

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4519 HHS HB 91 - HB 96

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1 disturbance of a less severe or persistent nature that will not re-
2 quire hospitalization in the foreseeable future.

3 Sec. 47.30.546. SERVICES FOR MENTALLY AND EMOTIONALLY DISTURBED.

4 (a) Subject to the availability of funds, an entity eligible to
5 receive funds under AS 47.30.540 may receive funds from the department
6 for providing directly, or through another provider under contract
7 with the entity, one or more of the following program elements:

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

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

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

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

16 (D) referral to other agencies;

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

19 (3) consultation with organizations and providers;

20 (4) prevention and education services.

21 (b) An entity eligible to receive funds under AS 47.30.540 and
22 that provides eligible community mental health services for chronical-
23 ly mentally ill adults or severely mentally ill children may, in addi-
24 tion to funds received for program elements provided under (a) of this
25 section, receive funds from the department for one or more of the
26 following program elements:

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

29 (A) active community outreach;

1 (B) in-hospital contact;

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

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

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

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

11 (B) medication monitoring;

12 (C) physical examinations;

13 (D) psychotropic medication;

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

16 (A) evaluation of patients' needs;

17 (B) development of individualized treatment plans;

18 (C) enhancement of patient access to available re-
19 sources and programs;

20 (D) development of interagency contacts and family
21 involvement;

22 (E) patient advocacy;

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

25 (A) daily living skills training;

26 (B) socialization activities;

27 (C) recreation;

28 (D) transportation;

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

1 the following:

2 (A) crisis or respite care;

3 (B) board and care;

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

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

8 (A) prevocational training;

9 (B) work adjustment;

10 (C) supported work;

11 (D) sheltered work;

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

14 Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES.

15 An entity that provides community mental health services shall

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

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

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

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

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

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

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

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

7 (c) Notwithstanding (a) and (b) of this section, if the depart-
8 ment determines that sufficient funds from other sources are unavail-
9 able, then the department shall fund the percent of the eligible costs
10 that is necessary in order to ensure that services for chronically
11 mentally ill adults and severely mentally ill children, and other
12 community mental health services to be furnished under an entity's
13 approved plan are made available by the entity. Funding under this
14 subsection is subject to the availability of legislative appropria-
15 tions for the purpose.

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

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

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

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

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

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

1 disorder with a documented history of persistent psychotic symp-
2 toms not caused by substance abuse; and

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

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

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

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

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

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

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

23 * Sec. 6. AS 47.30.600 is repealed.

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : CSHB 91 (HESS)

Publish Date : _____

REQUEST: _____

Revision Date: April 11, 1987

Agency Affected: Dept. of Health & Social Service

Title: An Act relating to the mentally ill;
an providing for an effective date

BRU: _____

Sponsor: _____

Components: _____

Requestor: _____

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 SUPPLIES		47.5	47.5	47.5	47.5	47.5
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						
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REVENUE						
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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.

Prepared by: Mel Henry, Director
Division: Division of Mental Health & Developmental

Phone: 465-3370

Date: April 11, 1987

Approved by Commissioner: Myra M. Munson
Agency: Dept. of Health and Social Services

Date: April 13, 1987

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	61.0	
TOTAL		<u>\$ 2,000.0</u>

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
		<u>\$107,640.00</u>

Travel:

Mental Health Clinician II	12 trips @ \$500	6,000.00
Alternative Care Coordinator	6 trips @ \$500	<u>3,000.00</u>
		9,000.00

Contractual:

Phone, copying, printing, 125/m x 12 x 2	<u>3,000.00</u>
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Supplies:

52.5/m. x 12 x 2	<u>1,260.00</u>
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Equipment:

-0-

Sub Total	\$ 121,000.00
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Contractual Services	\$ 47,500.0
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Grants	\$1,831,500.0
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TOTAL	\$2,000,000.0
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FISCAL NOTE
HB 91
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
	<u> </u>
	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.

STATE OF ALASKA
THE LEGISLATURE

POUCH V. - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS

4-1-87

8:30a.m.

" "

4-14-87

" "

HB

92

HB 92 An Act implementing a settlement relating to the
federally created mental health trust; and
providing for an effective date.

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- 1) Copy of HB 92
- 2) Fiscal Note, Department Natural Resources, 4/6/87
- 3) Fiscal Note, Department of Revenue, 4/2/87
- 4) Fiscal Note, CSHB 92 (HESS), DHSS/DMHDD, 4/4/87
- 5) Fact Sheet, Mental Health Legislation
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- 7) CSHB 92 (HESS)
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IN THE HOUSE

CS FOR HOUSE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Mental Health Trust;
and providing for an effective date."

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

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

(1) the United States Congress passed the Alaska Mental Health Enabling Act of 1956, Pub. L. No. 84-830, 70 Stat. 709, "[t]o 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;"

(2) in section 202 of the Alaska Mental Health Enabling Act, Congress granted the territory the right to select up to one million acres of federal land to serve as a source of funds to support the territory's mental health program;

(3) in subsection 202(e), Congress specifically provided that the lands so granted, as well as any income therefrom and proceeds from dispositions thereof, were to be administered 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," that "[s]uch lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide," that the lands 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," and that the Alaska legislature must exercise this broad authority "in a manner compatible with

1 the conditions and requirements imposed by this Act;"

2 (4) in requiring that the proceeds and income of the one million
3 acre land grant "first be applied to meet the necessary expenses of the
4 mental health program of Alaska," it was the intent of Congress that addi-
5 tional public funds be appropriated by the legislature to supplement the
6 proceeds and income from the land grant if those proceeds and income are
7 insufficient to meet the necessary expenses of the mental health program of
8 Alaska;

9 (5) if the proceeds and income from the one million acre land
10 grant exceed the necessary expenses of the mental health program of Alaska,
11 the Congress authorized the legislature to appropriate the excess proceeds
12 and income for other public purposes;

13 (6) because of the highly desirable location and character of
14 many of the lands selected by the state under the Act (e.g., in and around
15 major population centers, suitable for parks and game refuges, etc.) and
16 the difficulties associated with disposing of or dedicating these lands for
17 purposes which would not result in the receipt of funds which could be used
18 for mental health purposes (e.g., satisfaction of municipal entitlements,
19 placement in parks and game refuges, etc.) without compensation to the
20 trust, the Tenth Alaska Legislature enacted ch. 181 and 182, SLA 1978 which
21 (among other things) redesignated all mental health lands as general grant
22 lands;

23 (7) both ch. 181 and 182, SLA 1978 also created the Mental
24 Health Fund into which, as compensation to the trust, a sum equal to one
25 and one-half percent of all revenues received from the management of state
26 lands was to be deposited and from which only the income could be appro-
27 priated exclusively for mental health purposes;

28 (8) a significant difference between ch. 181 and 182, SLA 1978
29 was that ch. 182 made the deposit of one and one-half percent of all public

1 land revenues into the Mental Health Fund "subject to legislative appropri-
2 ation of sufficient funds;"

3 (9) since ch. 182, SLA 1978 became law after ch. 181, SLA 1978
4 became law, the provisions of ch. 182, SLA 1978 -- and specifically the
5 provision that deposits to the Mental Health Fund would be "subject to
6 legislative appropriation of sufficient funds" -- have been considered
7 controlling;

8 (10) the legislature has never appropriated any funds to the
9 Mental Health Fund;

10 (11) a class-action lawsuit, Weiss v. State, 4FA-82-2208, was
11 filed on November 26, 1982, seeking a judicial determination that the
12 Alaska Mental Health Enabling Act had established a "public trust" under
13 which the state had received the one-million acre land grant, that the 1978
14 legislation redesignating mental health lands as general grant lands was a
15 breach of that trust, and that the appropriate remedy was to invalidate the
16 1978 legislation and return mental health lands to trust status;

17 (12) in State v. Weiss, 706 P.2d 681 (Alaska 1985), the Alaska
18 Supreme Court held that the Alaska Mental Health Enabling Act established a
19 public trust, that the 1978 legislation redesignating mental health lands
20 as general grant lands was a breach of that trust, and that the appropriate
21 remedy was to return mental health lands still in state ownership to trust
22 status and, for mental health lands which the state had "sold" between 1978
23 and the date of the court's decision, to compensate the trust for the fair
24 market value of mental health lands so "sold" as of the date of their
25 "sale," subject to a set-off for state mental health expenditures during
26 the same period;

27 (13) while the Court returned mental health lands to trust sta-
28 tus, it did not specify the nature of the state's obligations with respect
29 to managing those trust lands, leaving significant questions unanswered

1 which may require additional costly and time-consuming litigation;

2 (14) continued costly and time-consuming litigation over mental
3 health trust land management is not in the public interest because it
4 diverts attention from the goal Congress sought to achieve through the
5 Act's land grant, the funding of a mental health program;

6 (15) continued costly and time-consuming litigation over mental
7 health trust land management is not in the public interest because it has
8 the potential to be extremely divisive, pitting the advocates of stringent
9 mental health trust land management against those who envision state-owned
10 mental health lands managed for their highest and best use (including
11 conveyance to municipalities in satisfaction of municipal entitlements,
12 placement in parks and game refuges, etc.) without a major expenditure to
13 compensate the mental health trust for the fair market value of the lands;

