

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5285 SHEP HB 57 - HB 91

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care programs should provide prospective parents with parenting education and other supports to ease the difficulties associated with having a new infant in the home.

Studies suggest that in families in which parent-child bonding is weak the child is at greater risk for abuse. Part of the function of perinatal support programs could, therefore, be to enhance parent-child bonding. Childbirth procedures involving both parents, rooming-in, and unlimited visiting privileges for parents with their infants are important. Minor changes in hospital procedures could facilitate opportunities for families to get to know their newest member, while enhancing the opportunities for early and effective parent-child bonding. Many hospitals offer prospective parents the opportunity to participate in programs that enhance the bonding process.

EDUCATION FOR PARENTS -- As a continuation of the prenatal program and as part of perinatal support programs, all new parents should have an opportunity to participate in a program to increase their skills in caring for a new baby. The programs may be directed toward the continuation of instruction in child care and child development.

Having a new infant in the home creates stress in any family. When, however, the infant requires extra or special care, stress can be greatly increased, putting the child at greater risk for abuse. To reduce the additional stresses created for parents by infants with special problems following birth--for example, premature babies or those with illnesses, abnormalities, or defects--a special educational support program could be made available. The program could focus on group support from parents with similar children, and it could educate parents about the particular needs of their child and how to deal with those needs in a family environment. Every attempt could be made to furnish supports that minimize distortion of the parents' perception of their new child. Separating newborns from their families to provide intensive care can require special adjustments for parents, and they could receive help that is sensitive to this unique stress.

Among the problems experienced by families with young children is isolation from and lack of knowledge about health and social services in the local community. Coupled with a lack of knowledge of how to detect and handle many childhood problems, this puts a family at risk for abuse. As an ongoing source of support and information for parents, educational support programs could include home visitor services that consist of periodic visits to the home following childbirth until the child begins school.

These visits should be made by a trained home health aide under the supervision of medical professionals. The aide could provide information and advice to parents on child care,

nutrition, and home management and could carry out routine health checkups on young children. In addition, the aide could refer parents to needed social and health services in the community. In some communities the services of the home visitor can be effectively rendered through a local well-baby program.

LIFE SKILLS TRAINING FOR CHILDREN AND YOUNG ADULTS -- The purposes of life skills training are first to equip children, adolescents, and young adults with interpersonal skills and knowledge that are valuable in adulthood, especially in the parenting role; and second, to provide children with skills to help them protect themselves from being abused. Knowledge and skills can be imparted in a variety of ways; irrespective of the specific techniques, educational classes or supports could be provided through the school system and through adult education centers.

Skill and knowledge building could be stressed in areas of child development, family and life management, self-development, self-actualization, and methods of seeking help. All adolescents and young adults should know about all types of child abuse, what the warning signs are and how to reach out for help should they perceive the warning signs in themselves.

SELF-HELP GROUPS AND OTHER NEIGHBORHOOD SUPPORTS -- Social isolation, not having anyone to turn to in times of need, plagues most families who are at high risk for abuse and neglect. The purpose of self-help groups is to reduce the isolation experienced by many parents through the development of peer support systems.

Beginning with social networks created through parent groups in the prenatal and perinatal programs, a variety of opportunities should be offered for parents to participate in group activities or to establish social contacts. Examples include parent groups stemming from local child care programs, Foster Grandparent Programs, Parents Anonymous, Parent Aide and comparable problem-oriented self-help or support groups. The mutual aid programs should also focus on the development or strengthening of neighborhood-based natural helping networks.

FAMILY SUPPORT SERVICES -- Lacking anywhere to turn in times of crisis puts families at significantly greater risk for abuse or neglect. To provide immediate assistance to parents in times of stress, crisis care programs could be available on a 24-hour basis and could include the following services: telephone hot line, crisis caretakers, crisis baby-sitters, crisis nurseries, and crisis counseling.

Through these programs, parents facing immediate problems could receive immediate support to alleviate the stresses of a particular situation. Help could be available over the phone or through in-person counseling.

The program could also offer parents the options of having someone come into their homes on a temporary basis to assist with child and home care or of taking the child to a crisis nursery. Because crisis care is temporary and short-term, such programs should be equipped to refer parents to long-term services as needed.

PROGRAMS FOR ABUSED CHILDREN -- It has been argued that prevention of abuse is in part tied to providing therapeutic treatment to children or young people who have been abused or neglected. To minimize the long-term effects of abuse, age-appropriate treatment services should be available to all maltreated children.

Treatment programs for abused children should include a thorough diagnosis of physical and developmental (social, psychological and emotional) problems. Comprehensive therapeutic services should be offered to alleviate identified problems. Assistance should be rendered on the basis of an individual child's needs and could include individual and group services as well as an enriched day care program.

EARLY AND REGULAR CHILD AND FAMILY SCREENING AND TREATMENT -- Because abusive behavior is cyclic, many health and developmental problems in childhood can lead to behavioral problems in adulthood, including abusive behavior. For this reason detecting and treating health and developmental problems early in life is important. Early childhood screening and treatment programs should be seen as a continuation of the preschool screening services, such as those offered by the home visitor. The purpose of such programs should be to detect problems children may be having, including abuse and neglect, and to ensure that these children receive the necessary health, mental health, and other services that will best protect them from becoming abusive parents.

Screening and treatment programs exist throughout the United States in preschools and schools; they could be available to all children. All screening programs, however, need to be sensitive to the possibility that a child may be inappropriately labeled, with long-term negative consequences.

CHILD CARE OPPORTUNITIES -- The purpose of child care or day care programs is to furnish parents with regular or occasional out-of-home care for their children. While child care is a necessity in households in which all adults are employed, such

services are also beneficial for parents who do not work outside the home but who find continuous child care responsibilities very stressful. Child care programs also provide opportunities for children to learn basic social skills. Head Start programs in particular provide a rich mix of child care and child development services.

COMMUNITY ORGANIZATION ACTIVITIES -- To increase the availability of social service, health, and education resources and of the other supports that reduce family stress, community organization activities will be necessary. A community-based planning or coordinating body is certainly required, one that represents the views of different community groups and agencies. This body will have an important role in determining priorities for proposed prevention programs.

As programs are implemented, a plan for ongoing evaluation and assessment of them is also necessary. This will ensure that the programs are indeed effective, and that they are continually responsive to those they are intended to help.

PUBLIC INFORMATION AND EDUCATION ON CHILD ABUSE PREVENTION -- Public awareness campaigns have two complementary purposes. The first is to bring parents the message that being a parent is not easy, that all parents experience stress in their parenting role, and that it is all right to reach out for help. The second purpose is to provide parents with information about where to turn for help, particularly how to get in touch with local crisis care services.

Awareness on the part of professionals and volunteers is also essential to the effectiveness of a community's prevention programs. It is particularly important that those who come into contact with families, such as physicians and teachers, receive training in the dynamics of child abuse and information on the availability of prevention programs in the community.

EVALUATION

Perhaps the most difficult challenge facing the Children's Trust Fund personnel is that of evaluating how effective the trust fund is. Many of the Children's Trust Funds emphasize program monitoring and program evaluation. Advisory boards may be collecting information on program performance in the area of client outcomes, resource acquisition, productivity, and efficiency. However, there is a great need to assist local programs to define and develop outcome measures. There is increasing concern about the operation of these programs and their effect on the prevention of child abuse. A national network of Children's Trust Funds could provide a means by which technical assistance could be shared on evaluation, as well as other issues.

