

## ALASKA MENTAL HEALTH

which would be eligible, requirements for consideration and land to which the authority would apply.

The passage of this bill would not require additional appropriations. Receipts from national forests would be somewhat increased since leases could be issued for developments which are not undertaken now because of the insecurity of a revocable permit.

The Bureau of the Budget advises that, from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,  
*Acting Secretary.*

## ALASKA MENTAL HEALTH ENABLING ACT

*For text of Act see p. 825*

Senate Report No. 2053, May 25, 1956 [To accompany H.R. 6376]

House Report No. 1399, July 25, 1955 [To accompany H.R. 6376]

Conference Report No. 2735, July 17, 1956 [To accompany H.R. 6376]

The Senate Report and the Conference Report are set out.

### Senate Report No. 2053

THE Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6376) to provide for the hospitalization and care of the mentally ill of Alaska, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The committee held public hearings on the measure, which are available in printed form, and carefully considered all of the views expressed at the hearings and in the many hundreds of written communications received.

Committee action was unanimous.

### PURPOSE AND GENERAL STATEMENT

As passed by the House, H.R. 6376 contained in title I detailed provisions for commitment, hospitalization, and care of the mentally ill of Alaska. The committee amendment, however, strikes all of these controversial provisions from the bill, leaving it up to the people of Alaska to enact their own mental-health program.

In the form reported by the committee, H.R. 6376 would merely—

- (1) Vest in the people of Alaska responsibility in the field of mental health comparable to that of the several States and the other Territories of the United States; and
- (2) Authorize certain grants-in-aid to the Territory to enable it to assume full financial responsibility for such a program.

The legislation is needed for two reasons:

First, because a Federal statute, section 3 of the act of August 24, 1912 (37 Stat. 512; found in 48 U.S.C. 24), which is the Organic Act of Alaska, specifically prohibits the Territorial legislature from changing the existing law respecting commitment of the insane of Alaska. At present, commit-

## LEGISLATIVE HISTORY

ment is under a Federal law, enacted more than half a century ago, subjecting persons accused of being insane to procedures similar to those of a criminal trial (33 Stat. 619; 48 U.S.C. 47).

Secondly, the legislation is needed to divest the Federal Government of its fiscal and functional responsibility for hospitalization and care of the mentally ill of Alaska. Responsibility for such care now is vested in the Secretary of the Interior in Washington. There are no facilities in Alaska for care of the mentally ill, and for more than 50 years the Secretary has contracted with a private institution in Portland, Oreg., for hospitalization, care, and treatment. Under this procedure, Alaskans adjudicated insane must be sent long distances from their home environment in the Territory to Oregon for hospitalization. This contract between the Secretary of the Interior and the Oregon institution is authorized by the act of February 6, 1909, as amended (48 U.S.C. 46).

All costs of such commitment and care, as well as transportation to and from Portland, are at the expense of the Federal Government. Currently appropriations for such purposes amount to nearly \$1 million a year, the committee is informed.

Under H.R. 6376, the Territory would assume full responsibility for enactment of commitment, hospitalization, and care procedures, and gradually assume full responsibility for all costs, except for the limited grants-in-aid provided in the measure.

### THE COMMITTEE AMENDMENT

The committee's substitute, with certain clarifying changes, is the amendment proposed originally by Senator Barry Goldwater, of Arizona. The text of the amendment is set forth in full in the appendix. As stated, H.R. 6376 as it came from the House contained detailed commitment, hospitalization, and care provisions to replace the present procedures which were described in the Senate hearings by technical experts as "barbaric." (See testimony of Dr. Winfred Overholser, Superintendent of St. Elizabeths Hospital, Washington, p. 98 of hearings on H.R. 6376 and related bills, Senate Interior Committee, 84th Cong.)

The proposed new procedures were patterned after the Draft Act Governing Hospitalization of the Mentally Ill, published by the United States Public Health Service. The text of this draft act is set forth in the appendix to the hearings, beginning at page 289. The language of the House bill was carefully worked out to meet conditions in Alaska after extensive hearings by the House Territories Subcommittee in Alaska and in Portland, Oreg., where the mentally ill of Alaska presently are hospitalized, and in Washington, D. C.

The provisions of H.R. 6376 were approved by technical experts in the Department of Health, Education, and Welfare, and by the Alaskan public health authorities. They also were approved by the leading private organizations qualified to express technical opinions, such as the American Medical Association, the American Psychiatric Association, and the National Association for Mental Health. The House-passed bill also had the approval of the Department of the Interior, which has general administrative responsibility for Alaska, and that of the Bureau of the Budget, which speaks generally for the administration.

## ALASKA MENTAL HEALTH

Highly significant to the committee was the all but unanimous endorsement of the people of Alaska, including the Alaska Territorial Medical Association, the Alaska Hospital Association, and a large number of other organizations and private citizens. Only one resident of Alaska is on record with the Committee as opposing the provisions.

Under the House bill, the Territorial Legislature of Alaska could have annulled or amended any of the sections relative to commitment, hospitalization, and care at any time.

However, the proposed provisions were misunderstood by many persons in parts of the country other than Alaska. Partly as a result of this misunderstanding, but more because the members of the committee are convinced that the people of Alaska are fully capable of drafting their own laws for a mental health program for Alaska, the committee concluded that authority should be vested in them in this field comparable to that of the States and other Territories.

