".

The Proposed Legislative Solution

(and its derailing by the Administration)

In order to overcome this obstruction to the implementation of Chapter 48, SB 493 was introduced. As originally formulated, SB 493 would have (1) established the value of the original one million acres at the \$2.243 Billion figure arrived at under the procedures approved by the Interim Mental Health Trust Commission, (2) reconstituted the Trust with all legislatively designated areas that existed as of September 7, 1987, and (3) provided for a formula to revalue the lands based upon the changes in assessed values. The attorneys for the Beneficiaries advised the Legislature all session that unless the problem was solved this session that third party title to Mental Health Trust Land would be brought into question and there would be widespread economic disruption with respect to third party plans for Mental Health Trust Lands. Representatives of the Administration, on the other hand, were telling the Legislature that the plaintiffs in the lawsuit would not be able to prevent actions on Mental Health Trust Lands.

The Legislature apparently relied upon the Administration's interpretation. Instead of enacting SB 493 as originally contemplated to implement Chapter 48, just before the end of the session, the Administration sponsored a Finance Committee substitute that ultimately passed, which changed compensation to the Trust from the value of the Trust Lands to 6 percent of the unrestricted general revenues of the State.

The Beneficiaries commissioned an economic analysis of this change, and not surprisingly, the result was that changing the form of compensation from the value of the land to a percentage of declining state revenues seriously undercompensates the Trust.³

3. See "Analysis of State General Forecasts and the Future Value of the Mental Health Trust Lands," by The McDowell Group, July 12, 1990.

4. These are the Alaska Mental Health Board recommended increases to move toward meeting the necessary expenses of the Mental Health Program.

5. Estimated.

6. On the other hand, the Beneficiaries have tried to eliminate unnecessary hardship, and when no harm to the trust is apparent, the Beneficiaries have uniformly agreed to modify the injunction to allow things to proceed.

Expenditure of Trust Funds

For every year since the enactment of Chapter 48, the Legislature has substantially underfunded the needs of the mental health program in order to raid the Trust fund for other state programs. A summary is as follows:

Fiscal Year	AMHB Rec. ⁴ Increments	Legislative Appropriation	Trust Funds Used on Non-Trust Purposes
1989	\$15,322,400	\$8,868,900	
1990	15,791,800	5,026,000	\$47,072,734
1991	19,179,050	10,249,200	81,500,000 ⁵

Current Status

Faced with yet another example of the State's breaking its commitments and breach of its fiduciary responsibilities to the Trust the Beneficiaries went back to court and obtained an injunction prohibiting the State from transferring any more Mental Health Trust Lands or issuing any permits or leases, and confirmation that the Beneficiaries were entitled to challenge the status of previous dispositions of Mental Health Trust Lands. As mentioned there are over 6,000 questionable actions that have occurred on Mental Health Trust Lands that are open for reversal. Prospective activities on Mental Health Trust Lands have been suspended, or are in limbo. For example, the Wishbone Hill Coal Mining Project has been put on hold pending determination of certain legal questions. Usibelli Coal Mine operates substantially on Mental Health Trust Lands and its future operations are planned to be substantially on Mental Health Trust Lands. The Diamond Shamrock Coal Project in the Beluga Coal Field is also impacted. People who have received patents to Mental Health Trust Lands may be divested of title. Lessees of Mental Health Trust Lands may have their leases declared invalid.⁶

In terms of the legalities, a third party does not receive good title to Mental Health Trust Lands unless that party paid value for the land and had no reason to know of the breach of trust. Beneficiaries believe that all persons will be found to have "constructive knowledge" of the breach of trust because it was a matter of public record. The difficulties that third parties are now experiencing are the difficulties the State, the Beneficiaries and others tried to avoid in agreeing to Chapter 48 as a proposed settlement mechanism.

The Beneficiaries are still interested in a settlement of the litigation and have formulated the following settlement principles. The basic bottom line is, as it always has been, that the settlement must be fair to and in the best interests of the beneficiaries of the Trust. In this context fair includes that the settlement must be enforceable and not subject to dismantling by the State. There are a number of ways this could be accomplished and fairness is the only precondition.

The Mental Health Trust Coalition hopes to be able to garner widespread, bipartisan support for the principles set forth below, in trying to fashion a permanent solution next session.

Lands Litigation Settlement Statement of Principles

The Alaska Mental Health Enabling Act is a Federal law, enacted before statehood, confirmed by the Statehood Act, which granted Alaska One Million acres of land as a public trust to be administered first for the necessary expenses of the mental health program of Alaska. The mental health program may involve numerous agencies and entities. At a minimum the Mental Health Lands Trust must serve through a comprehensive and integrated program those individuals suffering from a psychiatric illness who may require hospitalization, the mentally retarded and defective, chronic alcoholics with psychosis and senile people suffering major mental illness.

A trustee is legally obligated to manage a trust for the sole benefit of the beneficiaries of the Trust, insulated from political interference,

Chapter 48 SLA 1987 (un-amended) or any other settlement proposal can only be acceptable as a resolution of the mental health trust lands litigation if (a) compensation is fair to the Trust and (b) there are adequate guarantees that the Trust is enforceable and will be administered properly, including determining and meeting the necessary expenses of the mental health program.

There are a number of ways that such a settlement may be fashioned, both with respect to (a) compensation to the Trust and management of Trust assets and (b) appropriate expenditures from the Trust.

Fair compensation to the Trust can include: (i) fair rental payments for the use of Mental Health Trust Lands and the ratification of previous questionable dispositions of Trust Lands, such as provided in Chapter 48 (un-amended); (ii) transfer of Trust Assets at an agreed upon price with preservation of the cor-

pus in perpetuity; (iii) proper trust management of Trust Lands, with preservation of the corpus in perpetuity, or (iv) any combination of these elements.

The State of Alaska, as trustee of the Mental Health Trust, has a built in conflict of interest. This conflict of interest arises because it is generally obligated to meet all the governmental needs of the citizens of Alaska, may spend Trust Funds on non-mental health program needs only after it has first met the necessary expenses of the mental health program, and must determine and meet the necessary expenses of the mental health program without consideration of the other needs of the state.

The conflict of interest can be eliminated by the creation of an independent Trust Authority, whose sole interest is proper management of the Trust, with appropriate powers and duties to administer and enforce the Trust, under specific guidelines agreed to in advance and so ordered by the Court.





Mental Health Trust Issue

Briefing Paper for SB 65 Duncan / HB 79 Boyer

February 18, 1991

Prepared by Sharron Lobaugh

There are four major aspects of the proposed legislation

- Reconstitution of the Mental Health Trust (the Trust) with land, cash, and State rental payments.
- A provision that earnings of the Trust shall be used to fund a comprehensive mental health program to serve, as a minimum, those determined by Superior Court to be eligible for services — without regard for the other needs of the State.
- Establishment of a Mental Health Trust Authority (the Authority) as an independent non-profit corporation and trustee for the Trust, responsible for managing investment of the Trust assets as well as income derived from those investments.
- Amendment of related statutes and agencies to accommodate the creation of the Authority and its duties and responsibilities.

Reconstitution of the Mental Health Trust

The legislation sets the value for the body of the Trust (the Corpus) at \$2,243,000,000. This is the amount determined by procedures established by the Interim Mental Health Trust Commission, which is dissolved. The Trust Corpus is to be preserved in perpetuity and produce income for necessary mental health services.

The Trust Corpus will be comprised of:

Approximately 209,000 acres of the original trust lands which are unencumbered.

Approximately 368,000 acres of original trust lands which have been designated as parks, forests, etc., by the legislature for specific purposes.

Money due to the Trust for approximately 422,585 acres of land which the State has conveyed or committed to other purposes and cannot be returned to the Trust. This debt is to be paid to the Corpus on a negotiated payment schedule.

Trust Earnings

The 209,000 acres of land returned unencumbered to the Trust is to be managed by the newly established Trust Authority according to private Trust principles in order to produce income.

The reconstituted Trust Corpus is income producing.

Trust land in legislatively designed areas will earn annual rent, paid by the State to the Trust, equal to 8% of the value of that land. Having paid rent, the State obtains the right for the Department of National Resources (DNR) to continue to manage this category of asset for the legislatively designated purpose. This land will be revalued every five years and the rent earnings will be adjusted.

The money paid by the State to the Trust for encumbered land is to be invested by the Authority to produce income. A payment schedule shall be negotiated with the State which will require an annual payment plus interest at the statutorily established rate for State debts.

The allowable expenditures and beneficiaries are defined.

The legislation sets forth the allowable uses of this account for meeting the necessary expenses of the mental health program, and allowable services are described.

The beneficiaries are defined and a procedure set forth for determining the eligibility and priority of persons to receive benefits. Those persons most seriously disabled, as determined by the court, are eligible for first priority, specialized, and community support services. In addition, other more general mental health services are provided for in the mental health program.

**Establishes an Alaska
Mental Health Trust
Authority with legal
existence distinct from
the State.**

The Authority may sue and be sued, obtain counsel, contract for services, purchase and dispose of property, and is exempt from the state procurement code.

The responsibility for management of Trust assets and income is assigned to a nine member Board of Trustees. The Governor shall appoint the trustees with confirmation by the legislature. The legislation invests the Board of Trustees (the Authority) as a public corporation with powers and duties separate from the State.

Qualifications of Trustees Defined

People eligible to serve as trustees may not have direct conflicts of interest (e.g. state employee or contractor); they must have expertise in trust management and mental health. Their terms are to be set at five years with a two-term limit and compensation of \$400 per day.

A process is established to enable beneficiaries to provide input into the selection of trustees through the Governor's Council on Handicapped and Gifted and the Mental Health Planning Council.

The Governor is required to appoint a majority of trustees from lists provided by these councils. (To ensure representation of beneficiaries not previously included, the Mental Health Planning Council is required to be composed of at least one person each with the following: senior citizens with dementia, alcoholics with psychosis, and other mental illnesses.)

Regulatory/Duties of the Trustees

The Board of Trustees, under the Administrative Procedure Act, shall establish: criteria for determining eligibility for benefits from the Trust, the delivery of services and systems of care, administration and management of the Trust, equitable distribution of the assets of the Trust, and appeal procedures for those who have not received services under the Trust.

The Board of Trustees shall manage the Trust: to preserve the Corpus, to protect it from inflation, to defray the operating and capital expenditures of the State's mental health program, and to pay the operating expenses of the Authority. The Authority's operating budget is subject to the Executive Budget Act.

The Board is responsible for determining the needs of those persons eligible for services under the State mental health program and to provide services to address those needs.

The Authority shall review the mental health programs of the State and develop a long term plan, an implementation plan, and an annual budget. They will transmit money to appropriate agencies to provide authorized services, as well as create a state-wide client database.

In performing its duties, the Board shall consider the recommendations of the State Mental Health Planning Council, the Governor's Council on the Handicapped and Gifted and other boards, commissions, agencies and individuals concerned with services for the mentally ill or handicapped.

The Authority must use Trust income to defray necessary operating and capital expenditures of the State's mental health program — independent of other needs of the State. The Authority must preserve and protect the Corpus and make an inflation-proofing payment to the Trust annually. They must establish the amount of surplus funds which are generated each year by the Trust in excess of the annual need. These excess funds shall be returned to the general fund annually. The Authority must use "the prudent-person rule" as a general guide in making investments and the legislation gives explicit directions for exceptions.

The Authority will prepare an annual report of services and financial activity for the legislature and administration.

Temporary Duties of the Trustees

The Authority must make a determination of which programs and services are to be funded with Trust resources by January 1993. They must establish the "base" of eligible programs to be funded, identify the persons to be served in each category, and develop a formula to ensure equitable allocation of resources.

Amendment of Related Statutes and Agencies to Accommodate The Authority.

The legislation revises some of the duties of the **Department of Health and Social Services** by assigning the Division of Mental Health and Developmental Disabilities responsibility for managing the State institutions and administering grants to local providers. The Division's role is specified as technical and support: i.e. regulating program reviews, setting standards, licensing, audit review, and quality assurance.

The **Community Mental Health Services Act** is revised to be aligned with the Authority changes. The bill clarifies responsibilities and sets standards for community mental health services. It requires data gathering and local planning to be accomplished. The service emphasis is shifted from institutionalization toward programs in the community.

The **Mental Health Board** is reconstituted as the **Alaska Mental Health Planning Council**. The Council is given the principal role as a planning and coordination agency for the mental health program. Council membership is broadened in order to facilitate inter-departmental coordination by providing a balance of professionals, agency representation, public, consumer, and family members. This assures representation of the beneficiaries and involves agencies such as the State Office of Alcoholism and Drug Abuse and the Older Alaskans Commission. The Council is allowed to hire its own executive director.

Governor's Council for Handicapped and Gifted is given a revised statement of principles to parallel those of the Mental Health Planning Council. Its duties are amended to include responsibilities to the Mental Health Trust Authority.

Other Miscellaneous Effects of the bill

Sections of law which would conflict with this legislation are repealed.

Enforcement provisions include, among other things, adoption by the court as a settlement of the Suit of Weiss vs. the State of Alaska.

The bill provides for an "effective date," i.e. the date the requirements of the bill become State law and are binding.

**Alaska Mental Health Board
Annual Report
for
Calendar Year 1990**

January 1991

**Michael Graf, Ph.D.
Chairperson**

**Deborah K. Smith
Executive Director**

ALASKA MENTAL HEALTH BOARD

WALTER J. HICKEL, GOVERNOR
STATE OF ALASKA

ST. ANN'S CENTER
419 6th STREET RM. 124
JUNEAU, ALASKA 99801

January 14, 1991

Concerned Citizens

Members, Alaska State Legislature
P.O. Box "V"
Juneau, Alaska 99811

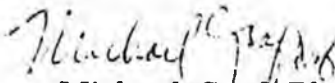
Concerned Citizens and Legislators:

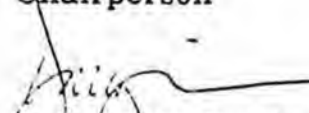
The Alaska Mental Health Board (AMHB) hopes you find the enclosed Alaska Mental Health Annual Report for Calendar Year 1990 informative and relevant to your deliberations regarding the Alaska Mental Health Program. Created in 1987 by the State Legislature, the AMHB is mandated to ensure an integrated and comprehensive mental health program.