14 (16) continued costly and time-consuming litigation over mental
15 health trust land management is not in the public interest because advo-
16 cates of stringent mental health trust land management may seek the in-
17 validation of state conveyances of mental health lands to third parties,
18 particularly municipalities and Native corporations organized pursuant to
19 the Alaska Native Claims Settlement Act, a course of action which at best
20 will place a cloud on the third parties' title to those lands and at worst
21 will result in those third parties losing title to their lands, causing
22 economic and other harm and further dividing those who advocate stringent
23 mental health trust land management from those who believe all state-owned
24 lands, including mental health lands, should be managed for their highest
25 and best use;

26 (17) continued costly and time-consuming litigation over mental
27 health trust land management is not in the public interest because advo-
28 cates of stringent mental health trust land management may seek the in-
29 validation of legislative designations of mental health lands as state

1 parks, state game refuges, state forests, etc., placing the future use of
2 those lands for the designated purposes in doubt and further dividing those
3 who advocate stringent mental health trust land management from those who
4 believe all state-owned lands, including mental health lands, should be
5 managed for their highest and best use;

6 (18) the failure of the Alaska Legislature to deal with the
7 current situation by properly reconstituting the mental health trust at
8 this time will lead to continued costly, time-consuming and divisive liti-
9 gation, which is not in the public interest;

10 (19) the same problems which led to the 1978 redesignation of
11 mental health lands as general grant lands -- e.g., the desirability of
12 managing mental health lands for their highest and best use, including the
13 satisfaction of municipal entitlements, inclusion in parks and game ref-
14 uges, etc. -- will continue to pose difficulties in the state's efforts to
15 accommodate the public's needs generally with the obligation to administer
16 mental health lands as a trust;

17 (20) under article VIII, section 2 of the Alaska Constitution, as
18 construed by the Alaska Supreme Court in State v. University of Alaska, 624
19 P.2d 807 (1981), the legislature has the authority to remove lands from
20 trust status if the trust is compensated for the fair market value of the
21 lands;

22 (21) the state is not now, and in the foreseeable future will not
23 be, in a position to compensate the mental health trust in money for the
24 fair market value of mental health lands;

25 (22) even if the state were able to compensate the mental health
26 trust in money for the fair market value of mental health lands, there is a
27 substantial legal question whether that compensation, as the corpus of the
28 trust, could be preserved in perpetuity or whether the prohibition on
29 dedicated funds in article IX, section 7 of the Alaska Constitution would

1 require that those funds be made available for appropriation by the legis-
2 lature under the terms of the Alaska Mental Health Enabling Act;

3 (23) under article VIII, section 2 of the Alaska Constitution and
4 section 202(e) of the Alaska Mental Health Enabling Act, the legislature
5 has broad authority over all state lands, including mental health lands,
6 and can permissibly remove mental health lands from trust status if, con-
7 sistent with its trust responsibilities, it simultaneously designates other
8 state lands of equivalent value as mental health lands;

9 (24) Congress' goal of funding a mental health program, and the
10 public interest in having attention focused on the problems of the mentally
11 ill and not questions regarding mental health trust land management, will
12 be best served by establishing a mechanism for generating revenues from
13 mental health lands which minimizes the number and complexity of related
14 land management decisions;

15 (25) reconstituting the mental health trust with state lands
16 which have a substantial likelihood of remaining in state ownership in
17 perpetuity, and compensating the mental health trust for state use of those
18 lands through annual identification of an amount of state general fund
19 revenues equal to the fair market rental value of those lands as a separate
20 account in the general fund, would minimize the number and complexity of
21 land management decisions and would result in the following benefits to the
22 mental health trust:

23 (i) it would ensure that the mental health trust corpus
24 will be preserved in perpetuity;

25 (ii) it would reconstitute a mental health trust corpus
26 equal in value to the original one million acre mental health trust
27 corpus, with no reduction (in the nature of a set-off) for state
28 mental health expenditures;

29 (iii) it would make the entire mental health trust corpus

1 productive in that each acre of mental health trust land would produce
2 its fair market rental value annually;

3 (iv) the trust would not incur any administrative expenses;

4 (v) it would focus attention on questions related to the
5 state's mental health programs and the levels of appropriations for
6 those programs;

7 (26) reconstituting the mental health trust with state lands
8 which have a substantial probability of remaining in state ownership in
9 perpetuity would result in the following benefits to the state generally:

10 (i) it would free all mental health lands not in legisla-
11 tively designated areas for non-trust uses;

12 (ii) the only significant expenditure of public funds which
13 would be required would be appropriations for appraisal of the lands
14 to ensure equal value, an expenditure which would be required no
15 matter what form of trust reconstitution is selected; and

16 (iii) it would establish an additional safeguard against
17 disposal of the newly designated mental health trust lands (i.e.,
18 those in legislatively designated areas) in that, prior to such dis-
19 posal, equal value replacement lands would have to be identified and
20 redesignated as trust lands;

21 (27) the legislature will best serve the public interest by
22 reconstituting the mental health trust with lands in legislatively des-
23 ignated areas, continuing to use those lands for the legislatively des-
24 ignated purposes, compensating the trust for the use of those lands through
25 annual identification of an amount of general fund revenues equal to the
26 fair market rental value of those lands and designation in the general fund
27 of that amount of funds as the special mental health trust income account,
28 and creating a board to assist and advise the legislative and executive
29 branches of government on matters relating to the mental health program of

1 Alaska.

2 (b) The purposes of this Act are:

3 (1) to effectuate the intent of Congress underlying section 202
4 of the Alaska Mental Health Enabling Act that mental health lands be admin-
5 istered in such a way as to make funds available for the support of
6 Alaska's mental health program;

7 (2) to the extent practicable, to eliminate the need for costly,
8 time-consuming and divisive litigation over the state's management of
9 mental health lands;

10 (3) to ensure that the attention of the public and the govern-
11 ment is focused on mental health programs, as contemplated by Congress, and
12 not on issues relating to the management of mental health lands;

13 (4) to reconstitute a mental health lands trust through identi-
14 fication of lands in legislatively designated areas which are equal in
15 value to those selected by and patented to the state under section 202 of
16 the Alaska Mental Health Enabling Act;

17 (5) to remove from trust status those lands selected by and
18 patented to the state under section 202 of the Alaska Mental Health En-
19 abling Act which are not in legislative designated areas, thereby freeing
20 them for other uses;

21 (6) to remove from trust status lands selected by and patented
22 to the state under section 202 of the Alaska Mental Health Enabling Act
23 which are not in legislatively designated areas and to validate each deed,
24 contract for sale, lease, easement, right-of-way, permit, mineral lease
25 disposal, reservation of land for public use by statute, or land management
26 actions, including use classifications under AS 38.05.300 and interagency
27 land management assignments by the Department of Natural Resources, that
28 may have been called into question by the Supreme Court's decision in State
29 v. Weiss, 706 P.2d 681 (Alaska 1985), returning mental health land to trust

1 status; and

2 (7) to identify a portion of annual state general fund revenues,
3 equal in amount to the fair market rental value of mental health lands, as
4 compensation to the trust for the continued use of the lands in legisla-
5 tively designated areas for the legislatively designated purposes; and

6 (8) to create a board to assist and advise the legislative and
7 executive branches of government on matters relating to the mental health
8 program of Alaska.

9 * Sec. 2. AS 37.14 is amended by adding new sections to read:

10 Sec. 37.14.011. MENTAL HEALTH TRUST INCOME ACCOUNT. (a) There
11 is established, as a separate account in the general fund, the mental
12 health trust income account.

13 (b) The amount determined under (c) of this section as the fair
14 market rental of the lands constituting the mental health trust corpus
15 is the earnings of the trust and the commissioner of revenue annually
16 shall allocate that amount to the mental health trust income account.

17 (c) The fair market rental value of the lands constituting the
18 mental health trust corpus shall be equal to 8 percent of the fair
19 market value of the lands. Following the initial determination of the
20 fair market value of the lands selected by and patented to the state
21 under section 202 of the Alaska Mental Health Enabling Act, the com-
22 missioner of natural resources shall redetermine the fair market value
23 of the lands constituting the mental health trust corpus at least
24 every five years, and provide the redetermined value to the commis-
25 sioner of revenue and the board established under AS 47.30.661.

26 Sec. 37.14.021. UTILIZATION OF THE MENTAL HEALTH TRUST INCOME
27 ACCOUNT. Money in the mental health trust income account established
28 in AS 37.14.011(a) shall first be appropriated by the legislature to
29 meet the necessary expenses of the mental health program of Alaska.

1 In making annual appropriations from the mental health trust income
2 account, the legislature shall consider the recommendations of the
3 Alaska Mental Health Board established under AS 47.30.661, including
4 any recommendations regarding capital improvements. After the neces-
5 sary expenses of the state's mental health program have been funded,
6 the legislature may make appropriations from the mental health trust
7 income account for other public purposes.

8 * Sec. 3. AS 38.05 is amended by adding a new section to read:

9 Sec. 38.05.800. RECONSTITUTION AND ADMINISTRATION OF MENTAL
10 HEALTH LANDS TRUST. (a) The commissioner of natural resources, under
11 procedures approved by the interim mental health trust commission,
12 shall determine the fair market value, as of the effective date of
13 this Act, of all lands selected by and patented to the state under the
14 Alaska Mental Health Enabling Act. The commissioner shall report the
15 determination of that value to the board established under AS 47.30.-
16 661.

17 (b) The commissioner of natural resources, with the approval of
18 the interim mental health trust commission, shall identify lands
19 within legislative designations which are equal in value to all lands
20 selected by and patented to the state under section 202 of the Alaska
21 Mental Health Enabling Act which are not in legislative designations.