Hence, Senator Goldwater's amendment was adopted, the substance of which is the striking of the commitment procedures in title I of the House bill. In so doing, the committee wishes to go on record as stating emphatically that its action is in no way a repudiation or disapproval of the provisions approved by the House of Representatives and endorsed by such a large number of qualified experts.

### THE GRANTS-IN-AID PROVISION

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

(1) \$6½ million is authorized to be appropriated for construction of mental health facilities in Alaska. At present, there are none of any kind. Persons "convicted" by the mandatory jury trial are held in jail until arrangements can be made for transporting them away from Alaska to the private institution in Oregon.

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

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

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

## LEGISLATIVE HISTORY

### THE LAND GRANT

Perhaps no provision of H.R. 6376 has been more widely misunderstood than the facts and circumstances of this land grant.

The Territory of Alaska comprises some 375 million acres. More than 99 percent of this vast area is now owned by the Federal Government. The resources of by far the greater part are wholly undeveloped, and now are of no benefit to either the people of the Territory or to the Federal Government.

Even when the Territory has exercised its right of selection to the full million acres, the Federal Government still will own approximately 99 percent of Alaska. It is hoped that the local government may be able to devise policies and take action that will lead to getting at least a part of the area granted by H.R. 6376 on the tax rolls, and to the development of its natural resources for the direct benefit of the people of Alaska and indirectly for that of all of the people of the United States.

Public land grants for public purposes in the Territory of the United States are, of course, older than the Constitution itself, dating from at least the Northwest Ordinance of the Continental Congress in 1787. (See 1 Stat. 50, 51.) In all of the public land States of the West the Federal Government has made grants of the public lands in order to provide funds for schools or other public purposes. In five States, namely, Idaho, Oklahoma, South Dakota, Utah, and Wyoming, grants of public lands have been made specifically to provide means for the care of the insane. (See p. 182 of the hearings.)

#### "Siberia, U. S. A."

A number of persons communicating with the committee expressed the fear that this million-acre land grant would be used for a Siberia-like concentration camp in Alaska, to which political opponents of those in power in the several States and the Federal Government would be sent. The bill affords no reasonable basis for this fear, which was based on a complete misunderstanding of a section of the House measure that has been stricken by the committee amendment.

While there is nothing in the bill to prevent the construction of a mental hospital on a fractional part of the lands granted to the Territory, the committee points out that such hospitals usually are built near centers of population where other facilities are available, and where patients are accessible to their families and friends. Therefore, it is unlikely that any part of the grant will itself be used for physical facilities for the mentally ill of Alaska.

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

### SECTIONAL ANALYSIS OF THE BILL AS AMENDED

#### Title I

Section 101 vests authority in the Territory of Alaska comparable in scope to that of the States and other Territories in the field of mental

## ALASKA MENTAL HEALTH

health, and authorizes the Territory to enact legislation to supersede the existing Federal law governing commitment and care of the insane of Alaska. As above explained, the Territory is now prohibited from changing the present archaic commitment procedures. Section 101 would sweep aside this prohibition and remove any other possible uncertainties as to Alaska's right to deal with its own mental-health problem.

In view of some of the fears expressed at the hearings with respect to the provisions of the bill as passed by the House, it should be emphasized that Alaska is an incorporated Territory, and that the Constitution of the United States is in full force and effect there. The territorial legislature would have no power to enact any law that in any way violated the constitutional rights of any person, in Alaska or outside of it.

As is the case with all of the other Territories of the United States, under the Constitution inherent power remains in Congress to set aside any act of the territorial legislature, which was created by Congress.

Section 102 authorizes the legislature to confer upon the United States commissioners, as ex officio probate judges, and upon the United States district court such jurisdiction, functions, and duties as may be necessary for them to exercise in carrying out the mental-health program. Because the court was created by act of Congress, and because the commissioners are, technically, Federal officers, section 102 is designed to remove any doubt that Alaska's authority under section 101 will permit their utilization. Since there are only 4 Federal judges in the 550,000-odd square miles of the Territory, it will be necessary for the 15 commissioners to have certain judicial powers in the administration of the program. Under present law, the commissioners now serve as judges in the compulsory jury-trial commitment proceedings.

Section 103 provides that title I shall become effective on the date of enactment of the act.

### **Title II**

Section 201 would amend the Public Health Service Act (42 U.S.C., chapter 6A) by adding to title III of such act a new part, part H, to authorize the money grants discussed above. Section 371 of the new part H of title III of the Public Health Act would authorize appropriations for grants aggregating \$6 million over a 10-year period, to assist in the support of a comprehensive mental health program for the Territory. In order for the Territory to obtain any part of these funds, the Surgeon General of the United States would first have to approve plans submitted by the Territory for a mental health program, including outpatient and inpatient care.

As previously pointed out, these grants would be on a descending scale over a 10-year period. After 10 years, the Territory would have full financial as well as legal responsibility for its mental health program.

Since Alaska has been prevented from developing its own mental health program over the years, the committee is of the opinion that it would be inequitable to require the Territory to assume immediate financial responsibility for the present Federal program—a program in the making of which the people of Alaska had no voice. Furthermore, with Federal expenditures now approximating \$1 million a year for the care of the Alaska insane, the proposed formula would result in a net savings to the Federal

## LEGISLATIVE HISTORY

Treasury in 13 years, even if the present patient load were not to increase with the steady increase in population.

The Surgeon General is charged with responsibility for verifying compliance of the Territory under the approved plan. Balances unobligated at the end of the 10-year period shall be repaid to the United States.

