ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

HB 91, CSHB 91 H. Fin. 246

HB
91

(11)

HOUSE COMMITTEE REPORT

Date referred: 4/15/87 FURTHER REFERRALS:

DATE: 4/27/87

The Finance Committee has considered HB 91

"An Act relating to the chronically mentally ill."

RECOMMENDS:

[X] replace with CS HB 91 (HESS) [ ] the same title

[ ] attached amendment(s) [X] a new title

- [X] do pass
- [ ] do not pass
- [ ] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the _____ Committee

ADOPTS: [ ] _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- [ ] fiscal impact
- [ ] zero fiscal note
- [ ] zero with analysis
- [X] same as previous fiscal note published 4/15/87
- [ ] same as previous zero fiscal note published _____

SIGNING DO PASS:

RIEGER _____

POURCHOT Pat Pourchot

ADAMS _____

BROWN Tay Brown

FRANK _____

ARSON Ronald J. Arson

BOYER Frank Boyer

WALLS Kay Walls

SIGNING ~~OTHER~~ RECOMMENDATIONS:

Alan A. Rieger No Recommendation

Albert R. Adams - No Rec

Albert R. Adams

Chairman's signature

R.O. 4/27/87
HFC

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS HB 91 (HESS)
Publish Date:

REQUEST:

Revision Date: April 11, 1987
Title: "An Act Relating to the Mentally Ill and Providing for an effective date."
Sponsor:
Requestor:

Agency Affected: Dept. Health and Social Services
BRU:
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		107.74	107.74	107.74	107.74	107.74
TRAVEL		9.0	9.0	9.0	9.0	9.0
CONTRACTUAL		3.0	3.0	3.0	3.0	3.0
SUPPLIES		1.26	1.26	1.26	1.26	1.26
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS		1,879.0	1,879.0	1,879.0	1,879.0	1,879.0
MISCELLANEOUS		-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING		2,000.0	2,000.0	2,000.0	2,000.0	2,000.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		2,000.0	2,000.0	2,000.0	2,000.0	2,000.0
FEDERAL FUNDS						
OTHER						
TOTAL		2,000.0	2,000.0	2,000.0	2,000.0	2,000.0

POSITIONS:

FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Mel Henry, Director
Phone: 465-3370
Division: Mental Health and Dev. Dis.
Date: April 11, 1987

Approved by Commissioner: Myra M. Munson
Date: April 14, 1987
Agency: Dept of Health & Social Services

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

FISCAL NOTE
HB 91
Allocation of $2 Million

Grants to Community Mental Health Centers		
(1) Services to chronically mentally ill persons		$ 1,401.5
° Case Management Services	864.0	
° Daily Structure and Support	144.0	
° Residential Services	393.5	
(2) Expand Services For Existing Community Mental Health Centers		180.0
(3) Services to youth with severe emotional, mental, and behavioral disturbances - Alaska Youth Initiative		250.0
(4) Training for Secondary Consumers		47.5
(5) Mental Health Administration		121.0
° Coordinator Chronically Mentally Ill	60.0	
° Alternate Care Coordinator	61.7	
TOTAL		$ 2,000.0

FISCAL NOTE
HB 91

Personnel Services:		
one (1) Mental Health Clinician II	Range 19	$ 52,142.00
one (1) Alternative Care Coordinator	Range 20	$ 55,598.00
		$107,740.00
Travel:		
Mental Health Clinician II 12 trips @ $500		6,000.00
Alternative Care Coordinator 6 trips @ $500		3,000.00
		9,000.00
Contractual:		
Phone, copying, printing, 125/m x 12 x 2		3,000.00
Supplies:		
52.5/m. x 12 x 2		1,260.00
Equipment:		-0-
Sub Total		$ 121,000.00
Grants:		$1,879 000.00
TOTAL		$2,000,000.00

FISCAL NOTE
HB 91
Allocation of $2 Million

INTRODUCTION

The following discussion describes the Division's program proposal for the fiscal note of $2.0 million for HB 91. The proposal calls for an augmentation of existing services as well as the establishment of new services to meet the unmet needs within the mental health system with a strong emphasis on the needs of those persons, both adults and children who are chronically mentally ill, and persons residing in rural communities.

Major Target Populations and Activities To Be Funded:

1.	Persons with chronic mental illness.....	$1,401.5
2.	Expand Services For Existing Community MH Centers.....	180.0
3.	Alaska Youth Initiative.....	250.0
4.	Training for Secondary Consumers.....	47.5
5.	Mental Health Administration.....	$ 121.0
	Total	2,000.0

ASSUMPTIONS

° Appropriate community mental health services should be available as close to one's community as possible.

- Because of population size and limited resources, not every service will be available in every community. Services will be allocated on the concept of "Levels of Care". Clients may have to travel outside the immediate community to another service site to receive a given service.

- Funding allocation will be guided by, but not limited to the following factors:

  - need for mental health services, including populations at risk;

  - population density;

  - the sole provider of mental health services in the region;

  - economic consideration (poverty, cost of living);

  - presence of special populations, e.g., elderly, CMI, or youth;

  - performance record and motivation of the existing program.

- Funds will be allocated through the community mental health centers whenever possible.

- Programs are not comprehensively funded, but should meet basic needs. As more funds come on-line, new initiative will be started and existing programs augmented.

- The Division should retain some administrative flexibility to place additional resources, consistent with the state plan, to enhance a comprehensive base of services delivery in a given region.

- Fairness must be ensured so that all persons in need are served with emphasis on those in greatest need.

SERVICES TO THE CHRONICALLY MENTALLY ILL

Data from the statewide community mental health system indicate that of the 5,500 chronically mentally ill persons in need of services, only 1,145 (20%) are currently being served. While many services for Chronically Mentally Ill individuals have been developed over the past three years, the delivery system is still unavailable for some clients and lacks comprehensiveness. Therefore, the first level of priority for the allocation of new funds is that of bringing the current system up to a basic level of service that will guarantee to every client a minimum standard of protection, health and safety as well as a minimum standard of decency and dignity.

Methodology

The methodology for targeting populations and allocating funding is already a part of the Division's Five Year Comprehensive Plan, and management system. The plan calls for providing a basic level of care for persons seeking services. Basic services are case management, medication management, and daily structure and support. The mental health districts where the majority of the Chronically Mentally Ill individuals reside include Anchorage, Fairbanks, Wasilla, Juneau, Kenai, Ketchikan, Bethel, Kodiak, Nome, and Homer.

Case Management Services are the key to maintaining Chronically Mentally Ill individuals in the community. Case managers coordinate available resources and establish a supportive and trusting relationship with the Chronically Mentally Ill clients. In order to provide case management services to the clients in these mental health districts, 24 additional case managers must be hired. The average cost of a case manager is $36,000 per year which will result in an over all cost of $864,000.

Daily structure and support is a program which provides meaningful activities and training in community living skills for Chronically Mentally Ill clients. Some of the above mental health districts already have daily structure and support programs. In order for all of the larger centers to provide this service requires an additional $180.000.

After these basic needs have been met, the Division would target residential services as the next highest priority. Assisting clients to find appropriate, safe and sanitary living arrangement is critical. The range of residential services includes Supervised Apartment, Group Home, Adult Board and Care Facilities and Adult Foster Care. An increase of $393.500 would provide an additional 49 beds for Chronically Mentally Ill in the above communities.

EXPAND SERVICES TO EXISTING COMMUNITY MENTAL HEALTH CENTERS

This priority is to provide special grants to three communities with large chronically mentally ill populations and extended waiting lists of clients. These programs need additional clinicians to see clients in a timely manner.

Currently, these centers have waiting periods in excess of 6 weeks. In order to assist these centers meet the demand for services a Mental Health Clinician is proposed for Wasilla, Homer, and Anchorage. The total grant award would be $180.0.

ALASKA YOUTH INITIATIVE

The Department is requesting $250.0 to fund the Division of Mental Health's portion of the Alaska Youth Initiative. Alaska Youth Initiative serves Alaska's most disturbed youth. Most of the youth now being served in the pilot portion of the Initiative are severely mentally ill, and exhibit severe behavioral disturbances and management problems. Unfortunately, the Division of Mental Health and Developmental Disabilities has never had funds to serve these youth in community residential placements. The Department of Education and the Division of Family and Youth Services have been forced to send these youth out of Alaska to expensive placements far from their homes. The Initiative began by using blended funds from the Department of Education, Division of Family and Youth Services, and a small amount of federal funds from Mental Health and Developmental Disabilities.

The Initiative is coordinated by the Inter-Departmental Team, a group of senior staff from each agency. The agencies have proven that they can work together to develop coordinated, individualized services for these children. Many youth have been returned from out of state or prevented from leaving. Many new private sector jobs have been created to serve these youth, in communities all over the state. These funds would be combined with other State and local funds to assist in serving approximately 40 additional youth in their home communities, or as close to their communities as is possible.

Funds will be allocated through a Request For Proposal (RFP) process to residential care providers, therapeutic foster homes, and community mental health centers. Technical assistance, consultation and program monitoring will be carried out by the Initiative Program Coordinator and the Inter-Departmental Team.

TRAINING FOR SECONDARY CONSUMERS

Relatives and close friends who are involved with the care and treatment of persons who suffer severe and longterm mental illness are called secondary consumers. The mentally ill person is the primary consumer.

Families, neighbors and friends of chronically mentally ill persons have always played a significant role in providing care, support, advocacy and assistance. In an attempt to make them more effective in their informal roles as care givers and advocate, these families and friends need encouragement, support and assurance to know that they are not alone and that help is available when and where it is needed.

The Department will provide a grant of $47,500 to the Alaska Alliance for the Mentally Ill to foster and encourage the development of a community support system through the education and training of secondary consumers throughout Alaska, especially in rural and bush communities.

The grant will be administered through the Community Mental Health BRU and be responsive to the regulations and requirements of the Division. Direct supervision will be provided by the Coordinator, Community Support Programs.

ADMINISTRATION

Administrative Support is requested in the amount of $121.0 for two professional staff to provide the leadership necessary for the systematic arrangements of all the Chronically Mentally Ill components, including designation of agencies with fixed responsibilities for program planning, development, coordination, training, monitoring and evaluation. The leadership also involves coordination of services and training with the Department of Correction for all mentally ill offenders within the prison system.

Presently, central office administration is stretched to its limit and, without additional professional support, could not responsibly achieve the intended goals and objectives of the CMI program.

Offered: 4/15/87
Referred: Finance

5-0407B

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

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 91 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the mentally ill; and providing for an effective date."

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

* Section 1. AS 47.30.520 is amended to read:

Sec. 47.30.520. LEGISLATIVE PURPOSE. It is the purpose of the legislature in enacting the Community Mental Health Services Act <u>to provide a range of services for persons with mental or emotional disturbances and</u> to assist local communities in planning, organizing, and financing community mental health services through locally developed, administered, and controlled community mental health programs. It is further intended to better utilize existing resources at both state and local levels in order to

(1) develop and implement plans for initiating maximum mental health services based on demonstrated need for services in each geographical planning area, as well as regionalized comprehensive mental health services;

(2) improve the effectiveness of existing mental health services;

(3) integrate state-operated and community mental health programs into a unified mental health system;

(4) provide a means for participation by local communities in the determination of the need for and the allocation of mental health resources;

(5) establish a uniform ratio of local and state government

disturbance of a less severe or persistent nature that will not require hospitalization in the foreseeable future.

Sec. 47.30.546. SERVICES FOR MENTALLY AND EMOTIONALLY DISTURBED. (a) Subject to the availability of funds, an entity eligible to receive funds under AS 47.30.540 may receive funds from the department for providing directly, or through another provider under contract with the entity, one or more of the following program elements:

(1) outpatient treatment, which may include all or any of the following:

(A) emergency services on a 24-hour basis;

(B) individual, family, and group psychotherapy and counseling;

(C) screening and evaluation to determine the patient's needs and for persons being considered for involuntary commitment under AS 47.30.700 - 47.30.815;

(D) referral to other agencies;

(2) inpatient treatment for voluntary and involuntary patients, as close as possible to the patient's home;

(3) consultation with organizations and providers;

(4) prevention and education services.

