

SB

383

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 9/26/94

FURTHER:

Date of 5-Day Notice: 9/20/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 9-26-94

Finance Committee considered **SENATE BILL NO. 383**

"An Act making and amending appropriations relating to the mental health trust fund, the mental health trust income account, and the mental health trust settlement income account; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

| Department | Date | Zero | Fiscal |
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PREVIOUS FISCAL NOTES

| Department | Date | Zero | Fiscal |
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Appropriation No Fiscal Note

DO PASS:

Bert Sharp
Alvin King
Paul H. Ho
Tim Kelly
[Signature]
 1. *[Signature]* **DO PASS**

OTHER RECOMMENDATIONS:

 2. *Irma Deane - 10/2/94*
 - Co-Chair: Signature/Recommendation

Co-Chair: Signature/Recommendation



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

September 26, 1994

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

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a substantive bill and an appropriation bill that relate to the mental health trust, the mental health trust income account, and the mental health trust litigation, Weiss v. State, 4FA-82-2208 Civil. These bills do not, however, change the substance of the proposed settlement already enacted. While enactment of these bills may not be absolutely necessary for the court to grant final approval of the proposed settlement, they will clarify and implement certain provisions in the proposed settlement. This will significantly improve the probability of final court approval.

The bills have three main components: (1) corrections to the lists of land designated as mental health trust land or removed from the trust; (2) clarifying the funding sources for the \$200,000,000 appropriation to capitalize the mental health trust fund and for certain other mental health operating and capital appropriations; and (3) clarifying and amending legal deadlines to remove obstacles to the settlement actually taking effect.

With regard to the first of these components, corrections made by the substantive bill would add certain parcels to and delete certain parcels from the lists of land designated as mental health trust land under ch. 5, FSSLA 1994. This provision also would amend the list of land identified as removed from the trust under ch. 5, FSSLA 1994. (Although this second change is not legally required, it will serve to prevent any ambiguity.) The most significant correction relates to approximately 116,000 acres near Salcha, the mineral estate of which is designated as trust land. That land is included within a federal military land withdrawal and may never become available for designation to the trust. Accordingly, the parties have agreed to replace that land with other land of similar character and income producing potential. The other corrections

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are technical and address problems discovered after the legislature adjourned from the first special session this year.

In granting preliminary approval of the settlement, the trial court encouraged the parties to find solutions to the problems with the land lists, especially the federal military withdrawal of the Salcha land. The court also warned that the court and beneficiaries would be forced to examine the degree of risk posed by those problems and the impact on the settlement if no solutions are found. The substantive bill provides the solution to these problems.

The second component addresses a change in conditions affecting the funding sources of the \$200,000,000 appropriation to capitalize the mental health fund. It now appears there may be a shortfall from one or more of the funding sources for that appropriation. Therefore, the appropriation bill provides that shortfalls may be made up through additional amounts from the mental health land revenue on deposit in the general fund and the mental health trust income account. In addition, there is ambiguity as to the funding source for \$33,000,000 of the \$200,000,000 appropriation to capitalize the mental health trust fund and certain other mental health appropriations. The \$33,000,000 was appropriated from the mental health trust income account (AS 37.14.011), but that account was repealed on June 24, 1994, (secs. 39 and 52, ch. 5, FSSLA 1994). To resolve the ambiguity, the substantive bill revives the mental health trust income account (AS 37.14.011(a)) retroactive to June 24, 1994. It also provides for the repeal of the account when it is no longer needed to finance appropriations enacted by law. Finally, because the revenues that previously went into the account (AS 37.14.011(b) and (c)) now go into the general fund, the appropriation bill also provides that the general fund is to cover any shortfall in funding appropriations from the account. (And, to distinguish it from the mental health trust income account that will be repealed once it is no longer necessary, the name of the new account into which trust income will be deposited and from which the Mental Health Trust Authority will fund grants and contracts is changed to the "mental health trust settlement income account.")

In granting preliminary approval, the trial court identified the potential shortfall in the \$200,000,000 appropriation as a problem. As with the land lists, the trial court encouraged the parties to find a solution. The court further warned that it and the beneficiaries would be forced to examine the degree of risk posed by the funding source problem and the impact on the settlement if no solution is found. Provisions in the substantive and appropriation bills take care of these potential problems.

Finally, the bills modify the requirement for dismissal of the mental health trust litigation for the settlement to become effective. First, they provide that the deadline

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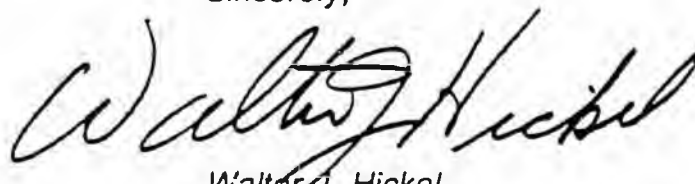
only applies to dismissal of the case by the superior court. This modification will preclude any person or party from unilaterally preventing the settlement from taking effect simply by appealing the dismissal to a higher court. In the unlikely event the superior court's dismissal is reversed on appeal, the settlement provisions are repealed through sunset clauses. Second, they clarify that the statutory benefits offered the mental health community under the settlement become effective if the litigation is dismissed by the specified deadline, December 15, 1994. Third, because the settlement takes effect upon dismissal by the superior court, the authorization for the governor to extend the deadline by up to 45 days is repealed.

In granting preliminary approval of the settlement, the trial court noted as "problematic" the possibility of a party preventing the settlement from taking effect simply by filing an appeal. These modifications eliminate that possibility and give all the terms of the settlement a common effective date.

The people of Alaska will substantially benefit from the final resolution of this almost 12-year-old litigation. The proposed settlement offers significant advantages to the mental health community, many of which could not be obtained through continued litigation. In addition, settlement will enable the mental health community to focus its energies on the important task of delivering mental health services rather than on the litigation. The rest of the Alaska public also will benefit from the significant savings of litigation expenses and from the lifting of the cloud the litigation has placed on development of state and private land.

I urge your prompt action on these measures.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel
Governor