Section 371(a) of the amendment to the Public Health Service Act would authorize the Surgeon General to arrange with the Territory, on a reimbursement basis, for treatment and care of patients under the Alaska program in Public Health Service facilities, if such facilities are available.

Section 372 of the new part H addition to title III of the Public Health Service Act would authorize the appropriation of an aggregate of \$6½ million in grants to aid the Territory in construction of hospital and other facilities in Alaska for carrying out its mental-health program. All such construction projects must be approved by the Surgeon General, who is charged with inspection responsibility.

Section 202 of H.R. 6376 is the land-grant section, giving the Territory the right to select, within 10 years from the date of enactment of the act, a million acres of public lands that are "vacant, unappropriated, and unreserved." National forest lands in Alaska, not being in the vacant, unappropriated, unreserved category, would not be subject to such selection. Neither, for example, would the oil and gas lands now withdrawn by Naval Petroleum Reserve No. 4.

When Federal reservations of public lands are revoked, the Territory would have a 90-day period in which to exercise its right of selection before the order of revocation otherwise becomes effective.

Mineral deposits in the lands selected go with the surface of the lands to the Territory.

Subsection (e) of section 202 provides that the income or proceeds from the lands selected shall be administered as a public trust, to be first applied to meet the necessary expenses of the mental-health program of Alaska.

Section 203 provides that title II also shall become effective on the effective date of the act.

### **Title III**

Section 301(a) lists the Federal laws or parts of laws relating to mental health in Alaska which may be superseded by Territorial laws to be enacted by the legislature and proclaimed by the Governor. These cited laws are to be repealed either at a time specified in the Governor's proclamation as the effective date of the superseding Territorial law, or 210 days after enactment of H.R. 6376, whichever is later.

Subsection (b) makes provision for a possible interim period, in the event the Territorial legislature does not act promptly to pass Territorial legislation, by vesting in the Governor and Territorial Government, beginning with the 210th day after enactment of H.R. 6376, the authority and responsibility now exercised by the Secretary of the Interior and other officers of the Federal Government, with respect to the care of the insane of Alaska.

Section 302(a) deals with the problem presented by the existing contract between the Secretary of the Interior and the Sanitarium Co. of Portland, Oreg., proprietor of Morningside Hospital in which the mentally ill of Alaska now are being treated at Federal expense. The section provides

## ALASKA MENTAL HEALTH

that the Secretary shall, within 30 days after enactment of the bill, either assign the contract to the Governor of Alaska with his concurrence, or terminate the contract in accordance with its terms. Assignment would take effect on the 210th day after the effective date of the act. The existing contract provides for termination upon 6 months' notice.

Subsection (b) provides that the unexpended balances of appropriations available to the Secretary of the Interior for the care of the Alaska insane shall be transferred to the Governor of Alaska on the 210th day after the date of enactment of H.R. 6376 and shall thereafter be available for the administration of the Territorial mental-health laws, or for the administration of the Territory of that part of the present Federal law that will remain in effect, on an interim basis, if the legislature has not acted to supersede it.

Subsection (b) also includes authorization for appropriation of funds to the Secretary of the Interior for the remainder of the fiscal year 1957 for transfer to the Territory if the balance of existing appropriations proves to be less than the amount necessary to care for Alaska's insane for fiscal 1957.

Transportation costs for the Alaska insane to and from Portland, now borne wholly by the Federal Government, have not been segregated from other portions of the applicable appropriation to the United States Department of Justice. As a result, transfer of funds for transportation for the remainder of fiscal 1957 is not feasible. Subsection (c) therefore provides that costs of transporting patients to a hospital outside of Alaska shall continue to be paid by the Department of Justice, which already has the appropriation, until July 1, 1957. There are no mental hospitals or related facilities in Alaska at present.

### HISTORY OF LEGISLATION

Bills to amend the archaic laws for the commitment of the mentally ill of Alaska have been before successive Congresses for some years. In the 83d Congress, H.R. 8009, a measure similar in purpose to H.R. 6376, passed the House and was favorably reported by the Senate Interior Committee after hearings (S.Rept.No. 2486, 83d Cong.). No action was taken on H. R. 8009 by the Senate prior to the adjournment of the 83d Congress.

In the 84th Congress, a number of bills designed to accomplish the purposes of the previous measures were introduced in both the Senate and the House, including one by Delegate E. L. Bartlett, of Alaska. H.R. 6376 was sponsored by Congresswoman Edith Green, of Portland, Oreg., in whose district Morningside Hospital is located.

The provisions of Congresswoman Green's bill are based on draft legislation submitted by the administration in an executive communication.

### CONCLUSION

At the hearings this year, virtually all witnesses who acquainted themselves with the facts concerning conditions in Alaska and the wishes of the people of Alaska agreed that reform was long overdue. In all of the States and all of the other Territories of America, responsibility for commitment and care of the mentally ill is a local matter, carried out under local law.

## LEGISLATIVE HISTORY

The committee is unanimously convinced that the people of Alaska, who have been American citizens for nearly half a century, should be permitted to stand on an equal footing with all other American citizens. Since Alaska would be starting from scratch, so to speak, with a caseload of mental illness equal, proportionately, to the national average, the committee is convinced that the grants-in-aid provided by H.R. 6376 are necessary and are equitable.