(b) An entity eligible to receive funds under AS 47.30.540 and that provides eligible community mental health services for chronically mentally ill adults or severely mentally ill children may, in addition to funds received for program elements provided under (a) of this section, receive funds from the department for one or more of the following program elements:

(1) crisis stabilization services, which may include all or any of the following:

(A) active community outreach;

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

Offered: 4/15/87
Referred: Finance

5-0407B

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

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

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(1) develop and implement plans for initiating maximum mental health services based on demonstrated need for services in each geographical planning area, as well as regionalized comprehensive mental health services;

(2) improve the effectiveness of existing mental health services;

(3) integrate state-operated and community mental health programs into a unified mental health system;

(4) provide a means for participation by local communities in the determination of the need for and the allocation of mental health resources;

(5) establish a uniform ratio of local and state government

responsibility for financing mental health services;

(6) provide a means of allocating state mental health funds according to community needs;

(7) encourage the full use of all existing public or private agencies, facilities, personnel, and funds to accomplish these objectives; and

(8) prevent unnecessary duplication and fragmentation of services and expenditures.

* Sec. 2. AS 47.30 is amended by adding new sections to read:

Sec. 47.30.545. POPULATIONS TO BE SERVED. Within the limits of available funds, a community mental health program shall provide services set out in AS 47.30.546 to the following persons in the following order:

(1) a person in one or more of the following categories:

(A) a person who is at immediate risk of hospitalization for the treatment of a mental or emotional disturbance;

(B) a person who is in need of continuing services due to a disturbance of a severe or persistent nature;

(C) a person who poses a hazard to the health and safety of the person or others;

(D) a person who is under 18 years of age and

(i) is at immediate risk of removal from home for treatment of a mental or emotional disturbance; or

(ii) exhibits behavior indicating a high risk of developing a disturbance of a severe or persistent nature;

(2) a person who, because of the nature of the person's illness, geographic location, or family income, is not capable of obtaining assistance from the private sector;

(3) a person who is suffering from a mental or emotional

disturbance of a less severe or persistent nature that will not require hospitalization in the foreseeable future.

Sec. 47.30.546. SERVICES FOR MENTALLY AND EMOTIONALLY DISTURBED. (a) Subject to the availability of funds, an entity eligible to receive funds under AS 47.30.540 may receive funds from the department for providing directly, or through another provider under contract with the entity, one or more of the following program elements:

(1) outpatient treatment, which may include all or any of the following:

(A) emergency services on a 24-hour basis;

(B) individual, family, and group psychotherapy and counseling;

(C) screening and evaluation to determine the patient's needs and for persons being considered for involuntary commitment under AS 47.30.700 - 47.30.815;

(D) referral to other agencies;

(2) inpatient treatment for voluntary and involuntary patients, as close as possible to the patient's home;

(3) consultation with organizations and providers;

(4) prevention and education services.

(b) An entity eligible to receive funds under AS 47.30.540 and that provides eligible community mental health services for chronically mentally ill adults or severely mentally ill children may, in addition to funds received for program elements provided under (a) of this section, receive funds from the department for one or more of the following program elements:

(1) crisis stabilization services, which may include all or any of the following:

(A) active community outreach;

(B) in-hospital contact;

(C) mobile crisis treatment teams of mental health professionals;

(D) crisis beds to provide a short-term residential program for persons experiencing an acute episode of mental illness that requires temporary removal from a home environment;

(2) patient treatment services, which may include all or any of the following:

(A) diagnosis, testing, and evaluation of medical needs;

(B) medication monitoring;

(C) physical examinations;

(D) psychotropic medication;

(3) case management, which may include all or any of the following:

(A) evaluation of patients' needs;

(B) development of individualized treatment plans;

(C) enhancement of patient access to available resources and programs;

(D) development of interagency contacts and family involvement;

(E) patient advocacy;

(4) daily structure and support, which may include all or any of the following:

(A) daily living skills training;

(B) socialization activities;

(C) recreation;

(D) transportation;

(5) residential services, which may include all or any of

the following:

(A) crisis or respite care;

(B) board and care;

(C) foster care, group homes, halfway houses, or supervised apartments;

(6) vocational services, which may include all or any of the following:

(A) prevocational training;

(B) work adjustment;

(C) supported work;

(D) sheltered work;

(E) vocational training in which participants achieve useful work experience.

Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES. An entity that provides community mental health services shall

(1) make services available at times and locations that enable residents of the entity's service area to obtain services;

(2) ensure each client's right to confidentiality and treatment with dignity;

(3) establish staffing patterns that reflect the cultural, linguistic, and other social characteristics of the community and that incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and treatment needs;

(4) promote client and family participation in formulating, delivering, and evaluating treatment and rehabilitation.

* Sec. 3. AS 47.30.550 is repealed and reenacted to read:

Sec. 47.30.550. COST SHARING FORMULA; LIMITATIONS. (a) In a district designated by the department as a poverty area, the department may fund not more than 90 percent of the eligible costs of the

community mental health services to be furnished under an entity's approved plan.

(b) In a district that has not been designated by the department as a poverty area, the department may fund not more than 75 percent of the eligible costs of the community mental health services to be furnished under an entity's approved plan.

(c) Notwithstanding (a) and (b) of this section, if the department determines that sufficient funds from other sources are unavailable, then the department shall fund the percent of the eligible costs that is necessary in order to ensure that services for chronically mentally ill adults and severely mentally ill children, and other community mental health services to be furnished under an entity's approved plan are made available by the entity. Funding under this subsection is subject to the availability of legislative appropriations for the purpose.

(d) Income earned by an entity through a community mental health project funded under AS 47.30.520 - 47.30.620 shall be used, as approved by the department, to augment or enhance the entity's mental health services.

* Sec. 4. AS 47.30.610(2) is amended to read:

(2) "poverty area" means a district in which 15 percent or more of the population, based upon <u>the most recent</u> [1970] census data, falls under 125 percent of the Office of Economic Opportunity poverty guidelines.

* Sec. 5. AS 47.30.610 is amended by adding new paragraphs to read:

(3) "chronically mentally ill adult" means a person 18 years of age or older

(A) who has been diagnosed as having a schizophrenic, major affective, or paranoid disorder, or other severe mental

disorder with a documented history of persistent psychotic symptoms not caused by substance abuse; and

(B) whose role functioning is impaired in at least two of the following three ways:

(i) inability to function independently in the role of worker, student, or homemaker;

(ii) inability to engage independently in personal care or community living activities; or

(iii) inability to exhibit appropriate social behavior, resulting in intervention by the mental health system or judicial system;

(4) "severely mentally ill child" means a person under 18 years of age who

(A) is experiencing persistent psychotic symptoms not caused by substance abuse and is receiving services that must be continued for maximum therapeutic benefits; or

(B) exhibits severe behavioral, emotional, or social disabilities that are sufficiently intense, severe, or disruptive to lead to exclusion from home, school, or a therapeutic setting, and whose behavior, upon the recommendation of a psychiatrist, is considered likely to be seriously detrimental to the person's growth or safety, or to the welfare of others.

* Sec. 6. AS 47.30.600 is repealed.

* Sec. 7. This Act takes effect July 1, 1987.

HB 91 RELATING TO THE MENTALLY ILL.

RATIONALE

1. Mental Health Lands lawsuit prompted review of Alaska's mental health program.

2. Interim Mental Health Commission and Special Legislative Committee concluded mental health services are in desperate need of expansion.

3. Persons with the most critical mental health problems should be the treatment priority.

SUMMARY

1. Establishes as the first priority for treatment mentally ill persons at risk of immediate hospitalization, in need of continuing services, who pose a hazard to their own or others health and safety, or who are under 18 and at immediate risk of removal from their home.

2. Lists services for which community mental health centers may receive state funds.

3. Allows the department to reduce or eliminate the 25% local match requirement for services for which sufficient funds from other sources are not available.

4. Defines chronically mentally ill adult and severely mentally ill child.

FISCAL NOTE

Allows for augmentation of existing services and establishment of new services to meet the unmet needs within the mental health system, with a strong emphasis on the needs of the chronically mentally ill and persons in rural communities.

CSHB 91 (HESS) RELATING TO THE MENTALLY ILL.

Sec. 1
AS 47.30.520. Amends purpose section of Community Mental Health Act to emphasize that a range of services will be provided.

Sec. 2
AS 47.30.545. Prioritizes populations community mental health centers must serve.
1st, people at risk of immediate hospitalization, in need of continuing services due to a persistent disturbance, or who pose a hazard to their own or others' health and safety, and children at immediate risk of removal from their home.
2nd, people least able of obtaining private sector assistance (because of nature of illness, income, or geographic location)
3rd, others.

AS 47.30.546. Lists the type of services for which community programs may receive state funds, including services specifically for the chronically mentally ill and severely mentally ill children.

AS 47.30.547. Outlines standards providers must meet.

Sec. 3
AS 47.30.550. Allows the department to pay the full cost of mental health services (rather than requiring a 25% match as under current law) if the department determines that sufficient funds from other sources are unavailable. Limits expenditure of program fees and 3rd party reimbursements to program enhancement.

Sec. 4
AS 47.30.610. Updates definition of "poverty area" to reference the most recent census data.

Sec. 5
AS 47.30.610. Defines "chronically mentally ill adult" and "severely mentally ill child".

Sec. 6
Repeals a section of temporary law.

Sec. 7
Immediate effective date.

NB 9/92 Work Book

MY TURN

The Sound and Fury of Mania

We parents of the mentally ill are a tongue-tied, self-castigating, silently grieving subculture

BY SASCHA GARSON

At 9 in the morning I took a front-row seat in Department 15 of the Superior Court in San Diego. I had not been subpoenaed nor am I a professional court watcher. A conservatorship hearing had been scheduled for my 45-year-old son, who graduated Phi Beta Kappa from Berkeley 24 years ago, and I was hoping there would be no glitch.

I have other perversities. When my son is jailed I relax; when he is hospitalized I feel relieved. I am not the only parent swimming against the current. We parents of the mentally ill are a tongue-tied, self-castigating, silently grieving subculture. Within our ranks, we understand each other's fears when an adult child disappears or constructs some get-rich-quick scheme that is on the wrong side of the law. With macabre humor born of pain, we chuckle when our children are hospitalized—even jailed. In a hospital, they will receive treatment for their illness; in jail, protection, perhaps, from being beaten or raped.

My son's behavior is not a personality defect. It has a medical name: manic-depressive disorder. A no-fault illness, it is basically a genetic and biochemical dysfunction. Society defines it as maladaptive behavior, yet within the framework of the disease there is logic. For example:

My son talks to cats in the street in front of my house. It's proper to pet and stroke them on our laps while watching TV, but when it takes place publicly, in an unusual context, neighbors summon the men in white jackets.

He goes into a bank, seats himself at the desk of a vice president, expounds on the evil bond between banks and money and demands immediate changes in the system. Police suddenly appear in response to a silent alarm because, although there has been no threat of bodily harm or evidence of a weapon, this man is opposed to money and may be dangerous.

He receives a citation for soliciting money in the street without a license. The police officer doesn't know that just an hour before, my saint had gone to an almost deserted street in the inner city and had strewn about all his small change because our religion recommends that the giver try to be anonymous to avoid shaming the poor. Withholding nothing for himself, he opens his full hands and heart to strangers and then asks others to help him with his own needs. The police are trained to enforce local regulations, not to be aware of the exhortations of the prophets. And so my son pays a $50 fine that leaves him penniless for a month. He had already paid Central Manor, the board-and-care facility whose residents provide for their own keep with the Supplemental Security Income (SSI) checks they receive because of mental disability.

Once, my Don Quixote decided to tilt against the Scholastic Aptitude Test (SAT). Not that he had a personal ax to grind—on the contrary, he had scored the maximum 800 on his verbals and had been able to choose between four scholarships. Filled only with zeal for his mission to benefit all aspiring college students, he managed to board an eastbound Greyhound bus in San Diego without paying. His goal was the SAT citadel in Princeton, N.J. In Brawley, Calif., roughly 70 miles ahead, his stowaway status was revealed and he was forced to get off.