The Alaska Mental Health Board is the planning, coordination, evaluation, and advocacy agency for the State Comprehensive Mental Health Program including all programs and services funded with proceeds from the Alaska Mental Health Lands Trust. Board duties include program planning, evaluation and funding recommendations. The Board reviews and recommends changes to state mental health policy, statutes and regulations. In addition, the Board provides a public forum for discussion of matters pertinent to the mental health services and reports to the Legislature and the Governor.

The Alaska Mental Health Lands Trust and the Alaska Mental Health Program face significant challenges during 1991. Thank you for this opportunity to provide you with the AMHB Annual Report. If you would like any additional information regarding the Board's activities, please contact our office.

Sincerely,


Michael Graf, Ph.D.
Chairperson


Deborah K. Smith
Executive Director

**Alaska Mental Health Board
Annual Report
for
Calendar Year 1990**

Alaska Mental Health Board Members

Michael Graf, Ph.D. (Provider)
Alicia Iden (Public)
Thelma Langdon (Public)
John F. Malone (Provider)
Sally Mead (State)
Isaac Ozenna (Consumer)
Nelson Page (Public)
George Rogers, Ph.D. (Consumer)
Irvin Rothrock, M.D. (Provider)
Patricia Ryan-Clasby (Provider)
Evelyn Tucker (Public)
Marcia Watson (Consumer)
Dick Wilson (Consumer)

Executive Committee

Michael Graf, Ph.D., Chair
Alicia Iden, Vice Chair
Thelma Langdon, Secretary/Treasurer

Produced by the
Alaska Mental Health Board
419 6th Street
Juneau, Alaska 99801

January 1991

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INTRODUCTION

Alaska Mental Health Board: 1988-1990

The Alaska Mental Health Board (AMHB) held its first meeting in January, 1988. The AMHB was created by the 15th Alaska State Legislature as a critical element of a legislatively proposed settlement of a lawsuit involving the State's breach of Trust. The AMHB mandate is much broader than that of the Governor's Mental Health Advisory Council which the Board replaced. The Board consists of twelve persons appointed by the Governor and a representative of the Commissioner of Health and Social Services. Of the appointed members, one third are consumers of mental health services, one third are providers of mental health services and the remainder are representatives of the public at large. The Alaska Mental Health Board constituency embraces all people served by the State's mental health program. The beneficiaries of the mental health program are, at a minimum, the mentally ill, the mentally defective and retarded, chronic alcoholics who suffer from psychosis and senile persons who as a result of their senility suffer major mental illness.¹

The beneficiary groups encompassed by the Mental Health Trust were identified by a Memorandum Decision and Order issued by Fairbanks Superior Court Judge Greene in April 1988 (Greene Decision). This decision generated considerable debate within the mental health community. In response to the Greene Decision, the AMHB formed the Greene Decision Ad Hoc Committee known as the "Greene Group". The Greene Group included the AMHB Executive Committee, staff from the Department of Health and Social Services, and representatives of boards or organizations interested in services to the beneficiary groups identified in the Greene Decision.² In addition, a new organization was formed by representatives of the beneficiary groups known as the Mental Health Trust Coalition (MHTC). The MHTC prepared a policy paper entitled the "White Paper: Statement Regarding Beneficiaries of Alaska's Mental Health Trust" which was presented to the AMHB. The AMHB adopted the "White Paper" as a statement of the Board's position regarding Trust beneficiaries during their July 1990 meeting³ (see Appendix).

¹ These are the terms used by Judge Greene, Fairbanks Superior Court, in an April 1988 Decision and Order in the Weiss case known as the "Greene Decision".

² Two reports were produced: "Executive Committee Report Pertinent to the Greene Decision", July 1989; and Policy Report Pertinent to the Greene Decision, AMHB Report number 5, July 1989.

³ Motion 90-28 passed during the July 15, 16, 1990 meeting in Anchorage.

The Alaska Mental Health Board mandate is presented in AS 47.30.661-666. In general, the AMHB serves as the planning and coordinating body for purposes of federal and state laws pertaining to the Mental Health Program of Alaska. The AMHB assists the State in ensuring a comprehensive, integrated Mental Health Program. Board duties include: providing a public forum for discussion of issues affecting the Mental Health Program; long range program planning; determination of the needs of persons served by the Mental Health Program⁴; short range implementation planning; program evaluation and review⁵; advocacy on behalf of persons served by the Mental Health Program; and review of applicable policies, statutes and regulations. The Board provides recommendations for funding the necessary operating and capital expenses of the Mental Health Program and for changing State mental health policy, statutes and regulations.⁶

Since January, 1988, the Alaska Mental Health Board has provided the Legislature and the Governor with funding recommendations for the Mental Health Program.⁷ The Board has provided fiscal year 1992 recommendations to the commissioners of the various affected departments. The Board has updated Alaska's Comprehensive Mental Health Plan annually⁸ and is preparing a new long range Mental Health Program Plan which is due for completion in June 1991.

Historical Perspective

In 1956, the Federal government gave the Territory of Alaska one million acres of land to be held in trust. The purpose of the 1956 Trust was to create revenue (of unknown amount at the time) to be used first to meet the necessary expenses of the Mental Health Program. For many years, the

⁴ The AMHB has published three reports regarding unmet mental health service needs: Survey of Mental Health Needs in Political Subdivisions of the State; AMHB Report No. 2, 1989; 1988 Survey of Mental Health Facility Needs; AMHB Report No. 3, 1989; Survey of Health Association of Alaska Members Regarding Regional Mental Health Need; AMHB Report No. 4, 1989.

⁵ 1988 Evaluation of Alaska's Mental Health Management Information System; AMHB Report No. 1, 1989.

⁶ Policy Report Pertinent to the Greene Decision; AMHB Report No. 5, 1989; 1989 Review of Alaska Statutes Affecting the State Mental Health Program; AMHB Report No. 7, 1990.

⁷ Alaska Mental Health Board Annual Report for the Calendar Year 1988; AMHB, 1989.

⁸ Annual Update of Alaska's Comprehensive Mental Health Plan: Revised Goals and Objectives, AMHB Report No. 8, in press.

State has failed to act as a responsible trustee. State plans for a comprehensive and integrated program of mental health services were not and have not been consistently maintained or implemented. The State did not and has not provided necessary services, as described in an approved plan, to *"all persons who are residents of the state of Alaska and who will require mental health services."*⁹ Coincident with this failure, the State used Mental Health Trust lands and proceeds for other public purposes. In 1978, the State wrongfully redesignated Mental Health Trust Lands as general grant lands thereby breaching the duty of the trustee to preserve the Trust corpus. Suit was filed in 1982 alleging breach of Trust.¹⁰

In 1985 the Alaska Supreme Court ruled against the State and in favor of the class plaintiffs.¹¹ The Court ordered the Mental Health Lands Trust be reconstituted as closely as possible to its condition at the time of enactment of the invalid legislation which attempted to redesignate Trust land as general grant land. The land not recoverable was to be compensated for with cash. The State was to be granted a credit against its Trust indebtedness for Mental Health Program expenditures.¹²

The Legislature has since passed laws (Ch 132 SLA 1986; Ch. 48 SLA 1987; Chapter 210 SLA 1990) in hopes of satisfying the Supreme Court order. The AMHB was created as a critical element of the Legislature's various settlement attempts.¹³ The Legislature's efforts to settle the Trust litigation

⁹ This description is the class definition in the Weiss class action lawsuit.

¹⁰ The case is usually called the "Weiss" case and identified as Weiss et.al.vs.State of Alaska, Case No. 4FA-82-2208 Civil.

¹¹ State v. Weiss, 706, P.2d, 681 (Alaska, 1985)

¹² Consistent application of Trust principles would suggest that the state's credit could be applied only against Trust earnings and not against funds the state obtained by wrongly selling off and depleting the Trust corpus. The credit calculation should apply to Trust earnings that would have been realized under proper management of Trust assets. In part, the credit calculation must be based upon a clear definition of the "Mental Health Program" so that general expenditures for other programs are not inappropriately included. Furthermore, expenditures for which a separate accounting was not rendered annually should not be included in the state's credit.

¹³ The Interim Mental Health Trust Commission (IMHTC) was another critical element of the Chapter 48 proposed settlement. The IMHTC was assigned the duties of trustee for the Mental Health Trust on an interim basis and also the task of approving procedures under which the value of the Trust was to be determined. The IMHTC Commissioners included Alaskan economist Dr. George Rogers, Alaskan Geologist Dr. Lidia Selkregg and designees of various Commissioners of the Department of Natural Resources.

have not been successful. Recently, the Fairbanks Superior Court, where the suit is held on remand from the Supreme Court, reminded the State that it cannot unilaterally settle the suit. At present, due to legislative and executive branch¹⁴ actions the case is back before the court. Virtually all land transactions involving Mental Health Trust lands and resources (e.g. the Wishbone Hill coal development project) are currently frozen.

In this litigious atmosphere, the AMHB continues to fulfill its statutory mandate. The Board remains committed to ensuring that Trust proceeds fulfill the Trust purposes: *establishment and support of a comprehensive, integrated Mental Health Program which adequately meets the needs of Alaska's citizens.*

¹⁴ Most importantly, the refusal by the Commissioner of Natural Resources to certify the value of the original Trust land as determined under procedures approved by the Interim Mental Health Trust Commission.

MENTAL HEALTH TRUST ISSUES

Major issues confronting the Alaska Mental Health Trust include: certifying the current value of the Trust corpus; ensuring that the value of the reconstituted Trust corpus is preserved over time; and guaranteeing that Trust earnings are appropriately expended to fulfill Trust purposes. The AMHB has repeatedly advised the Legislature and Governor to create an Independent Trustee. The extensive and inherent conflicts in the powers of the Legislature and the Executive branches make it virtually impossible for Mental Health Trust responsibilities to be fulfilled without an Independent Trustee.¹⁵

The value of the Alaska Mental Health Land Trust must be established. Procedures used to arrive at that value must stand up to tests regarding the long term best interests of the Trust. Valuation procedures should use appropriate methodology.¹⁶ In determining the value, and thereby the State's liability for its breach of Trust, it would be inappropriate to adopt procedures which unfairly favor the non-Trust interests of the State. On November 7, 1989, the Interim Mental Health Trust Commission (IMHTC) approved procedures for this value determination which were developed within the limitations of appropriations made by the Legislature, time allotted for the task, and human resources available within the Department of Natural Resources. The State's conflicts of interest are at issue in the limitations of appropriations made for the value determination and in the refusal of the Departments of Law and Natural Resources to rely upon Trust principles in supporting the efforts of the IMHTC.

The Mental Health Lands Trust litigation is a highly visible public issue and failure to resolve it has had far reaching impact. At present, the Court

¹⁵ In an April 27th, 1988 Decision and Order in the case the Superior Court stated, "Congress clearly intended that the patients at Morningside be cared for under the State's mental health program; thus Congress intended that the funds and lands given to the Territory, now State, be used to benefit those suffering from mental illnesses requiring hospitalization and the seriously mentally defective and retarded. Second Congress maintained federal control over the disbursement of monies by requiring approval by the Surgeon General of the proposed mental health plan before the money would be distributed. Such provision is inconsistent with the plenary authority argued by the State in this litigation. Where Congress has created a land trust to be administered by a state for the benefit of certain groups the state owes a duty of loyalty to the beneficiaries." (pg. 20). In a July 9th, 1990 Decision and Order in the case the Superior Court stated, "It is similarly clear that it is the duty of the state in administering this trust to administer solely in the interest of the beneficiaries." (pg.12).

¹⁶ The AMIIB reviewed the Mental Health Trust Lands valuation process and reported findings in a report, Lands Committee Report on the Department of Natural Resources Value Determination of the Mental Health Trust Lands; AMHB, Report No. 6, 1990.

has prohibited transactions on original Mental Health Trust Lands including:

*"issuing any patent(s) or other documents or taking any further steps which convey or transfer mental health trust lands or any interest(s) therein, including without limitation, any permits to use or occupy mental health trust lands, or extract resources from any mental health trust lands, pending final resolution of this litigation, or earlier order of this court."*¹⁷

Since the lands affected constitute some of the State's most valuable and productive property, the effect of this order has been to limit or shut down important developments all across the State. The settlement process outlined in Chapter 48 SLA, 1987 collapsed when, in April 1990, the Commissioner of Natural Resources refused to certify the value of the Mental Health Trust land determined under procedures approved by the IMHTC¹⁸. Chapter 210 SLA 1990, while creating the appearance of a replacement or substitute Trust, was rejected as a settlement in part because it failed to recognize the Trust value (\$2,243,000,000) arrived at under the IMHTC approved procedures as called for by Chapter 48.¹⁹

In addition to issues regarding reconstituting the Trust, issues regarding the continuing revaluation of the Trust also remain. The trustee owes a duty to the Trust to preserve its value over time. For any revenue production approach based on value, e.g. lease payments, periodic re-determination of the value is required. The original version of Senate Bill 493 included a provision for recalculation of the Trust value over time which bore an identifiable relationship to the original Trust land value. This revaluation concept had considerable support within the mental

¹⁷ From a Fairbanks Superior Court Order in Weiss, July 9th, 1990.

¹⁸ The Chapter 48 proposed settlement provided a mechanism for reconstituting the trust involving four elements: first, determination of fair market value of the original Trust land under procedures approved by the Interim Mental Health Trust Commission; second, an exchange of the original Trust lands for lands of equal value within legislatively designated areas would reconstitute the corpus; third, state rental of the reconstituted Trust corpus for eight percent of its fair market value to compensate the Trust for administering the lands for the legislative purposes; fourth, a transitional provision to compensate the Trust by annually paying an amount equal to five percent of the state's unrestricted income.

¹⁹ See Analysis of State General Fund Revenue Forecasts and the Future of the Mental Health Trust Lands, The McDowell Group, Juneau, July, 12, 1990.

health constituency and was supported in concept by the administration.²⁰ This version was later extensively changed before enactment as Chapter 210 SLA, 1990. The substitute legislation failed to confirm the IMHTC based Trust value of \$2,243,000,000 and also failed to establish revaluation procedures which could fulfill the Legislature's duties as trustee.