### REPORTS OF EXECUTIVE AGENCIES

The attention of the Members of the Senate is directed to the testimony of the Assistant Secretary of the Department of Health, Education, and Welfare, and the Assistant Secretary of the Interior set forth in the hearings. In addition, the following written reports were received on H.R. 6376 and companion measures in the Senate. Also set forth is a report on the Goldwater amendment which was the substitute adopted, in substance, by the committee.

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington 25, D. C., January 3, 1956.

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
United States Senate, Washington 25, D. C.*

MY DEAR MR. CHAIRMAN: This will acknowledge your request of August 11, 1955, for the views of the Bureau of the Budget on S. 2518, a bill to provide for the hospitalization and care of the mentally ill of Alaska, and for other purposes.

This bill would provide for a comprehensive mental health program in Alaska. Responsibility for the administration of the Territory's mental health program would be transferred from the Federal Government to the government of the Territory of Alaska. The new commitment procedures, as set forth in S. 2518, for mentally ill patients in Alaska would represent a major step forward in the care of such patients in that Territory. Special construction grants are provided for various facilities to care for the mentally ill. And lastly, the bill provides financial assistance and land grants by the Federal Government, not only to enable the Territory to establish a comprehensive mental health program, but also to assist it in assuming full financial responsibility for the care and treatment of all the Territory's mentally ill.

The Bureau of the Budget strongly endorses S. 2518, but urges your committee to favorably consider the amendments suggested by the Departments of Interior and Health, Education, and Welfare in their reports to you on this bill. We would like also to suggest for your committee's consideration two additional amendments.

Because the objectives of this bill are to transfer responsibility for care of the mentally ill from the Federal Government to the Territorial government and to enable it to care for its mentally ill patients in Alaska, it appears undesirable to authorize the care of the Territory's mentally ill in continental United States hospitals of the Public Health Service, as provided in section 201 of the bill. Pending the construction of mental health facilities in Alaska, it may be desirable to care for a small number of the Territory's mental patients in the Public Health Service hospitals in Alaska. However, authorizing the government of Alaska to contract with the Public Health Service hospitals in the continental United States would be contrary to the intent of the bill to place the responsibility for care of the mentally ill in Alaska on the Territory and would place the Territory on a different basis from other governmental units since the various States and other Territories cannot contract for the use of Public Health Service hospitals. It is therefore suggested that the bill be amended to restrict



## ALASKA MENTAL HEALTH

the use of Public Health Service hospitals for the care of the Territory's mentally ill to those located in Alaska.

In order to insure that the Territory takes action at an early date to construct facilities in Alaska for the care of its mentally ill, the bill should contain time limits within which the Territory must obligate and expend the Federal construction grants authorized for this purpose in the bill. We, therefore, suggest amending section 201 of the bill to provide that the Federal construction payments be appropriated within a 10-year period, and remain available an additional 5 years for expenditure.

I am authorized to advise you that subject to consideration of the suggested amendments, S. 2518 would be in accord with the program of the President.

Sincerely yours,

(Signed) PERCY RAPPAPORT,  
*Assistant Director.*

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UNITED STATES DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington 25, D. C., January 9, 1956.*

Hon. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
United States Senate, Washington 25, D. C.*

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

I strongly recommend that S. 2518 be enacted.

S. 2518 would achieve three results which the Department strongly supports. It would, first, modernize procedures for the commitment and hospitalization of the mentally ill of Alaska. It would, secondly, transfer administrative and basic fiscal responsibility for the program to the Territorial government of Alaska. Finally, it would provide Federal financial aid to the Territory to assist Alaska in supporting an adequate program for the mentally ill.

As you know, the Department of the Interior has for over 50 years been engaged in the administration of certain laws pertaining to the mentally ill of Alaska. Although the commitment, care, and treatment of the mentally ill of the Territories is generally regarded as an inherent responsibility of the respective territorial governments, and although this responsibility has in fact been assumed by most such governments, it has not been assumed by the Territory of Alaska. Responsibility was initially assumed by the Federal Government because of the Territory's special circumstances at the turn of the century, and this function has continued as a Federal responsibility largely because of Alaska's limited financial resources. The Congress has specifically denied to the Territorial legislature authority to amend or repeal the existing Federal law pertaining to the commitment of the mentally ill (48 U.S.C., sec. 24). Alaskans have consequently been committed to a mental institution pursuant to a Federal statute (48 U.S.C., sec. 47), and they have been cared for and treated in a private hospital under contract with this Department (48 U.S.C., sec. 46). The Federal Government has borne the total cost of their commitment, transportation, care, and treatment.

This Department has long been concerned with the shortcomings of this program, particularly with regard to the commitment procedure which was established in 1905 and which has not since been modified. We have vigorously supported legislation to modernize this procedure, but such legislation has thus far failed of enactment. We are glad to have the opportunity again to endorse modern hospitalization procedures, such as those contained in title I of S. 2518. Title I of the bill appears in large part to parallel closely the provisions of the draft act governing the hospitalization of the mentally ill, which was prepared by the Public Health Service.

## LEGISLATIVE HISTORY

This Department also applauds the provisions of title I which would have the effect of transferring to the Territory responsibility for the administration of the Territory's mental health program, including the hospitalization of the mentally ill. Such a transfer is consistent with the current pattern, under which the States and Territories, rather than the Federal Government are responsible for the mentally ill.