These incidents may seem like escapades, pranks, fun and games. But when inspired by mania, they are undertaken with great seriousness. Worse things occur during a mania-heightened frenzy—baseless accusations, verbal abuse, assaultive behavior ranging from spitting at someone he despises to a slap or a punch because someone expresses different political views. There are threats; sometimes, but only rarely, actual mayhem. During a manic phase, there is little sleep. He burns with flaming energy and rage. He becomes a human battering ram, Samson pulling down pillars of destruction against the Philistines, consuming only himself until the illness causing the flagrant behavior is subdued by neuroleptic medication.

Handful of aspirin: Although I long for relief from the sound and fury of mania, I am more distressed when the pendulum swings and casts my son into a pit of depression. From that black hole of despair comes what seems to him to be the only hope for release: suicide. Alone in skid-row rooms from Minneapolis to San Francisco he has courted that surcease five times. Those attempts failed through sheer luck. There was the handful of aspirin that only made him ill; the furniture that didn't catch fire and only the varnish was scarred; the shower rod that broke under his weight as he tried to hang himself; the ingestion of lighter fluid that stopped short of the desired effect. In another try, the railroad train stopped in its tracks short of obliterating him.

How would any parent feel hearing about such attempts? There is vast relief that life prevailed over death. But it is combined with the deep understanding of the misery and suffering that sought extinction, with my desire to soothe and comfort, and with my always deeply felt but unspoken fear about the outcome of another downturn into clinical depression.

I sat alone in that courtroom, remembering the crises and near crises, the efforts to thwart danger to himself or others, powerless to prevent hoodlums from mocking, making sport of him, tearing his clothing while beating him to his knees.

Where are the others whose lives he has intimately touched? My son has two ex-wives, both of whom he abandoned when madness ruled; he has teenage children who cannot be expected to be parents to their father; he has a sister who avoids getting involved, and he has nieces and nephews who distance themselves from their uncle's countercultural lifestyle and unpredictably labile moods.

I sat alone last month, a 70-year-old mother, insulated in my carapace of emotional numbness. I waited for his name to be called in this bizarre graduation ceremony where the diploma certifies that he is not permitted to drive a car, purchase firearms or enter into a contract. I was relieved. And there was hope for my son yet, as well as the political process. He can still vote.

Garson is the author of "Out of Our Minds," a how-to-cope guide for patients and their families.

TABLE 7

OPERATING ESTIMATES FOR COMMUNITY SERVICES FOR ADULTS*

Service	Individuals in Need	Individuals Served	Units of Service Per Individual	Occupancy	No. of Beds	Unit Cost	Annual Cost
Case Management	5,500	2,750	52 hrs.	na**	na	$ 18.00	$ 2,574,000
Outreach	1,000	500	7 hrs.	na	na	15.00	52,500
Medication Management	3,960	1,980	12 hrs.	na	na	60.00	1,425,600
Structure and Support	5,500	2,750	204 hrs.	na	na	11.25	6,311,250
Vocational Training	3,960	990	960 hrs.	na	na	7.50	7,128,000
Board and Care	352	176	255 days	80%	154	22.00	1,236,620
Halfway House	436	218	365 days	80%	273	70.00	6,975,150
Foster Care	104	52	182.5 days	80%	33	22.00	264,990
Supervised Apartments	997	499	224 days	80%	383	30.00	4,193,850
Outpatient Services	65,327	13,065	8 hrs.	na	na	50.00	5,226,000
Prevention and Education (5% of Total)							$1,769,400
TOTAL FOR ADULTS							$37,157,360

OPERATING ESTIMATES FOR COMMUNITY SERVICES FOR CHILDREN AND ADOLESCENTS

Service	Individuals in Need	Individuals Served	Units Of Service Per Individual	Occupancy	No. Of Beds	Unit Cost	Annual Cost
Group Homes	234	70	365 days	100%	70	$150.00	$ 3,832,500
Specialized Foster Homes	625	188	365 days	100%	188	65.00	4,460,300
Home Based Services	4,330	1299	80 days	100%	na	40.00	4,156,800
Day Treatment	1,290	387	250 days	na	na	50.00	4,837,500
Respite Care	1,310	393	52 days	100%	56	65.00	1,328,340
Outpatient Services	10,960	3,288	10 hrs.	na	na	50.00	1,644,000
Case Management	3,660	798	26 hrs.	na	na	18.00	373,464
Supervised Apartments	55	17	365 days	100%	17	18.00	496,400
Prevention and Education (5% of Total)							1,056,465
TOTAL FOR CHILDREN AND ADOLESCENTS							$22,185,769

OPERATING ESTIMATES FOR INPATIENT AND CRISIS SERVICES

Service	Individuals in Need	Individuals Served	Units Of Service Per Individual	Occupancy	No. Of Beds	Unit Cost	Annual Cost
Inpatient Care	634	634	30 days	80%	65	$350.00	$8,303,750
Crisis Beds	374	374	10 days	100%	20	120.00	876,000
Crisis Lines	10,000	10,000	1 call	na	na	30.00	300,000
Forensic	40	40	365 days	100%	40	400.00	5,840,000
TOTAL							$15,319,750
Administration	na	na	na	na	na	na	$ 2,677,200
TOTAL OPERATING COSTS FOR MENTAL HEALTH SYSTEM							$77,340,079
CURRENT FUNDING (FY 1987 Revised)							(23,573,900)
TOTAL OPERATING NEW MONIES NEEDED							$53,766,179

* Costs are best estimates only based on assumptions in text.
** Not applicable.

TABLE 8

POTENTIAL CAPITAL COSTS FOR MENTAL HEALTH SERVICES* (Children, Adolescents, Adults Combined)

Service	Number Of Beds/Placements	Number of Sq/Ft Per Bed/Placement	Cost Per Square Foot	Total Cost
Inpatient Care	65	445	$285	$ 8,243,625
Forensic Hospital	40	589	300	8,400,000
Crisis/Respite Service Center	20	445	285	2,536,500
Supervised Group Home/Halfway House	343	666	190	43,401,220
Board and Care	154	275	125	5,293,750
Supervised Apartments	400	450	125	22,500,000
Structure and Support/Day Treatment	205**	188	150	5,781,000
Transportation (Vans)	6,138	na	na	540,000
Vocational Training	114**	100	150	1,710,000
Outpatient Services	106**	188	150	2,989,200
Administration	14	150	$150	315,000
TOTAL CAPITAL COST				$101,712,295
RECURRING CAPITAL COST (For Ongoing Maintenance)				$ 3,559,930
TOTAL CAPITAL NEW MONIES				$105,272,225

* costs are approximate; it may be more effective to lease certain space

** numbers for client placement determined using the following calculations:

$$\frac{\text{number of individuals served x units of service per individual}}{\text{total time per year per placement}}$$

Introduced: 1/30/87
Referred: Health, Education &
Social Services and Finance

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

IN THE HOUSE

HOUSE BILL NO. 91

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the chronically mentally ill."

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

* Section 1. AS 47.30 is amended by adding new sections to read:

Sec. 47.30.545. TREATMENT OF THE CHRONICALLY MENTALLY ILL. The department shall provide for community based and locally or regionally coordinated care and treatment of the chronically mentally ill.

Sec. 47.30.546. COMMUNITY SUPPORT SERVICES FOR THE CHRONICALLY MENTALLY ILL. Communities that provide eligible mental health services for the chronically mentally ill may receive funds from the department for the following program elements:

(1) a short-term residential treatment program for individuals experiencing an acute episode or a situational crisis requiring temporary removal from their home environment;

(2) a long-term residential treatment program with a full day treatment component for persons who require intensive support;

(3) a transitional residential treatment program designed for persons who are able to take part in programs in the general community, but who, without continued support, would be at risk of returning to a hospital;

(4) a semi-supervised, independent, but structured living arrangement for persons who, without some support and structure, would be at risk of returning to the hospital;

(5) a day treatment program capable of providing services for clients whose residential needs are being met, but who require

additional or extended treatment services;

(6) supported work and vocational training programs that provide opportunities for clients to experience the benefits of meaningful and productive work experiences with graduated levels of skill and energy required;

(7) socialization centers designed to serve a broad range of clients, as well as persons living in the community in general.

Sec. 47.30.547. STANDARDS FOR COMMUNITY SUPPORT SERVICES FOR THE CHRONICALLY MENTALLY ILL. Communities providing mental health services for the chronically mentally ill shall meet and maintain the following treatment standards:

(1) facilities shall consist of small residential or day treatment centers, in as close to a normal home or non-institutional environment as possible without sacrificing client safety or care;

(2) staffing patterns shall reflect the cultural, linguistic, and other social characteristics of the community, and shall incorporate multidisciplinary professional staff to meet client diagnostic and treatment needs;

(3) programs shall be designed to encourage self-sufficient and independent functioning through prevocational and vocational training;

(4) programs shall promote client participation in planning, operating, and evaluating daily treatment and rehabilitation;

(5) programs shall be designed to coordinate with the social service system as a whole and in particular shall be designed to include the following three elements:

(A) emergency or crisis care in an emergency center or at home by an emergency response team;

(B) an acute hospital for evaluation, diagnosis,

treatment, and referral of persons who are in need of acute care; and

(C) a case management system in which the case manager serves as a coordinator of the various elements of the system and as an advocate for the clients in the system; all case managers shall be under direct supervision of a psychiatrist or psychologist, or a mental health clinician with a master's degree in a field related to mental health;

(6) programs shall contain standards for staff training, including training in community outreach services and orientation in cross-cultural issues.

* Sec. 2. AS 47.30.550 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, the department shall purchase 100 percent of the eligible costs of services provided for the chronically mentally ill, subject to the availability of state funds to the department for implementing AS 47.30.520 - 47.30.620.

* Sec. 3. AS 47.30.570 is amended to read:

Sec. 47.30.570. ELIGIBLE COSTS; MAINTENANCE OF LOCAL EFFORT. The department shall adopt regulations specifying the types of services and program costs eligible for state participation. These regulations shall include

(1) a provision excluding capital expenditures as eligible costs; [AND]

(2) a requirement that the community entity contractor or applicant agrees as a condition of contract approval that it will not supplant existing local <u>funding</u> [FUND] support of community mental health services with funds received under AS 47.30.520 - 47.30.620 and that it will continue local funding support of community mental health services, in any year in which it contracts with the department, at a

level that is at least equal to the local funding support in the previous year;

(3) a provision that costs of services provided to the chronically mentally ill under AS 47.30.550(b) that are payable by insurance, indemnity, or other third-party may not be included as eligible costs.

Introduced: 1/30/87
Referred: Health, Education &
Social Services and Finance

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

IN THE HOUSE

HOUSE BILL NO. 91

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FIFTEENTH LEGISLATURE - FIRST SESSION

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(3) programs shall be designed to encourage self-sufficient and independent functioning through prevocational and vocational training;

(4) programs shall promote client participation in planning, operating, and evaluating daily treatment and rehabilitation;

(5) programs shall be designed to coordinate with the social service system as a whole and in particular shall be designed to include the following three elements:

(A) emergency or crisis care in an emergency center or at home by an emergency response team;

(B) an acute hospital for evaluation, diagnosis,

treatment, and referral of persons who are in need of acute care; and

(C) a case management system in which the case manager serves as a coordinator of the various elements of the system and as an advocate for the clients in the system; all case managers shall be under direct supervision of a psychiatrist or psychologist, or a mental health clinician with a master's degree in a field related to mental health;

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(1) a provision excluding capital expenditures as eligible costs; [AND]

(2) a requirement that the community entity contractor or applicant agrees as a condition of contract approval that it will not supplant existing local <u>funding</u> [FUND] support of community mental health services with funds received under AS 47.30.520 - 47.30.620 and that it will continue local funding support of community mental health services, in any year in which it contracts with the department, at a

level that is at least equal to the local funding support in the previous year;

(3) a provision that costs of services provided to the chronically mentally ill under AS 47.30.550(b) that are payable by insurance, indemnity, or other third-party may not be included as eligible costs.