States which appear to have the longest history in addressing evaluation are: Kansas, Iowa, and Washington.

Both Kansas and Iowa have recently funded major projects with an emphasis on evaluation. The Kansas project (funded at \$46,980) is targeted to a specific population; black, single, female-headed households with young mothers who are pregnant or who have children under five years of age. The identified geographic region is a neighborhood of a fairly large metropolitan area. The service elements for the project involve nine different services clustered under the headings: services that develop parenting skills and enhance self esteem; services that reduce social isolation and develop support systems; services that assist parents in caring for their children; and services that assure access to community resources. The project will be evaluated by John Poertner D.S.W. with Kansas University.

The Iowa project (funded at \$24,001.92) will be evaluated by Ross A. Klein, MSW, Ph.D. of Iowa State University. This special project will implement a number of prevention programs in one county. The programs include: lay health visitor, respite care nurseries, sexual abuse prevention, parent aide education, support programs for young Moms, and the Nurturing Program--a program designed to modify inappropriate parenting belief and child rearing practices.

INNOVATIVE POSSIBILITIES

In Washington the Children's Trust Fund, which receives about \$400,000 annually from a \$5 surcharge on marriage licenses, is looking at additional funding mechanisms to build toward the goal of a self-sustaining fund that will provide on-going support for local projects. Washington's statute, like that of most other states, allows the Children's Trust Fund to accept "contributions, grants, or gifts in cash or otherwise from persons, associations, corporations or the federal government," and with that authority the Washington council has begun efforts to generate additional income.

Solicitations are made to individuals and corporations. Public service announcements have been televised asking for contributions to the Washington Children's Trust Fund. Long-range giving has not been overlooked. Packets of informational materials have been developed for attorneys and accountants who work in estate and tax planning. Information on the Washington Children's Trust Fund is available then to pass along to their clients who seek advice on charitable giving.

Also in Washington, a unique effort to generate money for child abuse prevention through private enterprise has brought together a group of designers, business advisers and child abuse prevention experts. This group develops a line of products for marketing, with the objective of raising the public

awareness of child abuse prevention and the Children's Trust Fund, and generating revenue for the fund. Children's furniture is now being manufactured for marketing with the proceeds from sales going to the Washington Children's Trust Fund.

States which have utilized the state income tax checkoff method as their funding mechanism can increase the amount of monies raised through public awareness campaigns about the trust fund and about child abuse prevention. Some states have been very successful receiving donated services from local public relations firms and related entities.

FEDERAL CHALLENGE GRANTS

The Child Abuse Prevention Federal Challenge Grant program provides incentives for states to establish funds to support child abuse prevention projects, money that has been historically lacking because of the need to direct limited resources toward treating the increasing numbers of children already abused. For every \$4 states make available in prevention funds the federal government will provide \$1 in matching support. At no time will the federal challenge grant to any state exceed an amount equal to 50 cents times the number of children in a state. The five million dollars appropriated is available through F' 86; and the program is authorized through 1990.

CONCLUSION

Indeed the Children's Trust Fund has proven its value everywhere. The variability of the legislation is one of its prime strengths. It presents a model for support of programs to prevent child abuse that is easily adaptable to the political demands of a state. Children's Trust Funds have passed in states with governments across the political spectrum, conservative as well as liberal.

A Children's Trust Fund takes the pressure off the regular state social services budget to fund often neglected preventive services. In a time of limited funding the Children's Trust Fund has been advanced as a significant means to achieve the goal of preventing child abuse.

Through an emphasis on community-based programs selected by a citizens' advisory board, the Children's Trust Fund fosters the creation of local programs to prevent child abuse and shifts some of the responsibility for planning to the local level.

With solid support going to preventive efforts, often for the first time because of the Children's Trust Fund, attention can be focused on prevention. Administrators of public agencies and state legislators can be educated about prevention and regular appropriations can be forthcoming to increase the support for prevention engendered by a Children's Trust Fund.

The challenge for the future is to address the numerous questions which arise as states establish Children's Trust Funds. Examples are:

1. What are the implementation problems associated with the trust fund and how can they most easily be overcome?
2. What types of public awareness campaigns are most effective for the state income tax checkoff method used on some trust funds?
3. When is a program prevention and when is it treatment? How exclusively preventive should trust funds be?
4. How do we evaluate the effectiveness of the funded programs? How do we measure the impact of the program? What methods can we use to assist communities in doing a self-evaluation of the program funded?
5. Can we establish a depository to systematically collect information on trust funds, and to share results of efforts?
6. How do we establish a procedure to promote replication of projects viewed as successful?
7. How do we maintain the intent of the legislation and the integrity of the model? How do we keep the focus on prevention, community, and volunteerism?
8. Are successful program models being assumed as a community responsibility after demonstration funding? How? Why?

Innovative, exciting possibilities are emerging as trust fund personnel begin to confront these questions. The National Committee for Prevention of Child Abuse acknowledges the critical need for a systemized plan for dissemination of information about and technical assistance to the development of Children's Trust Funds. As the uniqueness of the trust fund model may be vulnerable without appropriate resource information, the National Committee is committed to serving as a resource and as a catalyst in this effort. .

CHILDREN'S TRUST FUND LEGISLATION

Purpose: To create a special funding mechanism to provide child abuse prevention services through community-based agencies.

STATE	LEGISLATION/ EFFECTIVE DATE	MECHANISM	FUNDS GENERATED	ADMINISTRATION	ADVISORY COMMITTEE	PROCESS	CONTACT
Alabama	HB 56 & 57 1983	Voluntary income tax refund check-off (\$2); grants, gifts.	1984:\$134,000 expected 1985: \$400,000	Funding-Dept. of Revenue; Dept. of Pensions & Security Programs	14-member State Child Abuse & Neglect Prevention Board.	Support organizations to operate programs for direct service provisions.	Jane Nichols Legislative Fiscal Office 205/261-8067
Arizona	HB 2212 7/29/82	Voluntary income tax refund check-off (\$2); marriage license surcharge (\$2); divorce filing fee (\$10).	1982:\$100,000	Department of Economic Security	None.	Provide financial assistance to community treatment programs that offer direct services to abused children/parents.	Pat Clumbly Staff, House of Representatives 602/255-1250
California	AB 2994 1982	Fee for duplicate birth certificate (\$4); gifts, grants.	1984:\$400,000	Dept. of Social Services	County Board of Supervisors may designate a voluntary local commission.	Grants to private non-profit organizations providing direct services in prevention and intervention.	Chet Olson Assembly Select Committee on Child Abuse 916/445-7486
	AB 607 1983	Voluntary income tax refund check-off (\$3).	1984:\$430,000	Dept. of Social Services	Advisory Committee within DSS and select co-advisors.		
Connecticut	SB 2006 7/1/83	Grants/gifts	\$60,000 appropriated (\$50,000 spent; \$10,000 left in fund to accrue interest.	Dept. of Children & Youth Services	Commissioner of Dept. of Children & Youth Services can appoint advisory committee.	Commissioner adopts rules and regs. which may be approved by legislature.	Kathy Wright Leg. Commis- sioners 203/566-8410