Finally, settlement of the Weiss litigation must guarantee that Trust earnings are appropriately expended to fulfill Trust purposes. If the earnings of the Mental Health Trust are to be expended properly, State policy must acknowledge the Trust purpose and mechanisms must be developed that permit annual accounting of Trust fund expenditures. Trust earnings should only be expended for a planned, integrated mental health program. In the past, the State has treated the earnings of the Mental Health Trust as an open, passive revenue stream from which to appropriate funds without any clear relationship to the mental health program plan.

Litigation will likely continue unless the Trust is managed according to Trust law principles and unless the Mental Health Trust is used as originally intended, to fund a comprehensive and integrated Mental Health Program which provides adequate services to Alaska's mentally ill and mentally handicapped citizens. **The necessity for executive branch initiative is clear.** Progress might be made if executive branch staff in the Departments of Law and Natural Resources were directed to settle the case in accordance with Trust principles and consistent with the long term best interests of the persons entitled to Mental Health Program services.

MENTAL HEALTH PROGRAM ISSUES

The current inadequate State Mental Health Program has become highly visible. The press has frequently featured persons with mental disorders for whom appropriate services are not available.

The AMHB believes that the purposes of the Trust have not yet been fulfilled, namely a comprehensive and integrated Mental Health Program, which includes an enforceable priority in services for those persons most disabled by mental conditions.

Issues facing the Mental Health Program are varied and detailed. To simplify, the issues can be encompassed under the topics of program comprehensiveness and integration.

²⁰ See page 5 of DNR Commissioner Gorsuch's letter/report to Thelma Langdon, Alaska Mental Health Board Chair, dated April 17, 1990.

Program Comprehensiveness

Alaska has never had a comprehensive, integrated mental health program. Despite preparation and approval of several written program plans, there has never been a sustained effort to put in place the necessary services and facilities to implement the plans. A comprehensive program provides a full range of services including: emergency services for those in severe episodes of acute (short term) mental disorders; community support/psychosocial rehabilitation services for persons with severe and persistent disorders;²¹ inpatient hospital care for complex diagnostic and treatment services; long term residential care for persons with persistent disorders insufficiently corrected by current treatment interventions; outpatient services for persons with mild or moderate disorders of various duration; prevention, early intervention and mental health education services.

The State's program must improve to provide continuing care and services for over 20,000 Alaskans of all ages with severe mental disorders including mental retardation, persistent mental illness, and other mental impairments such as Alzheimer's disease or psychoses resulting from the long term abuse of alcohol. In addition to these groups of persons most severely affected by mental disorders, the comprehensive program must address the service needs of another 10,000 individuals yearly manifesting milder forms of mental illness and a like number suffering from substance abuse disorders.²²

This comprehensive program requires a current plan, adequate funding and staffing, efficient implementation, as well as intense evaluation of effectiveness. Funding issues extend beyond the available earnings of the Mental Health Trust and involve health care insurance, the State Medicaid program, fees for service, local contributions and a host of alternative funding mechanisms.

²¹ Case management, crisis and respite services, vocational training, socialization and residential opportunities are specific examples of these types of services.

²² Services for persons affected by these various mental handicaps are described in a variety of state service plans some of which are: A Comprehensive Mental Health Plan for the State of Alaska: Fiscal Years 1988-1992; Three Year State Plan, 1987-1989: Services for People with Developmental Disabilities and Other Substantial Handicaps: 1989 Through 1991; State Plan for Services to Older Alaskans and State Plan for the Older Alaskans Commission; State of Alaska Alcoholism and Drug Abuse Plan 1990-1992. This fractured planning makes more difficult the task of integrating the State Mental Health Program.

Program Integration

Despite Alaska's relatively small population, the Mental Health Program has become fractured over the years. Both federal and state initiatives have led to the creation of sub-programs specially designed to address only the needs of persons of certain age or having just certain mental disorders. These sub-programs are funded through numerous departments and divisions with no centralized coordination and integration. The separate programs of service for persons with mental disorders should be re-integrated into a model program of community health care. Many of the most disabled need individualized treatment and support plans involving generic services such as case management, day care, respite care, vocational training, rehabilitation, hospital care, nursing home care etc.. There is no need for these services to be provided in a haphazard fashion by dozens of uncoordinated programs.

Mental Health Program re-integration will require some executive branch reorganization and a concerted effort to eliminate statutory, regulatory and bureaucratic obstacles built up over the years. For example, catchment area boundaries could be consistent from program to program. At present the boundaries bear no relationship to one another across the various program funding areas. Multiple management information systems for various sub-programs should be integrated. Unnecessary discrepancies between commitment statutes for mentally ill persons and those disabled by alcoholism could be eliminated. Duplicative grant application processes for state funded services targeted at different mental disabilities could be simplified.

MENTAL HEALTH BOARD ISSUES

The AMHB provides a public forum to discuss all the Trust and Program issues outlined above. The AMHB also provides recommendations on these issues to the legislative and executive branches of government. The AMHB itself has a staff of only three. It must and will rely upon the work of agencies and boards having mandates affecting the Mental Health Program. Those include the Division of Mental Health and Developmental Disabilities; the Division of Alcoholism and Drug Abuse; the Departments of Health and Social Services, Corrections, and Education; the Advisory Board on Alcoholism and Drug Abuse; the Governor's Council for the Handicapped and Gifted; the Older Alaskans Commission, and other State advisory and planning bodies. Caring for persons in need of mental health services currently involves the efforts of many agencies in numerous departments. Resolving the legal, policy, and programmatic issues related to the Mental Health Trust will continue to require intensive Board involvement. During the next administration, some issues the Alaska Mental Health Board must address include the following:

1. The AMHB must establish working agreements with agencies other than DHSS that are delivering Mental Health Trust funded services. The Board must develop formal agreements and protocols with all Departments receiving Trust funding to allow the Board to perform statutorily assigned evaluation, planning and budget tasks. Formal agreements and protocols will allow the Board to receive all the necessary program data, planning documents and fiscal information necessary to evaluate services, develop a state wide comprehensive plan and make funding recommendations.
2. The AMHB must work with the Legislature to resolve differences regarding appropriate expenditures of Trust income. The AMHB has provided the Legislature with criteria based upon Trust principles. These criteria have not been employed in the appropriations process so far.
3. The AMHB must continue to clarify the purpose of the public Trust and its relationship to a comprehensive program for persons in need of mental health services.
4. Human Resource Development: A lack of trained mental health professionals and paraprofessionals to fill the state need for qualified practitioners is of great concern. The AMHB has and must continue to support a program of mental health human resource development.
5. To improve the factual basis of the determination of mental health needs, the AMHB must insist on an effective mental health management information system. Data gathered by such a system will be critical for program monitoring, evaluation and planning.
6. The Alaska Psychiatric Institute has outlived its usefulness and is not fit for the delivery of services previously provided by the institute. Services and facilities to replace the old institute must be funded, implemented and constructed.
7. Beginning with FY93, preparation of annual implementation plans must incorporate service priorities from all Mental Health Trust funded state agencies.
8. Mental Health Research Needs and Strategy: A quality research program is essential to understand and overcome Alaska's special mental health problems and needs.

LEGISLATIVE ISSUES

The AMHB will complete a compilation and examination of statutes, regulations and policies pertinent to the State Mental Health Program. Past Board work in this area focused upon Chapter 48 SLA, 1987. In 1989 the Board conducted a series of public meetings regarding Chapter 48. A final report documenting the results of the Board review was published in July 1990. The Board believes the following issues need to be addressed:

1. The creation of an Independent Trustee for the Mental Health Trust.
2. The Composition of the Alaska Mental Health Board: to ensure that it reflects the actual nature of the Trust funded Program and the various persons served by Trust funded mental health programs.
3. The Reorganization of Trust Funded State Programs: The Legislature should examine the alternative of creating a Mental Health Department with authority to integrate planning, budgeting, and services delivery by diverse administrative entities.
4. Revised Commitment Statutes: for mentally ill persons as well as for persons incapacitated by substance abuse. Current statutes create unnecessary obstacles to treatment and perpetuate dangers to persons needing commitment as well as to persons providing mental health services. Outpatient commitment options are not well developed.
5. Capital Improvements for Community Programs: A well reasoned long term capital improvement plan for community mental health programs and facilities is long overdue.
6. Medicaid Options: Medicaid has a proper role in the overall funding of necessary services to people who experience mental handicaps. Currently, the Medicaid rehabilitation option is not exercised by Alaska when it might well compliment other state funding of mental health services. To avoid treating Trust funds as a passive revenue source Medicaid expenditures for mental health services should be included as a planned element in a comprehensive and integrated system of care with appropriate oversight, monitoring, and program evaluation.
7. Mental Health Insurance: coverage requirements comparable to that for other medical conditions and including freedom of choice in service providers is important to the development of an adequate public and private system of mental health services.

AMHB PUBLICATIONS

The AMHB has benefit of its own staff and independent office to maintain a record of AMHB activities and help the Board fulfill its legislative mandate. The AMHB has conducted a number of independent studies and has published policy reports. The studies have centered around facility and service need determination and program evaluation. Policy reports pertain to the priority populations served by the Trust, land valuation issues and a review of legislation affecting the Mental Health Program.

1988 Evaluation of Alaska's Mental Health Management Information System; AMHB Report Number 1, August 1989.

Survey of Mental Health Needs in Political Subdivisions of the State; AMHB Report Number 2, August 1989.

1988 Survey of Mental Health Facility Needs; AMHB Report Number 3, August 1989.

Survey of Health Association of Alaska Members Regarding Regional Mental Health Need; AMHB Report Number 4, August 1989.

Policy Report Pertinent to the Greene Decision; AMHB Report Number 5, July 1989.

Alaska Mental Health Board Annual Report for the Calendar Year 1988. 1989

Lands Committee Report on the Department of Natural Resources Value Determination of the Mental Health Trust Lands; AMHB Report Number 6, July 1990.

1989 Review of Alaska Statutes Affecting the State Mental Health Program; AMHB Report Number 7, July 1990.

Annual Update of Alaska's Comprehensive Mental Health Plan: Revised Goals and Objectives, Alaska Mental Health Board Report Number 8, in press.

Review of Valdez Mental Health Trust Funded Programs, Alaska Mental Health Board Report Number 9, November, 1990.

APPENDIX

Mental Health Trust Coalition "White Paper",
adopted by the Mental Health Board in July 1990.

**WHITE PAPER:
STATEMENT REGARDING
BENEFICIARIES OF ALASKA'S MENTAL HEALTH LANDS TRUST**
Mental Health Trust Coalition
February 1990

There has been considerable debate over who are beneficiaries of the Mental Health Lands Trust, and what are appropriate expenditures from the trust since Judge Mary E. Greene's decision of April, 1988 (Greene Decision), ruling, among other things, that:

Congress intended that the Territory [now State] establish a comprehensive mental health program which would provide services to a group consisting of at least those individuals suffering from a psychiatric illness who may require hospitalization and the mentally defective and retarded.* Further, it is the conclusion of the court that Congress intended that the mental health lands public trust benefit the recipients of the services of the comprehensive mental health program, which group; must include, at a minimum, the mentally ill who may require hospitalization, and the mentally defective and retarded. The court concludes that it is within the discretion of the State to include other groups as recipients of services by the mental health program but it is not within the discretion of the State to exclude either of those two groups.

*The Court does not exclude from this operative definition either chronic alcoholics suffering from psychoses or senile people who as a result of their senility suffer major mental illness.

In April of 1989, the Greene Decision Ad Hoc Committee (Green Group), which was facilitated by the Alaska Mental Health Board and in which the Alaska Mental Health Board participated through its Executive Committee, issued its report, "The Greene Group Report", which responded to certain specific questions it was asked to address. In July of 1989, the Alaska Mental Health Board adopted its Executive Committee's "Policy Report Pertinent to the Greene Decision". Because of the different tasks each report was addressed to, they have different orientations. Certain statements in each of these reports have been taken out of context or otherwise misinterpreted. A close analysis of these reports reveals agreement in all important respects and the purpose here is to discuss this agreement.

The single statement in the Greene Group Report that has generated the misunderstanding and controversy is:

By unanimous vote the group [agreed] that the proceeds of the Mental Health Lands Trust must first provide the Trust beneficiaries as named in the Greene decision with a program of services necessary to address their self care, self direction, and social and economic functional limitations.

Some people have interpreted this statement to mean that all of the needs of these "core beneficiaries" have to be met before any trust funds may be spent for any other beneficiaries. However, none of the members of the Greene Group take that position.

Similarly, the following statements contained in the Mental Health Board's Policy Report Pertinent to the Greene Decision have been misinterpreted by some to mean that all Alaskan's are to share equally in funding from the Trust, and that prioritization of services to the most seriously disabled is inappropriate.

[A]ll Alaskans are to be included among the beneficiaries to receive trust funded benefit services.

* * *

The State may not discriminate among beneficiaries simply because some need more trust benefit services and some require less.

and its reference to Judge Greene's statement that:

In the administration of this trust, the State must treat all the beneficiaries impartially.

Neither of these extreme interpretations are correct or helpful. Black's Law Dictionary defines Impartial as "Favoring neither; disinterested; treating all alike; unbiased; equitable, fair, and just." Similarly, Webster's New World Dictionary, Second College Edition defines discriminate in this context as "to show partiality (in favor of) or prejudice (against)." Treating the beneficiaries impartially or not discriminating between beneficiaries, then, simply means that similarly disabled beneficiaries should be treated equally and that the interests of the beneficiaries are the only legitimate considerations (i.e., the interests of the trustee is a completely impermissible consideration). Allocations of trust funds must be "equitable, fair, and just."

In terms of treating similarly disabled beneficiaries alike, the critical issue is to recognize this responsibility across the categories of beneficiaries rather than within them. In other words, mentally retarded or mentally

defective individuals and mentally ill individuals with the same level of impairment should be treated equally. It does not mean that all Alaskans because they are potentially beneficiaries of the Trust, should receive the same amount of support from the Trust.

The Alaska Mental Health Board has not taken the position that the needs of the most severely disabled beneficiaries are not the priority in the event of insufficient resources. A clear statement of the Board's position is made clear by the Resolution adopted at its December, 1989, meeting containing the following language:

This [Mental Health] Trust Plan, the Chapter 48 revisions and the settlement of the Weiss litigation must ensure that the beneficiaries described by Judge Greene in the second phase of the Weiss litigation are afforded an enforceable priority for receiving appropriate services funded by the Trust.