CSHB

91

SENATE COMMITTEE REPORT

FURTHER:

5/6/87

DATE TURNED INTO OFFICE 5/16/87

Mr. President:

FINANCE Committee considered CSHB 91(HESS)

mentally ill; efd.

and recommended:

[ ] replace with CS FOR ________) [] same title
[ ] or adopt ________ CS FOR ________) [] new title

[ ] attached amendment(s) and

[✓] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to ________

[ ] letter of intent adopted ________

Committee [✓] attached or [ ] adopted fiscal note(s)
[ ] new [ ] updated or [✓] previous
[ ] zero [✓] fiscal impact

MEMBERS SIGNING DO PASS

[signatures]

OTHER RECOMMENDATIONS

Do Pass

Chairman signature and recommendation

[ ] Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Bill Version: CSHB 91 (HESS)
Publish Date: HOUSE 4/15/87

Revision Date: April 11, 1987
Title: An Act relating to the mentally ill; an providing for an effective date
Sponsor:
Requestor:

Agency Affected: Dept. of Health & Social Servic
BRU:
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		121.0	121.0	121.0	121.0	121.0
TRAVEL						
CONTRACTUAL		47.5	47.5	47.5	47.5	47.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		1,831.5	1,831.5	1,831.5	1,831.5	1,831.5
MISCELLANEOUS						
TOTAL OPERATING		2,000.0	2,000.0	2,000.0	2,000.0	2,000.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		2,000.0	2,000.0	2,000.0	2,000.0	2,000.0
FEDERAL FUNDS						
OTHER						
TOTAL		2,000.0	2,000.0	2,000.0	2,000.0	2,000.0

POSITIONS:

FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Please see attached.

(see new SFC pag 3)

Prepared by: Mel Henry, Director
Phone: 465-3370
Division: Division of Mental Health & Developmental Disabilities
Date: April 11, 1987

Approved by Commissioner: Myra M. Munson
Date: April 13, 1987
Agency: Dept. of Health and Social Services

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

FISCAL NOTE

Allocation of $2 Million

Grants to Community Mental Health Centers		
(1) Services to chronically mentally ill persons		$ 1,401.5
° Case Management Services	864.0	
° Daily Structure and Support	144.0	
° Residential Services	393.5	
(2) Expand Services For Existing Community Mental Health Centers		180.0
(3) Services to youth with severe emotional, mental, and behavioral disturbances - Alaska Youth Initiative		250.0
(4) Training for Secondary Consumers		47.5
(5) Mental Health Administration		121.0
° Coordinator Chronically Mentally Ill	60.0	
° Alternate Care Coordinator	61.0	
TOTAL		$ 2,000.0

FISCAL NOTE
HB 91

Mental Health Administration

100 - Personnel Services:

one (1) Mental Health Clinician II	Range 19	$ 52,142.00	
one (1) Alternative Care Coordinator	Range 20	$ 55,598.00	
		$107,740.00	

200 - Travel:

Mental Health Clinician II 12 trips @ $500	6,000.00	
Alternative Care Coordinator 6 trips @ $500	3,000.00	
	9,000.00	

300 - Contractual:

Phone, copying, printing, 125/m x 12 x 2	3,000.00	

400 - Supplies:

52.5/m. x 12 x 2	1,260.00	

Equipment:	-0-	
Sub Total		$ 121.0

700 - Grants to Community Mental Health Centers

(1) Services to chronically mentally ill persons		$ 1,401.5	
° Case Management Services	864.0		
° Daily Structure and Support	144.0		
° Residential Services	393.5		
(2) Expand Services For Existing Community Mental Health Centers		180.0	
(3) Services to youth with severe emotional, mental, and behavioral disturbances - Alaska Youth Initiative		250.0	
(4) Training for Secondary Consumers		47.5	
Sub Total			$ 1879.0
Total			2000.0

FISCAL NOTE

Personnel Services:		
one (1) Mental Health Clinician II	Range 19	$ 52,142.00
one (1) Alternative Care Coordinator	Range 20	$ 55,598.00
		$107,640.00
Travel:		
Mental Health Clinician II 12 trips @ $500		6,000.00
Alternative Care Coordinator 6 trips @ $500		3,000.00
		9,000.00
Contractual:		
Phone, copying, printing, 125/m x 12 x 2		3,000.00
Supplies:		
52.5/m. x 12 x 2		1,260.00
Equipment:		-0-
Sub Total		$ 121,000.00
Contractual Services		$ 47,500.0
Grants		$1,831,500.0
TOTAL		$2,000,000.0

FISCAL NOTE

Allocation of $2 Million

INTRODUCTION

The following discussion describes the Division's program proposal for the allocation of $2.0 million restored to the Community Mental Health BRU by the Governor's FY 88 revised budget. The proposal calls for an augmentation of existing services as well as the establishment of new services to meet the unmet needs within the mental health system with a strong emphasis on the needs of those persons, both adults and children who are chronically mentally ill, and persons residing in rural communities.

Major Target Populations and Activities To Be Funded:

1.	Persons with chronic mental illness.....	$1,401.5
2.	Expand Services For Existing Community MH Centers.....	180.0
3.	Alaska Youth Initiative.....	250.0
4.	Training for Secondary Consumers.....	47.5
5.	Mental Health Administration.....	$ 121.0
	Total	2,000.0

ASSUMPTIONS

- Appropriate community mental health services should be available as close to one's community as possible.

- Because of population size and limited resources, not every service will be available in every community. Services will be allocated on the concept of "Levels of Care". Clients may have to travel outside the immediate community to another service site to receive a given service.

- Funding allocation will be guided by, but not limited to the following factors:

  - need for mental health services, including populations at risk;

  - population density;

  - the sole provider of mental health services in the region;

  - economic consideration (poverty, cost of living);

  - presence of special populations, e.g., elderly, CMI, or youth;

  - performance record and motivation of the existing program.

- Funds will be allocated through the community mental health centers whenever possible.

- Programs are not comprehensively funded, but should meet basic needs. As more funds come on-line, new initiative will be started and existing programs augmented.

- The Division should retain some administrative flexibility to place additional resources, consistent with the state plan, to enhance a comprehensive base of services delivery in a given region.

- Fairness must be ensured so that all persons in need are served with emphasis on those in greatest need.

SERVICES TO THE CHRONICALLY MENTALLY ILL

Data from the statewide community mental health system indicate that of the 5,500 chronically mentally ill persons in need of services, only 1,145 (20%) are currently being served. While many services for Chronically Mentally Ill individuals have been developed over the past three years, the delivery system is still unavailable for some clients and lacks comprehensiveness. Therefore, the first level of priority for the allocation of new funds is that of bringing the current system up to a basic level of service that will guarantee to every client a minimum standard of protection, health and safety as well as a minimum standard of decency and dignity.

Methodology

The methodology for targeting populations and allocating funding is already a part of the Division's Five Year Comprehensive Plan, and management system. The plan calls for providing a basic level of care for persons seeking services. Basic services are case management, medication management, and daily structure and support. The mental health districts where the majority of the Chronically Mentally Ill individuals reside include Anchorage, Fairbanks, Wasilla, Juneau, Kenai, Ketchikan, Bethel, Kodiak, Nome, and Homer.

Case Management Services are the key to maintaining Chronically Mentally Ill individuals in the community. Case managers coordinate available resources and establish a supportive and trusting relationship with the Chronically Mentally Ill clients. In order to provide case management services to the clients in these mental health districts, 24 additional case managers must be hired. The average cost of a case manager is $36,000 per year which will result in an over all cost of $864,000.

Daily structure and support is a program which provides meaningful activities and training in community living skills for Chronically Mentally Ill clients. Some of the above mental health districts all ready have daily structure and support programs. In order for all of the larger centers to provide this service requires an additional $144,000.

After these basic needs have been met, the Division would target residential services as the next highest priority. Assisting clients to find appropriate, safe and sanitary living arrangement is critical. The range of residential services includes Supervised Apartment, Group Home, Adult Board and Care Facilities and Adult Foster Care. An increase of $401,500 would provide an additional 49 beds for Chronically Mentally Ill in the above communities.

EXPAND SERVICES TO EXISTING COMMUNITY MENTAL HEALTH CENTERS

This priority is to provide special grants to three communities with large chronically mentally ill populations and extended waiting lists of clients. These programs need additional clinicians to see clients in a timely manner.

Currently, these centers have waiting periods in excess of 6 weeks. In order to assist these centers meet the demand for services a Mental Health Clinician is proposed for Wasilla, Homer, and Anchorage. The total grant award would be $180.0.

ALASKA YOUTH INITIATIVE

The Department is requesting $250.0 to fund the Division of Mental Health's portion of the Alaska Youth Initiative. Alaska Youth Initiative serves Alaska's most disturbed youth. Most of the youth now being served in the pilot portion of the Initiative are severely mentally ill, and exhibit severe behavioral disturbances and management problems. Unfortunately, the Division of Mental Health and Developmental Disabilities has never had funds to serve these youth in community residential placements. The Department of Education and the Division of Family and Youth Services have been forced to send these youth out of Alaska to expensive placements far from their homes. The Initiative began by using blended funds from the Department of Education, Division of Family and Youth Services, and a small amount of federal funds from Mental Health and Developmental Disabilities. The Initiative is coordinated by the Inter-Departmental Team, a group of senior staff from each agency. The agencies have proven that they can work together to develop coordinated, individualized services for these children. Many youth have been returned from out of state or prevented from leaving. Many new private sector jobs have been created to serve these youth, in communities all over the state. These funds would be combined with other State and local funds to assist in serving approximately 40 additional youth in their home communities, or as close to their communities as is possible.

Funds will be allocated through a Request For Proposal (RFP) process to residential care providers, therapeutic foster homes, and community mental health centers. Technical assistance, consultation and program monitoring will be carried out by the Initiative Program Coordinator and the Inter-Departmental Team.

TRAINING FOR SECONDARY CONSUMERS

Relatives and close friends who are involved with the care and treatment of persons who suffer severe and longterm mental illness are called secondary consumers. The mentally ill person is the primary consumer.

Families, neighbors and friends of chronically mentally ill persons have always played a significant role in providing care, support, advocacy and assistance. In an attempt to make them more effective in their informal roles as care givers and advocate, these families and friends need encouragement, support and assurance to know that they are not alone and that help is available when and where it is needed.

The Department will provide a grant of $47,500 to the Alaska Alliance for the Mentally Ill to foster and encourage the development of a community support system through the education and training of secondary consumers throughout Alaska, especially in rural and bush communities.

The grant will be administered through the Community Mental Health BRU and be responsive to the regulations and requirements of the Division. Direct supervision will be provided by the Coordinator, Community Support Programs.

ADMINISTRATION

Administrative Support is requested in the amount of $121.0 for two professional staff to provide the leadership necessary for the systematic arrangements of all the Chronically Mentally Ill components, including designation of agencies with fixed responsibilities for program planning, development, coordination, training, monitoring and evaluation. The leadership also involves coordination of services and training with the Department of Correction for all mentally ill offenders within the prison system.

Presently, central office administration is stretched to its limit and, without additional professional support, could not responsibly achieve the intended goals and objectives of the CMI program.

Offered: 4/15/87
Referred: Finance

5-0407B

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

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 91 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the mentally ill; and providing for an effective date."

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

* Section 1. AS 47.30.520 is amended to read:

Sec. 47.30.520. LEGISLATIVE PURPOSE. It is the purpose of the legislature in enacting the Community Mental Health Services Act <u>to provide a range of services for persons with mental or emotional disturbances and</u> to assist local communities in planning, organizing, and financing community mental health services through locally developed, administered, and controlled community mental health programs. It is further intended to better utilize existing resources at both state and local levels in order to

(1) develop and implement plans for initiating maximum mental health services based on demonstrated need for services in each geographical planning area, as well as regionalized comprehensive mental health services;

(2) improve the effectiveness of existing mental health services;

(3) integrate state-operated and community mental health programs into a unified mental health system;

(4) provide a means for participation by local communities in the determination of the need for and the allocation of mental health resources;

(5) establish a uniform ratio of local and state government

responsibility for financing mental health services;

(6) provide a means of allocating state mental health funds according to community needs;

(7) encourage the full use of all existing public or private agencies, facilities, personnel, and funds to accomplish these objectives; and

(8) prevent unnecessary duplication and fragmentation of services and expenditures.