S. 2518 also recognizes, however, that a transfer of such responsibility would place upon the Territorial government of Alaska a very sizable financial burden. In order, therefore, to assist the Territory in assuming responsibility for the hospitalization and care of the mentally ill, S. 2518 provides three kinds of Federal assistance. Under section 201 of the bill, the Surgeon General of the Public Health Service would be authorized to make special grants over a period of 10 years to the Territory for the development of a mental health program. For the first 2 fiscal years, the grants would total \$1 million annually, and they would decrease at the rate of \$200,000 every second year until terminated at the end of 10 years. Section 201 would also authorize the appropriation of a total of \$6,500,000, to remain available until expended, to enable the Surgeon General to make payments to the Territory to be used in the construction of facilities for the care and treatment of the mentally ill.

Section 202 of title II would authorize the Territory to select 1 million acres of vacant, unappropriated, and unreserved public lands of the United States in Alaska, such selections to include mineral deposits. The Territory would be required to make selections within a period of 10 years from the effective date of the bill. The revenues obtained from this land grant shall materially assist the Territory in assuming full financial responsibility for the care and treatment of the mentally ill.

Title III of S. 2518 contains certain provisions relating to the repeal of existing laws, the disposition to be made of the current contract for the care of the mentally ill of Alaska, the transfer of appropriations, and the effective date of the legislation.

I should like, however, to suggest certain amendments for your committee's consideration. As you perhaps know, S. 2518 closely parallels H.R. 6376, which was in turn, when introduced, the bill proposed by this Department, in cooperation with the Department of Health, Education, and Welfare. H.R. 6376 was, however, amended by the House Committee on Interior and Insular Affairs, and S. 2518 carries the amendments recommended by that committee. Three of those amendments we regard as particularly undesirable, and I should like to suggest that your committee give consideration to the modification of S. 2518 in regard to them.

First, section 108 of the bill has been amended to provide for the use of juries in the judicial procedure for hospitalization. The use of a jury would not be mandatory, and to that extent the procedure would constitute a considerable improvement over that now required in Alaska by the act of January 27, 1905 (48 U.S.C., sec. 47). But we believe that the jury system is an undesirable method for determining mental illness, and we consequently believe that S. 2518 would be improved if the jury provisions were deleted. The adoption of our first proposed amendment, which is attached, would achieve that result.

Secondly, the section of this Department's proposed bill providing criminal penalties for unwarranted hospitalization or for the denial of rights has been deleted. We regard this provision as one of considerable importance, for it implements one of the primary purposes of the legislation, namely, the protection of individuals from wrongful confinement and from the deprivation of rights granted them by the bill. We therefore suggest that the criminal penalty provision be restored to the bill, a result which would be accomplished by the adoption of our second proposed amendment. Should your committee not adopt this amendment, you will wish to amend the table of contents on page 2 by deleting the reference to section 128 and the title thereof and by changing the section numbers 129 and 130 on that page to 128 and 129, respectively. The numbering of the sections within S. 2518 would, if our second amendment is not

## ALASKA MENTAL HEALTH

adopted, then correspond to the suggested renumbering in the table of contents.

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

The bill contains a typographical error on page 33, line 8. The title of the Public Health Service Act to be amended is title III, rather than title II.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

WESLEY A. D'EWART,  
*Assistant Secretary of the Interior.*

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
*January 12, 1956.*

Hon. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of August 11, 1955, for a report on S. 2518, a bill to provide for the hospitalization and care of the mentally ill of Alaska, and for other purposes.

This bill—to be known as the Alaska Mental Health Act—is identical with H.R. 6376, in the form in which that bill was reported to the House (H.Rept. 1399). Subject to certain committee amendments shown in the House report, it incorporates proposals made jointly by the Department of the Interior and this Department to accomplish and facilitate the transfer from the Federal Government to the Territory of Alaska of basic responsibility for the hospitalization and care of the mentally ill of Alaska.

We believe that the objectives and, in the main, the specific features of the bill are sound and desirable, and recommend its enactment. For the committee's consideration, however, we propose the amendments discussed below.

As you know, this legislation has had a long history, beginning with the introduction of a number of bills and legislative action short of enactment during the 81st, 82d, and 84th Congresses, and culminating in the present bill. The history and principal features of the present bill, except as modified by the House committee amendments in certain particulars, are summarized in the Interior Department's reports of April 1, and May 17, 1955 (in connection with H.R. 610 and H.R. 3991), with which this Department fully concurred, and which are reprinted in House Report 1399 (pp. 8-14).

This bill would (a) transfer to the Territory the responsibility for the administration of the Alaska mental health program including the hospitalization of the mentally ill; (b) modernize procedures for the hospitalization of the mentally ill in Alaska; (c) provide a special grant-in-aid to

## LEGISLATIVE HISTORY

Alaska to aid in the establishment and maintenance of a comprehensive mental health program including hospitalization; (d) authorize appropriations totaling \$6,500,000 to enable the Public Health Service to make special construction grants to the Territory for the construction of facilities for the care and treatment of the mentally ill; and (e) make a grant of land to the Territory of not to exceed 1 million acres to enable the Territory to gradually assume full financial responsibility for the care and treatment of the mentally ill of Alaska.

Upon the effective date of the bill, the basic responsibility and authority for the hospitalization, care, and treatment of the mentally ill of Alaska would be transferred to the Territory. Whatever may have been the justification for placement of this responsibility in the Federal Government, its continuation is inconsistent with home rule for the Territory and has long been an anachronism. Although this Department provides some financial aid through grant programs in support of the outpatient and community mental health programs of the various States and Territories, the administration and supervision of these programs remain with the States and Territories. Therefore, we endorse the provision of the bill which transfers to the Territory the same responsibility with regard to the mentally ill of Alaska as is now possessed by the other States and Territories.