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Delaware	64 DE Laws 1984 C.411, Sec 1	Voluntary income refund check-off (all or any amount); grants, gifts.	not available	Dept. of Children, Youth, and Families.	12-member Dela- ware Children's Trust Fund Board of Directors; 8 appointed by Governor; 1 shall be chair- person of Juve- nile Justice Advisory Group; 1 each appointed by Secretary of following de- partments; Chief Judge of Family Courts; Dept. of Services for Children, Youth and Families, Health & Social Services; Dept. of Public In- struction; & Family Courts.	Grants totaling no more than \$15,000 awarded to programs that provide preven- tion services and improve coordination among state agencies. (Organization agrees to match the grant, at least 25% 1st year and 50% during the second and subsequent years.)	Tom Shields Leg. Council 302/736-4114
Illinois	SHB 537 1983	Voluntary state income tax re- fund check-off (up to \$10).	estimated 1984:\$100,000 actual 1984: \$500,000.	Dept. of Children & Family Services	Statewide citi- zen's committee on child abuse and neglect.	Grants for comprehen- sive community-based services to reduce family dysfunction through child abuse and neglect.	Alex Reichl House Republican Staff 217/782-9601
Iowa *	HB 2393 1982	Marriage license surc'arge (\$5)	1982:\$120,000 1983:\$116,000 1984:\$125,000	State Dept. of Social Services	5-member board attach- ed to Dept. of Social Services.	Dept. contracts with a community-based agency	Norm Ostbloom Executive Dir. Iowa Chapter Nat'l Cmte for Prevention of Child Abuse 515/281-6327

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February 1985

Kansas **	SB 609 & SB 677	4/16/80	Marriage license surcharge (\$7) Fee on live birth registration (\$4) (General fund and then allocated to trust fund)	1984:\$141,000 1984:\$300,000	Div. of Services to Children & Youth	14-member Children and Youth Advisory Committee to: 1. Act as advocate for children in the Governor's office; 2. Advise Secretary & Director of Services to Children & Youth.	Grants limited to \$20,000 to community-based preventive or educational projects can be funded for 4 years; at: 100% 1st year, 80% 2nd year, 60% 3rd year, 40% 4th year,	Janury Scott Executive Dir. Kansas Cmte for Prevention of Child Abuse 913/354-7738
Kentucky	HB 486	1984	Voluntary income tax refund check off (\$2); grants, gifts.	Not available	Attorney General's office 5-exofficio to serve by virtue of office.	10 member public, 5-exofficio to serve by virtue of office. Child Sexual Abuse & Exploitation Board.	Provides financial assistance to organizations to further prevent & treat abuse.	Dianna McClure Leg. Research Commission 502/564-8100
Louisiana	Act 481	1983	Legislative Appropriation (\$45,000) income tax refund check-off (no specific amount); grants, gifts.	1984:\$45,000	Dept. of Health & Human Resources	7-member Children's Trust Fund Board; 2 from general public; 1 each from House and Senate; Secretary of Health & Human Resources; 1 each from Medical Society and Parents Anonymous.	Programs for preventing physical and sexual abuse and neglect of children.	Michael Mielke Dept. of Health & Human Resources 504/342-6784

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Michigan	HB 4664 1982	Voluntary income tax refund check-off (\$2); part of each year's receipts (1/5) go to fund programs, rest is invested & earnings are credited to trust fund; ceiling of \$20 million & programs are funded from earned interest; separate fund established in Dept. of Treasury, donations.	1983 & 1984 \$1.5 mil.	Michigan Child Abuse & Neglect Prevention Board: autonomous agency within Dept. of Management & Budget.	15-member Board; 5 appointed by major state dept. heads involved in abuse & neglect; Education, Mental Health, Police, Health & Social Services; 10 appointed by Governor with consent of Senate.	3 classes of grantees private & public organizations providing 50% match, local councils (also match).	David Mills Director Children's Trust Fund 517/373-4321
Missouri	HB 550 9/28/83	Voluntary state income tax refund check-off (\$2); grants, gifts.	1984:\$147,000	Office of Administration	15-member Children's Trust fund, within, yet independent of Office of Admin. 11 public members appointed by Governor, 2 Senators appointed by President Pro Tem, 2 House members appointed by Speaker.	Contract with public or private agencies, schools to establish community-based educational & services prevention programs.	Kathy Ruckman House Research Staff 314/751-2979
New York	S 21047 1984	State appropriation, grants, gifts.	\$2 mil approp by Governor to Trust Fund. \$250,000 appropriated for administrative expenses.	Commission of Social Services	17-member advisory Board.	Provide grants to public and not for profit agencies for establishing & extending programs to prevent violence or provide service to victims.	Ruth Sabo NY Assembly Staff 518/455-4371

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North Carolina	SB 921	1983	Marriage license fee (\$5); grants, gifts.	1984:\$257,000	State Board of Education	Inter-Agency Advisory Council for Community Schools.	Community-based programs.	Don Miller Coordinator Child Abuse Prevention 919/734-4125
Ohio	HB 319	12/26/84	Birth certificate fee (\$2); divorce and dissolution decrees (\$10); death certificate (\$2); grants, gifts, federal funds.	Expected: \$2,490,000 (\$150,000 to be used for expenses.	Children's Trust Fund Board upon recommendation of Criminal Justice Services within the Dept. of Development.	Children's Trust Fund Board; 7 members appointed by Governor; Director of Health & Human Services also a member.	Provides grants to programs to prevent child abuse & neglect.	Anita Lunn Legislative Services Comm. 614/466-5919
Rhode Island	S 0577	7/1/83	Marriage license surcharge (\$2); grants, gifts, bequests.	1984:\$70,000	Dept. of Children & Their Families	State Advisory Council for Children and Their Families	Community-based programs for preventing problems of families & children; grants for education programs; evaluate projects & programs & disseminate information & techniques.	Joachim Weissfeld Attorney Member of Advisory Council 401/274-2300
South Carolina	A 3286	1984	State appropriation (\$20,000) one time start up; voluntary income tax refund, check-off (\$1+); gifts, grants.	Expected: \$150,000	Non-profit organization administered by 9-member Board of Trustees.	9-member Board of Trustees to be appointed by Governor.	Provide grants to private non-profit organizations to stimulate innovative prevention and treatment programs.	Harriet Thogersen Ex. Director Children's Trust Fund 803/256-7146
South Dakota	HB 1197	1984	Surcharge on birth certificates (\$2); gifts & grants & appropriation of \$40,000.	Expected: \$40,000	Department of Social Services	None	Grants to non-profit organizations to establish or continue community based education and prevention projects.	Mark Zickrick Leg. Research Council 605/773-3251

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Utah	HB 59	1984	Voluntary private donation	Less than \$5,000	Dept. of Social Services	Div. of Family Services Board, policy making body appointed by Governor.	Not available	Bryant Howe Office of Legislative Research 801/531-5411
Virginia ***	S 279	4/9/82	Surcharge on marriage license (\$10)	\$400,000 annually	Dept. of Social Services	Established through implementation plan for Virginia Family Violence Prevention programs; has 9-11 members, advises Dept. of Welfare.	Solicits grant apps. from public & private non-profit organizations, divide evenly between child abuse & domestic violence programs.	Jane Horwood House Appropriation Staff 804/786-1837
Washington	HB 179	1982	Marriage license surcharge (\$5)	Estimated \$470,000/year.	Washington Council for the Prevention of Child Abuse & Neglect.	11-member Council on Child Abuse & Neglect; 5 appointed by Governor; 1 each appointed by Secretary of Dept. of Social Services, Speaker of the House, President of the Senate, Superintendent of Public Instruction.	Grants for community education or child abuse prevention--match 25%.	Jim Teverbaugh Washington Council for The Prevention of Child Abuse & Neglect 206/464-6151

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Miscorin	SB 83	7/1/83	Birth certificate fee (\$2); private contributions	\$290,000	Dept. of Health & Social Services	Child Abuse & Neglect Prevention Board; 14 members; 8 appoint at large by Governor; 1 Governor designee; 1 each from Dept. of Health & Social Services; Dept. of Public Instruction; House and Senate.	Grants limited to \$15,000 for community-based programs or crisis care, early identification of at-risk children on matching basis.	Elaine Olson Ex. Director Children's Trust Fund 608/266-6871
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* In Iowa, funds go into general revenue and are passed through to this fund.