* Sec. 2. AS 47.30 is amended by adding new sections to read:

Sec. 47.30.545. POPULATIONS TO BE SERVED. Within the limits of available funds, a community mental health program shall provide services set out in AS 47.30.546 to the following persons in the following order:

(1) a person in one or more of the following categories:

(A) a person who is at immediate risk of hospitalization for the treatment of a mental or emotional disturbance;

(B) a person who is in need of continuing services due to a disturbance of a severe or persistent nature;

(C) a person who poses a hazard to the health and safety of the person or others;

(D) a person who is under 18 years of age and

(i) is at immediate risk of removal from home for treatment of a mental or emotional disturbance; or

(ii) exhibits behavior indicating a high risk of developing a disturbance of a severe or persistent nature;

(2) a person who, because of the nature of the person's illness, geographic location, or family income, is not capable of obtaining assistance from the private sector;

(3) a person who is suffering from a mental or emotional

disturbance of a less severe or persistent nature that will not require hospitalization in the foreseeable future.

Sec. 47.30.546. SERVICES FOR MENTALLY AND EMOTIONALLY DISTURBED. (a) Subject to the availability of funds, an entity eligible to receive funds under AS 47.30.540 may receive funds from the department for providing directly, or through another provider under contract with the entity, one or more of the following program elements:

(1) outpatient treatment, which may include all or any of the following:

(A) emergency services on a 24-hour basis;

(B) individual, family, and group psychotherapy and counseling;

(C) screening and evaluation to determine the patient's needs and for persons being considered for involuntary commitment under AS 47.30.700 - 47.30.815;

(D) referral to other agencies;

(2) inpatient treatment for voluntary and involuntary patients, as close as possible to the patient's home;

(3) consultation with organizations and providers;

(4) prevention and education services.

(b) An entity eligible to receive funds under AS 47.30.540 and that provides eligible community mental health services for chronically mentally ill adults or severely mentally ill children may, in addition to funds received for program elements provided under (a) of this section, receive funds from the department for one or more of the following program elements:

(1) crisis stabilization services, which may include all or any of the following:

(A) active community outreach;

(B) in-hospital contact;

(C) mobile crisis treatment teams of mental health professionals;

(D) crisis beds to provide a short-term residential program for persons experiencing an acute episode of mental illness that requires temporary removal from a home environment;

(2) patient treatment services, which may include all or any of the following:

(A) diagnosis, testing, and evaluation of medical needs;

(B) medication monitoring;

(C) physical examinations;

(D) psychotropic medication;

(3) case management, which may include all or any of the following:

(A) evaluation of patients' needs;

(B) development of individualized treatment plans;

(C) enhancement of patient access to available resources and programs;

(D) development of interagency contacts and family involvement;

(E) patient advocacy;

(4) daily structure and support, which may include all or any of the following:

(A) daily living skills training;

(B) socialization activities;

(C) recreation;

(D) transportation;

(5) residential services, which may include all or any of

the following:

(A) crisis or respite care;

(B) board and care;

(C) foster care, group homes, halfway houses, or supervised apartments;

(6) vocational services, which may include all or any of the following:

(A) prevocational training;

(B) work adjustment;

(C) supported work;

(D) sheltered work;

(E) vocational training in which participants achieve useful work experience.

Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES. An entity that provides community mental health services shall

(1) make services available at times and locations that enable residents of the entity's service area to obtain services;

(2) ensure each client's right to confidentiality and treatment with dignity;

(3) establish staffing patterns that reflect the cultural, linguistic, and other social characteristics of the community and that incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and treatment needs;

(4) promote client and family participation in formulating, delivering, and evaluating treatment and rehabilitation.

* Sec. 3. AS 47.30.550 is repealed and reenacted to read:

Sec. 47.30.550. COST SHARING FORMULA; LIMITATIONS. (a) In a district designated by the department as a poverty area, the department may fund not more than 90 percent of the eligible costs of the

community mental health services to be furnished under an entity's approved plan.

(b) In a district that has not been designated by the department as a poverty area, the department may fund not more than 75 percent of the eligible costs of the community mental health services to be furnished under an entity's approved plan.

(c) Notwithstanding (a) and (b) of this section, if the department determines that sufficient funds from other sources are unavailable, then the department shall fund the percent of the eligible costs that is necessary in order to ensure that services for chronically mentally ill adults and severely mentally ill children, and other community mental health services to be furnished under an entity's approved plan are made available by the entity. Funding under this subsection is subject to the availability of legislative appropriations for the purpose.

(d) Income earned by an entity through a community mental health project funded under AS 47.30.520 - 47.30.620 shall be used, as approved by the department, to augment or enhance the entity's mental health services.

* Sec. 4. AS 47.30.610(2) is amended to read:

(2) "poverty area" means a district in which 15 percent or more of the population, based upon <u>the most recent</u> [1970] census data, falls under 125 percent of the Office of Economic Opportunity poverty guidelines.

* Sec. 5. AS 47.30.610 is amended by adding new paragraphs to read:

(3) "chronically mentally ill adult" means a person 18 years of age or older

(A) who has been diagnosed as having a schizophrenic, major affective, or paranoid disorder, or other severe mental

disorder with a documented history of persistent psychotic symptoms not caused by substance abuse; and

(B) whose role functioning is impaired in at least two of the following three ways:

(i) inability to function independently in the role of worker, student, or homemaker;

(ii) inability to engage independently in personal care or community living activities; or

(iii) inability to exhibit appropriate social behavior, resulting in intervention by the mental health system or judicial system;

(4) "severely mentally ill child" means a person under 18 years of age who

(A) is experiencing persistent psychotic symptoms not caused by substance abuse and is receiving services that must be continued for maximum therapeutic benefits; or

(B) exhibits severe behavioral, emotional, or social disabilities that are sufficiently intense, severe, or disruptive to lead to exclusion from home, school, or a therapeutic setting, and whose behavior, upon the recommendation of a psychiatrist, is considered likely to be seriously detrimental to the person's growth or safety, or to the welfare of others.

* Sec. 6. AS 47.30.600 is repealed.

* Sec. 7. This Act takes effect July 1, 1987.

HB91

JOINT SPECIAL COMMITTEE ON MENTAL HEALTH TRUST LAND

SECOND SESSION

14TH ALASKA STATE LEGISLATURE

Representative Pat Pourchot, Co-Chairman

Senator Rick Halford, Co-Chairman

Representative Max Gruenberg
Representative Marco Pignalberi

Senator Bettye Fahrenkamp
Senator Paul Fischer

Pat Ryan-Clasby, Public Member
Clifford Groh, Public Member
Janet Baird, Public Alternate
Jerry Schrader, Public Alternate

Report to the Legislature

January 1987

This report is issued pursuant to Legislative Resolve 53, 1986.

Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 1987

Passage of SCR 36 by the 1986 Legislature established the Joint Special Committee on Mental Health Trust Land and charged the committee with the following:

-- development of a proposal to resolve the mental health trust litigation,

-- recommendation of a level of appropriation adequate to provide sufficient funding for mental health programs in the future, and

-- a report to the Legislature on the committee's findings and recommendations.

We are happy to report that the committee unanimously agreed on a settlement proposal that avoids many of the complex land issues involved in attempting to reconstitute a one million acre land trust. We would like to call your attention to page 14 of the report, which contains the committee's recommended settlement proposal.

We would also like to call your attention to page 22 of the report, which contains recommendations on a level of funding for mental health programs in FY 88. Legislation to implement the committee's settlement proposal and legislation that addresses the mental health program will be introduced by the committee.

In our study of the mental health issue this past year it soon became clear that this complex legal land issue is not going to go away. It is vital that the public and the Legislature realize the extreme importance of settling this matter in a fair and permanent manner. It is the committee's unanimous belief that such a settlement requires action by the Legislature.

If prompt legislative action is not taken a likely result will be continued court action by the litigants, forcing a freeze on all transactions involving mental health lands and possibly involving all state lands. Current and former mental health lands total one million acres, many of which are in and around the state's urban areas. The disruption and conflicts with existing and proposed

land management regimes and land uses that a land freeze would cause are tremendous. While our proposal involves a significant commitment by the legislature, it was determined by the committee to be far preferable to either reestablishment of a land trust or continued litigation.

During the course of our discussions and deliberations, the committee enjoyed full participation and cooperation by the plaintiffs, intervenors, and defendants in the lands lawsuit and by organizations and persons concerned with mental health issues in Alaska. We would like to especially thank our public members, Ms. Pat Ryan-Clasby and Mr. Clifford Groh, and our public alternates, Ms. Janet Baird and Dr. Jerry Schrader, for their many hours of effort and their invaluable input to this report. Thanks are also extended to Sandra Schubert and David Finkelstein who served as staff to the committee in the drafting of the report.

Rick Halford

Senator Rick Halford
Co-Chairman, Joint Special
Committee on Mental Health
Trust Land

Pat Pourchot

Representative Pat Pourchot
Co-Chairman, Joint Special
Committee on Mental Health
Trust Land

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BACKGROUND

In 1956, the United States Congress passed Public Law 84-830, "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." To ensure that the territory had adequate financial resources to discharge the responsiblities attending its assumption of mental health authority, the Act granted one million acres of land to Alaska as a public trust. The law, commonly known as the Alaska Mental Health Enabling Act, reads in part:

> 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...."
>
> Sec. 202(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...."

Land selections were made between 1956 and 1966. Since their selection the lands have been administered by the State Department of Natural Resources. Management has been for the general public good without specific reference to supporting a mental health program. Land proceeds have been deposited in the state's general fund.

In 1978 the legislature passed a law (Chapters 181-182, SLA 1978) redesignating mental health trust lands as general grant lands. The law established a trust fund for mental health programs and called on the legislature to appropriate 1.5% of the annual receipts from all state land to the fund. No appropriations were ever made.

In 1982 the Alaska Mental Health Association filed a class action lawsuit in Fairbanks Superior Court on behalf of Carl Weiss, a seven year old boy from Nenana, and Earl Hilliker, a Fairbanks resident. Weiss v. State of Alaska contended that the plaintiffs were in need of mental health services which were not available in

Alaska and questioned the constitutionality of the 1978 redesignation law. The court's judgment, entered in 1984, stated that the one million acres of land were for the exclusive benefit of the mentally ill, that the redesignation law violated the trust established by Congress, and that the trust was to be reimbursed for the fair market value of the lands with a credit for state appropriations made for mental health purposes. The state appealed the decision to the Alaska Supreme Court.

In October 1985 the Supreme Court issued its opinion in the Weiss case. It declared the redesignation act invalid and required that the trust be reconstituted as nearly as possible to its 1978 status, the date it was redesignated as general grant land. As part of the reconstitution, the court required that the trust be reimbursed for lands sold since 1978 with a credit for mental health expenditures made by the state during the same period.

The executive branch responded to the Court ruling by issuing Department Order 121, "Mental Health Land Interim Management". The order suspends and restricts certain actions on mental health lands based on receipt of fair market value or reimbursement to the trust in land or money for all transactions. In addition, it sets up a special account within the state's general fund to receive income obtained from the management of mental health land.

The legislative branch responded to the Court ruling by creating a mechanism to resolve the litigation. The Joint Special Committee on Mental Health Trust Land was established and charged with developing a proposal to resolve the litigation. The Interim Mental Health Trust Commission was established and charged with protecting the land trust from further diminution pending final resolution of the litigation, and overseeing the land appraisals and mental health audit necessary for reconstituting the trust.