22 (c) All lands selected by and patented to the state under the
23 Alaska Mental Health Enabling Act which are within legislative desig-
24 nations, together with all lands identified by the commissioner under
25 (b) of this section, shall constitute the corpus of the mental health
26 lands trust.

27 (d) Upon reconstitution of the trust as provided in this sub-
28 section, lands selected by and patented to the state under section 202
29 of the Alaska Mental Health Enabling Act which are not within

1 legislative designations are removed from trust status.

2 (e) The lands within legislative designations which constitute
3 the mental health lands trust shall continue to be administered for
4 the legislatively designated purposes. The trust shall be compensated
5 for the continued use of the mental health trust lands for the legis-
6 latively designated purposes as provided in AS 37.14.011.

7 (f) Before the state may remove any lands which are part of the
8 mental health trust corpus from trust status, and in addition to any
9 other requirements of law, the commissioner of natural resources,
10 consistent with the state's trust responsibilities, must identify
11 replacement lands, equal in value at the time of replacement, within
12 legislative designations and incorporate them into the mental health
13 trust corpus. The commissioner of natural resources annually shall
14 report any actions under this subsection to the board established
15 under AS 47.30.661.

16 * Sec. 4. AS 47.30 is amended by adding new sections to read:

17 Sec. 47.30.661. ALASKA MENTAL HEALTH BOARD. There is created
18 the Alaska Mental Health Board. For budgetary purposes, the board is
19 located within the Department of Health and Social Services. The
20 board is the state planning and coordinating agency for the purposes
21 of federal and state laws relating to the mental health program of
22 Alaska. The purpose of the board is to assist the state in ensuring
23 an integrated comprehensive mental health program.

24 Sec. 47.30.662. COMPOSITION. (a) The board shall consist of
25 the commissioner of health and social services, or the commissioner's
26 designee, and not less than nine nor more than 12 other members,
27 appointed by the governor, with due regard for balanced geographic
28 representation of the state.

29 (b) At least one-third of the members shall be consumers of

1 mental health services (or parents or guardians of such persons).

2 (c) At least one-third of the members shall be either public or
3 private providers of mental health services.

4 (d) The remaining members shall be representatives of the public
5 at large.

6 Sec. 47.30.663. TERM OF OFFICE. (a) Board members' terms are
7 three years. Of the initial appointees, one-third shall be appointed
8 for one-year terms, one-third for two-year terms, and one-third for
9 three-year terms.

10 (b) A vacancy occurring in the membership of the board shall be
11 filled by appointment of the governor for the unexpired portion of the
12 vacated term.

13 (c) Members may be removed only for cause, including, but not
14 limited to, poor attendance or lack of contribution to the board's
15 work.

16 Sec. 47.30.664. OFFICERS AND STAFF. (a) The board, by a major-
17 ity of its membership, shall elect a chairman and other officers it
18 considers necessary from among its membership to serve on a yearly
19 basis.

20 (b) The board will have a paid staff provided by the Department
21 of Health and Social Services, including, but not limited to, an
22 executive director who shall be selected by the board from candidates
23 provided by the department. The executive director is in the partial-
24 ly exempt service and may hire additional employees in the classified
25 service of the state. The staff of the board shall be directly re-
26 sponsible to the board in the performance of their duties.

27 Sec. 47.30.665. BYLAWS. The board, on approval of a majority of
28 its membership and consistent with state law, shall adopt and amend
29 bylaws governing its composition, proceedings, and other activities

1 consistent with state law and including, but not limited to, pro-
2 visions concerning a quorum to transact board business and other
3 aspects of procedure, frequency and location of meetings, and estab-
4 lishment, functions and membership of committees.

5 Sec. 47.30.666. POWERS, DUTIES, AND RESPONSIBILITIES OF THE
6 BOARD. The board shall

7 (1) measure the extent of the mental health need and, as
8 necessary, conduct independent studies, evaluate the statewide mental
9 health information system, and review the current mental health pro-
10 gram of Alaska;

11 (2) provide a public forum for discussion of issues regard-
12 ing current and potential services to persons served by the mental
13 health program of Alaska;

14 (3) determine the needs, including those currently unmet,
15 of the persons to be served by the mental health program of Alaska;

16 (4) review reports from the Department of Natural Resources
17 regarding the valuation of the mental health lands trust and the
18 status of mental health trust lands, from the Department of Revenue
19 regarding allocations to the mental health income account, and from
20 other departments regarding the current and projected revenues for the
21 support of the mental health program of Alaska;

22 (5) subject to disclosure restrictions imposed by state or
23 federal confidentiality or privacy laws, have access to information in
24 the possession of state agencies;

25 (6) in conjunction with the Department of Health and Social
26 Services, prepare and annually update a long-term comprehensive state
27 mental health plan, to include the projected need and the services,
28 facilities, and resources for the mental health program of Alaska to
29 meet that need;

1 (7) in conjunction with the Department of Health and Social
2 Services, develop, prepare, adopt, and periodically review and revise
3 as necessary an annual state implementation plan to meet the needs of
4 persons served by the mental health program of Alaska;

5 (8) in conjunction with the Department of Health and Social
6 Services, and prior to developing the annual state implementation
7 plan, evaluate the effectiveness of the prior year's implementation
8 plan and evaluate program performance and recommend improvements, set
9 priorities and establish criteria to utilize in funding allocations;

10 (9) report at least annually to the legislature, governor,
11 and commissioner of health and social services, and meet with appro-
12 priate legislative committees, concerning the board's activities,
13 including its evaluation of the effectiveness of the prior year's
14 implementation plan, and its recommendations to meet the necessary
15 operating and capital expenses of the mental health program of Alaska;

16 (10) serve as an advocate before the executive and legisla-
17 tive branches of government and the public on behalf of those served
18 by the mental health program of Alaska;

19 (11) discourage duplication of services and promote effi-
20 cient and coordinated use of federal, state, and private resources in
21 the provision of mental health services; and

22 (12) review applicable statutes, regulations, and policies
23 and recommend appropriate changes.

24 Sec. 47.30.669. DEFINITION. In AS 47.30.661 -- 47.30.669,
25 "board" means the Alaska Mental Health Board established in AS 47.30.-
26 661.

27 * Sec. 5. Section 1(b), ch. 132, SLA 1986 is amended to read:

28 (b) The commission established under (a) of this section con-
29 sists of three [FIVE] members, including the commissioner of natural

1 resources, or the commissioner's designee, [AND THE COMMISSIONER OF
2 HEALTH AND SOCIAL SERVICES, OR THEIR DESIGNEES] and two [THREE] mem-
3 bers and two [THREE] alternates [APPOINTED BY THE GOVERNOR] as fol-
4 lows:

5 (1) a member and an alternate representing the plaintiffs
6 who were[,] appointed by the governor from a list of three names
7 submitted to the governor by the plaintiffs in Weiss v. State, 4 FA
8 82-2208 Civil;

9 (2) a member and an alternate representing the intervenors
10 who were[,] appointed by the governor from a list of three names
11 submitted to the governor by the intervenors in Weiss v. State, 4 FA
12 82-2208 Civil[;AND

13 (3) A MEMBER AND AN ALTERNATE REPRESENTING THE GOVERNOR'S
14 MENTAL HEALTH ADVISORY COUNCIL, APPOINTED BY THE GOVERNOR FROM A LIST
15 OF THREE NAMES SUBMITTED TO THE GOVERNOR BY THE GOVERNOR'S MENTAL
16 HEALTH ADVISORY COUNCIL].

17 * Sec. 6. Section 1(c), ch. 132, SLA 1986 is amended to read:

18 (c) The members of the commission shall elect a presiding offi-
19 cer. A majority of the commission constitutes a quorum. The affirma-
20 tive vote of two [THREE] members is required to take official action.
21 A vacancy does not impair the power of the remaining members to exer-
22 cise the powers of the commission.

23 * Sec. 7. Section 2, ch. 132, SLA 1986 is repealed and reenacted to
24 read:

25 Sec. 2. RESPONSIBILITIES OF THE COMMISSION. (a) The commission
26 shall review procedures proposed by the commissioner of natural re-
27 sources to determine the fair market value, as of the effective date
28 of this Act, of all lands selected by and patented to the state under
29 section 202 of the Alaska Mental Health Enabling Act, and review the

1 final determination of the fair market value determined under those
2 procedures.

3 (b) The commission shall review the identification by the com-
4 missioner of natural resources, under AS 38.05.800, of lands within
5 legislative designations which are equal in value to all lands select-
6 ed by and patented to the state under section 202 of the Alaska Mental
7 Health Enabling Act which are not in legislative designations.

8 (c) In the exercise of the commission's responsibilities under
9 this section, the commission and its staff may review the records of
10 the Department of Natural Resources that are made confidential by law
11 or regulation. An individual who acquires information made confiden-
12 tial by law or regulation in the performance of functions authorized
13 by this Act and discloses it without proper authority violates AS 11.-
14 56.860.

15 * Sec. 8. Section 6, ch. 132, SLA 1986 is amended to read:

16 * Sec. 6. This Act is repealed upon certification by the commis-
17 sioner of natural resources to the Alaska Mental Health Board estab-
18 lished under sec. 4 of this Act that the mental health lands trust has
19 been reconstituted as provided in AS 38.05.800 [JULY 1, 1987].