Judge Greene's Decision, itself, makes a similar statement:

[I]t must be recalled that Congress intended the Territory to deal with the Morningside problem [those previously defined -- essentially requiring hospitalization in the 1950's]. Had the legislature and territorial government not dealt with the individuals who were placed at Morningside but rather had chosen a "mental health program" that merely improved the mental health and disposition of otherwise healthy people, surely Congress would have taken action. The reason that Congress would have taken action is that its intent was not being fulfilled. Congress clearly intended that the patients at Morningside be cared for under the State's mental health program; thus, Congress intended that the funds and lands given to the territory, now State, be used to benefit those suffering from mental illness requiring hospitalization and the seriously mentally defective and retarded.

Of course, as previously noted, Judge Greene also acknowledged that Congress intended the State use the trust funds for a "comprehensive mental health program". These two statements are not incompatible.

First, in funding Alaska's comprehensive mental health program from the trust, the needs of other most seriously ill -- those suffering from a psychiatric illness who may require hospitalization and the mentally defective and retarded, to use Judge Greene's terminology -- must be addressed. That is, within the comprehensive mental health program the people in most serious need (those delimited by Judge Greene) can not be sacrificed to provide services to the less needy (persons that may be beneficiaries in addition to those delimited by Judge Greene). In other

Appendix A: White Paper

words, trust funding emphasis can not be placed on general mental health services until the program provides a reasonable level of service to the persons delimited by Judge Greene. On the other hand, the state's comprehensive mental health program can not be dismantled or put on hold to find and fund services to the last seriously ill person (s).

The solution is not as difficult as has been made out. Alaska's comprehensive mental health program should provide comprehensive services, and in doing so, must provide an appropriate priority for those most seriously in need. In fact, AS 47.30 545 already requires such an approach.

*Senator - Many of the
policy questions re:
an authority are
covered in this
paper
Sharon Lough*

PUBLIC AUTHORITIES FOR MENTAL HEALTH PROGRAMS

by

Annmarie Hauck Walsh and James Leigland

Institute of Public Administration

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TABLE 1
Sources of Public Mental Health Services
Funding in New York State - 1984*

<u>Source</u>	<u>Description</u>
<u>Federal</u>	
Medicare	Limited inpatient and outpatient coverage for the treatment of mental illness for persons 65 and over and some disabled persons (introduced in 1965).
Medicaid	50 percent federal reimbursement for a wide range of inpatient and outpatient services for those who meet income eligibility standards (introduced in 1965).
Supplemental Security Income (SSI)	Basic monthly income to the aged, blind or disabled based on income eligibility standards. State has an option to supplement these federal dollar amounts (introduced in 1974).
Community Mental Health Centers Act	Federal funds for construction and staffing of multi-purpose centers (introduced 1963-65).
Alcohol, Drug Abuse and Mental Health Block Grant (ADM)	100 percent of the net operating expenses incurred by contractors in support of the Community Mental Health program as defined under the federal omnibus legislation.
<u>STATE/LOCAL</u>	
State Purposes	100 percent New York State dollars to support state mental hospitals, hospital-based outpatient services and the family care program.
State Aid to Localities	Local governments are granted state aid for approved net operating costs, pursuant to an approved local service plan, at the rate of 50 percent of the amount incurred during the local fiscal year by local governments and voluntary agencies under a contract (introduced 1954).
Unified Services Plan Financing	The net deficit incurred by a county pursuant to an approved unified services plan is funded by the state (introduced 1973).
Chapter 620 of the Mental Hygiene Law	Local governments or voluntary agencies having a contract to provide services to persons who were patients in a state facility for a period of five or more years following January 1, 1969, are granted state aid at the rate of 100 percent of approved net operating expenses (introduced 1974).
Community Support Services	A mechanism for building comprehensive and integrated mental health services for a chronically mentally ill population, the program is intended to forge a partnership among service agencies whose common goal is meeting the community living needs of the target clientele. Funding is provided at the rate of 100 percent of net costs (introduced 1977).
Direct Sheltered Workshop	Voluntary not-for-profit agencies which receive income through the operation of a sheltered workshop or industrial contract may have that income matched dollar for dollar through direct contract.
Program Development Grants	Local governmental units and voluntary nonprofit agencies may receive state funding in an amount not to exceed 80 percent of the development costs for community residential facilities, including but not limited to group apartments and other transitional living arrangements for the mentally disabled.
Demonstration Grants	Local governments and voluntary provider agencies are granted state aid of 100 percent of the net operating costs pursuant to contract with such local governments and voluntary agencies for approved demonstration projects.
Subcontract Funding - Local Assistance, Chapter 620 Community Support Services, ADM Block Grant	Agencies which subcontract with a core service agency of a Community Mental Health Center receive 100 percent of their local assistance funding through the core service agency of the CMHC which in turn receives its funding from the state.
Community Residence Funds	State aid is available to local governments and voluntary agencies, not to exceed 50 percent, for acquisition or construction of community residences for the mentally disabled and for operating costs.
Community Residence Rental Costs	Funding is provided for all rental costs incurred for community residence programs at 100 percent of net cost.
Family Care Adult and Children Group Homes	State aid is provided to cover 100 percent of net cost. A funding mechanism used by the Office of Mental Health (OMH) to supplement the State Department of Social Services rate in the amount of \$3,000 per bed per year. OMH will fund 100 percent of the net as long as the net does not exceed the cost per bed rate.
<u>OTHER</u>	
State Facility Fee for Service Contracts	The Commissioner (OMH) establishes fee schedules annually for inpatient and noninpatient services.

Foreword

The Public Enterprise Research Center at the Institute of Public Administration provides research, data exchange, and consulting services concerning organization and management of services, public-private contracting, public authority finance and management.

Current publications include Government Corporations, Special Districts, and Public Authorities, a selected, annotated bibliography by Xenia Duisin (\$15.00). A wide sample of case studies as well as general writings are described in the bibliography.

Introduction

The purpose of this paper is to provide information concerning one organizational framework -- the "public authority" -- to assist local government officials who are participating in competition for awards under the Program for the Chronically Mentally Ill (an initiative of the Robert Wood Johnson Foundation and the U.S. Department of Housing and Urban Development). By the terms of the program, applicants must "present a plan to implement a community-wide mental health authority with operational and budgetary control for publicly financed mental health services within two years of the grant award."

This paper attempts to give a clear picture of the major issues that must be considered in the selection and design of a public authority for the purposes described, leaving out detailed variables which would nevertheless need to be analyzed by the winning cities in the subsequent process of organizing a community-wide mental health authority.

A public authority is a form of organization common to state and local government in the United States. It is a non-stock government corporation, established by state legislative statute or municipal ordinance under state enabling legislation, with legal powers and legal personality separate from that of its sponsoring government(s), and without the power to tax. Generally, public authorities are also authorized to issue revenue bonds, on which the interest paid to investors is exempt from federal and other income taxes. This gives authorities access to sources of capital funding in the "tax-exempt" or municipal bond market. This distinguishes them from federal

government corporations, and provides them with a steady supply of investment capital from private sources, totaling over \$70 billion annually in recent years.¹

No organizational form has fixed strengths and weaknesses. The usefulness of any structural alternative varies with the functions it is to serve, the way in it is led and operated, and its economic and political environment. To assess the public authority's usefulness and how it should be designed, one must make some decisions about what powers and activities would be assigned to it, the characteristics of the services it will provide, the patterns of financing, and the distribution of political, legal and economic support on which it will depend. Hence consideration must begin with the aims and conditions of reorganization of mental health services, the market and support structures for them.

The Problem

Policy and treatment alternatives for the mentally ill have changed dramatically over the past twenty years, without concomitant adjustments in intergovernmental financial and organizational arrangements. Mental health services are under-planned and under-managed; service delivery and funding mechanisms are fragmented and uncoordinated to the point of chaos. (Funding diversity is illustrated in Table 1.) And there are counterproductive biases in the chaos: for example, bias for institutionalization where funding and client assignments are handled by a state agency which also manages long-term

1. Proposed federal income tax reform measures (e.g., the bill passed by the House of Representatives) would substantially reduce this volume.

care institutions; or bias for underfunding where clients are moved to the community faster than money moves to the community. Many of the chronically mentally ill fall through the cracks either by not finding a responsive authority or by failing to return for service.

This "Program for The Chronically Mentally Ill" begins with the fundamental decision that there should be in each major urban region or city a unified mental health authority with "combined administrative, fiscal and service responsibility" (hereinafter, "local mental health authority"). This is not a solution; it is a challenge to applicant governments to find innovative solutions. However the local mental health authority is designed and empowered, two major dimensions of complex interaction will remain: the intergovernmental and the interservice dimensions.

The role of state government will be crucial in each case. Institutional care for the mentally ill has long been a state responsibility. After nearly two decades of increasing emphasis on "deinstitutionalization" to community-based care, the bulk of funding for mental health services still comes from state and federal sources. These funds are not allocated in correlation to patient needs and patient load, but by diverse, unrationalized formulas and eligibility requirements for Medicare, Medicaid, Supplemental Security Income, categorical grant programs, local shares of state aid, net deficit contracts, etc. Any effective arrangement for a consolidated local mental health authority will have to involve some pooling of funds, some devolution of fund channeling by and from state government. And the new arrangements must avoid tempting state government to use deinstitutionalization as a means of cutting total resources allocated to

mental health. In the early 1980's the federal government began to cut its grants to state governments for the first time in 50 years. States are increasingly unable to make up the difference. So state fiscal contributions at stable and plannable levels must be part of any effective arrangement for local mental health management.

~~In addition, basic regulatory and standard-setting powers reside in state governments. Some degree of "deregulation" might be part of a demonstration project for local mental health management, eliminating detailed procedural regulations which tend more to delay administration than to improve service and performance. States would retain broad standard setting and review powers over institutions managed by the local mental health authority. So even with maximum consolidation of management for mental health services, intergovernmental linkages with state agencies will remain important elements of the system.~~

The question of whether the local mental health authority should take over some state institutions forms another issue in the state-local relationship. If the major long term institutions remain state-owned, then ~~state institutions might become contractual "clients"~~ of the local authority which assigns patient cases. A related issue will be the flow of Medicare, Medicaid and other third party payments. If these are channeled through the mental health authority, they can be part of a revenue stream to secure issue of revenue bonds for construction of new community-based facilities. In addition, it may be possible to utilize land and even redesigned buildings of state institutions located in a given city for development of special apartments, group homes, outpatient centers, etc. (For example, New York

City's Health and Hospitals Corporation has been planning to sell land and buildings from its Bellevue Campus to obtain both revenue and moderate cost housing.) ~~If certain state institutions and property were transferred~~ to the mental health authority, the authority might be authorized to sell part of them for development, or sell property and lease back portions for continued use in mental health services.

The larger issue of whether the local mental health authority should operate service delivery facilities must be considered. Should it be an operating authority as well as a planning, managing and financing authority? The Governor's Select Commission on the Future of the State-Local Mental Health System in New York concluded that "The local [mental health] management cannot be a direct service provider, but must be accountable solely for system management...the local management function [should] be organizationally separated from that of direct service delivery" (p. VII). Its basic argument is that comprehensive, balanced mental health services planning and management (including case assignment) requires objective detachment from operating responsibility for one kind of facility or another.

On the other hand, the "Guidelines for Application Narrative" for this program suggest that operational responsibility for delivering care to the chronically mentally ill should fall within the jurisdiction of the local mental health authority. If that authority oversees integrated management of a full range of different kinds of facility (long-term care institutions, community housing and clinics, and so forth), objectivity in case assignment should be possible. In any case, most experts seem to agree that integrated planning and management of mental health services must coexist with the

diversity of types of service delivered. This can be accomplished through one managing organization with operating divisions or subsidiaries, through a ~~managing organization with regulatory powers and intergovernmental agreements that give it control over separate operating agencies~~, through a managing organization with multiple contractual relationships with public and private service providers, or—most likely, through a combination of all three.

The difference in those three models is in the nature of the lines of control from service planning and management to operations: direct corporate hierarchical lines of control (ideally with decentralized management styles); legal regulatory controls (ideally streamlined and focused on factors that clearly affect quality of service); or contract controls (the most variable and flexible, but difficult to manage).

Federal involvement in the insurance and income transfer programs, grants programs, housing, and patients' rights will remain part of any reorganized system. And in many urban regions, more than one municipality is involved, plus one or more counties. In sum, an important set of considerations in organizational design will involve accommodating the intergovernmental dimension.

Interservice coordination will also remain an important dimension. New diagnostic, treatment and prevention techniques involving general health services in mental health care. Community-based care is particularly dependent upon availability of low-cost housing. Supply of such housing, relative to demand is in critical shortage in most urban areas, with little improvement in sight given major reductions in federal responsibility. Social services—including services for the aging and the homeless—will remain

intimately related to mental health care. Indeed, one of the major incentives for increased city efforts for care of the mentally ill may be the burgeoning problems of the homeless.

Organizational Alternatives

In light of the above description and of the "Guidelines for Application," the common denominator for reorganization of mental health services is one organization in the urban community which is the primary point of contact, information, assignment, (including admission and discharge authorization), monitoring, evaluation for each client case. The organization must be the intermediary between the client cases and a wide range of service and facility types. It must be willing and able to interact with state, local and private voluntary agencies and to meet specifications of state and federal law. The organization must be able to assure provision of, and to monitor, crisis services, hospital care, clinic and outpatient services, residential treatment, and special housing. It must be able to plan, manage and enforce the distribution of client cases among various service delivery facilities. It must be an information clearing house for case tracking and monitoring. It must have first-rate financial management, for handling and reporting on contracts, grants, insurance, etc. It must have planning capability to forecast needs for various types of facilities and to stimulate investments and resource shifts to meet these needs (health planning systems offer some precedents for this role). Finally, its effectiveness will be increased by having good access to political support at state and local levels and to community leadership and advocacy resources.