** In Kansas, these funds may not be used for abortion and they are shared between programs for child abuse prevention and services for battered women.

*** In Virginia, money goes to general revenues and is passed on to programs. Must be passed again next session - don't actually have trust fund.

For more information, contact: Joan Smith,
National Conference of State Legislatures
1125 17th Street, Suite 1500
Denver, Colorado 80202
303/292-6600

February 1985.

cc

REQUEST _____

Bill Version: CS SS HB 57(Fin)
Publish Date: HOUSE 4/13/87

Revision Date: _____
Title: "An act establishing the Alaska children's trust fund..."
Sponsor: Goll, Brown, et al
Requestor: HOUSE FINANCE

Agency Affected: Revenue
BRU: Administrative Services
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	28.2	17.0	17.0	17.0	17.0
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	5.0	5.0	5.0	5.0	5.0
SUPPLIES	-	0.2	0.2	0.2	0.2	0.2
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GPANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	33.4	22.2	22.2	22.2	22.2
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	33.4	22.2	22.2	22.2	22.2
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	33.4	22.2	22.2	22.2	22.2

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	4	3	3	3	3
TEMPORARY	-	-	-	-	-	-

ANALYSIS : (Attach a separate page if necessary)

APA

Prepared by: Al Adams Chair Phone: 465-3706
Division: House Finance Committee Date: 4/11/87

Approved by Commissioner: _____ Date: _____
Agency: _____

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

- c) Each of approximately 540,000 PFD applications will need to be visually reviewed and coded as to decision on the contribution decision. Each application will be data captured with additional attention and keystrokes expended on each positive decision.
- d) Due to the complexity of balancing and certifying warrant runs with varying warrant amounts, additional temporary staff will be required to balance the weekly warrant runs from October through December of each year.

1. Positions

1 PPT Analyst/Programmer V, R21
@ \$5,638.47/Mo including salary
and benefits for 2 months = \$11.2

PCN 04-1125 would be funded for an additional two months, in accordance with Attachment A. Ongoing maintenance of new programs would be accomplished by existing staff.

1 PPT Document Processor I, R7
@ \$2,117.76/Mo, including salary and
benefits for 3 months = \$6.3

This position would assist in the manual review and coding of 540,000 applications for the new contribution decision. This position represents the equivalent of the additional time and effort.

1 PPT Data Processing Clerk I, R8,
@ \$2,221.64/Mo, including salary and
benefits for 2 months = \$4.4

This position would assist in the data capture of the additional contribution decisions. The position represents the equivalent value of the additional time and effort.

1 PPT Document Processor I, R7,
@ \$2,117.76/Mo, including salary
and benefits, for 3 months = \$6.3

This position will assist in the balancing and verification of the weekly warrant runs from October 1 through December 31 each year.

TOTAL Personal Services \$28.2

Department of Revenue
Administrative Services Division
Fiscal Note Analysis
SSHB 57
Summary of Data Processing Requirements
2/25/87

Wang data entry processing	75.0 hours
Includes:	Data entry Batch lists Corrections Wang to IBM transfer
IBM Update jobs	30.0 hours
Includes:	Edits Batch listings Log sheets
DMS Online programs for lookup and changes	37.5 hours
Nightly Update of Changes	22.5 hours
Warrant Jobs	90.0 hours
Includes:	Printing warrants with different amounts. Include check stub messages. Modify warrant registers as needed for balancing. Create new program(s) for transferring accumulated contributions to the Alaska Children's Trust Fund, and to account for the reserve necessary due to returned and cancelled PFD warrants.
Miscellaneous	45.0 hours
Includes:	Setting up test files on IBM Systems testing Administrative functions, i.e. paper work required by Admin. DP to add files and programs to tables.
TOTAL HOURS	300.0 hours

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSSSHB 57(Fin)
Publish Date: HOUSE 4/13/87

REQUEST: _____

Revision Date: _____
Title: An Act relating to the Alaska children's trust fund to provide etc.
Sponsor: Goll, Brown, etc.
Requestor: HOUSE FINANCE I

Agency Affected: Public Safety
BRU: Council on Domestic Violence and Sexual Assault
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

APA

Prepared by: Al Adams Chair Phone: 465-3706
Division: House Finance Committee Date: 4/11/87

Approved by Commissioner: _____ Date: _____
Agency: _____

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

Bill Version: CSSH B 57 (Fin)
Publish Date: HOUSE 4/13/87

REQUEST: _____

Revision Date: _____

Title: Alaska Children's Trust Fund

Agency Affected: Department of Revenue

BRU: Treasury

Sponsor: Goll

Requestor: HOUSE FINANCE

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 if necessary)

APA

Prepared by: Al Adams Chair

Division: House Finance Committee

Phone: 465-3706

Date: 4/11/87

Approved by Commissioner: _____

Agency: _____

Date: _____

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

Bill Version: CSSSHB 57(Fin)
Publish Date: HOUSE 4/13/87

REQUEST

Revision Date: _____ Agency Affected: Department of Revenue
 Title: "...Ak children's trust fund to provide a continuing source of revenue for..." BRU: Revenue- Permanent Fund Dividend
 Sponsor: Gall, Brown, Ellis, Navarre, etc. Components: _____
 Requestor: HOUSE FINANCE

EXPENDITURE /REVENUES: (Thousands of Dollars)

<u>OPERATING</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>	<u>FY 92</u>
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LAND & STRUCTURES	-	-	-	-	-	-
GRANTS/CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

<u>CAPITAL</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
----------------	------------	------------	------------	------------	------------	------------

<u>REVENUE</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

APA

Prepared by: Al Adams Chair Phone: 465-3706
 Division: House Finance Committee Date: 4/11/87

Approved by Commissioner: _____ Date: _____
 Agency: _____

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: C55SHB 57(Fin)
Publish Date: HOUSE 4/13/87

Revision Date: _____
Title: Alaska Children's Trust Corp.

Agency Affected: Office of the Governor
BRU: Executive Operations

Sponsor: Goll, Brown, Ellis, Navarre, Boyer
Requestor: Larson, Phillips, Menard

Component: Alaska Children's Trust Corp.

HOUSE FINANCE

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

APA

Prepared by: Al Adams Chair
Division: House Finance Committee

Phone: 465-3706
Date: 4/11/87

Approved by Commissioner: _____
Agency: _____

Date: _____

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

HB

76

Original sponsors: Cotten, Phillips
and Zawacki

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 76 (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 school age and the minimum
7 age for entering public school kindergarten; and
8 providing for an effective date."