20 * Sec. 9. TRANSITIONAL PROVISIONS. Beginning in fiscal year 1989, and
21 continuing thereafter until the commissioner of natural resources certifies
22 to the commissioner of revenue that the mental health lands trust has been
23 reconstituted as provided in sec. 2 of this Act, the commissioner of reve-
24 nue shall make allocations to the mental health trust income account so
25 that the total of allocations during the year equals five percent of all
26 revenue received by the state's general fund during that fiscal year.

27 * Sec. 10. The following laws are repealed: AS 37.14.010, 37.14.020,
28 37.14.030, 37.14.040, 37.14.050, AS 47.30.605, and sec. 3, ch. 132, SLA
29 1986.

* Sec. 11. Sections 5 -- 8 of this Act take effect July 1, 1987.

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5-04063
Bradley
4/13/87

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

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 92 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Mental Health Trust;
7 and providing for an effective date."

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

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

10 (1) the United States Congress passed the Alaska Mental Health
11 Enabling Act of 1956, P.L. No. 84-830, 70 Stat. 709, "To confer upon Alaska
12 autonomy in the field of mental health, transfer from the Federal Govern-
13 ment to the Territory the fiscal and functional responsibility for the
14 hospitalization of committed mental patients, and for other purposes;"

15 (2) in sec. 202 of the Alaska Mental Health Enabling Act, the
16 Congress granted the territory the right to select up to one million acres
17 of federal land to serve as a source of funds to support the territory's
18 mental health program;

19 (3) in subsection 202(e), the Congress specifically provided
20 that the land so granted, as well as any income from the land and proceeds
21 from dispositions of the land, were to be administered as "a public trust
22 and such proceeds and income shall first be applied to meet the necessary
23 expenses of the mental health program of Alaska," that "Such lands, income,
24 and proceeds shall be managed and utilized in such manner as the Legisla-
25 ture of Alaska may provide," that the land may be "sold, leased, mortgaged,
26 exchanged or otherwise disposed of in such manner as the Legislature of
27 Alaska may provide, in order to obtain funds or other property to be in-
28 vested, expended or used by the Territory of Alaska," and that the Alaska
29 legislature must exercise this broad authority "in a manner compatible with

1 the conditions and requirements imposed by this Act;"

2 (4) in requiring that the proceeds and income of the 1,000,000-
3 acre land grant "first be applied to meet the necessary expenses of the
4 mental health program of Alaska," it was the intent of the Congress that
5 additional public funds be appropriated by the legislature to supplement
6 the proceeds and income from the land grant if those proceeds and income
7 are insufficient to meet the necessary expenses of the mental health pro-
8 gram of Alaska;

9 (5) if the proceeds and income from the 1,000,000-acre land
10 grant exceed the necessary expenses of the mental health program of Alaska,
11 the Congress authorized the legislature to appropriate the excess proceeds
12 and income for other public purposes;

13 (6) because of the highly desirable location and character of
14 much of the land selected by the state under the Act, for example, in and
15 around major population centers, suitable for parks and game refuges, and
16 other uses, and the difficulties associated with disposing of or dedicating
17 the land for purposes that would not result in the receipt of funds that
18 could be used for mental health purposes, for example, satisfaction of
19 municipal entitlements, placement in parks and game refuges, and other
20 uses, without compensation to the trust, the Tenth Alaska State Legislature
21 enacted ch. 181 and 182, SLA 1978, which, among other things, redesignated
22 all mental health lands as general grant lands;

23 (7) both ch. 181 and 182, SLA 1978, also created the mental
24 health fund into which, as compensation to the trust, a sum equal to one
25 and one-half percent of all revenue received from the management of state
26 land was to be deposited and from which only the income could be appro-
27 priated exclusively for mental health purposes;

28 (8) a significant difference between ch. 181 and 182, SLA 1978,
29 was that ch. 182 made the deposit of one and one-half percent of all public

1 land revenue into the mental health fund "subject to legislative appropri-
2 ation of sufficient funds";

3 (9) because ch. 182, SLA 1978 became law after ch. 181, SLA 1978
4 became law, the provisions of ch. 182, SLA 1978 have been considered con-
5 trolling, including specifically the provision that deposits to the mental
6 health fund would be "subject to legislative appropriation of sufficient
7 funds";

8 (10) the legislature has never appropriated funds to the mental
9 health fund;

10 (11) a class-action lawsuit, Weiss v. State, 4FA-82-2208, was
11 filed on November 26, 1982, seeking a judicial determination that the
12 Alaska Mental Health Enabling Act had established a "public trust" under
13 which the state had received the 1,000,000-acre land grant, that the 1978
14 legislation redesignating mental health land as general grant land was a
15 breach of that trust, and that the appropriate remedy was to invalidate the
16 1978 legislation and return mental health land to trust status;

17 (12) in State v. Weiss, 706 P.2d 681 (Alaska 1985), the Alaska
18 Supreme Court held that the Alaska Mental Health Enabling Act established a
19 public trust, that the 1978 legislation redesignating mental health land as
20 general grant land was a breach of the trust, and that the appropriate
21 remedy was to return mental health land still in state ownership to trust
22 status and, for mental health land that the state had "sold" between 1978
23 and the date of the court's decision, to compensate the trust for the fair
24 market value of mental health land so "sold" as of the date of their
25 "sale," subject to a set-off for state mental health expenditures during
26 the same period;

27 (13) while the court returned mental health land to trust status,
28 it did not specify the nature of the state's obligations with respect to
29 managing the trust land, leaving significant questions unanswered that may

1 require additional costly and time-consuming litigation;

2 (14) continued costly and time-consuming litigation over mental
3 health trust land management is not in the public interest because it
4 diverts attention from the goal the Congress sought to achieve through the
5 Act's land grant, the funding of a mental health program;

6 (15) continued costly and time-consuming litigation over mental
7 health trust land management is not in the public interest because it has
8 the potential to be extremely divisive, pitting the advocates of stringent
9 mental health trust land management against those who envision state-owned
10 mental health land managed for its highest and best use, including convey-
11 ance to municipalities in satisfaction of municipal entitlements, placement
12 in parks and game refuges, and other uses, without a major expenditure to
13 compensate the mental health trust for the fair market value of the land;

14 (16) continued costly and time-consuming litigation over mental
15 health trust land management is not in the public interest because advo-
16 cates of stringent mental health trust land management may seek the in-
17 validation of state conveyances of mental health land to third parties,
18 particularly municipalities and Native corporations organized under the
19 Alaska Native Claims Settlement Act, a course of action that at best will
20 place a cloud on the third parties' title to those lands and at worst will
21 result in those third parties losing title to their lands, causing economic
22 and other harm and further dividing those who advocate stringent mental
23 health trust land management from those who believe all state-owned land,
24 including mental health land, should be managed for its highest and best
25 use;

26 (17) continued costly and time-consuming litigation over mental
27 health trust land management is not in the public interest because advo-
28 cates of stringent mental health trust land management may seek the in-
29 validation of legislative designations of mental health land as state

1 parks, state game refuges, state forests, etc., placing the future use of
2 the land for the designated purposes in doubt and further dividing those
3 who advocate stringent mental health trust land management from those who
4 believe all state-owned land, including mental health land, should be
5 managed for its highest and best use;

6 (18) the failure of the Alaska Legislature to deal with the
7 current situation by properly reconstituting the mental health trust at
8 this time will lead to continued costly, time-consuming, and divisive liti-
9 gation, which is not in the public interest;

10 (19) the same problems that led to the 1978 redesignation of
11 mental health land as general grant land, for example, the desirability of
12 managing mental health land for its highest and best use, including the
13 satisfaction of municipal entitlements, inclusion in parks and game ref-
14 uges, will continue to pose difficulties in the state's efforts to accom-
15 modate the public's needs generally with the obligation to administer
16 mental health land as a trust;

17 (20) under art. VIII, sec. 2, Constitution of the State of
18 Alaska, as construed by the Alaska Supreme Court in State v. University of
19 Alaska, 624 P.2d 807 (1981), the legislature has the authority to remove
20 land from trust status if the trust is compensated for the fair market
21 value of the land;

22 (21) the state is not now, and in the foreseeable future will not
23 be, in a position to compensate the mental health trust in money for the
24 fair market value of mental health land;

25 (22) even if the state were able to compensate the mental health
26 trust in money for the fair market value of mental health land, there is a
27 substantial legal question whether that compensation, as the corpus of the
28 trust, could be preserved in perpetuity or whether the prohibition on
29 dedicated funds in art. IX, sec. 7, Constitution of the State of Alaska,

1 would require that those funds be made available for appropriation by the
2 legislature under the terms of the Alaska Mental Health Enabling Act;

3 (23) under art. VIII, sec. 2, Constitution of the State of
4 Alaska, and subsection 202(e) of the Alaska Mental Health Enabling Act, the
5 legislature has broad authority over all state land, including mental
6 health land, and can permissibly remove mental health land from trust
7 status if, consistent with its trust responsibilities, it simultaneously
8 designates other state land of equivalent value as mental health land;

9 (24) the Congress' goal of funding a mental health program, and
10 the public interest in having attention focused on the problems of the
11 mentally ill and not questions regarding mental health trust land manage-
12 ment, will be best served by establishing a mechanism for generating reve-
13 nue from mental health land that minimizes the number and complexity of
14 related land management decisions;

15 (25) reconstituting the mental health trust with state land that
16 has a substantial likelihood of remaining in state ownership in perpetuity,
17 and compensating the mental health trust for state use of that land through
18 annual identification of an amount of state general fund revenue equal to
19 the fair market rental value of the land as a separate account in the
20 general fund, would minimize the number and complexity of land management
21 decisions and would result in the following benefits to the mental health
22 trust:

23 (A) it would ensure that the mental health trust corpus
24 will be preserved in perpetuity;

25 (B) it would reconstitute a mental health trust corpus
26 equal in value to the original 1,000,000-acre mental health trust
27 corpus, with no reduction (in the nature of a set-off) for state
28 mental health expenditures;

29 (C) it would make the entire mental health trust corpus

1 productive in that each acre of mental health trust land would produce
2 its fair market rental value annually;

3 (D) the mental health trust would not incur administrative
4 expenses;

5 (E) it would focus attention on questions related to the
6 state's mental health programs and the levels of appropriations for
7 those programs;

8 (26) reconstituting the mental health trust with state land that
9 has a substantial probability of remaining in state ownership in perpetuity
10 would result in the following benefits to the state generally:

11 (A) it would free all mental health land not in legisla-
12 tively designated areas for nontrust uses;

13 (B) the only significant expenditure of public funds that
14 would be required would be appropriations for appraisal of the land to
15 ensure equal value, an expenditure that would be required no matter
16 what form of trust reconstitution is selected; and

17 (C) it would establish an additional safeguard against
18 disposal of the newly designated mental health trust land, that is,
19 those in legislatively designated areas, in that, prior to such dis-
20 posal, equal value replacement land would have to be identified and
21 redesignated as trust land;

22 (27) the legislature will best serve the public interest by
23 reconstituting the mental health trust with land in legislatively des-
24 ignated areas, continuing to use that land for the legislatively designated
25 purposes, compensating the trust for the use of the land through annual
26 identification of an amount of general fund revenue equal to the fair
27 market rental value of the land and designation in the general fund of that
28 amount of funds as the special mental health trust income account, and
29 creating a board to assist and advise the legislative and executive

1 branches of government on matters relating to the mental health program of
2 Alaska.

3 (b) The purposes of this Act are

4 (1) to implement the intent of the Congress underlying sec. 202
5 of the Alaska Mental Health Enabling Act that mental health land be admin-
6 istered in a way that makes funds available for the support of Alaska's
7 mental health program;

8 (2) to the extent practicable, to eliminate the need for costly,
9 time-consuming and divisive litigation over the state's management of
10 mental health land;

11 (3) to ensure that the attention of the public and the govern-
12 ment is focused on mental health programs, as contemplated by the Congress,
13 and not on issues relating to the management of mental health land;

14 (4) to reconstitute a mental health land trust through identi-
15 fication of land in legislatively designated areas that is equal in value
16 to the land selected by and patented to the state under sec. 202 of the
17 Alaska Mental Health Enabling Act;

18 (5) to remove from trust status the land selected by and pat-
19 ented to the state under sec. 202 of the Alaska Mental Health Enabling Act
20 that is not in legislative designated areas, thereby freeing them for other
21 uses;

22 (6) to validate each deed, contract for sale, lease, easement,
23 right-of-way, permit, mineral lease disposal, reservation of land for
24 public use by statute, or land management actions, including use classi-
25 fications under AS 38.05.300 and interagency land management assignments by
26 the Department of Natural Resources, that may have been called into ques-
27 tion by the Supreme Court's decision in State v. Weiss, 706 P.2d 681
28 (Alaska 1985), returning mental health land to trust status;

29 (7) to identify a portion of annual state general fund revenue,

1 equal in amount to the fair market rental value of mental health land, as
2 compensation to the trust for the continued use of the land in legisla-
3 tively designated areas for the legislatively designated purposes; and

4 (8) to create a board to assist and advise the legislative and
5 executive branches of government on matters relating to the mental health
6 program of Alaska.

7 * Sec. 2. AS 37.14 is amended by adding a new section to read:

8 Sec. 37.14.011. MENTAL HEALTH TRUST INCOME ACCOUNT. (a) There
9 is established, as a separate account in the general fund, the mental
10 health trust income account.

11 (b) The amount determined under (c) of this section as the fair
12 market rental of the land constituting the mental health trust corpus
13 is the earnings of the trust and the commissioner of revenue annually
14 shall allocate that amount to the mental health trust income account.

15 (c) The fair market rental value of the land constituting the
16 mental health trust corpus is equal to eight percent of the fair
17 market value of the land. Following the initial determination of the
18 fair market value of the land selected by and patented to the state
19 under sec. 202 of the Alaska Mental Health Enabling Act, the com-
20 missioner of natural resources shall redetermine the fair market value
21 of the land constituting the mental health trust corpus at least every
22 five years, and provide the redetermined value to the commissioner of
23 revenue and the board established under AS 47.30.661.

24 * Sec. 3. AS 37.14 is amended by adding a new section to read:

25 Sec. 37.14.021. UTILIZATION OF THE MENTAL HEALTH TRUST INCOME
26 ACCOUNT. Money in the mental health trust income account established
27 in AS 37.14.011(a) shall first be appropriated by the legislature to
28 meet the necessary expenses of the mental health program of the state.
29 In making annual appropriations from the mental health trust income

1 account, the legislature shall consider the recommendations of the
2 Alaska Mental Health Board established under AS 47.30.661, including
3 recommendations regarding capital improvements. After the necessary
4 expenses of the state's mental health program have been funded, the
5 legislature may make appropriations from the mental health trust
6 income account for other public purposes.

7 * Sec. 4. AS 38.05 is amended by adding a new section to article 11 to
8 read:

9 Sec. 38.05.800. RECONSTITUTION AND ADMINISTRATION OF MENTAL
10 HEALTH LAND TRUST. (a) The commissioner of natural resources, under
11 procedures approved by the interim mental health trust commission,
12 shall determine the fair market value, as of the effective date of
13 this section, of all land selected by and patented to the state under
14 the Alaska Mental Health Enabling Act. The commissioner shall report
15 the determination of that value to the board established under
16 AS 47.30.661.

17 (b) The commissioner of natural resources, with the approval of
18 the interim mental health trust commission, shall identify land within
19 legislative designations that is equal in value to all land selected
20 by and patented to the state under sec. 202 of the Alaska Mental
21 Health Enabling Act that is not in legislative designations.

22 (c) All land selected by and patented to the state under the
23 Alaska Mental Health Enabling Act that is within legislative desig-
24 nations, together with all land identified by the commissioner under
25 (b) of this section, constitutes the corpus of the mental health land
26 trust.

27 (d) Upon reconstitution of the trust under this subsection, land
28 selected by and patented to the state under sec. 202 of the Alaska
29 Mental Health Enabling Act that is not within legislative designations

1 is removed from trust status.

2 (e) The land within legislative designations that constitutes
3 the mental health land trust shall continue to be administered for the
4 legislatively designated purposes. The trust shall be compensated for
5 the continued use of the mental health trust land for the legisla-
6 tively designated purposes as provided in AS 37.14.011.

7 (f) Before the state may remove land that is part of the mental
8 health trust corpus from trust status, and in addition to any other
9 requirements of law, the commissioner of natural resources, consistent
10 with the state's trust responsibilities, shall identify replacement
11 land, equal in value at the time of replacement, within legislative
12 designations and incorporate them into the mental health trust corpus.
13 The commissioner of natural resources annually shall report any
14 actions under this subsection to the board established under AS 47.-
15 30.661.

16 * Sec. 5. AS 39.25.120(c)(9) is amended by adding a new subparagraph to
17 read:

18 (L) Alaska Mental Health Board;

19 * Sec. 6. AS 47.30 is amended by adding new sections to read:

20 Sec. 47.30.661. ALASKA MENTAL HEALTH BOARD. The Alaska Mental
21 Health Board is established. For budgetary purposes, the board is
22 located within the Department of Health and Social Services. The
23 board is the state planning and coordinating agency for the purposes
24 of federal and state laws relating to the mental health program of the
25 state. The purpose of the board is to assist the state in ensuring an
26 integrated comprehensive mental health program.

27 Sec. 47.30.662. COMPOSITION. (a) The board consists of the
28 commissioner of health and social services, or the commissioner's
29 designee, and not fewer than nine nor more than 12 other members,

1 appointed by the governor, with due regard for balanced geographic
2 representation of the state.

3 (b) At least one-third of the members shall be consumers of
4 mental health services, or parents or guardians of consumers.

5 (c) At least one-third of the members shall be either public or
6 private providers of mental health services.

7 (d) The remaining members shall be representatives of the public
8 at large.

9 Sec. 47.30.663. TERM OF OFFICE. (a) Board members serve
10 staggered terms of three years.

11 (b) A vacancy occurring in the membership of the board shall be
12 filled by appointment of the governor for the unexpired portion of the
13 vacated term.

14 (c) Members may be removed only for cause, including, but not
15 limited to, poor attendance or lack of contribution to the board's
16 work.

17 Sec. 47.30.664. OFFICERS AND STAFF. (a) The board, by a major-
18 ity of its membership, shall annually elect a chair and other officers
19 it considers necessary from among its membership.

20 (b) The board will have a paid staff provided by the Department
21 of Health and Social Services, including, but not limited to, an
22 executive director who shall be selected by the board from candidates
23 provided by the department. The executive director is in the partial-
24 ly exempt service and may hire additional employees in the classified
25 service of the state. The executive director and the staff of the
26 board shall be directly responsible to the board in the performance of
27 their duties.

28 Sec. 47.30.665. BYLAWS. The board, on approval of a majority of
29 its membership and consistent with state law, shall adopt and amend

1 bylaws governing its composition, proceedings, and other activities
2 consistent with state law and including, but not limited to, pro-
3 visions concerning a quorum to transact board business and other
4 aspects of procedure, frequency and location of meetings, and estab-
5 lishment, functions, and membership of committees.