SETTLEMENT PROPOSAL

The State Supreme Court, in deciding Weiss v. Alaska, ordered that the mental health trust be reconstituted to match as nearly as possible the holdings which comprised the trust when the mental health lands were redesignated as general grant lands in 1978. The order provided for the trust to be reimbursed for lands that have been sold since the redesignation, with a credit, or "set-off", to the state for mental health expenditures made since 1978. How to interpret whether lands have been sold or merely transferred, how to determine the value of the lands, and what constitutes a mental health expenditure were not addressed by the court. Who should manage the land, what management practices should be followed, and how trust earnings should be managed and spent were also not addressed.

The committee has been advised by the Attorney General that either a strict reconstitution of the trust or development of a negotiated settlement may be pursued. If reconstitution of the trust is sought the legislature has discretion in answering the questions left unanswered by the court, subject to judicial review if requested by the parties. Should a negotiated settlement be sought, the approval of both parties in the lawsuit is needed. As standard procedure in class action suits, the court would review the settlement for fairness before entering judgment in the case.

In the committee's view, a strict reconstitution of the trust is not desirable, primarily for the following reasons.

1. There are difficulties involved in reconstituting the trust to its 1978 status. Nearly half of the original acreage has been conveyed to third parties or designated by the legislature for limited use. Return of land conveyed to private parties is probably not legally possible; return of land conveyed to municipalities is vigorously opposed by the municipalities and legally uncertain; return of land in parks, refuges, and forests is likely to meet with stiff public opposition. Replacement acreage of like value would be difficult to secure, and it would take many years for cash payments in lieu of land to build a significant trust fund in light of the state's current revenue picture.

2. There is no guarantee that reconstituting the trust will enhance mental health programs. Managing the land, even under a policy of maximum revenue generation, may not generate enough revenue to fund the mental health program. More to the point, the enabling act provides that revenue from the trust land is not necessarily intended for the exclusive use of mental health programs. Similarly, the Weiss decision did not specify that additional state revenues must be committed to mental health program funding.

With this in mind, the committee has sought development of a settlement proposal that recognizes the many competing uses of the land and promises enhancement of mental health programs. A range

of alternative settlement proposals has been reviewed, from a strict reconstitution of the land trust to a statutory dedication of a percentage of state general fund revenues. In reviewing the proposals the committee considered the following: A) lands to be returned to the trust, B) compensation for lands not returned, C) how the trust land would be managed, D) how trust earnings would be spent, E) how a monetary trust would be managed, and F) legislative intent.

A) Lands to be in trust

As of August 1986, 829,250 acres of the State's one million acre mental health entitlement had been patented to the state by the federal government. An additional 176,634 acres had been approved for patent. The acreage can be roughly broken into the following status categories. Acreages are approximate and were provided by the Department of Natural Resources.

Unencumbered land 207,225 acres

This is land which reverted to trust status upon the Supreme Court's ruling that the trust must be reconstituted, and on which no encumbrances currently exist.

Less-than-fee disposals 286,562 acres

This includes land with residential leases, oil and gas leases, coal leases, timber sales, mining claims, materials sales, and rights-of-way. Proceeds from activity on these lands are currently being credited to a special mental health account within the state's general fund.

Limited use designations 368,241 acres

This includes parks and recreation areas (150,576 acres), game refuges and habitat areas (85,710 acres), state forests (131,955 acres), and interagency land management assignments (4,473 acres). Current use of these lands is incompatible with management for maximizing revenue.

Municipal conveyances 43,087 acres

The Municipal Entitlement Act (AS 29.65) authorizes municipalities to select vacant, unappropriated, unreserved land from within their boundaries. Mental health lands became available for municipal selection under the 1978 law redesignating them as general grant lands. In addition, AS 29.65.060 specifically authorizes selection of mental health land if certain criteria are met. To date, 23,259 acres of mental health land have been patented to municipalities; an additional 18,968 acres have been approved for patent. Some of the lands conveyed to municipalities have in turn been transferred to third parties or have had improvements constructed on them.

The Attorney General has advised the committee that municipalities which have received title to mental health lands could be compelled to return them to the trust, under private trust law principles which address receipt of trust property. Many municipalities are on record opposing return of the lands.

Conveyed to private parties 90,412 acres
This includes land patented to or under contract for sale to individuals (45,994 acres), lands condemned (5,149 acres), and litigation settlements (39,269 acres). Enforceable third party property rights have vested in these lands, and it is probably not realistic to return them to the trust.

Approaches to establishment of a land trust considered by the committee include:
- Return of as much land as feasible.
- Return of only less-than-fee disposals and unencumbered lands.
- Return of land from within parks, refuges and forests that are not essential to the unit's purpose.
- Selection of new lands; for example, acquiring mental health over-selections under the state's general grant land entitlement and transferring them to mental health status.
- Converting all mental health land to general grant land in exchange for monetary compensation.

Findings: The Supreme Court ordered that the trust be reconstituted to its 1978 status. There is general agreement that lands in the "unencumbered" and "less-than-fee disposal" categories currently have trust status.

There is disagreement over what other lands can legally be returned or are required by the court to be returned to trust status. In addition, returning land already committed to other uses may not be in the state's best interest and may be politically unrealistic.

There is likely some "nonessential" land in state parks, refuges, and forests that could be returned to the trust.

If new acreage is sought and the goal of the trust is to generate revenue, lands that have high resource or commercial values should be pursued. The presentation to the committee by the National Conference of State Legislatures indicated that those states which have raised large amounts of money from trust land manage high value lands such as timbered or urban lands. In Alaska, such lands generally have existing claims.

B) Compensation for land removed from trust

The Supreme Court has ordered that the state compensate the mental health trust for any land sold since passage of the 1978 redesignation law. Of the land removed, all but the 86,076 acres conveyed to private parties could arguably be returned to trust status. However, since much of the land is encumbered or receives significant public use, return to the trust may be an unrealistic goal.

Unless a negotiated settlement is reached, the process of appraising land values must be completed in order to determine the

amount of compensation due. The process was begun in 1985 when the Department of Natural Resources conducted an opinion-of-value estimate of 973,033 acres of mental health land. This, together with on-the-ground appraisals of 11,272 acres, resulted in a total 1978 valuation of $282 million (approximately $567 million in today's values).

Dissatisfaction among the parties over the opinion-of-value estimates resulted in the Interim Mental Health Trust Commission being statutorially charged with developing valuation procedures and overseeing valuation of all or part of the mental health lands. Fiscal year 1987 funding to the Commission falls far short of the millions of dollars needed to pay for on-the-ground appraisals of all parcels. The commission has focused the available valuation funds on municipal lands that were originally mental health lands. All municipal parcels are being valued using the opinion-of-value method, while a representative set of parcels will receive on-the-ground appraisals. The results are expected to be available in early 1987.

In determining the amount of compensation, the court has ordered that the state be allowed a credit, or set-off, for mental health expenditures made from 1978 to 1985. An audit of past program expenditures was recently conducted by the Legislative Budget and Audit Division with oversight by the Interim Mental Health Trust Commission. By legislative direction, a broad range of programs was audited and resulted in an expenditure total of $512.3 million. The Commission reviewed LB&A's audit to identify those expenditures they felt constituted the state's mental health program and recommended that $197.8 million be included in the set-off.

In developing its recommendation, the Commission evaluated each program offering. They looked at whether it was part of the state's 1977 comprehensive mental health plan, whether it addressed a professionally recognized mental health diagnosis, whether it was addressed in Alaska statutes, and whether its primary purpose was to provide mental health services. The major programs included in the Commission's recommendation are the Alaska Psychiatric Institute, the community mental health system, and programs for the developmentally disabled prior to 1981 at which time mental retardation was removed from Alaska's statutory definition of mental illness. Alcoholism, drug abuse, special education, and corrections programs are excluded from the Commission's recommendation except where they meet the general criteria for a mental health program.

Means of compensation considered by the committee include:
- Compensation in replacement lands and/or money, based on the fair market value of the land removed from the trust, offset by expenditures for mental health programs.
- Compensation based on a total value adequate to provide a revenue base to fund the mental health program.
- Replacement of the land trust with a direct funding source through dedication of a revenue stream (a specified percentage of

revenue from the management of all state land, designation of a percentage of state general fund income, proceeds from a specified tax, earmarking of funds from the reserve account of the Alaska Permanent Fund) or establishment of a monetary trust through a lump sum payment (use of a portion of any "windfall" revenues the state may receive from settlement of oil company lawsuits or other litigation).

Findings: Appraising land values to determine the amount of compensation owed the trust is a costly process. To date, the state has spent $138,300 on valuations; on-the-ground appraisals of all mental health lands is estimated to cost in the millions.

The amount of the offset for mental health program expenditures is not absolute. There is not a universal or agreed on definition of mental health to guide the determination.

Negotiating a settlement based on program need rather than land values would save a significant amount of time and money that would otherwise be spent on appraisals.

The Attorney General has advised that dedication of a percentage of state income as a "mental health income stream" is permissible if its expenditure is patterned after the Mental Health Enabling Act. Specifically, the income stream would be dedicated first for mental health expenditures and then for other public purposes, and would be subject to legislative appropriation.

Relying on the reserve account of the Permanent Fund as an income stream assumes a policy of annual expenditure of the account. Although the State's current revenue picture argues for expenditure this year, expenditure of the account in future years may not be warranted.

Should a revenue stream be established, its ability to provide funds in perpetuity must match that of a trust corpus.

C) Land management

Current statutes (Title 38) provide for "maximum use of state land consistent with the public interest", and mental health lands have historically been managed according to these statutes. In December 1985, following the Weiss decision, the Department of Natural Resources issued Department Order #121, which established management principles that prevent further diminution of the trust. The order requires receipt of fair market value, or reimbursement of the trust in land or money, for all transactions. Land management oversight is being provided by the Interim Mental Health Trust Commission, which has adopted a policy of suspending any future land sales until the litigation is resolved.

Land management proposals considered by the committee include:
- By Department of Natural Resources with statutory direction to maximize revenue.
- By Department of Natural Resources under modified Title 38 provisions, with a commission having veto power.
- By a public corporation charged with maximizing revenue.

Findings: Neither the federal Mental Health Enabling Act nor the Weiss decision address how trust land should be managed. General trust law principles require management actions to be in the best interest of the trust, which would likely mean maximizing land earnings.

If lands are to be managed for maximum revenue generation, new statutory guidelines will need to be developed and a manager will need to be designated.

Management funds will be required and could come from trust land revenues. The presentation to the committee by the National Conference of State Legislatures indicated that land management costs in other states range from 5% to 25% of annual land income.

Management of the trust land in the best interests of mental health programs could be enhanced through public oversight.

D) Use of generated funds

Article IX, Section 7 of the Alaska Constitution prohibits the automatic dedication of any state tax or license to a special purpose unless required by the federal government for state participation in federal programs. The Attorney General and the Legislative Legal Division have advised that automatic dedication of the proceeds from the sale or development of mental health lands fails to meet this exception. This opinion is based upon the analysis that the federal Mental Health Enabling Act does not require dedication of trust revenues to mental health programs, but rather establishes a revenue source from which appropriations for programs are to be made. The Constitution would therefore need to be amended, with approval of the majority of the voters statewide, to allow an exclusive dedication to occur.

It should be noted that the plaintiffs disagree with the Attorney General's analysis of the dedication, maintaining that Congress intended the legislature to be able to protect the corpus of the trust. In the plaintiffs' view, protection can occur only if proceeds from land sales are dedicated to a corpus account from which only earnings are appropriated. Under this analysis, dedication of sale proceeds would not violate the Constitution.

"Earmarking" trust land income in the general fund and appropriating an amount equal to the income is permissible, but it does not ensure that income will go toward funding mental health programs. Since one legislature cannot bind future legislatures,

enactment of a law stating that income will be spent on mental health programs is subject to the will of each legislature and dependent on annual appropriation of funds.

Uses of generated funds considered by the committee include:
- Constitutional dedication to a mental health fund.
- Congressional amendment to the federal Mental Health Enabling Act to require that income be dedicated to mental health programs.
- Earmarking trust income in the general fund.

Findings: The federal Mental Health Enabling Act does not require that trust income be spent exclusively on mental health programs, but provides for income to be applied first to necessary mental health expenditures and then to other public purposes. The legislature is given discretion in determining what constitutes a necessary mental health expenditure.