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

10 * Section 1. AS 14.03.070 is amended to read:

11 Sec. 14.03.070. SCHOOL AGE. A child who is six years of age or
12 who will become six years of age before August 15 preceding [NOVEM-
13 BER 2 FOLLOWING] the beginning of the school year, and who is under
14 the age of 20 and has not completed the 12th grade, is of school age.

15 * Sec. 2. AS 14.03.080(d) is amended to read:

16 (d) A child who is five years of age [OR WHO WILL BECOME FIVE
17 YEARS OF AGE] before August 15 preceding [NOVEMBER 2 FOLLOWING] the
18 beginning of the school year, and who is under school age, may enter a
19 public school kindergarten.

20 * Sec. 3. This Act takes effect July 1, 1988.
21
22
23
24
25
26
27
28
29

May 11, 1987

Bethel Advisory School Board
Linda Curda, Chairperson
Box 731
Bethel, AK 99559

Senate Committee on Health, Education and Social Services
Senator Paul Fischer, Chairperson
P.O.Box V
Juneau, AK 99559

Dear Senator Fischer:

This letter is in reference to HB 76 which establishes school age and minimum age for entering kindergarten.

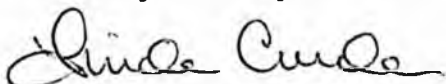
We are in support of HB 76 and its August 15 date for kindergarten entrance but we wish to express concern about the perspective that passage of this bill would insure "success in kindergarten."

Many people view age of a child as a key to success in school, particularly five year olds in kindergarten. Children with late summer/fall birthdays appear less apt to excel in kindergarten and other grades than do children who enter kindergarten at age five.

We believe that success in kindergarten is linked to three important things: a curriculum that is developmentally appropriate; an ongoing perspective that all children develop at their own individual rate; and teaching staff that reflect an understanding of young children and child development. These three are essential to success in school, and building a strong foundation for children to grow on.

Age is only one factor. We urge you to investigate the state's educational perspective on kindergarten: its curriculum, its teacher training requirements and its perspective on individual growth rates. When these factors change, along with adoption of this bill, we will indeed have children succeeding in kindergarten, continuing on to graduate from high school and becoming productive citizens of the state of Alaska.

Thank you very much.



Linda Curda, Chairperson
Bethel Advisory School Board

cc: Department of Education, Commissioner Demmert
State Board of Education
Lower Kuskokwim School District Board of Education

Parents urged not to rush child into school

By Suzanne Gordon
Knight-Ridder Newspapers

Anne Horstmann was 4½ when she started kindergarten four years ago, even though her birthday was six weeks after the cutoff date for entering school.

Her Wallingford, Pa., neighbor, Chrissy Breslin, entered school at 4 years, 9 months — just meeting the kindergarten cutoff day.

These ages were common when school districts required children to be 5 by January or February of their kindergarten year, resulting in September classes filled with 4 year olds.

But the ideas on school readiness are changing. Now, the experts believe that older is better.

"Our main thrust is that kids should start (kindergarten) based on behavioral age," said Louise Bates Ames, associate director and co-founder of the Gesell Institute of Human Development, a research, educational and clinical institute in New Haven, Conn. The institute has been trying for at least 10 years to persuade school districts to delay entry dates.

"If they're on the older side, there's a better chance they'll be ready," Ames said.

The argument is gaining supporters: School districts throughout the country are pushing back kindergarten eligibility dates to typically require students to be 5 by Sept. 1. Some educators would like them to be even older.

In addition, they are making sure, through tests and interviews, that the children are developmentally ready.

Oklahoma, for example, passed a law last year requiring kindergarten entrants to all public schools to have turned 5 by Sept. 1. In addition, all children must be screened for school readiness.

In Texas, a law also designating Sept. 1 as the cutoff date to turn age 5 took effect last year.

Kindergarten teacher Carolyn Baldwin has already experienced the change in her students at the Pearl S. Buck Elementary School since the Neshaminy School District of Bucks County, Pa., moved its cutoff date from Jan. 31 to Nov. 1 last year.

As her classroom has filled with older children, she has watched them move away from having "a short attention span and needing almost constant activity" to a group that is "more ready to accept the tasks they are given," she said.

Baldwin, who has taught kindergarten and pre-kindergarten for 12 years, said that most of her pupils turned 5 before school began this fall and that others, who had been kept out of school by their parents for an additional year, are almost 6.

"Parents are becoming very aware that age is important," she said.

At Gesell, which publishes the widely used Gesell Developmental Test to measure school readiness, Ames said that being ready for kindergarten generally means having the skills of most 5-year-olds: being able to draw or color beyond a scribble, tie a knot, zip or button a coat, stand on one foot for 5 to 10 seconds, tell their left hand from their right, travel alone in a neighborhood for two blocks and cross a residential street safely.

A child who is not ready for school, she said, might draw a person with arms and legs coming out of the head, fuss about leaving his mother, say that school is dumb or boring, or have stomachaches or headaches, especially on weekdays.

"A lot more than the IQ goes to school, and a lot more than reading goes to school. Reading is a good thing to be able to do, but it's not necessarily a sign that the child is ready for the total school situation," Ames said.

*I definitely support moving the age date to
as far as possible - the
child's appearance and
behavior should appear with
a good amount of preparation
at least 1st grade. I speak from
experience. My children have a long history
of being in school before the age of 5.
I believe that the children should be
ready to enter school at the age of 5.*

*Richard Horstmann
Beverly Wallingford Elementary
1st grade*

R E S O L U T I O N

NUMBER: 11
SOURCE: AAESP Resolution Committee/AASA Resolutions
TITLE: School Age

WHEREAS, children entering kindergarten with birthday's after June 1 of the appropriate year appear to be less successful in their initial and subsequent school years; and

WHEREAS, children entering first grade with birthdays after June 1 of the appropriate year appear to be less successful in their subsequent school years; and

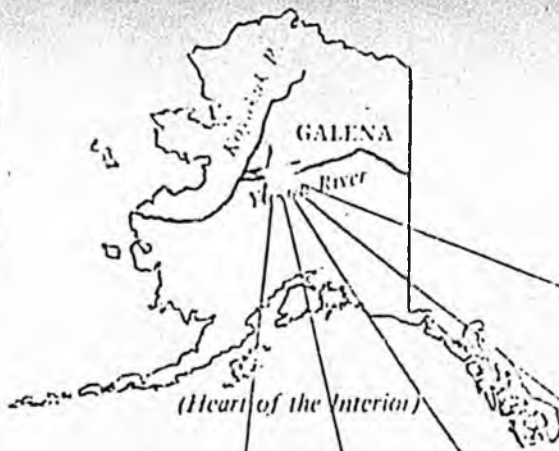
WHEREAS, the retention rate for students with birthdays after June 1st of the appropriate year appears to be significantly higher;

THEREFORE BE IT RESOLVED, that the Alaska Association of Elementary School Principals supports legislation that would revise the school age requirement from November 1st of the appropriate year to June 1st of the appropriate year.

GALENA CITY SCHOOL DISTRICT

GALENA, ALASKA 99741
PHONE (907) 656-1205

SUPERINTENDENT'S
OFFICE



April 22, 1987

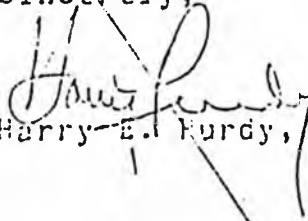
Representative Sam Gotten
State Capitol
P.O. Box V
Juneau, Alaska 99811

Dear Representative Gotten:

The Galena Board of Education understands that Sponsor Substitute for HB-96 has been modified. However, they support the concept that children are starting school too early, which is creating problems later on in their schooling.