Like earlier legislation, the present bill would establish a modernized procedure for the hospitalization of the mentally ill of Alaska, which is patterned in general after the provisions of the draft act for the hospitalization of the mentally ill prepared by the Public Health Service, but with certain modifications to take account of Alaskan conditions. We are thoroughly in accord with the objectives of this feature of the bill, and with the provision which would authorize the Territory to modify or supersede these provisions in the future, in consonance with the transfer of basic program responsibility to the Territory. There are however, some aspects of the hospitalization provisions of the bill which, we believe, should be changed in the interest of the mentally ill.

(a) Section 108, relating to judicial commitment of the mentally ill, departs from modern mental health commitment practices by providing for a jury trial (before a six-member jury) upon request of the proposed patient, his counsel, or any member of his immediate family. While this is an improvement over the provisions of existing Territorial law (48 U.S.C. 47) which would make a jury trial mandatory, we believe that a jury trial in judicial commitment proceedings is not consonant with the best modern practice and is likely to be harmful to the patient rather than protective of his interests. In the first place, though a commitment proceeding is civil in nature, such a proceeding, when cast in the atmosphere of a jury trial, is somehow associated in the minds of many with criminal proceedings. This may be due in major part to the history of commitment of the mentally ill. It would be especially true in Alaska, where the present commitment procedure is discredited. In the second place, the formalism necessarily attendant upon a jury trial is likely to be far more disturbing to the patient than a nonjury proceeding, and thus more harmful to his mental health. Finally, as said in the commentary accompanying the Public Health Service's draft act, "Equally important is the consideration that the jury is a questionable instrument for evaluating the preeminently medical ingredients of a determination in this field." These considerations are not overcome by the fact that a jury trial would be ordered only if requested. Under the bill, neither the patient's nor his counsel's consent would be necessary if a member of his family requests a jury trial. We, therefore, suggest deletion of the provisions relating to a jury trial. (Enclosed is a list of the relevant provisions.)

(b) We also believe that there should be inserted in the bill a provision, originally in the House version, but deleted in committee, which would penalize a person who willfully causes, or conspires with or assists another person to cause, either the unwarranted hospitalization of an individual under the act or the denial to an individual of any rights accorded to him under the act. (Appropriate language to accomplish this

## ALASKA MENTAL HEALTH

is enclosed.) We believe that such a provision is desirable in order to fortify with appropriate sanctions two principal objectives of the hospitalization procedure; namely, the protection of persons from wrongful confinement and the protection of the mentally ill against improper treatment while in the hospital.

In order to assist the Territory, on a transitional basis, in establishing and maintaining the services which are essential to an integrated and comprehensive mental health program (including preventive services and outpatient care, as well as hospitalization), the bill would provide for special annual grants to the Territory on a descending scale over a 10-year period, beginning with \$1 million for each of the first 2 fiscal years and decreasing at the rate of \$200,000 every second year. These grants would be made by the Surgeon General of the Public Health Service, on the basis of a plan submitted by the Governor or his designee and approved by the Surgeon General.

It is estimated that at the outset these grants would exceed by about \$100,000 the annual current appropriation for the hospitalization and transportation of committed patients from Alaska. However, such a grant would enable the Territory to establish a comprehensive mental health program, including and stressing preventive and outpatient services, and would in the long run reduce the number of hospitalized patients—both because the fiscal incentive for hospitalization (caused by earmarking of Federal funds therefor) would be removed and because outpatient methods of treatment as well as additional methods of prevention would be made available and encouraged. These grants, of course, should not diminish the other grants-in-aid under the Public Health Service Act (including a very small amount for mental health) otherwise available to the Territory.

Section 201 of the bill would add to the Public Health Service Act, section 372. This would authorize appropriations not exceeding a total of \$6½ million to enable the Public Health Service to make special construction grants to the Territory for the construction of facilities for the treatment of the mentally ill and is of particular significance to the development of a realistic mental health program for Alaska and assumption by the Territory of responsibility for the care of its mentally ill.

At present, there are no mental-health facilities to speak of in the Territory. Patients must be transported by air thousands of miles to a hospital in Oregon causing them to be separated for long periods of time from their family and friends. Even under the best of circumstances, the Territory will have to depend upon contract care for hospitalized patients for some time, and the bill so authorizes. However, the making of construction grants to the Territory would help solve this problem by enabling the Territory to construct a number of facilities especially designed to provide the type of inpatient and outpatient care needed by the mentally ill of Alaska.

The House bill (H.R. 6376) as originally introduced provided for a land grant of 500,000 acres to the Territory in order further to assist the Territory in assuming full financial responsibility for the care and treatment of the mentally ill on a permanent basis. S. 2518, as well as H.R. 6376 as amended in committee, would double the quantity of land to be used for this purpose and would earmark the grant for the hospitalization and care of the mentally ill in Alaska. We are in accord with the concept of a land grant to provide long-range means of defraying a substantial portion of the cost of a permanent program. We defer, however, to the Secretary of the Interior on the question whether, under the conditions prevailing in Alaska, earmarking of the grant would be desirable, and on the question of the amount of land that would provide an adequate grant in the circumstances.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

[Signed] M. B. FOLSOM, *Secretary*.

## LEGISLATIVE HISTORY

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D. C., February 17, 1956.