6 Sec. 47.30.666. POWERS, DUTIES, AND RESPONSIBILITIES OF THE
7 BOARD. The board shall

8 (1) measure the extent of the mental health need and, as
9 necessary, conduct independent studies, evaluate the statewide mental
10 health information system, and review the current mental health pro-
11 gram of the state;

12 (2) provide a public forum for discussion of issues regard-
13 ing current and potential services to persons served by the mental
14 health program of the state;

15 (3) determine the needs, including those currently unmet,
16 of the persons to be served by the mental health program of the state;

17 (4) review reports from the Department of Natural Resources
18 regarding the valuation of the mental health land trust and the status
19 of mental health trust land, from the Department of Revenue regarding
20 allocations to the mental health income account, and from other de-
21 partments regarding the current and projected revenue for the support
22 of the mental health program of the state;

23 (5) subject to disclosure restrictions imposed by state or
24 federal confidentiality or privacy laws, have access to information in
25 the possession of state agencies;

26 (6) in conjunction with the Department of Health and Social
27 Services, prepare and annually update a long-term comprehensive state
28 mental health plan, to include the projected need and the services,
29 facilities, and resources for the mental health program of the state

1 to meet that need;

2 (7) in conjunction with the Department of Health and Social
3 Services, develop, prepare, adopt, and periodically review and revise
4 as necessary an annual state implementation plan to meet the needs of
5 persons served by the mental health program of the state;

6 (8) in conjunction with the Department of Health and Social
7 Services, and before developing the annual state implementation plan,
8 evaluate the effectiveness of the prior year's implementation plan and
9 evaluate program performance and recommend improvements, set priori-
10 ties, and establish criteria to utilize in funding allocations;

11 (9) report at least annually to the legislature, governor,
12 and commissioner of health and social services, and meet with appro-
13 priate legislative committees, concerning the board's activities,
14 including its evaluation of the effectiveness of the prior year's
15 implementation plan, and its recommendations to meet the necessary
16 operating and capital expenses of the mental health program of the
17 state;

18 (10) serve as an advocate before the executive and legisla-
19 tive branches of government and the public on behalf of those served
20 by the mental health program of the state;

21 (11) discourage duplication of services and promote effi-
22 cient and coordinated use of federal, state, and private resources in
23 the provision of mental health services; and

24 (12) review applicable statutes, regulations, and policies
25 and recommend appropriate changes.

26 Sec. 47.30.669. DEFINITION. In AS 47.30.661 - 47.30.669,
27 "board" means the Alaska Mental Health Board established in AS 47.30.-
28 661.

29 * Sec. 7. Section 1(b), ch. 132, SLA 1986, is amended to read:

1 (b) The commission established under (a) of this section con-
2 sists of three [FIVE] members, including the commissioner of natural
3 resources, or the commissioner's designee [AND THE COMMISSIONER OF
4 HEALTH AND SOCIAL SERVICES, OR THEIR DESIGNEES], and two [THREE]
5 members and two [THREE] alternates [APPOINTED BY THE GOVERNOR] as
6 follows:

7 (1) a member and an alternate representing the plaintiffs
8 who were [,] appointed by the governor from a list of three names
9 submitted to the governor by the plaintiffs in Weiss v. State, 4 FA
10 82-2208 Civil;

11 (2) a member and an alternate representing the intervenors
12 who were [,] appointed by the governor from a list of three names
13 submitted to the governor by the intervenors in Weiss v. State, 4 FA
14 82-2208 Civil [; AND

15 (3) A MEMBER AND AN ALTERNATE REPRESENTING THE GOVERNOR'S
16 MENTAL HEALTH ADVISORY COUNCIL, APPOINTED BY THE GOVERNOR FROM A LIST
17 OF THREE NAMES SUBMITTED TO THE GOVERNOR BY THE GOVERNOR'S MENTAL
18 HEALTH ADVISORY COUNCIL].

19 * Sec. 8. Section 1(c), ch. 132, SLA 1986, is amended to read:

20 (c) The members of the commission shall elect a presiding offi-
21 cer. A majority of the commission constitutes a quorum. The affirma-
22 tive vote of two [THREE] members is required to take official action.
23 A vacancy does not impair the power of the remaining members to exer-
24 cise the powers of the commission.

25 * Sec. 9. Section 2, ch. 132, SLA 1986, is repealed and reenacted to
26 read:

27 Sec. 2. RESPONSIBILITIES OF THE COMMISSION. (a) The commission
28 shall review procedures proposed by the commissioner of natural re-
29 sources to determine the fair market value, as of the effective date

1 of AS 38.05.800, of all land selected by and patented to the state
2 under sec. 202 of the Alaska Mental Health Enabling Act, and review
3 the final determination of the fair market value determined under
4 those procedures.

5 (b) The commission shall review the identification by the com-
6 missioner of natural resources under AS 38.05.800 of land within
7 legislative designations that is equal in value to all land selected
8 by and patented to the state under sec. 202 of the Alaska Mental
9 Health Enabling Act that is not in legislative designations.

10 (c) In the exercise of the commission's responsibilities under
11 this section, the commission and its staff may review the records of
12 the Department of Natural Resources that are made confidential by law
13 or regulation. An individual who acquires information made confiden-
14 tial by law or regulation in the performance of functions authorized
15 by this Act and discloses it without proper authority violates AS 11.-
16 56.860.

17 * Sec. 10. Section 6, ch. 132, SLA 1986, is repealed and reenacted to
18 read:

19 Sec. 6. This Act is repealed on the certification of the commis-
20 sioner of natural resources that the mental health land trust has been
21 reconstituted under AS 38.05.800 to

22 (1) the Alaska Mental Health Board established under
23 AS 47.30.661;

24 (2) the lieutenant governor; and

25 (3) the revisor of statutes.

26 * Sec. 11. TRANSITIONAL PROVISIONS. Beginning in fiscal year 1989, and
27 continuing until the commissioner of natural resources certifies to the
28 commissioner of revenue that the mental health land trust has been recon-
29 stituted under AS 38.05.800, as enacted in sec. 4 of this Act, the

1 commissioner of revenue shall make allocations to the mental health trust
2 income account so that the total of allocations during the year equals five
3 percent of all revenue received by the state's general fund during that
4 fiscal year.

5 * Sec. 12. Notwithstanding AS 47.30.663(a), as added by sec. 6 of this
6 Act, of the initial appointees to the Alaska Mental Health Board appointed
7 under AS 47.30.662, as added by sec. 6 of this Act, one-third shall serve
8 for one year terms, one-third shall serve for two year terms, and one-third
9 for three year terms.

10 * Sec. 13. AS 37.14.010, 37.14.020, 37.14.030, 37.14.040, 37.14.050;
11 AS 47.30.605; and sec. 3, ch. 132, SLA 1986, are repealed.

12 * Sec. 14. Sections 7 - 10 of this Act take effect July 1, 1987.
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STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 92
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: Implementing Settlement of
Mental Health Trust
Sponsor: Proposed by Request
Requestor: House HESS

Agency Affected: Department of Revenue
BRU: Treasury
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: April 2, 1987

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 4/2/87

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 92
Publish Date: _____

Revision Date: _____
Title: An Act relating to the federally created mental health trust

Agency Affected: Natural Resources
BRU: Land and Water Management

Sponsor: Rep. Pourchot
Requestor: House HESS

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		126.9				
TRAVEL		28.0				
CONTRACTUAL		535.0				
SUPPLIES		1.0				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		690.9				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		690.9				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) If appraisals are required to establish values, cost of valuing lands will be increased by \$700,000. Fiscal note assumes use of opinions of value. Two NRM I (review appraiser & land staff) and CT III positions for calculation of 670 acres of mental health land outs de legislatively designated areas; locate and appraise replacement lands with legislative areas from 8.3 million acres designated; board funding - Sec. 5.

Prepared by: Frank Mielke Phone: 465-2400
Division: Land and Water Management Date: 4-6-87

Approved by Commissioner: *Judith M. Bunt* Date: 4-6-87
Agency: Natural Resources

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CSHB 92 (HESS)
Publish Date : _____

Revision Date: April 9, 1987
Title: An Act relating to the Alaska Mental Health Land Trust
Sponsor: Pourchot/Mental Health Land Comm
Requestor: _____

Agency Affected: DHSS/DMHDD
BRU: Inst. & Administration
Components: Mental Health Admin.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		140.1	140.1	140.1	140.1	140.1
TRAVEL		38.0	38.0	38.0	38.0	38.0
CONTRACTUAL		78.8	78.8	78.8	73.8	78.8
SUPPLIES		1.8	1.8	1.3	1.3	1.8
EQUIPMENT		9.0	0	0	0	0
LAND & STRUCTURES		0	0	0	0	0
GRANTS, CLAIMS		0	0	0	0	0
MISCELLANEOUS		0	0	0	0	0
TOTAL OPERATING	0	267.7	267.7	267.7	267.7	267.7
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		267.7	267.7	267.7	267.7	267.7
FEDERAL FUNDS						
OTHER						
TOTAL		267.7	267.7	267.7	267.7	267.7

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mel Henry, Director
Division: Mental Health & Dev. Disabilities

Phone: 465-3370
Date: 4/4/87

Approved by Commissioner: *Marya M. Morrison*
Agency: Department of Health & Social Services

Date: 4/6/87

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

FISCAL NOTE
CSHB 92 (HESS)

Mental Health Board

Personnel Services:

one (1) Mental Health Board Coord.	Range 22	\$ 63,900
one (1) Research Analyst III	Range 18	49,157
one (1) Clerk Typist III	Range 8	27,004
		<u>\$140,061</u>

Travel:

*Board travel and per diem 4 meetings/year X 6,000/meeting =		\$ 24,000
Staff travel 7000/per prof. staff X 2 =		14,000
		<u>\$ 38,000</u>

Contractual:

Phone, copying, printing, advertizing		\$ 8,000
Professional Services		50,000
Lease space 519 sq. ft. X 2.57 sq. ft./mo X 12 mo. =		16,000
Computer hook up 1600 X 3		4,800
		<u>\$ 78,800</u>

Supplies:

50/mo. X 12 X 3 staff		<u>\$ 1,800</u>
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Equipment:

3 Personal Computers 3000 X 3 =		\$ 9,000
3 Printers		
Software		

TOTAL		<u>\$267,661</u>
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*The amount of \$10.0 is also available from the DMHDD/s budget.