Dedication of trust income would ensure its expenditure on mental health programs. However, dedication is not required by the federal Act and is therefore not allowed by the state Constitution. Achieving an amendment to the Constitution to allow dedication would be a rigorous process, requiring a 2/3 vote of each legislative body and a majority vote of the people. To be successful, a major education and information process would need to be undertaken. The amendment process is purposely rigorous as a means of protecting the original premise of the Constitution which, in regard to dedicated funds, was to provide the legislature discretion in appropriations so that the state's funding needs could be considered annually and the state's revenue spent where it was most needed.

Preservation of the trust corpus through dedication of sale proceeds would ensure the continuation of the trust, but may not be permissible under Alaska's Constitution.

Seeking a Congressional amendment to the federal Mental Health Enabling Act that would require income to be dedicated raises federalism issues and may set a poor precedent for future federal grants.

"Earmarking" trust income in the general fund and appropriating an amount equal to the income is permissible. With no legal requirement that income be spent on mental health programs, advocacy groups and other interested persons could play an important role in guiding appropriations.

E) Fund management

Since the Weiss decision, income from mental health trust lands has been deposited in a special account within the state's general fund. To date approximately $500,000 has been deposited. The general fund is managed by the Department of Revenue along

statutory guidelines (AS 37.10.070) which outline permissible investments and emphasize preservation of principal and high liquidity. The corpus and earnings of the general fund are available for annual appropriation by the legislature. The Department of Revenue also manages other funds, including trust funds.

State funds are also managed by the Alaska Permanent Fund Corporation, a public corporation operated by a board of trustees along statutory guidelines (AS 37.13.120) which outline permissible investments and emphasize high income production under the prudent-man rule. Expenditure of the fund's corpus is prohibited by the state Constitution.

Means of fund management considered by the committee include:
- By Department of Revenue, as a separately managed "permanent" fund.
- By a public corporation as a "permanent" fund.
- As part of the state general fund.

Findings: If a major monetary trust fund is established, a specific fund management scheme would need to be adopted. Otherwise, funds could be managed as part of the general fund and appropriated annually.

Creation of a permanent fund, in which the corpus is protected and only earnings are spent, would ensure a continued source of revenue. The corpus would be afforded greatest protection through a Constitutional amendment.

If managed by a public corporation, the fund corpus would be an asset of the corporation and thus protected from expenditure.

F) Legislative intent

The Supreme Court's ruling ordering reconstitution of the trust did not address the adequacy of the state's mental health program, nor did it specify that additional revenues must be committed to program funding. The language of the federal Mental Health Enabling Act requires only that trust revenues "first be applied to meet the necessary expenses of Alaska's mental health program". If the settlement is to provide increased program funding, the intent of the legislature in regard to future appropriations is a key factor.

The original purpose of the mental health trust, which was to provide a source of funding from which appropriations for Alaska's mental health program could be made, can be achieved only if future legislatures make the necessary appropriations.

Statements of intent considered by the committee include:
- Appropriate program money in an amount equal to or in excess of the revenue generated by the trust.

- Increase program funding annually until program goals are met, irrespective of trust earnings.

Findings: Reconstituting the trust has no direct bearing on the state's mental health program. A legislative commitment to increase funding for mental health programs is essential if mentally ill Alaskans are to obtain the relief they need.

Legislative intent with a high degree of public involvement may provide assurance that funding increases will occur.

Obtaining a stipulated court judgment may lend a degree of assurance that legislative intent will be carried out.

RECOMMENDED ALTERNATIVE

A major conclusion drawn by the committee is that legislative action to resolve the litigation must be taken, and taken now, to avoid severe consequences and substantial liability. The committee's primary recommendation is that achievement of a settlement be pursued this legislative session. Toward this end, the committee has deliberated thoroughly the advantages and disadvantages of both reconstitution of a land trust and replacement of the land trust with a negotiated monetary settlement, and recommends that a monetary settlement be pursued.

While recognizing that reconstitution of a land trust would explicity fulfill the terms of the Mental Health Enabling Act and directly respond to the Supreme Court's order, the committee has found that there are significant disadvantages to a land settlement.

A primary disadvantage is that the lack of administrative flexibility with respect to trust land prevents competing land uses and may alienate many user groups. Returning lands currently committed to other uses would create hardships for municipalities that have selected mental health trust land under the state's Municipal Entitlement Act, individuals who are third party recipients of trust land, recreationists and sportsmen who enjoy parks and game refuges, and others. Once in trust status, land must be managed according to trust principles which designate revenue generation as the goal. Such a management approach would restrict and possibly preclude mining claims, veterans' discounts, litigation settlements and exchanges with Native corporations, and other activities. This is much the situation that impelled the State in 1978 to redesignate the mental health trust land as general grant land.

There is also concern that the costs of land management are high and the potential for revenue generation uncertain at best. Testimony received from the University of Alaska in regard to management of their trust land indicated that land management costs significantly exceed revenues at this time. As mentioned, national statistics collected on long established trusts in other states show that land management costs range as high as 25% of annual land income.

Other disadvantages identified by the committee include the diversion of attention from mental health issues to land management that a land trust necessitates, and the knowledge that the feeling of security and permanence that land provides may be illusory -- even oil-rich Prudhoe Bay lands ultimately will run out of oil.

Conversely, the advantages of a monetary settlement are many. Primary is the fact that it focuses attention on the funding level for mental health programs and is capable of providing immediate financial support for the program. The other major advantage is relief from the land management concerns outlined above. A

monetary settlement may garner support from many other groups because former trust lands would be available for a variety of purposes and a possible cloud from land titles would be removed.

Recognizing that the state's revenue outlook provides little possibility for establishment of a monetary trust fund, which would require a large cash payment, the committee recommends a monetary settlement consisting of a guaranteed revenue stream.

In brief, the recommended alternative (Alternative A) replaces the land corpus with the dedication of 5% of all state revenues as the Mental Health Income Stream The revenue stream would serve the intended purpose of the original land corpus by providing a source of money from which appropriations for the state's mental health program must first be made. Alternative A provides for a pledge of state assets which would be used to reconstitute a trust corpus should the revenue stream not be made available for appropriation. In effect, the mental health community would be empowered to have a state property sale to ensure establishment of a revenue stream.

Alternative B provides for reestablishment of a land trust by reclaiming much of the land that has been removed from the trust. Because of the numerous disadvantages discussed above, this alternative is not recommended by the committee.

Alternative C outlines the likely results should a negotiated settlement not be reached and the parties return to court. The consequence of the state's inaction will be further litigation, the ramifications of which will be felt by citizens throughout the state. It is this potential liability that has led to the committee's primary recommendation of taking action to settle the lawsuit now.

Legislation to implement Alternative A will be introduced by the committee. The committee recommends that any legislation considered for resolving the litigation contain a series of findings and purposes that outline the policy decisions reached by the legislature.

ALTERNATIVE A
SECURED REVENUE STREAM

Replaces the land trust with a guaranteed and enforceable revenue stream designed to equal the earning potential of a reconstituted trust.

Lands to be in Trust
None.

Compensation for Land Removed from the Trust
Dedication of 5% of all state revenues as the Mental Health Income Stream secured by a pledge of state assets. The pledge would be an enacted and stipulated (court-ordered) waiver of the state's immunity from execution (AS 09.50.270). This would allow the sale of certain state assets (possibly in a prioritized list) to satisfy the obligation.

Land Management
Not applicable.

Use of Generated Funds
The legislature shall first appropriate funds from the Mental Health Income Stream to meet the necessary expenses of the state's mental health program. A Mental Health Board will make recommendations on mental health needs in Alaska and report on the use and expenditure of the Mental Health Income Stream.

Fund Management
Not applicable.

ALTERNATIVE B
RECONSTITUTION OF THE TRUST

Reestablishes the mental health land trust by reclaiming much of the land that has been removed from the trust in previous years.

Lands to be in Trust (approximate acreage)

Unencumbered land	207,225 ac.
Less-than-fee disposals (leases, etc.)	286,562 ac.
Post-1978 legislative designations	203,855 ac.
Patented and approved municipal selections (other patented and approved municipal selections of approx. 9,000 ac. would not be returned due to third party transfers, construction of facilities, etc.)	34,000 ac.
University, CIRI and other settlements	39,269 ac.
TOTAL	770,911 ac.
Pre-1978 legislative designations*	164,386 ac.
TOTAL	935,297 ac.

DNR and a new Mental Health Trust Corporation will review other lands to replace the value and potential revenue production of lands not able to be returned to the trust or determined to be inappropriate for inclusion in the trust.

Compensation for Land Removed from Trust
Compensation in new land and/or in cash payments to a trust fund will be determined once the land appraisal process, 1978-85 expenditure audit, and land identification (as described above) are complete.

Land Management
By the Mental Health Trust Corporation, a public corporation with a five-member board to include three members selected from names recommended by the mental health community, as well as at least two members with land management expertise. The Corporation will set land management policies based on new statutes consistent with general trust principles, and may contract with DNR or other entities for land management services.

Use of Generated Funds
Land income will be deposited in a special account within the general fund, and appropriated annually by the legislature first for land management expenses and the state's mental health program. Corpus proceeds (from sales) will be placed in a protected trust fund.

Fund Management
The trust fund will be administered by the Mental Health Trust Corporation, with management by the Permanent Fund Corporation, Department of Revenue, or other entity of the Mental Health Trust Corporation's choosing.

* The Supreme Court decision did not address designations made before 1978 which may require compensation to the trust.

ALTERNATIVE C
NO ACTION

Outlines the likely and possible results from a failure to resolve the litigation through negotiation.

Likely Results

- Significant money judgment, possibly in the billions of dollars, due immediately.
- Freeze on all land transactions and/or direct court supervision of mental health lands, with potential for a freeze on all state lands.
- Potential return to the trust of approximately 372,000 acres of state parks, refuges, and forests.
- Possible invalidation of state conveyance of approximately 86,000 acres to third parties, particularly municipalities and Native corporations, a course of action which will place a cloud on the title to those lands and may result in third parties losing title.
- Escalation of tremendously expensive and complex litigation involving, among other things, appraisals of up to 20,000 separate parcels of land and litigation of the "offset" for mental health expenditures.

Possible Results

- Liability of third parties such as municipalities, Native corporations, and others for participation in the breach of trust.
- Imposition of a management scheme for mental health land inconsistent with other state land management policies.
- Replacement of the State as trustee.

FUNDING LEVEL

The Alaska Mental Health Enabling Act, passed by Congress in 1956, specified that the income and proceeds from the mental health trust "first be applied to meet the necessary expenses of the mental health program of Alaska." No description of program and no determination of necessary expenses was provided. Rather, the Act specified that the "income and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide", and in a manner "compatible with the conditions and requirements imposed by other provisions" of the Act.

In considering Weiss v. Alaska, the Supreme Court ruled only on the question of whether or not the state had breached the public trust by redesignating mental health land as general grant land. It did not address the adequacy of the state's mental health program nor did it specify that additional revenues must be committed to program funding. In the committee's view, the issue of funding for Alaska's mental health program is distinct from the question considered by the court, and is not an essential part of a settlement.

However, the committee is concerned that reconstituting the trust as ordered by the court may not enhance mental health programs, as neither the federal enabling act nor the Supreme Court's decision dedicate trust revenues to mental health. Recognizing that the Weiss lawsuit was filed on behalf of Alaskans whose mental health needs were not being met and who looked to the trust as a source of relief, a primary interest of the committee is to ensure that necessary funding for mental health programs is provided. This is consistent with the committee's statutory charge to recommend a level of appropriation adequate to provide sufficient funding for mental health programs in the future.

Determining the amount of funding "necessary" to provide a mental health program is dependent on the definition of mental illness and the scope of the treatment program offered.

DEFINITION OF MENTAL ILLNESS

There is no universally accepted definition of mental health or mental illness. The legislative history of the Mental Health Enabling Act is unclear as to the Congressional intent. Conflicting definitions are found throughout federal legislation and reports.