Hon. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This will acknowledge your request of February 6, 1956, for the views of the Bureau of the Budget on S. 2973, a bill to provide for the hospitalization and care of the mentally ill of Alaska, and for other purposes.

S. 2973 is substantially the same as S. 2518 on which the Bureau of the Budget reported to your committee on January 3, 1956. The views expressed in our report on S. 2518 are also applicable to S. 2973.

The major difference between the two bills is found in section 202 (e). S. 2518 provides for the complete earmarking of funds that are derived from the Federal land grants for the hospitalization and care of the mentally ill of Alaska. S. 2973 would permit these funds to be used in a less restrictive manner than that required by S. 2518. The Bureau of the Budget recommends the deletion of the provision relating to earmarking of funds for the reasons stated in the report of the Department of the Interior on S. 2518.

I am authorized to advise you that subject to consideration of the above comments and the amendments suggested in our report of January 3, 1956, the enactment of S. 2518 or S. 2973 would be in accord with the program of the President.

Sincerely yours,

(Signed) PERCY RAPPAPORT,  
*Assistant Director.*

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
February 20, 1956.

Hon. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request of February 6, 1956, for a report on S. 2973, a bill to provide for the hospitalization and care of the mentally ill of Alaska, and for other purposes.

This bill—except for the earmarking provision in subsection 202 (e), relating to a land grant (and except for the correction of some typographical errors)—is identical with H.R. 6376 which, having passed the House, is now pending before your committee, and with S. 2518, also pending before your committee, on which we reported to you in our letter of January 12, 1956.

The provisions of these bills embody, with certain modifications, proposals made jointly by this Department and the Department of the Interior, on the subject of the hospitalization and care of the mentally ill of Alaska and of a comprehensive Alaska mental-health program. We urge its enactment, but in that connection suggest consideration of the amendments proposed in our report on S. 2518, and also invite attention to the amendments proposed by the Department of the Interior and by the Bureau of the Budget in their reports on that bill, which would be agreeable to us.

There are, however, two additional matters to which we should like to invite attention.

1. We recommend that, in view of the lapse of time since the drafting and initial introduction of this legislation, the bills be amended to postpone for 1 year each of the authorizations for transitional support grants provided for in subsection 201, and, similarly, to defer for 1 year the termination date for the payment of patients' transportation expenses to a stateside hospital by the Justice Department. (This would be accomplished, (a) by striking out—in the sentence beginning on page 33, line

## ALASKA MENTAL HEALTH

22, and ending on page 34, line 4—the figures “1957”, “1958”, “1959”, “1960”, “1961”, “1962”, “1963”, “1964”, “1965”, and “1966”, and by inserting in lieu thereof, respectively, the figures “1958”, “1959”, “1960”, “1961”, “1962”, “1963”, “1964”, “1965”, “1966”, and “1957”; and (b) by striking out “1956” in subsection 302 (c) and inserting in lieu thereof “1957”.)

In the absence of these postponements, the 210-day deferred effective date of the legislation (subsec. 304) would come substantially later than the dates now fixed in the bills for the commencement of support grants and for the shift, to the Territory, of financial support for the transportation of patients to a hospital outside Alaska. The above-suggested postponements on the other hand should allow adequate time to the Territory to plan and prepare for ushering in the comprehensive mental-health program for the Territory envisioned by the bills. These postponements would not interfere with the operation of the 210-day effective-date provision with respect to other parts of the bill, such as the modernized hospitalization procedures and the assumption of basic and administrative responsibility by the Territory in this connection. The Department of the Interior will continue to carry responsibility for the hospitalization program until the legislation becomes effective, at which time the bill would transfer to the Governor any unexpended balances of appropriations available to the Interior Department for the care of the Alaska insane. The Justice Department, if our suggested postponement is adopted, would until July 1, 1957, continue to pay the expenses for the transportation of any patients that are sent from Alaska to a hospital outside the Territory.

2. As stated in our report on S. 2518, we defer to the views of the Secretary of the Interior on the question whether, under the conditions prevailing in Alaska, earmarking of the land grant would be desirable. If the Congress, in enacting the proposed legislation, deletes the earmarking provisions of the measure, no further question in this connection need be raised. If, however, your committee should decide to provide for some earmarking, and if our understanding of the differences in the provisions of the three bills is correct, we would prefer the version of S. 2973 which not only makes provision for the contingency that the land grant might turn out to be more than necessary to meet the expenses of the mental-health program in Alaska but also seems to permit the proceeds of the lands themselves to be currently expended for the program (or, in the event of a surplus, for other public purposes).

In addition, we would suggest that in the event of adoption of an earmarking provision, it be made explicit (in the legislation or at least committee report) that the income and proceeds of the land grant may be used for the purposes of the entire mental-health program for the Territory (not merely the hospitalization and care of the mentally ill), as envisioned by the provisions on page 33, lines 18–21, of the bills.

Subject to your committee's consideration of the suggestions and recommendations made and referred to above, we urge enactment of one of the bills as essential to the establishment of a modern mental health program in Alaska and of more enlightened procedures for the hospitalization and care of the mentally ill than those now provided for in the law, and further in order to transfer the basic program responsibility and the responsibility of the administration of the program to the Territory where it belongs, with such Federal assistance as is necessary to enable the Territory to assume this responsibility.

For the convenience of the committee, we enclose a copy of our report on S. 2518. (In the enclosed copy a typographical error in technical amendment 3.d. has been corrected. Also, technical amendments 3.b, c., and d. are not required for S. 2973 or for H.R. 6376.)