CSHB 92 (HESS)

FISCAL NOTE

Mental Health Board

The Department recommends the establishment of a statewide Mental Health Board that would influence the actions and directions of the Department of Health and Social Services in attaining the overall mission of the mental health system in Alaska. The duties and responsibilities of the existing Governor's Mental Health Advisory Council (Sec. 47.30.605) would be absorbed and expanded by this new board structure.

Modeled after the Governor's Council for the Handicapped and Gifted (Sec. 47.80.030), the attached document describes the functions and responsibilities of the new board. Although advisory in scope, this Board will be significantly more influential than the "old" Council with respect to legislative/executive advocacy, impact on departmental policies, regulations and procedures, budget and program oversight, short and long range planning and quality assurance.

In order to effectively accomplish its goals and objectives, the Mental Health Board will be staffed by three full time professional and clerical staff. The Senior staff position, the Executive Director, will be partially exempt, and be hired by the balance of candidates submitted by the Commissioner. The remaining staff will be hired through the classified service by the Executive Director. Although the staff will be employees of

the Department of Health and Social Services, Division of Mental Health and Developmental Disabilities, and be guided by the policies and procedures of the Department, they will be directly responsible to the Board for their assignments and performance. They will work directly for the Board and not the Department. Ideally, the staff should be located in the Division of Mental Health and Developmental Disabilities regional office in Anchorage.

The staff for the Board will comprise three permanent full time employees:

- (1) Executive Director (Range 22). This person, a Mental Health Clinician or a Health Planner, would have responsibility for working directly with the Board to accomplish its mission, the overall coordination and supervision of the office, and coordinating and collaborating with the Department. In addition to the established requirements of a Mental Health Clinician III or a Health Planner, this individual must possess special knowledge in the areas of mental health administration and supervision, planning, research, program monitoring and evaluation, skills in oral and written communication, broad knowledge of Alaska's mental health system (including the private sector), previous experience in working with advisory or governing boards, and skilled at interagency coordination, collaboration and cooperation.

- (2) Research Analyst III (Range 18) who would have responsibility for planning and social indication forecasting, designing and conducting independent research and studies, collecting and analyzing data, providing reports and analysis for both policy and management recommendations. Ability to interface with the private sector is important.
- (3) Clerk Typist III (Range 8) will provide secretarial support to the two professional staff and the Board.

FACT SHEET - MENTAL HEALTH LEGISLATION

HB 92/SB 96 - Mental Health Trust Lands Settlement

BACKGROUND:

In 1956, the U.S. Congress gave the Territory of Alaska approval to select 1 million acres of federal land to create a "trust" -- the income of which was first to be used "to fund the necessary expenses of the mental health program of Alaska."

Although the Territory and State selected the million acres, no income from the acreage was ever identified for mental health uses.

In 1978, the legislature passed a law redesignating mental health trust lands as general grant lands. The law established a trust fund for mental health programs and specified that 1.5% of the annual receipts from all state land would go to the fund.

No appropriations were ever made into the fund.

In 1982 a suit was filed 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. They questioned the constitutionality of the 1978 law which abolished the land trust.

The court, in 1984, stated that the million acres of land was, indeed, intended to produce revenues for the benefit of Alaska's mentally ill and that the 1978 law was unconstitutional. The Supreme Court agreed with the lower court and stated that the million acre trust had to be reconstituted as nearly as possible. The court said further that the trust had to be reimbursed for lands sold since 1978.

The state, to the extent possible, has "tried to put Humpty Dumpty together again" but only 207 thousand of the original million acres remain as "unencumbered land." Nearly 300 thousand acres are described as "less than fee disposals." These include oil leased lands, coal leases, timber sales and other such uses. Proceeds from these lands are currently being credited to a special mental health account.

More than 360 thousand acres have gone into such limited-use designations as parks, game refuges, habitat areas, and state forests.

More than 40,000 acres have been allocated to municipalities. The Attorney General has advised the legislature that, without some sort of settlement, these lands may have to be returned to the trust.

The Legislature, in response to the decision, created a Joint Special Committee charged with trying to come up with a legislative solution to the decision that would meet with the approval of all concerned. It also created the Interim Mental Health Trust Commission and charged it with protecting the present diminished land trust, approving rentals and other administrative actions, and with making a report of its own concerning possible solutions to the problem.

WHY IS A LEGISLATIVE SOLUTION DESIRABLE?

At the present time, the court decision creates a cloud over many thousands of acres of land which have been transferred to municipalities, designated as state parks or set aside for other public uses. The decision effectively places a "freeze" not only on the use of mental health lands but potentially creates a "freeze" as well over additional lands which may have to be designated as mental health lands to make up for original lands which have been disposed of.

Too, it is not considered in the state's best interest for mental health lands to be administered separately from its other land holdings. Estimates are that it might cost as much as 25% of income generated for the state to administer the trust.

It will be far better -- assuming everyone concerned can have their needs met -- if the legislature can come up with a solution that satisfies the original Congressional grant language and yet avoids creation of a costly bureaucratic process.

PROPOSED LEGISLATION

HB 92 and SB 96, introduced in each house at the request of the Special Joint Committee, would attempt to fund the equivalent of trust lands earnings each year by designating 5% of the state's general revenues as being available for appropriation to the mental health program. The plan, sometimes called "the 5% solution," does not however reconstitute the trust in any form.

A new approach, suggested by the Interim Mental Health Commission and adopted as a Committee Substitute by both the House and Senate HESS committees, would do the following:

*It would establish the value of the original mental health lands.

*It would specify that a new mental health trust is created from certain legislatively-designated lands which have value equal in dollars to the former trust. These lands would be re-appraised every five years.

*It would mandate that each year the Commissioner of Revenue would make rent or lease payments to the trust by depositing 8% of the value of the trust lands into a special account.

*From this account, the Legislature would appropriate enough money to fund the necessary expenses of Alaska's mental health program. Excess moneys not necessary to fund mental health could be appropriated to meet other needs of the state.

*A strong mental health board would be established, a prime function of which would be to determine each year what the necessary expenses of the program would cost.

*As an interim measure, until valuations are made and the new trust is established, the "5% solution" proposed in the original House and Senate bills would go into effect. This would give the mental health program a temporary source of funds.

The advantages of the proposal are these:

1. It reconstitutes a permanent land trust and gets everybody out of court.
2. It allows mental health professionals to focus on mental health needs and on adequate budgeting, not on land management.
3. It eliminates all clouded land titles and frees lands for all other uses.
4. It is relatively easy to administer.
5. It requires no cash reimbursement for lands disposed of; its only special costs are for lands appraisal.
6. Most important, it creates a vehicle for the state -- three decades after the 1956 Congressional act -- to adequately fund the long neglected needs of the mentally ill.

HB 91/SB 97 - Treatment of the Mentally Ill

BACKGROUND:

Historically in Alaska, the needs of the mentally ill have not been adequately recognized and funded. This situation has existed for a number of reasons, one of which is that until very recently people with mentally ill family members or friends were extremely hesitant to talk about it in any public forum. Treatment for the chronically mentally ill was an area of particular underfunding and therefore undertreatment.

Too, until the 1984 Weiss decision by the Alaska Supreme Court, there was no identifiable source of funding which advocates could point to as being available for treatment of mentally ill persons. That, of course, has now changed. The court has ruled that the 1954 million-acre federal grant of lands for a mental health trust must be reconstituted. From income off of these lands, the money must first go to meet expenses of the mental health program of Alaska. (Moneys excess to those needs may be appropriated for other public uses.)

Some members of the 14th Alaska Legislature attempted to remedy the underattention and underfunding of needs of the chronically mentally ill (CMI) last year. They introduced legislation which would have specifically mandated treatment for these individuals. The bill, however, took a considerable amount of time to develop and by the time it was in shape for consideration the legislature was approaching adjournment. The bill did, however, receive favorable attention from the House HESS Committee and was passed out of that committee with a majority do-pass recommendation.

The 1986 interim Joint Special Committee created by the legislature to look into mental health matters also recognized the need for legislation of this kind. In both houses of the 15th Alaska Legislature the committee prefiled legislation similar to the former bill. The identical bills are HB 91 and SB 97.