Financing for mental health services is presently diverse and inadequate. Future arrangements should encourage rationalization but will have to accommodate continued diversity. User charges in mental health are generally dominated by third party payments, although there is a narrow market for at-cost services to patients with the means. State appropriations will remain crucial for annual operating subsidies and contractual and debt service contributions. ~~Maximizing private sources of finance~~—including bond market investment, private insurance, and tax-shelter investment—may have some application, particularly to housing and clinic construction. As a result, a local mental health authority might be designed to have a broad range of financial capabilities:

1. Utilization of federal and state grants-in-aid and appropriations;
2. Receipt and processing of medicare, medicaid and private insurance payments for patient care;
3. Participation in guaranteed loans and mortgage pools;
4. Issuance of tax exempt bonds;
5. Lease rental and contract payments from state and city government that can provide operating income or debt service;
6. Receipt of tax exempt gifts;
7. Excess revenues (AKA profits) from rent or sale of property or from user charges;
8. Sale and leaseback arrangements with private parties.

The intimate mix of private and public financial forces that is also involved means, however, that effective methods of audit and of assuring public accountability are crucial. This will in all probability remain a state responsibility.

For purposes of understanding the relevance of the Public Authority as the managing organization for local mental health under these conditions, it is useful to compare it to some of the major alternatives, for example, the Non-Profit Corporation and a regular Government Agency.

A Non-Profit Corporation in most states can be formed for such purposes without special state legislation. It is incorporated within the terms of general state law by issuing certificates of membership or participation, establishing by-laws and registering with appropriate state authorities. It may be completely independent of government (with start up funds from a foundation, for example) or its members and directors may include city, county and state representatives. (The ability of local governments to participate in non-profits varies with state law.) This is an easier start up process than is required for most public authorities. Indeed an existing non-profit, such as a university, community development corporation, or hospital could be given expanded functions. However, in the case of mental health, state legislation will eventually be required anyway to distribute state and local service and financial responsibilities.

Non-profit corporations must be carefully designed if they are to be exempt from federal, state and local taxes on income and property, and to be eligible for government aid and net deficit contracts under various laws. For the most part they are not classified as "public instrumentalities" for purposes of issuing tax exempt bonds and are more likely to turn to commercial loans and gifts. Non-profits do have separate legal personality, like public authorities, for flexible contracting, market transactions, and personnel systems. In fields of community service, there is some history of weakness in financial management

and public accountability among private non-profits, and some state courts have limited state oversight with regard to their activities.

It may be more difficult to assign to a non-profit corporation some of the public regulatory powers and public funds management functions described above. In any case, the non-profits will continue to play an important role as local service providers and could be better integrated in a unified system of planning and contracting with a local mental health authority or as subsidiaries of one.

Agencies of Government--city agencies, urban county agencies, metropolitan government agencies, state agencies with regional jurisdiction--represent another class of alternative. Developing an existing agency into the local mental health authority may build on political, managerial and administrative resources already in place. But major political readjustments will still be required to delegate powers from state mental health bureaucracies and to coordinate activities with health, housing and social services. All forms of public funding can be accommodated by this type of agency; capital would be raised via state and federal grants and general obligation bonds issued by the government (competing with other bond purposes and in many states requiring bond referenda or being limited by constitutional ceilings). Loans to the agency can be backed by state or local government guarantee (something not often available to public authorities).

Most government agencies are limited in their enterprise-type transactions by administrative procedures and rules (eg., civil service, procurement by competitive bidding, property auction and other requirements). But there are varied precedents for agencies of government with special status

that are not separate corporations and that are subject to regular legislative budgeting processes. This is the case with many state universities, for example, which are granted separate personnel systems by law and substantial managerial independency. Successful regional enterprises such as the Los Angeles Department of Water and Power and the Maryland Environmental Service have operated as or within government departments but with special legal and financial powers that are tailored to their missions. Indeed, to the extent to which state law permits the development of special hybrid forms carefully shaped to organizational needs and accountability requirements of mental health services, departures from the charter "boilerplate" of the typical public authority will be possible.

The major advantages of the government agency in this context may be superior outreach and neighborhood liaison, and overarching executive authority (eg., mayor, county executive, umbrella-agency director) to enforce coordination with related emergency, housing, social and health services. Of course, in some cases housing and health services are already cordoned off in corporate public authorities of their own, in which case interauthority agreements will be necessary. Agreement with the public housing authority is called for by the application guidelines.

Finally one form government agency has proliferated since the 1950's and provides another alternative: the special taxing district. Local precedents abound--school districts, sewerage and water supply districts, mosquito control districts, residential development districts, and so forth.

The Public Authority Device

A public authority is an extremely versatile organizational form. It can be designed to have some of the attributes of the private corporation on the one hand and the government agency on the other. It can be endowed with the financial and managerial flexibility of the private corporation. It can be coordinated and held accountable as might a government agency. It can combine planning, financing and operational functions for both construction and service delivery. It can establish its own operating divisions and corporate subsidiaries or contract operations out to vendors. It can use both these techniques—direct operations and contracting, making comparisons and transitions between them. But a major warning is warranted here. All the advantages of the public authority turn into disadvantages if it is badly designed, badly managed, and badly integrated with government and related service systems. The single most common historical weakness of public authorities -- particularly those which are self-financing -- is their tendency to plan for their own isolation from broader interactive systems and tradeoffs, for their own protection from the most difficult and subsidy-dependent service responsibilities. Examples abound: authorities established to expand financing for low and moderate cost housing that grow and flourish by financing market-priced housing and commercial developments; the transportation and port authorities that minimize their responsibility for public transit services that require subsidy, and channel excess revenues into investment in office buildings, cultural and commercial centers; power authorities that overbuild and have feuded for decades with local governments over land use and environmental issues; health care authorities that

overemphasize hospitalization and equipment, and underemphasize preventative and outpatient services. These are tendencies which must be counteracted by design, governance and oversight.

In most parts of the country public authorities — variously titled corporations, authorities, banks, services, agencies, commissions, etc. — are the least understood form of American government. The fact that so many titles are used only adds to the confusion, as does the fact that the number and functions of public authorities are growing faster than those of any other form of government.

Public Authorities differ from government itself in these ways:

- Public authorities do not have general government "police" (regulatory) or reserve powers, or powers to tax;
- Public authorities can exercise only those powers and conduct only those activities specifically authorized in their charters or statutes.

Public authorities differ from line agencies of the executive branch of government in the following ways:

- They have separate legal identity (corporate personality) for purposes of revenue retention, contracting, property ownership, financial obligations and litigation;
- They may be (depending upon statutory law and corporate charter) exempt from many of the administrative procedures and regulations that apply to line agencies, such as civil service and other personnel regulations, procurement and other administrative procedures, rules and controls by central executive staff agencies;
- Their powers and structure can usually be changed only by statutory amendment (not by executive order), and such changes may be limited by legal covenants entered into by the corporation for borrowing and other contracts;

- They are generally permitted business-type budgets, without line item or expenditure period limitations, and may be permitted to retain their own earnings, rather than channeling them through treasury and appropriations processes;
- Public authorities usually have independent borrowing capacities and credit ratings.

Because they are independent legal entities, authorities act almost as if they were not "governmental" at all, and that is precisely the issue. Defenders of the authority concept argue that they must have independence and flexibility to act in a "business-like" fashion, to finance, construct and often operate revenue-producing public enterprises.

Hence one of the most commonly cited reasons for creating authorities is to circumvent the overloaded procedural due process of public administration in order to provide managerial flexibility for commercial-type activities. Increasingly this flexibility is sought for non-commercial, traditional government activities.

A second common rationale for public authorities arises from the desire to create capacity to borrow through the tax-exempt securities market, outside the restrictions of state constitutions. In fact, this is probably the most important single characteristic of public authorities, giving them financial clout and a set of values and behavioral tendencies generated by the investment market. In many states, constitutions or legislatures have instituted quantitative limits on the amount of "general obligation" debt that the state and municipalities can issue. Such debt is backed primarily by taxing powers. Other states require popular referenda in advance of general

obligation borrowing, and prohibit executive line agencies from selling revenue bonds. Most public authorities can circumvent these constraints and gain access to the bond market because they borrow without legal guarantees of state or local government. Ceilings on their debt volume are usually specified in charter legislation and subject to legislative amendment. The negative side of this independent borrowing capacity is that authorities compete against local governments in the bond market and tend to develop their own influence and policy priorities. Those priorities can be protected by being incorporated into bond resolutions with legal effect over 30 or 40 year periods.

Increasingly, independent tax exempt borrowing has been used not to develop self-financing "commercial-type" services, but to by-pass constitutional limits in order to strengthen financing for subsidized government services on the one hand, or to pass savings from tax-exempt borrowing on to private beneficiaries on the other hand.

The classic public authority, based on the model of the Port Authority of New York and New Jersey (established in 1921), is created by a legislative charter that defines its powers, activities, governing structure, relationship with government, and funding. The initial charter is crucial to future performance and is difficult to amend, particularly after the authority accumulates financial obligations. The port authority model is that of a corporation which operates outside of the regular executive structure of government to construct and operate services substantially financed by revenue bonds and by operating revenues sufficient to meet all or a substantial proportion of operating

and debt service costs. It is governed by a board of directors appointed by chief elected officials of sponsoring government(s). It is exempt from civil service and procurement regulations of government.

Like most port, bridge and toll-road authorities, the Port Authority of NY and NJ has operating income from user charges and investments, adequate to cover its operating expenses, its developmental and overhead costs, its debt service and reserve fund requirements. Its capital borrowings are secured by its own stream of revenue. Concentration on self-financing projects, with some exceptions, has allowed the authority to grow and prosper, just as any large-scale profit-oriented business attempts to do. In the case of the Port Authority of NY and NJ, surplus income is available for use by the authority, for planning and initiating new projects, or for leveraging debt financing. This means that unlike a regular government agency, the Port Authority can devote substantial sums to project planning and design without waiting for legislative authorization or appropriation. A major point of contention over several decades has been the inability of city or state governments to channel port authority excess revenues into deficit-ridden public transit services.

The most rapid growth of public authorities in the past two decades, however, has generated substantially different types of corporations -- many of them financial corporations without operating responsibilities. These include bond banks, economic development authorities, housing finance agencies, hospital and dormitory finance authorities, which issue tax exempt bonds for the purpose of relending to

local governments, to private businesses, to developers, to home buyers, to health care institutions (public and private). and to universities (see below, section on Financing).

In mental health services, the major application of bond borrowing might be for capital construction of residential and health care buildings. In some states, public authorities already exist for these purposes (public housing authorities, housing and health facilities financing authorities). These are state financing authorities that could be tapped by the mental health management agency for funding of specific projects that it sponsors. Where such state sources of tax exempt borrowing are available to the local mental health authority, it does not need separate corporate credit status. (Thus, for example, many universities borrow through state education finance authorities).

By the late 1970s, at least 6,000 local and regional authorities and 1,000 state and interstate corporations were operating. By the early 1980s, the total was estimated to be well over 10,000, and the revenue bond market, which lends primarily to public authorities, was raising almost twice as much capital as all general obligation state and local bonds in the nation. At some point competition with state and local governments for bond market capital must be considered a negative factor, as well as the buildup of indirect obligations of state or city government to cover the costs of deficit corporate operations. Most economists would argue that tax supported services should be capitalized from tax-backed credit. But from the perspective of any single service sector, the advantages of tax-exempt borrowing appear substantial.

Financing & Resource Allocation

Debt Financing. Revenue bond debt is amortized from specific pledged sources, as opposed to general obligations (or GO debt) secured by the full faith and credit, and taxing power, of the state or municipal government issuing the bonds.

Other kinds of governmental entities, including special taxing districts or state or municipal agencies themselves can issue debt secured by specific pledged sources if state law so provides. "Pledged sources" can include special taxes, special assessments, lease payments, federal grants, state or city legislative appropriations, as well as the revenues of the enterprises that are de facto obligors. Revenue debt can be backed by secondary pledges of financial support, such as formal city or state guarantees (to repay debt in case of revenue short-falls), or "moral obligation" backing (e.g., an informal pledge by a state legislature to assist in the repayment of debt if necessary). The reason for the informal, or "moral obligation" pledge of state government is that many state constitutions treat state guaranteed debt the same as direct state debt for purposes of debt ceilings or referenda requirements.

Selected Types of Revenue Bonds. A variety of types of revenue bonds have some relevance to funding social services. A few examples are listed and explained below.

HOUSING BONDS. There are four basic kinds of housing revenue bonds, although many subclassifications exist.

1. Direct loan program bonds. Under these kinds of programs, developers receive direct mortgage loans from a state

public authority (usually a housing finance authority). The loans are used to finance the construction of new housing, usually multi-unit apartment buildings for elderly or low- to moderate-income families that receive federal rent subsidies. These subsidies, in turn, are used to secure (and to pay debt service for) the bonds issued by the public authority to make the mortgage loans possible. If the mortgages are guaranteed by the VA, or insured by the FHA, then it is much easier (and less costly) to issue debt for direct loan programs. But federal insurance programs do not always guarantee 100% of the principal of the mortgage, and states often purchase private insurance or make "moral obligation" pledges that they will support the bonds in cases of revenue short-falls.

2. Mortgage Purchase Bonds. The funds raised by the issuance of this kind of debt are used to buy mortgages from savings and loan institutions. Typically this technique is used to provide housing for low and moderate-income families. As in the case of direct loan program bonds, mortgage payments provide the funds to pay debt service for these bonds. Although first issued by state housing authorities, these kinds of bonds can be, and are, issued by cities, local agencies and counties. Once again, federal insurance or guarantees, private insurance, and/or state moral obligation backing can be used as supplements.
3. Loans-to-lenders programs. These programs involve the use of bond proceeds to make collateralized loans to lending institutions, which in turn make mortgage loans that are payable from loan repayments by the lending institution.
4. Federal Subsidies. Federal housing subsidies of various kinds have played important roles in making the issuance of housing revenue bonds possible. In the past, housing authority bonds issued under Sect. 8-11(B) of the U.S. Housing Act made possible "indirect" financings -- they involved no direct financing from the federal government. Instead, the federal government provided comprehensive rent subsidy packages. Section 8-11(B) provided for 100% of the financing on Section 8 projects and was used for multi-family buildings. Again, these financings could be insured in a variety of ways, or backed by moral obligation.

HOSPITAL OR MEDICAL FACILITY REVENUE BONDS. There are two principal ways of financing health facility construction or rehabilitation.