Thank you for your support of children and their education.

Sincerely,


Harry E. Kurdy, Superintendent

HEP/elb
111/87

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

April 23, 1987

The Honorable Sam Cotten
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten,

The Association of Alaska School Boards would like to express support for CS for H.B. 76 (HESS) that would change the entrance age for entering the public schools of Alaska.

The Association feels that moving the age eligibility date from November 2 to August 15 of the school year will eliminate a number of problems.

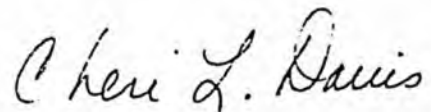
We assume, of course, that this change would not impact the ability of local districts to implement their early entrance procedures; something they have been doing for a long time.

The Association would like to express our appreciation for your continued efforts to enhance the quality of education in Alaska.

Sincerely,



Robert C. Greene
Executive Director



Cheri L. Davis
President

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

REQUEST: _____

Bill Version: CSHB 76 (HESS)
Publish Date: HOUSE 3/25/87

Revision Date: March 25, 1987
Title: ...public school kindergarten...

Agency Affected: Education
BRU: K-12 Support

Sponsor: Representatives Cotten & Phillips
Requestor: House HESS

Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)


GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This bill has no fiscal impact on this department.

Prepared by: Steve Hole 
Division: Commissioner's Office

Phone: 465-2800
Date: March 25, 1987

Approved by Commissioner: Marshall L. Lind
Agency: Education

Date: March 25, 1987

Distribution (by preparer):

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

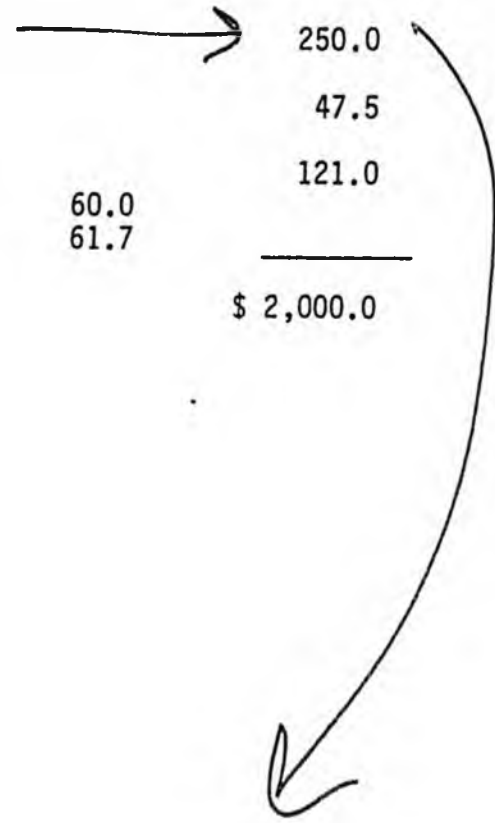
HB

91

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) <u>Services to youth with severe emotional, mental, and behavioral disturbances - Alaska Youth Initiative</u>		250.0
(4) Training for Secondary Consumers		47.5
(5) Mental Health Administration		121.0
° Coordinator Chronically Mentally Ill	60.0	
° Alternate Care Coordinator	61.7	
TOTAL		\$ 2,000.0



FISCAL NOTE
HB 91

Personnel Services:

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

Travel:

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

Contractual:

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

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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Grants:	\$1,879,000.00
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TOTAL	\$2,000,000.00
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FISCAL NOTE
 HB 91
 Allocation of \$2 Million

INTRODUCTION

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

Major Target Populations and Activities To Be Funded:

1. Persons with chronic mental illness.....	\$1,401.5
2. Expand Services For Existing Community MH Centers.....	180.0
3. Alaska Youth Initiative.....	250.0
4. Training for Secondary Consumers.....	47.5
5. Mental Health Administration.....	<u>\$ 121.0</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 already have daily structure and support programs. In order for all of the larger centers to provide this service requires an additional \$180,000.

After these basic needs have been met, the Division would target residential services as the next highest priority. Assisting clients to find appropriate, safe and sanitary living arrangement is critical. The range of residential services includes Supervised Apartment, Group Home, Adult Board and Care Facilities and Adult Foster Care. An increase of \$393,500 would provide an additional 49 beds for Chronically Mentally Ill in the above communities.

EXPAND SERVICES TO EXISTING COMMUNITY MENTAL HEALTH CENTERS

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

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

ALASKA YOUTH INITIATIVE

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

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

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

TRAINING FOR SECONDARY CONSUMERS

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

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

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

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

ADMINISTRATION

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

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

JOINT SPECIAL COMMITTEE ON MENTAL HEALTH TRUST LAND

SECOND SESSION

14TH ALASKA STATE LEGISLATURE

Representative Pat Pourchot, Co-Chairman

Senator Rick Halford, Co-Chairman

Representative Max Gruenberg
Representative Marco Pignalberi

Senator Bettye Fahrenkamp
Senator Paul Fischer

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

Report to the Legislature

January 1987

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



Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 1987

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

- development of a proposal to resolve the mental health trust litigation,
- recommendation of a level of appropriation adequate to provide sufficient funding for mental health programs in the future, and
- a report to the Legislature on the committee's findings and recommendations.

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

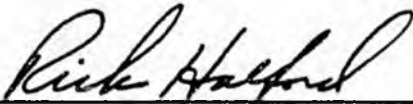
We would also like to call your attention to page 22 of the report, which contains recommendations on a level of funding for mental health programs in FY 88. Legislation to implement the committee's settlement proposal and legislation that addresses the mental health program will be introduced by the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

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

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

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

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



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



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

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BACKGROUND

In 1956, the United States Congress passed Public Law 84-830, "An Act to confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibility for the hospitalization of committed mental patients, and for other purposes." To ensure that the territory had adequate financial resources to discharge the responsibilities attending its assumption of mental health authority, the Act granted one million acres of land to Alaska as a public trust. The law, commonly known as the Alaska Mental Health Enabling Act, reads in part:

Sec. 202(a) "The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection...."

Sec. 202(e) "All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom, may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended, or used by the Territory of Alaska...."