PRESENT STATUS:

HB 91 has been considered by the House HESS Committee and has been passed out of committee in the form of a recommended committee substitute, the principal features of which are these:

*Priorities for treatment are established, the highest priority being for those facing immediate risk of hospitalization, for those in need of continuing services, for those who pose a hazard to themselves or others, and for severely mentally ill youth; second level priority would go to those who, because of geographic or income limitations, are not capable of obtaining assistance in the private sector; third

level attention would go to those suffering from mental or emotional disturbances of a less severe or persistent nature not requiring hospitalization in the foreseeable future.

*General treatment services -- both outpatient and inpatient -- available to treat all types of mental illness are described. (These include such services as emergency services, counseling, screening, evaluation, prevention, education, etc.)

*In addition, the particular needs of the chronically mentally ill -- never before truly recognized in statute -- are set out. Language identifying the services to meet these needs was taken from a model federal program initiated by the National Institute of Mental Health. These include such services as crisis stabilization, unique patient treatment services such as psychotropic medication, case management, residential living, vocation assistance and other services. Recent NIMH research demonstrates that acute psychotic episodes are significantly reduced when a community has an array of such services. (Many of these services, incidentally, have long been available for other needy individuals, but have not, until recently, been available for CMI individuals even in a limited way.)

*The bill provides that in cases where the usual funding "match" for CMI services and other community mental health services cannot realistically be expected from a community or a local organization, the Department of Health and Social Services will fund the percent of costs that is necessary to ensure the services will be provided. (In some instances, this may be 100% of program costs.)

*The bill also establishes broad standards for community health services

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CS HB 92 (HESS)
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: Alaska Mental Health Trust

Agency Affected: Department of Revenue
BRU: Treasury

Sponsor: House HESS
Requestor: House HESS

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 465-2350
Date: April 14, 1987

Approved by Commissioner: *Malone*
Agency: Department of Revenue

Date: 2/14/87

Distribution (by preparer):

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



Official Business

COMMITTEE:

House HESS Committee

DATE: April 6, 1987

SIGN-IN

Subject of meeting:

~~CSB 115~~ Pupil Trans/Tuition

~~HB 113~~ Pupil Trans/Tuition

HB 91

HB 92

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? & Which Bill
Myra Munson	Box H-01 Juneau	465-3030	DHSS	91/92
Kam Prudee	"	"	"	"
Chris Coleman	P.O. Box 937 Douglas, AK 99824	789-5257	JAMI	91/92 910
Ingrid Judson	Box 615 Douglas, Ak. 99824	789-3495	JAMI	91
Mike Miller	Box 21494, Juneau	586-3067	"	91/92

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS

4-1-87

8:30a.m.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

from Rep. Rieger

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

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

April 30, 1987

The Honorable Albert P. Adams
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: CSHB 92(Fin)

Dear Representative Adams:

LouAnn Cutler of your office asked whether it would be possible to modify the provisions of CSHB 92 (Fin), which is intended to resolve the mental health lands case, should it appear at some future time that another approach may be more appropriate. In our view, there are a number of possible resolutions which would be permissible as long as certain basic principles were not changed. Those basic principles are:

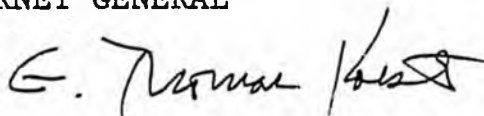
- (1) There must be a trust corpus, either land or money;
- (2) The state, as trustee, must fulfill its duty to preserve the trust corpus; and
- (3) The corpus must be managed to generate an income stream which must first be used to fund the mental health program of Alaska.

We hope this answers your questions. Of course, we are available to answer any questions at your convenience.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL
By:

By:



G. Thomas Koester
Assistant Attorney General

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

April 30, 1987

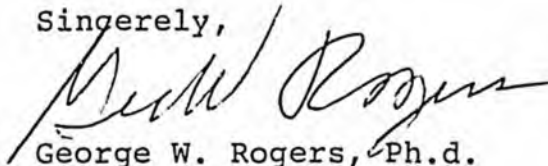
The Honorable Jan Faiks
President of the Senate
Fifteenth Alaska Legislature

The Honorable Ben Grussendorf
Speaker of the House of Representatives
Fifteenth Alaska Legislature

Dear Senator Faiks and Representative Grussendorf:

The Interim Mental Health Trust Commission endorses and strongly urges passage of CSHB 92 and CSSB 96 as the best means of settling the Weiss vs. State lawsuit and providing for the implementation of a comprehensive mental health program as intended by Congress. These bills were developed by the Commission and the Special Legislative Committee and have the support of the representatives of all litigants.

Sincerely,



George W. Rogers, Ph.d.
Chairman, Interim Mental Health Trust Commission

Alaska
MUNICIPAL
League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

April 30, 1987

Bill file

The Honorable Ben Grussendorf, Speaker
and Members of the House of Representatives
Alaska State Legislature
Post Office Box V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Speaker and Representatives:


The Alaska Municipal League supports CS FOR HOUSE BILL NO. 92 (Finance) -
"An Act relating to the Alaska Mental Health Trust; and providing for an
effective date."

The Alaska Municipal League Board of Directors met by conference call
yesterday, April 29, 1987, to discuss the new CS in detail, and reaffirmed
their support of this legislation which would reconstitute the Mental
Health Trust in response to Weiss v. State of Alaska. Specifically, the
Board motion approved was:

The AML Board supports CS for HB 92 (Finance) and CS for SB 96 (HESS)
as the most equitable and realistic solution to reconstituting the
Mental Health Trust; settling the Weiss vs State of Alaska
litigation; and, removing the cloud over the title to mental health
lands granted to municipalities as fulfillment of their municipal
entitlements. The Board urges the Legislature to pass this
legislation during the First Session of the 15th Alaska Legislature."

Over 53,000 acres of selected, approved or patented municipal entitlement
land is in question pending the Legislature's action. Passage of HB 92
will reconstitute the Trust, and release municipal lands, allowing
municipalities to continue the selection, planning and development of
their entitlement lands for the future growth and development of our
communities. On behalf of the AML Board of Directors, and the League's
125 member municipalities, I urge you and the members of the Alaska House
of Representatives to vote YES on CS HB 92 (Finance). I have also
attached AML Resolution #87-5 which was adopted by the AML membership at
their annual meeting, November 1986. Thank you.

Sincerely,



Scott A. Burgess
Executive Director

Enclosure

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 87-5

A RESOLUTION REQUESTING THE STATE OF ALASKA
TO COMPLETE THE CONVEYANCE OF MUNICIPALLY SELECTED
MENTAL HEALTH TRUST LANDS.

WHEREAS, municipalities have been given the right to select state lands in their communities for future growth and expansion under the Municipal Entitlement Act of 1978, and

WHEREAS, in 1978, the Alaska State Legislature redesignated the mental health trust lands as general grant lands and made these lands available for municipal selection for the benefit of all Alaskans, and

WHEREAS, many of the municipalities selected lands formerly designated as mental health trust land, and

WHEREAS, the Alaska Supreme Court on October 4, 1985, found that the 1978 redesignation of mental health trust land to general grant land was a breach of the mental health trust, and

WHEREAS, the Alaska Department of Natural Resources has suspended the transfer of title of municipally selected former mental health trust lands, and

WHEREAS, Alaskan communities are entitled to select 712,360 acres of state land including former mental health trust lands, and

WHEREAS, municipalities are entitled to select their entitlements of state land which includes former mental health trust lands, and

WHEREAS, the municipalities have selected 53,918 acres of former mental health trust lands, of which 23,259 acres have been patented and 18,968 acres have been tentatively approved for conveyance, and

WHEREAS, the former mental health lands selected by municipalities are of critical importance to the growth and development of communities;

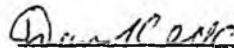
NOW, THEREFORE, BE IT RESOLVED BY THE ALASKA MUNICIPAL LEAGUE:

1. That the State of Alaska is encouraged to complete the conveyance of municipally selected former mental health trust lands as rapidly as possible.

2. That the State of Alaska work towards a speedy resolution of the mental health trust lands issue with the Interim Mental Health Trust Commission.

3. That the State of Alaska find means of compensating the mental health trust as part of the state's liability without jeopardizing land selections made by Alaskan communities.

Adopted this 14th day of November 1986.



Dan Keck, President

Attest:



Scott A. Burgess, Executive Director

HB

96



JUNEAU



SCHOOL DISTRICT
SPECIAL SERVICES

March 16, 1987

Niilo Koponen, Co-Chairman
Health, Education and Social Services
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Re: Sponsor Substitute for House Bill 96

Dear Representative Koponen:

The City and Borough of Juneau School District would like to take the opportunity to respond to the proposed changes as outlined in sponsor substitute for House Bill 96.

Overall, the district is supportive of the changes outlined, however the one area of concern is the proposed change of the school age and its effective date. Our concern is that of the effective date being July 1, 1987. At this point in time there are hundreds of parents throughout the state who are preparing their children and scheduling their lives for the time when their child enters kindergarten, all of these children becoming five years of age prior to November 2, 1987.

A change of the entry date this late in the year would cause major problems for children, parents, and school districts. Children have been attending preschools in anticipation of attending kindergarten next year, parents are in the process of making child care arrangements, anticipating kindergarten, and school districts have projected student numbers for kindergarten based on the November entry date and past data. In addition, if the effective date were to change, districts would be faced with hundreds of requests for evaluations to determine early entrance into the program.



Niilo Koporen
March 16, 1987
Page 2

Our request is that you modify the effective date to read July 1, 1988. This would allow districts and parents to plan for the change.

Your review of this request would be greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Johnson", is written over the word "Sincerely,".

Bruce Johnson
Superintendent of Schools

BJ/DT/pp