1. Lease Method of Financing. Under one common variation of this technique, the issuing authority (e.g., a Health

Facilities Finance Corporation) uses bond proceeds to buy facilities from a hospital. The facilities are then leased back to the hospital. Another variation involves the leasing of the facilities to the bond issuer, who then subleases the facilities back to the hospital. Under this arrangement, lease payments secure the bonds and provide debt service payments. Title to the properties may revert to the operating health facility when the bonds are paid off. These kinds of lease-back arrangements typically involve unconditional guarantees by the health facility to make lease payments, rather than mortgages.

2. Loan Agreement Financing. Under this arrangement, the hospital keeps title to the facility and simply accepts a loan from the financing authority. The loan payments received by the issuing authority from the hospital are usually assigned to the trustee as security for the debt. The hospitals usually pledge gross revenues or gross receipts as well as a mortgage to secure the necessary loan.

No matter what kind of financing technique is used, the security of the bond depends on the ability of the facility to generate enough revenues to meet its operating expenses and debt service requirements (or on the ability of the facility to tap public funds from other sources). The value represented by the physical plant and equipment does not provide sufficient security to back hospital revenue bonds.

LIFE CARE BONDS. Life care communities exist in a great variety of forms, but they typically consist of condominium apartments designed for occupancy by the elderly, a community building, and a health care facility with traditional nursing home services. Residents sign lifetime residency agreements requiring an entrance fee and commitment to pay monthly maintenance. In some cases, residents must pay fees for use of the community center or health facilities. More often the entrance agreement guarantees residents the ability to move to the nursing home facilities at no additional cost.

A large number of life care facilities are organized as non-profit corporations that make use of the proceeds of the sales of tax-exempt securities by local development authorities or health facility authorities. The funds are advanced to the life care corporation in the form of loans, installment sales, or leasing agreements. The life care corporation generally pledges gross revenues and grants a first mortgage lien on its facilities to secure the payments to the issuer, in amounts necessary to cover debt service.

* * *

All of these financing devices can be applied, in one way or another to services for the mentally ill. The mix of options is complex and needs to be worked out in the specific context of state law and funding arrangements. One issue to be resolved in each case is whether the local mental health authority must incorporate the functions of a finance authority or can be designed as an operating authority which can borrow from and through existing state housing and medical facilities finance corporations. If the former option is selected, there are some strong reasons for the mental health authority to be a state corporation, with urban region jurisdiction, rather than a municipal corporation, in order to enjoy the backup, direct or indirect, of state credit and pledges. There are ample precedents for state corporations with regional jurisdiction (eg., port and some economic development authorities).

User Charges. One of the defining characteristics of public authorities (and public enterprises), is their utilization of user charges for financing. They are organized outside the normal public budget process to retain their own earnings and to plan financial operations without appropriation-year limitations. Most public authorities do have a significant proportion of authority income from charges levied on identifiable beneficiaries for services provided, rather than from general taxes levied on the community at large.

~~User charges are sometimes distinguished from "service fees."~~
User charges pay for services that are provided to a specific user or consumer; A service fee may be paid to a public enterprise to provide certain levels of service without dependence on particular use patterns.

Hospital room charges are an example of user fees, with or without supplementary third party payment. Maintenance of 24-hour ambulance and emergency services may be supported by a service fee guaranteed to the authority regardless of the frequency with which they are used. For a local mental health authority to be financially viable and stable, state ~~and federal aid could be channeled into carefully planned service fees.~~

The establishment of a user charge system, especially one that takes market pricing into consideration or supports the repayment of debt, must be preceded by the determination of the true cost of a service. Cost information makes possible decisions about productivity, allocation of resources and the actual need for outside funding assistance, and therefore can be a significant incentive for efficiency. Efforts to undertake annual reviews of user charge designs often require the kind of information produced by internal cost accounting systems -- systems not always found in departments of municipal agencies.

Cost analysis usually involves the breaking up of costs into direct and indirect costs, and fixed and variable costs. Other related kinds of analysis necessary for the establishment of such a system include the determination of ways in which demand affects costs, the identification of relationships between demand and user charges, the kind of pricing technique to be used (average cost pricing, profit pricing, marginal cost pricing, peak load pricing, etc.), the kinds of collection procedures to be used (and a system for monitoring whatever method is chosen).

Subsidies. Subsidies often affect the design of user charge systems, especially in cases where the user charges are not of a self-sustaining nature and the service is considered (by the subsidizer) to be necessary or capable of providing benefits to a community wider than that made up of specific "users" of the services. For example, an authority that provides mass transit services, but at prices not high enough to cover that authority's operating expenses (and/or debt service costs), may be subsidized because of the positive effects of its services on economic activity or land value -- benefits that enhance a community's tax base.

Another form of subsidy provides services to lower income groups on the basis of a sliding scale of charges, based on a percentage of the user's income. A more direct kind of subsidy, and arguably a more efficient kind, involves the subsidization by income transfer directly to the low income client (eg., rent subsidies, food stamps).

Finally, earmarked taxes can be an important source of subsidy. By definition public authorities do not have direct taxing powers but state or municipal taxes can be earmarked for grants to them or subsidy contracts. A recent example is a gasoline tax add-on committed to state aid to local transit authorities. (Another option is to establish a local mental health taxing district on the model of school, sewerage, or mosquito control districts, with elected or appointed boards, municipal status, and specified local tax powers.)

In the case of a full-service mental health authority, user charges, service fees, and indirect and direct subsidies would be

mixed.) These mechanisms must be devised in the process of drafting charter legislation. Also involved is how the authority will utilize vendors. It is likely that a relatively small portion of authority income will be derived directly from user charges, but policy should be set on this issue. Third party insurance and Medicaid payments, categorical grants, state and municipal aid payments should be channeled in ways consistent with incentives for efficiency, needs for debt security, stability for operations and planning. (Cost-plus and net deficit contracts tend to be disincentives for efficiency unless special cost control measures are included.) Consideration should be given to designing state aid formulas which award performance by specific measure or at least are proportionate to number and unit cost of case load types. Part of the subsidy package could include service fees to the authority to maintain emergency and outreach services, for example. Another part could base state aid payments on patient load and case severity by specific categories. Finally, the possibilities of combining self financing facilities (eg., life care facilities) and even some profit making facilities (eg., craft shops, land rental) within the authority framework should be considered.

Budgeting & Accounting. Public authorities that are financed primarily by user charges and/or revenue bond borrowing generally use accounting and budgeting procedures that are more like those of private enterprise than those of most state and municipal governments. This is the recommendation of the "generally accepted accounting principles" promulgated by the National Council on Governmental Accounting (NCGA).

Until 1984, and the establishment of the Governmental Accounting Standards Board (GASB), the NCGA was the recognized authority in state and local accounting. Now the NCGA will be phased out, but its statements will remain in force until they are modified by the GASB.

The recommendation for the use of business-like accounting and budgeting procedures holds for a semi-independent public authority or simply a "public enterprise" activity of regular government (in which case a special "enterprise fund" would be set up). Although the principles of the NCGA (and now the GASB) are recommendations only, they define the terms within which independent Certified Public Accountants will render "unqualified" audit opinions of an authority's books. Without such opinions, rating agencies issue lower credit ratings, and revenue debt becomes more costly to issue.

"Business-like accounting and budgeting" means that the costs of providing services and revenues earned, must be accounted for in such a way that they can be compared for the purposes of capital maintenance, public policy, management control, accountability, etc. An important way of doing this, called for by NCGA principles, is the use of the accrual basis of accounting for enterprise funds. In other words, revenues can best be matched with the costs incurred in earning those revenues if transactions are recorded as they occur, regardless of the actual timing of receipts and disbursements.

Other differences between enterprise accounting and regular governmental accounting include certain restricted accounts, including those related to revenue bond financing, financial reports similar to

those used in private business, and the use of budgets as guides to spending (based on market demand), rather than means of legal line-item control.

The local mental health authority, if organized as a corporate public authority, would not be part of state or municipal budget processes, although it would be dependent upon them for annually appropriate subsidies.

How Authorities are Organized and Managed

The Board of Directors. Most public authorities are headed by boards of directors modeled after private sector boards. But unlike directors of a private firm, they do not answer to stockholders, and the company cannot be controlled through stock transactions. Securities and Exchange Commission regulations and commercial directors' liability have not been applied to public authority board members. Directors in the public sector are usually secure from ouster during their terms, although dismissal for cause can be provided for in the charter. History has demonstrated that it would be useful to define carefully the directors' responsibilities and reporting requirements in an authority charter.

The directors of most state corporations are appointed by the governor; the directors of the majority of local authorities are appointed by mayors or town or county councils. They generally do not receive full-time pay but are entitled to costs and allowances for attending meetings and for other work on authority business. Where

annual stipends are provided, they are usually in the range of \$1,000 to \$5,000, although some are as high as \$40,000.

Authority directors are usually appointed for fixed and staggered terms. Frequently they are reappointed and stay in office for longer periods of time than the elected officials who selected them. As a result, they have a distinct advantage over newly elected officials who may be their nominal superiors.

Most authority directors (or "commissioners," as they are variously titled) are private persons not otherwise in government service, chosen to bring financial prestige or political contacts to the board. Other theories can be applied to the design of the board, however. One is to use the board to institutionalize coordination—intergovernmental and interfunctional. For example, the mental health authority might be partially appointed by a governor and partially appointed by a mayor or county executive, or include appointees of several municipalities in an urban region. In addition, several such appointments can be specified in charter to be reserved for persons with professional qualifications or representatives of particular community groups or client constituencies. Design of such a board becomes part of the negotiations central to reorganizing powers.

Another alternative is to include ex officio appointments to the board; for example, social services officials, or housing and mental health commissioners might be members of the board. But if one office or agency (eg., state mental health department) is to be the main focus of oversight over the authority (see below), there is some experience to

suggest that it should not be represented on the board. Effective oversight requires objective review from outside the organization, something not always compatible with an active role on the board.

Elected boards or representative boards, which are common in Europe, are found in the West and Midwest. These variations remain rare in most of the U.S.

Considering the variety of state law, local politics, and practical tasks affecting public authorities, their governing boards tends to be remarkably alike. Appointments, responsibilities, terms, and conditions of service reflect legal and administrative advice that has traveled across state lines and through the decades. The theory of the "business-like" government corporation has called for directors of a certain type: successful people of high repute in business. They were expected to serve in positions of wide discretion with secure tenure, to formulate policy on nonpolitical premises, and to be appointed on nonpartisan basis. Sometimes this works out in practice, and sometimes it does not. But the degree to which directors actively monitor the performance of the enterprise is much more limited than theory would have it, and their immunity from politics is apocryphal at best.

Top Managers. Internally, the top managers of a public authority function much the same as private sector counterparts -- if and only if the corporation has been exempted from government budget, personnel and procurement systems, has not inherited labor contracts and civil service rules from a government forerunner, and is not subject to specific decision interventions by elected officials. Top managers of

public authorities then, may have as much control over operations as private sector managers, but without the involvement of the performance pressure put on the private sector manager by stock values and a board concerned with them. As long as the authority meets minimum service and/or revenue-producing requirements, the job of the top managers is usually safe and their turnover low. Because authorities rarely face competition from other organizations, and their revenue trends seldom change sharply from year to year, it is difficult to assess the performance of management. Quality of management is crucial in public authorities, and some type of performance/program audit should be required to stimulate it. There is no evidence that after a certain point higher salaries bring better managers into public enterprise. Appointment of the chief operating officer by the board is the rule, often with behind the scenes consultation with elected officials. Once appointed, the manager needs support--he should be permitted to manage freely and held responsible for results.

Relationships with government

Public authorities are independent governmental entities only in comparison with divisions, departments, agencies of the regular government bureaucracy. Public authorities -- by definition -- are subsidiaries of government, and are increasingly being treated that way, by states, counties, and cities. This treatment has paralleled the growth of public authorities in traditional government, as opposed to commercial, activities. "Generally Accepted Accounting Principles," as

promulgated by the National Council on Government Accounting (and now the GASB), require that "parent" governments of whatever kind, include in their financial reporting, data on all of their governmental subsidiaries. The Wall Street investment community generally refuses to consider public authorities completely independent of parent governments, especially when those authorities are in danger of defaulting on revenue debt. In those cases, the credit standing of the parent government (and its own cost of borrowing) can be in jeopardy if it does not make efforts to come to the financial rescue of its subsidiary.

The greatest challenge of drafting public authority charters is to build in effective oversight, performance incentives, and opportunities for state or local government financial and policy planning and influence, without undermining the management effectiveness of the corporation. Oversight is a largely misunderstood concept. The first dictionary definition of oversight is "watchful care, supervision," but the second and third definitions are "failure to see or notice" and "unintentional mistake". These sum up the history of public authority oversight. Good oversight allows government to develop priorities on allocation of financial resources and basic public policies, including in those service areas in which operational responsibilities are delegated to separate organizations. And good oversight promotes management skill, decentralized, task-oriented organization, accountability to customer and public, employee support and motivation. To do this, managers must be given management freedom with risk. Performance reviews are necessary

but government should resist the temptation to substitute detailed administrative controls for effective oversight.

Typical dimensions of oversight for public authorities are listed below.

1. Information gathering and distribution. Some parent governments have begun to gather and organize data on the operations of their corporate subsidiaries. Some data may be used to trigger intra-governmental financial or management audits. Reporting requirements and procedures for analyzing the information should be spelled out in charter legislation.

2. Powers to appoint and replace directors. Powers of appointment and dismissal represent in most cases the primary means of effective government oversight of authority operations. Those who exercise such oversight are increasingly careful about the impacts of such interventions. Dismissal is difficult and controversial. More effective is designation of staff units to monitor authority operations, and alert government officials or departments (such as comptrollers offices) of impending authority problems and to define directors responsibilities in such a way to make them responsive to program audits.

3. Laws regarding the duties of directors. The directors of every public authority are affected by laws covering the liability, indemnification and exoneration of authority executives. In many states, for example, the liability of authority directors for decisions made "in good faith" has been legislated away. This is done in order to attract capable people to authority boards. However, other states have laws that make the liability of authority directors conform to "duty of care" provisions found in business codes. In other words, authority directors can be found guilty of "mismanagement," and liable for damages, if they do not maintain a reasonably careful awareness of their organization's operations -- no matter how much good faith was involved. Such directors may still be indemnified against personal financial loss resulting from such judgments. The point of the law is not to punish after mismanagement occurs, but to provide extra motivation for directors to perform responsibly. Just the thought of being held liable for reasonable management capability usually suffices to keep directors well informed.