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

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

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

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

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

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

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

SETTLEMENT PROPOSAL

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

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

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

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

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

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

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

A) Lands to be in trust

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

- | | |
|--|---------------|
| Unencumbered land | 207,225 acres |
| This is land which reverted to trust status upon the Supreme Court's ruling that the trust must be reconstituted, and on which no encumbrances currently exist. | |
| Less-than-fee disposals | 286,562 acres |
| This includes land with residential leases, oil and gas leases, coal leases, timber sales, mining claims, materials sales, and rights-of-way. Proceeds from activity on these lands are currently being credited to a special mental health account within the state's general fund. | |
| Limited use designations | 368,241 acres |
| This includes parks and recreation areas (150,576 acres), game refuges and habitat areas (85,710 acres), state forests (131,955 acres), and interagency land management assignments (4,473 acres). Current use of these lands is incompatible with management for maximizing revenue. | |
| Municipal conveyances | 43,087 acres |
| The Municipal Entitlement Act (AS 29.65) authorizes municipalities to select vacant, unappropriated, unreserved land from within their boundaries. Mental health lands became available for municipal selection under the 1978 law redesignating them as general grant lands. In addition, AS 29.65.060 specifically authorizes selection of mental health land if certain criteria are met. To date, 23,259 acres of mental health land have been patented to municipalities; an additional 18,968 acres have been approved for patent. Some of the lands conveyed to municipalities have in turn been transferred to third parties or have had improvements constructed on them. | |

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

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

Approaches to establishment of a land trust considered by the committee include:

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

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

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

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

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

B) Compensation for land removed from trust

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

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

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

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

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

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

Means of compensation considered by the committee include:

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

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

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

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

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

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

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

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

C) Land management

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

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

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

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

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

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

D) Use of generated funds

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

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

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

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

Uses of generated funds considered by the committee include:

- Constitutional dedication to a mental health fund.
- Congressional amendment to the federal Mental Health Enabling Act to require that income be dedicated to mental health programs.
- Earmarking trust income in the general fund.

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

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

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

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

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

E) Fund management

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

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

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

Means of fund management considered by the committee include:

- By Department of Revenue, as a separately managed "permanent" fund.
- By a public corporation as a "permanent" fund.
- As part of the state general fund.

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

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

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

F) Legislative intent

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

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

Statements of intent considered by the committee include:

- Appropriate program money in an amount equal to or in excess of the revenue generated by the trust.

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

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

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

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

RECOMMENDED ALTERNATIVE

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

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

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

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

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

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

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

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

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

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

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

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

ALTERNATIVE A
SECURED REVENUE STREAM

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

Lands to be in Trust
None.

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

Land Management
Not applicable.

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

Fund Management
Not applicable.

ALTERNATIVE B
RECONSTITUTION OF THE TRUST

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

Lands to be in Trust (approximate acreage)

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

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

Compensation for Land Removed from Trust

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

Land Management

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

Use of Generated Funds

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

Fund Management

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

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

ALTERNATIVE C
NO ACTION

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

Likely Results

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

Possible Results

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

FUNDING LEVEL

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

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

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

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

DEFINITION OF MENTAL ILLNESS

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

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

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

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

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

SCOPE OF PROGRAM

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

Prior to passage of the Mental Health Enabling Act in 1956, the only treatment and custodial care for Alaskans needing mental health services was provided by Morningside Hospital, a private institution in Portland, Oregon. With passage of the Act, Congress transferred the responsibility for Alaska's mental health program to the Territory of Alaska and provided federal funds, \$1 million annually the first two years followed by declining appropriations through 1958, to implement service delivery.

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

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

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

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

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

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

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

PROGRAM FUNDING

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

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

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

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

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

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

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

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

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

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

FUNDING RECOMMENDATIONS

1. Whether or not funds exist in a mental health trust, Alaskans' mental health needs should be met.
2. The scope of the mental health program should continue to be determined by the legislature as the state's policy making body. The comprehensive mental health plan should guide the legislature in program development and spending decisions.
3. As required by statute, the plan should be continually updated to meet the changing needs of Alaskans and to reflect changing treatment philosophies.
4. The state benefits tremendously from public involvement in the planning process, and an advocacy board should be established to recommend program needs and funding levels to the legislature, and to monitor program implementation and expenditures.
5. The existing prioritization of mental health populations should be followed to ensure that the needs of persons with the most critical mental health problems are met. 7 AAC 71.135 places highest priority on the acutely disturbed, followed by the chronically disturbed, children and adolescents, other persons requiring direct intervention, and persons requiring nondirect services. This prioritization is reinforced in the draft comprehensive state plan.
6. Funding increases should be incremental in nature, allowing response to the state's fiscal situation and the ability of the program to expand in any one year. For FY 88 the committee recommends a minimum of \$27,392,200.
 - a) Continued funding of \$22,533,200, the Department's FY 88 base budget for the Division of Mental Health and Developmental Disabilities for mental health services and administration, Community Mental Health grants, and contract services provided by native corporations. In light of the Weiss lawsuit and the unmet mental health program needs, existing mental health programs should be protected from further budget cuts.
 - b) Reinstatement of the \$4,000,000 cut by executive action in July 1986. These funds should be allocated as follows: restore \$550,000 to API; allocate \$272,000 for adult residential care for the chronically mentally ill to restore 13 beds and add 27 new ones; restore \$151,800 to the Division of Mental Health for staff to plan and deliver mental health services; restore \$223,200 to the Fairbanks community mental health program; and allocate \$2,828,500 to community services for the chronically mentally ill.

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

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

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

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

JOINT SPECIAL COMMITTEE ON MENTAL HEALTH TRUST LAND

Legislative Members

Senator Rick Halford, Co-Chair
1024 W. 6th Ave., Suite 301
Anchorage, Alaska 99501
276-4999

Representative Pat Pourchot, Co-Chair
1024 W. 6th Ave., Suite 301
Anchorage, Alaska 99501
276-6818

Senator Bettye Fahrenkamp
515 7th, Suite 130
Fairbanks, Alaska 99701
452-4882

Senator Paul Fischer
P. O. Box 784
Soldotna, Alaska 99669
262-9420

Representative Max Gruenberg
1024 W. 6th Ave., Suite 201D
Anchorage, Alaska 99501
276-3240

Representative Marco Pignalberi
6712 Lunar Drive
Anchorage, Alaska 99504
333-3298

Public Members (Alternates)

Pat Ryan Clasby
1200 Fritz Cove Road
Juneau, Alaska 99801
586-5280

(Jerry Schrader
2239 North Jordan Ave.
Juneau, Alaska 99801
789-5812)

Clifford Groh
550 West 5th. Ave., Suite 1250
Anchorage, Alaska 99501
272-6474

(Janet Baird
306 Slater Street
Fairbanks, Alaska 99701
452-5070)

Offered: 5/10/86
Referred: Rules

FINAL

Original sponsors: Josephson, Sackett,
Rodey, et al

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 HOUSE CS FOR CS FOR SENATE CONCURRENT RESOLUTION NO. 36 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 Establishing a joint special committee
6 on mental health trust land.
7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:
8 WHEREAS the United States Congress granted 1,000,000 acres of land to
9 the Territory of Alaska to be administered as a public trust for the neces-
10 sary expenses and support of mental health in the territory; and
11 WHEREAS in October 1985, the Alaska Supreme Court determined that the
12 1978 decision of the Alaska Legislature to redesignate mental health trust
13 land as general grant land had breached the trust established by the Con-
14 gress; and
15 WHEREAS the funding level for the mental health programs in the state
16 is one of the lowest in the nation on a per capita basis; and
17 WHEREAS the legislature, the administration, and mental health advo-
18 cates agree that the state must comply with the intent of the Congress that
19 mental health programs in the state receive sufficient funding; and
20 WHEREAS it is not in the public interest that continued litigation
21 over the mental health land trust divert attention from the underlying goal
22 of increased funding for mental health programs and care in the state; and
23 WHEREAS present state statutes do not explicitly provide for the
24 management of mental health trust land for maximum revenue production; and
25 WHEREAS the return of mental health trust land to trust status pre-
26 cludes management of mental health trust land for its highest and best use;
27 BE IT RESOLVED by the Alaska State Legislature that a Joint Special
28 Committee on Mental Health Trust Land is established under Uniform Rule 21;
29 and be it

HCS CSSCR 36(Fin)

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

8 FURTHER RESOLVED that one member appointed from the House of Represen-
9 tatives be from the membership of the House Finance Committee and one
10 member appointed from the Senate be from the membership of the Senate
11 Finance Committee; and be it

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

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

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

Section 101

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

POWERS OF THE TERRITORIAL GOVERNMENT

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

FUNCTIONS OF COURTS

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

EFFECTIVE DATE

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

TITLE II—GRANTS

SPECIAL GRANTS TO ALASKA FOR MENTAL HEALTH

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

58 Stat. 691.
42 USC 201 Act 6.

"PART H—GRANTS TO ALASKA FOR MENTAL HEALTH

"GRANTS FOR ALASKA MENTAL HEALTH PROGRAM

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

Appropriations.