Definitions among the 50 states are inconsistent. For example, Arizona excludes mental retardation, drug abuse, and alcoholism from its definition while Connecticut includes them. Several states define mental illness as "mental disease to such an extent that a person requires care and treatment for his own welfare, or the welfare of others, or of the community." Other

states limit their programs to "individuals who, in the opinion of a licensed physician, have a psychiatric disorder".

The Diagnostic and Statistical Manual of Mental Disorders developed by the American Psychiatric Association is the professional source of standards in diagnosing mental disorders. It reads, "There is no satisfactory definition that specifies precise boundaries for the concept 'mental disorder'". Nevertheless, the manual classifies certain conditions as mental disorders and excludes others. Several states reference the manual in their definition of mental illness.

Alaska's statutory definition of mental illness has changed as the legislature has appropriated funds to develop and expand services and as treatment philosophies have changed. AS 47.30.915(12) defines mental illness as, "An organic, mental or emotional impairment that has substantial adverse effects on an individual's ability to exercise conscious control of the individual's actions or ability to perceive reality or to understand; mental retardation, epilepsy, drug addiction, and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness."

SCOPE OF PROGRAM

In the absence of a widely accepted, established definition of mental illness, the statutes and appropriations enacted by the legislature have played a primary role in shaping the state's mental health program. As the state's policy making body, the legislature has established the scope of the state's mental health program by deciding what programs receive funding, how much funding is received, and who is responsible for administering the programs.

Prior to passage of the Mental Health Enabling Act in 1956, the only treatment and custodial care for Alaskans needing mental health services was provided by Morningside Hospital, a private institution in Portland, Oregon. With passage of the Act, Congress transferred the responsibility for Alaska's mental health program to the Territory of Alaska and provided federal funds, $1 million annually the first two years followed by declining appropriations through 1968, to implement service delivery.

Today, Alaska's program for the mentally ill consists primarily of the Alaska Psychiatric Institute (API) and a system of community mental health centers. API was built in Anchorage in 1962. The first community mental health centers were constructed in Anchorage, Fairbanks, and Juneau soon after passage of the federal enabling act. The opening of centers in Ketchikan and Kodiak followed. All are now part of a statewide system of 27 community mental health centers established under the state's 1975 Community Mental Health Services Act.

Program growth has been a direct function of legislative appropriations. The legislature has been guided by the state's comprehensive mental health plan and by the ideas and needs of consumers, client families, advocacy groups, private providers, and others.

AS 47.30.520 mandates the development of a comprehensive mental health plan and requires that the plan provide a five-year projection of statewide needs, services and resources in the mental health system. Alaska's last comprehensive plan was developed in 1977. Its goal was a network of mental health units throughout the state that could provide comprehensive mental health services to all consumers. The plan featured API prominently and cited community based mental health services as the most apparent need.

De lopment of an updated comprehensive mental health plan is currently underway. Its major finding is that a tremendous need exists for increased state services for the mentally ill. The plan indicates that despite increased legislative appropriations over the years funding has not kept pace with the need.

The major components of Alaska's service system are stretched to capacity and many needy persons are not being served. Applying national mental health data which states that 5% of the general population suffers from one or more mental disorders, Alaska's population in need of services would be approximately 25,000. Currently, about 10,000 persons are being served -- 1200 at API and 8800 through the community mental health system. Statistics for the chronically mentally ill are even more discouraging, with only 1394 of the estimated 5500 Alaskans in need receiving services.

Between 1974 and 1985, admissions to the community mental health system increased 185% above simple population growth. At the current staffing level, services have reached a practical limit and waiting lists exist at most centers.

Similarly, during fiscal year 1985 the state's population grew by 1.9%; admissions to API grew by 8%. API has accommodated the increased admissions by decreasing the length-of-stay in the treatment of patients. A documented consequence of this is a 50% re-admission rate of former API patients. What this means in terms of quality and adequacy of care can only be inferred, but the consequences cannot be favorable.

PROGRAM FUNDING

State appropriations for mental health programs have grown from slightly less than $1.2 million in 1959 to slightly more than $23.4 million in 1986. However, when an inflation factor is applied, actual state spending on mental health has declined over the last few years.

The draft mental health plan, released in August 1986, estimates the cost of developing a comprehensive mental health system at $106.9 million in annual operating costs, an increase over FY 87 operating expenditures of approximately $82.1 million. It also identifies a need for $102.1 million in one-time capital costs. The plan places highest priority on care for acutely disturbed persons. It recommends funding a system of immediate response through community mental health centers, designated beds in local hospitals, and specialized care services at the Alaska Psychiatric Institute.

High priority is also placed on care for the chronically mentally ill. The plan recommends funding case management services, emergency services, day treatment, outpatient psychotherapy, rehabilitation services, and inpatient services. This component of the state's mental health system is recognized as being most in need of expansion.

A comprehensive care system for children and adolescents is also recommended. Prevention programs, early intervention programs, specialized outpatient services, day treatment programs, group homes, and specialized foster care programs are proposed for funding. The plan identifies specialized services for the elderly, Alaskan natives, and incarcerated persons; general clinical services; and disaster response services as essential to a comprehensive mental health system.

To fully implement the plan, the draft estimates additional state funding as follows. Costs are shown in millions of dollars.

	Annual Operating	One-Time Capital
Acute	$ 5.3	$16.5
Chronic (basic services only)	41.0	51.3
Children	16.3	11.3
Elderly	4.9	3.6
Alaskan natives	3.0	12.1
General clinical	2.1	0
Disaster response	.1	0

In addition, the plan identifies an annual operating cost of $650,000 to ensure the availability of mental health professionals to provide the increased level of service.

The draft plan emphasizes that the fiscal estimates are only broad approximations and that actual expenditures would need to be determined. However, in the committee's view, the draft clearly demonstrates that Alaska's current level of mental health funding is insufficient to serve our mentally ill population. It should be noted that the Alaska Alliance for the Mentally Ill has testified that the draft falls short of the goals of an adequate program.

The committee's view is supported by testimony received from the National Conference of State Legislatures (NCSL). Their review of Alaska's mental health program led to several recommendations, primarily that our programs be expanded. NCSL cited community care, children's programs, and treatment of incarcerated persons as particularly deficient, and recommended that a formal and continuous planning process be established.

In addition, NCSL compiled 1985 data from a number of western states, and rated Alaska's mental health program in comparison to the others. Alaska's expenditures on mental health as a percentage of our total state budget were the lowest in the study group (.4%); our per capita expenditures were the highest ($45/state resident); and the percentage of our mental health budget that came from state sources rather than from federal or local sources was high compared to the national average (88% vs. 77%). The Division of Mental Health has expressed concerned that NCSL's data may not have accurately reflected all mental health program expenditures.

FUNDING RECOMMENDATIONS

1. Whether or not funds exist in a mental health trust, Alaskans' mental health needs should be met.

2. The scope of the mental health program should continue to be determined by the legislature as the state's policy making body. The comprehensive mental health plan should guide the legislature in program development and spending decisions.

3. As required by statute, the plan should be continually updated to meet the changing needs of Alaskans and to reflect changing treatment philosophies.

4. The state benefits tremendously from public involvement in the planning process, and an advocacy board should be established to recommend program needs and funding levels to the legislature, and to monitor program implementation and expenditures.

5. The existing prioritization of mental health populations should be followed to ensure that the needs of persons with the most critical mental health problems are met. 7 AAC 71.135 places highest priority on the acutely disturbed, followed by the chronically disturbed, children and adolescents, other persons requiring direct intervention, and persons requiring nondirect services. This prioritization is reinforced in the draft comprehensive state plan.

6. Funding increases should be incremental in nature, allowing response to the state's fiscal situation and the ability of the program to expand in any one year. For FY 88 the committee recommends a minimum of $27,392,200.

   a) Continued funding of $22,533,200, the Department's FY 88 base budget for the Division of Mental Health and Developmental Disabilities for mental health services and administration, Community Mental Health grants, and contract services provided by native corporations. In light of the Weiss lawsuit and the unmet mental health program needs, existing mental health programs should be protected from further budget cuts.

   b) Reinstatement of the $4,000,000 cut by executive action in July 1986. These funds should be allocated as follows: restore $550,000 to API; allocate $272,000 for adult residential care for the chronically mentally ill to restore 13 beds and add 27 new ones; restore $151,800 to the Division of Mental Health for staff to plan and deliver mental health services; restore $223,200 to the Fairbanks community mental health program; and allocate $2,828,300 to community services for the chronically mentally ill.

c) Restoration of the $859,000 provided to the Department in FY 87 as legislative "add ons". This includes funds for designated beds, emergency services for the chronically mentally ill, and suicide prevention.

NOTE: The committee devoted most of its time in developing funding recommendations to those programs serving the "mentally ill" population. The committee did not attempt to define what other populations should be provided access to Alaska's mental health program or to determine funding needs for these other populations.

7. Passage of legislation establishing a service system for the chroncially mentally ill should be sought. The state's existing Community Mental Health program requires recipients to bear 25% of the cost of service, thus encouraging centers to serve those clients who are able to pay. Since the chronically mentally ill are generally unemployed, uninsured, and can't afford to pay, their needs have in large part been neglected. Establishing a separate service system with 100% funding from the state would ensure that this population is served. Legislation to establish such a system will be introduced by the committee, accompanied by a fiscal note that distrbutes available funds to all 27 Community Mental Health Centers based on a needs formula. In addition to reprogramming $2.8 million to chronically mentally ill services as recommmended in (5)(b) above, a budget increment is needed.

8. Future year funding increases should allow continued progress toward meeting the goals of the state's comprehensive mental health plan.

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FINAL

Offered: 5/10/86
Referred: Rules

Original sponsors: Josephson, Sackett, Rodey, et al

IN THE SENATE BY THE FINANCE COMMITTEE

HOUSE CS FOR CS FOR SENATE CONCURRENT RESOLUTION NO. 36 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

Establishing a joint special committee on mental health trust land.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the United States Congress granted 1,000,000 acres of land to the Territory of Alaska to be administered as a public trust for the necessary expenses and support of mental health in the territory; and

WHEREAS in October 1985, the Alaska Supreme Court determined that the 1978 decision of the Alaska Legislature to redesignate mental health trust land as general grant land had breached the trust established by the Congress; and

WHEREAS the funding level for the mental health programs in the state is one of the lowest in the nation on a per capita basis; and

WHEREAS the legislature, the administration, and mental health advocates agree that the state must comply with the intent of the Congress that mental health programs in the state receive sufficient funding; and

WHEREAS it is not in the public interest that continued litigation over the mental health land trust divert attention from the underlying goal of increased funding for mental health programs and care in the state; and

WHEREAS present state statutes do not explicitly provide for the management of mental health trust land for maximum revenue production; and

WHEREAS the return of mental health trust land to trust status precludes management of mental health trust land for its highest and best use;

BE IT RESOLVED by the Alaska State Legislature that a Joint Special Committee on Mental Health Trust Land is established under Uniform Rule 21; and be it

FURTHER RESOLVED that the Joint Special Committee on Mental Health Trust Land is composed of three members of the Senate appointed by the president of the Senate, three members of the House of Representatives appointed by the speaker of the House of Representatives, and two public members interested in the mental health trust land issue; the public members shall be selected by the other members of the Joint Special Committee on Mental Health Trust Land; and be it

FURTHER RESOLVED that one member appointed from the House of Representatives be from the membership of the House Finance Committee and one member appointed from the Senate be from the membership of the Senate Finance Committee; and be it

FURTHER RESOLVED that the Joint Special Committee on Mental Health Trust Land develop, after public hearings, a proposal to resolve the mental health trust litigation and recommend a level of appropriations adequate to provide sufficient funding for mental health programs in the future; and be it

FURTHER RESOLVED that the committee is authorized to meet during and between sessions of the legislature and is to report its recommendations and findings on the first day of the First Session of the Fifteenth State Legislature; and be it

FURTHER RESOLVED that the committee terminates on the 10th day of the First Session of the Fifteenth State Legislature.

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 payments

"(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.

Recovery of value of facility.

"(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."

LAND GRANT

SEC. 2. (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.

Mineral deposits.

(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.

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

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

(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