4. Special laws regarding business plans, open hearings, etc. Some parent governments have passed special laws to force authorities to draw up investment plans or "business plans," as a source of information about what the future course of the

authority's operations may be. Provisions may be added to have such plans approved by the regular government chief executive, or planning office. Laws may require that such plans be discussed in open public meetings, or that they be signed and approved by each member of the authority's board of directors.

5. Relationships with government staff agencies. Many parent governments have regulations about regular intra-governmental audits of authorities, the policies and procedures use by authorities in investing surplus funds, financial reporting and budgeting formats, and the regular provision by authorities of financial and administrative data concerning their operations. Some parent governments have created special agencies to monitor or participate in the management of troubled authorities, and other agencies to review authority borrowing proposals. Many states and cities have set up special authorities to divide up the capital financing, construction, and ongoing management of particular kinds of governmental activities (health care, housing, etc.). In some instances special units in the budget office review authority budgets and summarize them in executive budget documents.

6. Line departments, such as a mental health or social services department, may be designated as major focus of oversight, with clearly defined standard setting and review responsibilities. Indeed, ~~authorities can be administratively located within a department.~~ Departmental review and coordination can only be effective, however, if it is based upon mutually agreed on program plans and standards. Without these, it can deteriorate into nit-picking.

7. The legislature, with its powers of investigation, hearing and legislative amendment, in addition to powers of appropriation of subsidies, has the ultimate oversight responsibility, but usually lacks information. Reporting and staffing mechanisms to overcome this weakness are needed.

As we have noted a number of times, authorities exist in a variety of different forms, depending on a wide variety of significant characteristics. An equally wide variety of interactive mechanisms exist to enhance the coordination and cooperation between authorities engaged in complementary kinds of activities. Among the kinds of mechanisms commonly used are task forces, plans, contracts

and intergovernmental agreements, overlapping board memberships, referrals, joint ventures, etc.

A growing phenomenon in the U.S. is the spawning of subsidiary authorities by "parent" authorities, and the creation of affiliate authorities to share related kinds of work. New York State's Urban Development Corporation (UDC) is a convenient example of the proliferation of affiliates and subsidiaries -- all connected by the interactive mechanisms cited above. In addition to the Project Finance Agency created to help refund UDC mortgages, UDC has as affiliates or subsidiaries the Mortgage Loan Enforcement and Administration Corporation (MLC), the Convention Center Development Corporation (sponsored jointly by UDC and the Tri-borough Bridge and Tunnel Authority), and the Battery Park City Authority (with separate legal status, but run by UDC's management). When the New York City Convention Center is completed, another authority -- the Convention Center Operating Corporation -- will sublease the center from the state, after the state leases the center from the Tri-borough Bridge and Tunnel Authority. UDC currently lists over 80 corporate subsidiaries, ranging from the Fresh Produce Corporation and the Apollo Theatre Redevelopment Corporation, to the Times Square Development Corporation and the New York State Sportsplex Corporation.

This pattern may have some application in services for the mentally ill, particularly to supplement reliance on private vendors or to provide some performance competition to them, and to bring a

range of service types under the umbrella of the consolidated local mental health authority. The more reliance on subsidiaries, however, the more carefully the management plans, performance reviews and oversight arrangements must be designed.

Conclusion: Summary and Checklist

The following sections provide a summary review of issues to be considered in the process of designing reorganization and public authorities.

Strengths & Weakness of the Corporate Form

Advantages sought from public corporations include the following:

- Managerial and budgetary flexibility for enterprise-type activities that need to be continually adapted to changes in consumer demand, construction contingencies, and other market factors;
- Speed and efficiency of large scale construction using planned funding schedules, flexible contract administration, and non-controlling, multi-year construction budgets;
- Increased access to bond markets;
- Protected, earmarked funding for priority projects and long term debt service, subject to dedicated fund prohibitions;
- Business-like and self supporting management, particularly where the benefits produced go primarily to the persons or organizations who use and can pay for the service;
- Insulation from political influence, for philosophical or other reasons;
- Use of an agency with mixed ownership, with the potential for transfer to the private sector, or with a jurisdiction that spans several government units;
- Integration in one management framework of activities of multiple jurisdictions and/or functional departments to focus upon defined clientele, purpose, territory, or resource.

None of the advantages described above can be achieved only through use of public corporations, and none of them are automatically achieved by use of public corporations. The record of public corporations throughout the nation includes examples of political corruption, financial debacle, service deterioration, and construction failure as well as numerous success stories. It is important therefore to keep in mind some of the potential disadvantages when making the initial decision.

Potential disadvantages include the following:

- The accumulation of independent debt burden and other financial obligations and potential claims against future taxes and tax payers without control, financial planning or early warning.

Two facts affect this potential problem. First, high volumes of borrowing through corporate revenue bonds do tend to tighten the market for general obligation borrowing by state and local governments, particularly from the same state. Second, even when the state clearly has no legal obligation for the debts of its corporations, if those corporations get into financial difficulty the state or units within it will be under severe pressure to help them - by channeling appropriations into corporate reserve funds, by offsetting their operating deficits through subsidies or rate increases, by helping to refinance debt or otherwise avoid default. The credit standing of the state and participating local governments is affected by the credit record of the corporations. Unforeseen

changes in interest rates, in economic conditions or in revenues have caused problems with even the seemingly strongest corporations in some states.

- The separation of important development decisions (such as distribution and pricing of transportation, energy, industrial investment and housing) from legitimate political institutions based upon voter support and executive leadership.

Conflicts over social, environmental and economic impacts may arise too late, after the corporation has made decisions to which the people's representatives did not have access, even when there are public hearing requirements. Similarly, lack of consistency between corporate programs and departmental programs and plans can increase the costs and reduce the effectiveness of government as a whole.

- Undermining government procedures established for desirable purposes of accountability and legitimacy, including appropriations and budgeting, equitable job classification and salary scales, merit recruitment and promotion, standardized accounting and auditing procedures, and contracting and procurement controls.

There is often a temptation to by-pass regular government agencies when these procedures seem too rigid and cumbersome for good management. However, reform of procedures may be preferable to progressively cutting chunks of government activity out of them altogether.

- Creating pockets of public activity susceptible to narrow special interest control.
- The potential for "creaming", or removing revenue producing activities from government budgets, leaving deficit operations to fall more heavily on taxpayers or appropriations. Many states have tried unsuccessfully, for example, to tap the revenues from successful corporation toll facilities to help finance public roads or transit.

Other Approaches to Consolidating Authority

Not all of the differences between public corporations and line agencies are necessary. Indeed, some of the characteristics of public corporations can be given to line agencies in order to allow them to undertake enterprise-type activities efficiently without giving up executive and legislative controls. For example, some of the legislative alternatives to the full blown corporation are the following:

- A separate executive agency or administration, headed by an administrator reporting to the governor, mayor or county executive, with special powers designated by statute but without independent corporate status.

This arrangement has been used for enterprises that are funded by appropriations and state bond issues (eg., transportation bond issues).

- A revolving fund or corporate loan fund within an executive department.

This is used for loan and subsidy programs that require protected financial integrity, revenue bonding powers and separate

credit obligations, but which do not require separate administrative bureaucracies and which benefit by policy coordination with related programs. Such arrangements have provided revenue streams which are identifiable and protected allowing for accounting separate from the general agency budget in order to maintain credit ratings for revenue bonds.

- Regional/local enterprises run by representative commissions or intergovernmental boards.

In summary, the selection of the corporate form should be based upon four kinds of information:

What characteristics for financing and management are implied by the mission of the proposed agency?

What alternative forms of organization can provide these characteristics with minimal loss of democratic control?

How important is it to relate these activities to political representation? to community preferences? to departmental policies?

How can a corporation be effectively monitored in terms of financial and administrative impacts on state and local government?

The Design of the Public Corporation

Careful design of each public corporation to meet the needs of the particular mission, financing situation, and desired patterns of leadership and oversight is crucial if the agency is to live up to the expectations for it, and not prove to be a source of future problems.

There are many different ways to organize a public corporation, and the

form appropriate for a loan fund may not be appropriate for a power authority, transit system or a local mental health authority. Below is a check list of questions and legislative issues to be considered when drafting or amending corporate charters.

Legislative intent and oversight. The corporate mission should be stated clearly enough to provide policy guidelines to the corporation and to provide standards for subsequent oversight. Goals, priorities and performance targets should be expressed clearly so that performance can be judged against them. (For example, are services to be self supporting from revenues? Is the aim to increase supply and utilization of some units (eg., passenger trips, kilowatt hours, person beds in community facilities? To aid or subsidize certain groups to levels of minimum standards?)

The most effective way to hold an enterprise accountable is to measure its performance against targets for that performance. Without targets or priorities, oversight tends to consist of random interchanges between government and corporate managers that are frustrating to both sides. If statements of corporate mission are ambiguous or shift from year to year, there is little that the supervising officials can do except try to assure that the corporation is acting prudently. It is always difficult to express clear goals and priorities for public programs because the nature of the democratic process is such that they are often the product of shifting compromise. Nevertheless, the exercise of trying to develop coherent statements of mission for each corporation and related departmental programs - however imperfect - can clarify the

issues that are relevant to audit and to budget review, and can provide a framework within which requests for statutory amendment can be judged.

- What are the goals and the policy guidelines that the legislature intends for the corporation?
- Are goals and guidelines sufficiently clear and consistent to judge the performance of the corporation in the future?
- Should government authorization be required for each major capital project or new program expansion? For major project planning efforts? For administrative and public affairs budgets? For salary scales? For fare and rate structures?

The relationship of the corporation to government. Coordination calls for clarification of the relationship between corporations and the departments of state or municipal government.

- What role should the related department play?
- How should departmental programs and policy plans relate to corporate activities?

Experience generally has shown that the ability of part-time boards to provide policy leadership to public corporations is limited, and ex-officio appointment of busy government officials does little to overcome those limitations. Problems are compounded if board meetings must cope with managerial detail, or if board members lack timely information on policy and performance. Consideration should be given to establishing board committees, regularly supplying board members with issue papers, carefully designing meeting agenda, and having board members participate in public hearings.

Other alternatives should be examined. One is to have the corporation headed by a single administrator who reports to a departmental commissioner and who is aided, not by a governing board but by an advisory board. This is particularly appropriate for enterprises closely linked to other state services (social services, transit agencies, equipment maintenance agencies, revolving loan funds related to specific economic programs). Advisory boards without direct responsibility for management can be larger and draw on a broader range of expertise and objective opinion. By reporting their assessment of the corporation to the related state department and to the legislature, they can often provide for better accountability than can governing boards that get bogged down in details.

Another alternative, one suitable for regional enterprises, uses a policy council representing local groups or elected officials together with a strong executive director (see, for example, the public utility districts of the Pacific Northwest).

- If a governing board is to be used, who shall appoint the members? The chief executive? The head of an executive department? Local representatives? Should the board be representative? Should it be large enough to use special committees (eg., audit and finance committees typical of the private sector)? If it is large, will it have problems scheduling meetings or assembling a quorum to conduct business?
- Should terms of members be staggered (giving the board added stability and some political insulation, but making it somewhat less responsive to elected leaders in the short run)? Or should their terms coincide with those of the appointing authorities, making them political executives like department heads?
- Has provision been made for removing board members for conflict of interest violations, for non attendance, or for malfeasance?

- Who shall appoint the executive director? The board? The governor? The department head (corporation subsidiary of one department)? Will the executive director serve by contract, or at the pleasure of the appointing authorities? What provision has been made for removal?
- Have means of improving the effectiveness of boards been explored? (e.g., use of working and advisory committees or staff to the board)?

In addition to careful design of the corporate governing structure, three other considerations are important to produce good corporate management with state government leadership.

First, the powers and responsibilities of the general manager, the board or council (if there is one) and of the appropriate government officials must be sorted out clearly and sensibly. The manager should have full responsibility to manage, and can then be held responsible for corporate performance. The board should not be burdened with detailed decisions and personnel choices below that of the manager. The board should focus on continuing evaluation of what is going on in the corporation. And state officials should have a clear role in decisions that have substantial impact on the public interest.

Second, officials of the sponsoring government need timely information concerning the corporation's programs and plans. Multi-year program and financial plans should be required. So should annual reports showing actual results. Statutes should specify the kinds of information and factors that should be included in plans and reports. They should also specify who is to review those documents and approve them.

Third, statutes should specify key policy decisions by the corporation that will affect public welfare and costs. Shall the government have certain veto powers, prior approval powers or power to give the corporation certain directions?

Impact on budgets. There should be provided ongoing means of assessing and controlling the extent to which the corporation may burden government with direct or indirect financial costs.

- Are the corporation's services likely to be self supporting out of operating revenues? At what price levels? Are services to be provided at below market prices? What interests will be served?
- If operating subsidies are to be provided by appropriations, should there be a ceiling imposed in statute? Absolute or percentage ceiling? What factors will effect the level of subsidies: interest rates, user charges, volume of use, costs? Should prices be regulated? By whom? By what formula?
- Should specific cost controls be imposed (eg., salary ceilings; executive scale; administrative expense limitations; interest rate ceilings)? How can cost control and efficiency incentives by management be encouraged if deficits are to be absorbed by appropriations?

Impact on capital finance and debt. Corporate financial plans, debt burden, security arrangements and borrowing volume should be continuously monitored together with those of other state corporations and state and local government. Some orderly process should be established to analyze information on current and planned borrowing, lending, investments, and potential demands on capital appropriations, including impacts on the economy and on state credit given varying market trends.

- What security will underlie corporate borrowing? Is the estimated revenue stream adequate to secure the borrowing necessary to complete planned projects?
- What will borrowing costs do to revenue requirements (for example, costs of patient care, rental and mortgage rates, etc.)? What are the fall back resources for debt repayment if the revenue stream diminishes?
- Does the state have a moral obligation (legislative option to keep corporate reserves up to specified levels)? Are earmarked taxes to be pledged to back up debt? Can the corporation's finances be leveraged by federal grants, by state loans or grants, or by other sources? Are lease payments by state or local government agencies pledged to back up debt?
- Where will the liability or risk fall in case of extraordinary circumstances (eg., impacts of power plant failure, of earthquake or bankruptcies on mortgage and loan obligations, etc.?)
- How will the authorized debt and debt security affect the ratios of debt of and in the state, and the ratings and indices used by the financial community to assess and cost out state and local government borrowings?
- What arrangements have been made for payback of state or municipal capital appropriations or loans (interest, time period, enforcement and forgiveness provisions)?
- Regarding nonguaranteed borrowing authority, what ceiling shall be established by statute? What agency of state government shall approve issues after reviewing timing, volume, interest costs, and terms of bond resolutions or official statements?