Estimated pay-
ments.

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

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

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

"PAYMENTS FOR CONSTRUCTION OF HOSPITAL FACILITIES

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

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

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

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

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

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

Recovery of
value of facility.

LAND GRANT

Sec. 221(a) The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing rights. All lands duly selected by the Territory of Alaska pursuant to this section shall be patented to the Territory by the Secretary of the Interior.

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

(c) All grants made or confirmed under this section shall include mineral deposits: *Provided, however*, That mineral deposits in lands which on January 1, 1956, were subject to public land order numbered 52 of January 22, 1943, shall not be included in said grants, but shall continue to be reserved to the United States.

Mineral deposits.

L. 830: 21000.

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

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

EFFECTIVE DATE

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

TITLE III—TRANSITIONAL AND GENERAL PROVISIONS

AMENDMENTS AND REPEALS

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

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

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

(3) The Act of June 25, 1910 (38 Stat. 852; see 48 U. S. C. 46b);

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

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

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

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

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

STATE OF ALASKA,)	
)	
Appellant/Cross-Appellee,)	File Nos. S-653/678
)	
v.)	<u>O P I N I O N</u>
)	
VERN T. WEISS, et al.,)	
)	
Appellee/Cross-Appellant.)	[No. 2987 - October 4, 1935]
<hr/>		

Appeal from the Superior Court of the State of Alaska, Fourth Judicial District, Fairbanks, Warren W. Taylor, Judge.

Appearances: G. Thomas Koester, Assistant Attorney General, Norman C. Gorsuch, Attorney General, Juneau, for Appellant/Cross-Appellee. Stephen C. Cowper, Fairbanks, for Appellee/Cross-Appellant. Russ Winner, McGrath & Associates, Anchorage, for Amicus Curiae Cook Inlet Region, Inc.

Before: Rabinowitz, Chief Justice, Burke, Matthews and Compton, Justices. [Moore, Justice, not participating]

COMPTON, Justice.

The State of Alaska ("state") appeals from a judgment of the superior court holding that the state breached its duty as trustee of federal mental health grant lands when the legislature redesignated the property as "general grant land." For the reasons set forth below, we

affirm the holding to this extent, but reverse the superior court's conclusion that the redesignation legislation was valid.

I. FACTUAL AND PROCEDURAL BACKGROUND

In 1956 the United States Congress passed the Alaska Mental Health Enabling Act (AMHEA) which, insofar as it concerns this case, granted the Territory of Alaska one million acres of federal land to be held in public trust to help effectuate the creation and operation of mental health care facilities in Alaska. Pub. L. No. 34-830, 70 Stat. 709 (1956). Section 202(e) of the Act specifically provides:

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

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

REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND

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

Ch. 181, § 3(a), SLA (1978).

Alaska has provided continuous mental health care since statehood. The record indicates that between 1959 and 1982 the state spent over \$222,000,000 on mental health care. Generally speaking, there has been a constant increase from 1959 to the present in mental health expenditures: slightly less than \$1,200,000 was expended in 1959, and slightly more than \$29,000,000 was expended in 1982. The record does not indicate how much of the trust land at issue has been disposed of, nor the total value of such disposed land. In the state's answer to the complaint, it alleges that "state expenditures for mental health purposes exceeded revenues from mental health grant lands in all years for which revenues from those lands were tabulated

separately." The record does indicate that as of 1973, total revenues from these mental health trust lands amounted to \$19,555,582. The state's total expenditures to that point amounted to \$66,726,176.

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

The superior court ruled that invalidation of the redesignation legislation was not an available remedy, based on State v. University of Alaska, 624 P.2d 807, 815 (Alaska 1981). However, the court did hold that the state breached its duties as trustee by removing the federal grant lands from the trust. As a remedy, the court ordered that

[t]he public trust established by P. L. 84-830, 70 Stat. 709, shall recover from the defendant State of Alaska an amount equal to the fair market value of all lands conveyed from the trust as of the date of conveyance, plus prejudgment interest from the date of each conveyance. For the purposes of this judgment, all lands remaining in the trust as of July 19, 1978, shall be considered

as having been removed from trust status
by the State of Alaska on that date . . .

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

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

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

A. Nature of the Trust.

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

which establishes that Congress did not wish to limit the use of grant lands exclusively to mental health programs.¹

Despite these observations, we think it irrefutable that Congress intended to create a trust, to be based on a corpus of one million acres of federal land. It is a commonplace of the law that without trust property there can be no trust. Restatement (Second) of Trusts § 74 (1959).² When the state, through the legislature, altered the status of the property grant the trust was thereby effectively terminated. The state, as trustee, had no power to do this

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

We note that the language in the federal grant was changed from designating the proceeds of the land grant to be used as a public trust for Alaska's mental health program, to saying that the proceeds "shall first be applied to meet the necessary expenses of the mental health program" only because of worry among members of Congress that the land may actually have a value far in excess of the necessary health care expenses. The record in this case shows that income from the land grant was actually less than state expenditures for mental health programs.

2. Section 74 provides: "A trust cannot be created unless there is trust property."

and consequently breached its duty to preserve the corpus.³ The fact that the state has provided mental health care in the past and will most likely do so in the future is no justification for termination of the trust. Whether a beneficiary can rely on the bona fides of a trustee to continue voluntarily to uphold the terms of a defunct trust is quite beside the point. We decline the opportunity to encourage the state, or any trustee for that matter, to determine unilaterally when to terminate a trust without specific authority to do so.

B. Remedy.

Having concluded that the state breached the trust, we find it necessary on the facts of this case to invalidate the redesignation statute, Ch. 131, § 3(a), SIA (1978). State v. University of Alaska, 624 P.2d 807, 815 (Alaska 1981) does not compel a different result. In that case, the federal government had granted 100,000 acres to the state "for the exclusive use and benefit" of the

3. Our reliance upon basic trust law principles finds ample support in the precedents of this court and the United States Supreme Court. See Lassen v. Arizona, 385 U.S. 458, 17 L.Ed.2d 515 (1967); State v. University of Alaska, 624 P.2d 807 (Alaska 1981). Both Lassen and University of Alaska involved federal grants to be used by states for school purposes. Those cases stand for the proposition "that the same private trust law principles are to apply to federal land granted to the states for school purposes." University of Alaska, 624 P.2d at 813. There is no reason to treat federal lands granted for mental health purposes differently.

University. Id. at 811. Years after the grant, the state included 5,040 acres of the trust land in a state park. This action was not in itself a breach of the trust so long as the University was paid fair market value for the land. We inferred that the legislature intended to pay the University for this disposition, stating:

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

524 P.2d at 816.

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