The management capabilities of the corporation. To do its job well the corporation needs stable financing, concentrated management authority, marketing expertise, high quality labor force, and flexible procurement and contracting capabilities. Sometimes these require exemption from some of the provisions of state administrative law. If

such exemptions are applied when they are not needed, however, the public purposes for which the corporations were established are undermined.

- Should the agency's personnel be part of the civil service? Should it have its own merit-based personnel system? Should it have salary comparability? Should it offer no job security but provide full management prerogatives to hire and fire? If so, what protection from abuses should be provided? Will the agency assume labor agreements from predecessor organizations? Do collective bargaining provisions make civil service regulation unnecessary?
- Should regular provisions for equity, public participation and public information apply (freedom of information, sunshine laws, equal employment opportunity, community reviews, environmental impact statements, zoning approvals, and public notice and hearings, etc.)? In general these should not be waived without strong justifications.
- Should regular procurement and contracting procedures be waived for the agency? Rigid competitive bidding requirements may slow down and raise the costs of large scale or repetitive construction projects, and slow procurement procedures are a problem in high technology activities.
- Should the corporation be permitted to promulgate regulations? If so, should all administrative procedures acts apply to it?
- Does the structure of top leadership for the agency assure strong management together with coordination with the executive branch? The full time executive director is the key to corporate management. Will that position be clearly responsible (eg., appoint other personnel, have duties clearly distinguished from the chairman of the board, be answerable for the performance of the agency, be subject to incentives and to dismissal by the board, the governor or department head, be expected to testify regularly before the legislature)?
- Should the corporation be required to have organization and management surveys at least once every five years? To have full engineering and economic feasibility studies of its major projects before their authorization? Receive financial advice independent of underwriters and project consultants?

- Should the corporation be required to have approved accounting systems, multi-year financial plans and capital budgets, and annual outside audit of its books? Conflict of interest restrictions should be applied by statute to corporate personnel.
- What kind of budget should the corporation be required to submit annually? Does the nature of its activity require more flexibility than a normal government line item budget? If so, should a business type budget be specified? Budget estimates with freedom for the corporation to shift funds from category to category? Should Management by Objectives or Zero Based Budget documentation be required? What special provisions are needed for capital and construction budgets?
- Should its entire budget be subject to annual approval, or only the appropriations requested by it? (If only the appropriations, what evidence of cost control and efficiency will be required in the documentation?) Should full budget review be required of all authorities with outstanding loans from the state?
- Who should review corporate budgets? Executive budget office? Legislative auditor? Comptroller? Legislative budget review or appropriations committees?
- What format and time span should be required for the capital budget of the corporation? What provision for depreciation (maintenance or sinking fund) should be made? How should the impact of interest obligations on operating budgets be reported and monitored? How should the borrowing requirements generated by short term debt be reported and monitored? Are there adequate provisions for coordination with other capital programs?

Exercising legislative oversight. What procedures should the legislature use to monitor the agency's performance with respect to goals? Legislative performance audit? Periodic public hearings or committee investigations (special circumstances only)? Legislative veto of financial plans or budgets which will exceed debt or spending ceilings?

Legislative oversight should not involve intervention in specific management applications of policy (e.g., approval of specific loan applications, personnel actions, contractor selections, detailed budget lines.) If legislative judgment dominates these types of administrative action, the advantages sought from using the corporate form in the first place are lost.

In order for legislative oversight to be effective, legislative staff reviewing and dealing with the corporations must be adequate to keep up with the material coming to it, to analyze, to summarize, and to help distill out the policy implications. Investment in the capacity to continue to evaluate the public corporations would be small in comparison to the state appropriations supporting them.

Legislative oversight tools that have been used recently include public authority control boards, special investigations, assignment of a full-time performance auditor to individual corporations, and codified corporation control acts. In many states, recent initiatives concerning public corporations have been part of broader efforts to plan and strengthen debt management policies generally.

Implementation Steps

The basic policy and management issues discussed in this paper have to be resolved by the participants in government reorganization—the involved political officials, community and client group representatives, managers and employees. The process involves both technical organization design and open negotiations. In order to prepare an application narrative that presents a proposal that will have a reasonable chance of

being implemented in two years, the applicant in this case will need preliminary indications of where negotiations will lead. Hence the endorsement of major political officials is called for. More than that, preparation of the application will be enriched by clear understanding of the potential strengths and weaknesses in each jurisdiction and the feasibility of various reorganization strategies.

Reorganization is not preparing a blueprint on clean paper. It is much closer to strategic rearranging of existing components. A good inventory of existing services, powers and finances relating to mental health programs is an essential starting point, including discussions or interviews with service providers and sources of evaluation. In a number of states studies have been done in recent years that provide assessments and recommendations that can be considered.

For assistance with the technical aspects of design and drafting, governments usually turn to financial advisors from the public finance departments of investment or commercial banks and to bond attorneys. They can devise ingenious arrangements to make deficit services credit worthy, forging lines into government budgets. But their major focus tends to be on creating and optimizing opportunities for the authority to engage in municipal bond market transactions. Additional, objective sources of advice should be sought to balance the perspectives brought to bear on design of a local mental health authority for which service quality and system management is of higher priority than capital borrowing.

History of the State Land Office

At the end of their war in 1848, the governments of Mexico and the United States signed the Treaty of Guadalupe Hidalgo which decided the territory encompassing what is now New Mexico to the United States and recognized existing private land grants. The territorial boundaries were described as extending from the border of the state of Texas on the east, to the territory of California on the west. Upon the establishment of the territory of Arizona from the western portion, and the creation of the territory of Colorado from the northern portion, the present boundaries of the state of New Mexico were established in 1863.

The Treaty of Guadalupe Hidalgo provided that "it shall be incorporated into the Union of the United States and be admitted at the proper time (decision to be judged by the Congress of the United States) to the enjoyment of all rights of citizens of the United States according to the principles of the Constitution..."

Near the turn of the century, a group of willful and aggressive leaders were desperately attempting to develop New Mexico. Among them, Harvey B. Ferguson, delegate at large from New Mexico, took up the statehood battle of his predecessors and sought during his term of office to cause a statehood resolution to be passed. However, his resolution, like so many others introduced before, was defeated. Seeing the hopelessness of obtaining statehood at that time, Mr. Ferguson proposed a bill authorizing the granting of lands for certain purposes to the territory of New Mex-

ico. In a stirring speech before the Committee on Territories on February 2, 1898, he laid the groundwork for the introduction and passage of what is called "The Ferguson Act of 1898."

This Act gave sections 16 and 36 in every township to the territory of New Mexico for support of its common schools. In the event any of these sections were mineral lands or had otherwise been sold or appropriated under the mining or homesteading laws, the territory was then entitled to make alternative selections from other unappropriated, surveyed, non-mineral public lands.

Other provisions of the Ferguson Act included grants for the benefit of various institutions such as universities, insane asylums, School of Mines, School for the Deaf, School for the Blind, public schools, Miner's Hospital, the Military Institution, the penitentiary, reform schools, water reservoirs, improvements to the Rio Grande, and for capitol building purposes, for a total of some 5,589,185 acres of land, all to be selected from the public domain.

Miguel A. Otero, governor of the territory of New Mexico, urged in his message to the Legislature on January 16, 1899, the passage of appropriate laws by the territory to activate the federal grant.

Following his message, the Territorial Legislature enacted Council Bill #51 of the Territorial Laws of 1899, which accepted the grant and created the Public Land Board consisting of the governor, the solicitor general, and the commissioner of public lands, with the lat-

ter to be appointed by the governor.

Since the Act was passed by the Legislature in the latter part of its session, no opportunity was given the governor to appoint the commissioner of public lands by and with the consent of the Territorial Council. Therefore, Governor Otero appointed Alpheus A. Keen as commissioner of public lands and he served in this capacity through 1906.

The first meeting of the Public Lands Board was held on March 27, 1899, and Commissioner Keen at once began setting up the Territorial Land Office. The records show he started a system, commonly known as the "tract book system", which accounted for the state trust lands on an institutional basis. This system was changed in 1933-34 to a system containing a full record of the selected and acquired institutional lands, described by subdivision, in township and range order.

Many problems arose from the construction and interpretation of the Ferguson Act. It appears that the 5,589,185 acres of the public domain granted in quantity or as indemnity to the territory of New Mexico were to be selected by the territorial governor, the territorial surveyor general, and the territorial solicitor general acting as a commission and under the direction of the secretary of the interior.

The Act further provided that the Territorial Legislature should enact laws as to the leasing of the lands, but until the territorial Legislature did act, the governor, solicitor general and the secretary of

the interior would act as a board for leasing such lands. No such lease could be granted for a period of more than five years, nor could more than 640 acres be leased to an individual. It also provided that all leases should terminate if and when the territory was admitted to the union as a state.

Another provision of the Act destined to create great administrative difficulty was the restriction limiting the sale of state trust lands to 160 acres per individual. (This restriction was later removed by the Enabling Act.)

The Ferguson Act, although a splendid benefit to the territory, turned out to be an exceedingly difficult piece of legislation to interpret and actually administer. This act stipulated that more grants would be forthcoming when statehood was granted. Therefore, when the Enabling Act was approved, it provided that sections 2 and 32 in every township were to be held in trust by the state for support of its common schools. If these sections were mineral in character or already appropriated, provision was made for the state to select lieu lands elsewhere, on a quantity basis, from the public domain. A later amendment stated that if these sections fell within a national forest, title was to remain in the United States and revenues derived therefrom would be remitted to the state until lieu selections were completed.

The Enabling Act, which provided for a constitutional convention, was finally passed by Congress on June 20, 1910. After the delegates drafted a constitution and submitted it to the people for a vote on

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January 21, 1911, and by presidential proclamation, the territory of New Mexico officially became the state of New Mexico on January 6, 1912.

One of the articles of the new constitution provided that the commissioner of public lands take control, jurisdiction, care and custody of the trust lands as agent for the state.

In addition to school sections 2 and 32 in every township, the Enabling Act also granted an additional 1,426,667 acres for the support of various schools, institutions, and other beneficiaries. An allocation of one million acres was also approved, designated as "Railroad Bonds Grant," in payment of bonds issued by Santa Fe and Grant counties. Thereafter, 250,000 acres were also granted to the "County Bond Grant" to defray interest which had been paid by Grant, Luna, and Hidalgo counties on invalid bonds. The Act provided that upon retirement of the bonds and interest indebtedness, any lands remaining in these grants would be administered for the support of the common schools.

The Enabling Act specified that five percent of all revenues derived from sales of public domain land within the state were to be deposited into the State Permanent Fund. Section 10 of the Act placed certain restrictions and limitations on the use and disposition of the trust lands. Some of the major points embodied in these restrictions were:

* The lands and all funds derived therefore were declared to be held in trust.

* There could be no commingling of funds; consequently, income from the various lands is held in separate accounts and each beneficiary is credited with the income from the lands appropriated to it.

* Before any land or the natural products of the land could be leased or sold, they had to be appraised and could not be sold for less than their true value.

* Lands or their natural products could only be sold at public auction, after proper advertisement in the newspapers.

* Any sale or contract handled contrary to these restrictions is considered null and void.

Over the years, amendments to the Enabling Act have been made. However, since this can only be accomplished by an act of the United States Congress and ratified by a Constitutional amendment approved by the citizens of New Mexico, such amendments are difficult to accomplish.

The most important of the few amendments which have been passed was Article 24. It removed restrictions on the disposition of the minerals as imposed by the original Act and placed control over the minerals with the state Legislature.

Approximately 13 million acres were originally granted to New Mexico. The ownership pattern has changed through the years because of sales to individuals, exchanges with, and condemnations of land by, the Federal Government, usually for military and defense purposes.

NEW MEXICO STATE PERMANENT FUND
INCOME DISTRIBUTION
AS OF JUNE 30, 1990

	Balances June 30, 1990	Distributed Income (Cash Basis) FOR FY78	Income as Percent of Expenditures	Total Expenditures FY 78 (1989-90)
Charitable, Penal and Reform	\$ 18,725,261	\$ 1,658,087	32%	5,246,900*
Common Schools	2,408,706,612	213,199,034	24	870,982,000
Eastern New Mexico University	3,745,529	335,040	2	18,724,600
Improvements to the Rio Grande	11,064,752	988,176	48	2,068,000
Miners' Hospital of New Mexico	32,007,943	2,784,711	36	7,757,400
N.M. Boys' School	244,149	22,027	--	6,585,500
N.M. Highlands University	984,307	88,239	1	13,797,100
N.M. Institute of Mining & Technology	5,559,467	491,915	4	12,501,700
N.M. Military Institute	115,919,710	10,273,023	94	10,941,300
N.M. School for the Deaf	65,541,985	5,759,381	90	6,375,400
N.M. School for the Blind	65,351,395	5,742,171	104	5,534,000
N.M. State Hospital	8,553,038	760,488	3	26,543,900
N.M. State University	13,597,238	1,210,341	2	70,764,700
Northern New Mexico College	667,267	59,636	1	4,362,300
Penitentiary of New Mexico	65,856,785	5,788,168	24	24,343,900
Public Buildings - Capital	32,503,874	2,884,103	--	---
University of New Mexico	54,416,570	4,853,073	4	117,097,400
University Saline Lands	293,283	26,460	--	---
Water Reservoirs	22,354,640	1,948,658	--	---
Western New Mexico University	979,914	87,843	1	9,572,700
	<u>\$2,927,073,719</u>	<u>\$258,960,574</u>	<u>21%</u>	<u>\$1,213,198,800</u>
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* Expenditures for principle recipient - Carrie Tingley Children's Hospital

Source: State of New Mexico State Investment Council, 1990 Annual Report, July 1, 1989 - June 30, 1990
and Total Expenditures from New Mexico Legislative Finance Committee correspondence.