We are advised by the Bureau of the Budget that, subject to your committee's consideration of the above suggested amendments and of the amendments submitted by the Department of the Interior and the Bureau

## LEGISLATIVE HISTORY

of the Budget, enactment of the measure would be in accord with the program of the President.

Sincerely yours,

(Signed) M. B. FOLSOM, *Secretary*.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
March 1, 1956.

HON. HENRY M. JACKSON,  
*Chairman, Subcommittee on Territories and Insular Affairs,  
Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: At the hearings before your subcommittee on H.R. 6376 and other measures relating to a mental health program for Alaska, a number of questions were raised concerning the procedures provided by title I for the hospitalization of the mentally ill.

These procedures were not outlined in detail either in Secretary Folsom's letters of January 12 and February 20 to Senator Murray or in the testimony presented by representatives of this Department in the hearings before the subcommittee. The enclosed statement has therefore been prepared to correct this omission and particularly to cover those aspects of title I concerning which questions were raised during the course of the hearing. I hope that it may prove helpful to the committee and that both the statement and this letter may be made a part of the record.

Statutes which, like title I, set out complete procedures with respect to hospitalization of the mentally ill are necessarily fairly complex. They must provide for all individuals, including those who may not be in a condition to make responsible decisions for themselves, protection against unwarranted limitations upon their personal liberty. They must also provide for the mentally ill ready access to medical care needed to restore them, wherever possible and as speedily as possible, to normal health and activity. H.R. 6376 has been carefully drawn with a view to both these objectives. While all its provisions should be considered closely, I wish to correct certain assertions made by witnesses with reference to specific provisions of the bill which reflected a careless reading of the text or unfamiliarity with provisions commonly found in statutes of this type.

Commitment under this bill, for an indefinite period or for a temporary observational period, may be made only by order of the United States commissioner following judicial procedure provided in section 108. (In Alaska the United States commissioners now conduct commitment proceedings and order commitments (48 U.S.C. 47).) Notice and opportunity to appear at the hearing must be given to the proposed patient in all cases (subsec. (f)). The provision for omission of notice to the patient, if the commissioner has reason to believe that notice would be injurious to the patient, applies only at the time the application is first filed (subsec. (b)) and before the medical examiners make their report, a report which may cause the application to be dismissed (subsec. (e)). The object is, of course, to spare the individual the needless (and possibly very damaging) shock of a notice of judicial proceeding which may never reach the hearing phase because the medical examiners' report finds the individual is not mentally ill.

Aside from judicial proceedings under section 108, provision for compulsory hospitalization is limited to emergency situations provided for in section 104 (a) and (b), when in the opinion of the certifying physician the individual is likely to injure himself or others if allowed to remain at liberty, or when a health, welfare, or police officer has reason to believe that the individual is likely to injure himself or others if not immediately restrained pending the medical certification and official endorsement generally required for taking an individual into custody and for applying for emergency admission. The individual so hospitalized must be forthwith discharged from the hospital on his request unless



## ALASKA MENTAL HEALTH

the head of the hospital, within 48 hours of the request, files a certification that in his opinion discharge of the patient would be unsafe to the patient or others. In such case the commissioner may allow postponement of the patient's discharge pending commencement of commitment proceedings but not for more than 5 days or, under special circumstances, 15 days.

Section 103 (b) gives the head of the hospital authority to admit an individual for care and treatment on application by others, accompanied by a certificate of a licensed physician. The physician must certify on the basis of examination not only that the individual is mentally ill but that he is either likely to injure himself or others if allowed to remain at liberty or, being in need of care or treatment in a hospital, lacks sufficient insight or capacity to make responsible application in his own behalf. This is not a commitment provision and authorizes no compulsory taking of the individual unless, in addition, there obtain the circumstances warranting emergency hospitalization under section 104.

Provisions which involve the transfer of patients to or from Alaska were cited at the hearing as threatening the unwarranted removal of residents from the States for compulsory confinement in Alaska. Section 118 (b) of the bill relates to the transfer of patients, for example veterans, who like those originally committed to an agency of the United States pursuant to section 109 (a) are eligible for hospital care or treatment at the expense of an agency of the United States. These provisions parallel closely the language of section 18 of the Uniform Veterans' Guardianship Act which was developed by the National Conference of Commissioners on Uniform Laws and which has been in satisfactory operation for years in most of the States.

Section 119 (a) provides for the transfer of any patient who has been hospitalized by the judicial procedure in Alaska but who is not a resident of Alaska to his State of residence. Subsection (b) provides for the return to Alaska of mentally ill residents of Alaska. Such transfers are made pursuant to reciprocal arrangements. The present law applicable to Alaska (48 U.S.C. 48) likewise provides for such transfers, and similar provisions are found in the laws of most States.

Subsection (c) of section 119, as to which certain speakers at the hearing expressed alarm, is not a transfer provision at all. It authorizes arrangements by which Alaska could reimburse a State for the care and treatment of mentally ill residents of Alaska by the State, or a State could reimburse Alaska for the care and treatment by Alaska of a mentally ill resident of the State. Such arrangements would obviate the need for transfer of the patient in those cases where return to the State of residence (or to Alaska in the case of a resident of Alaska) might be detrimental to the patient. The provision is by no means a vital part of the bill, and we would suggest that in any event its intent be made unmistakably clear by changing the period at the end of the subsection to a comma and adding the following: "when it appears that transfer of the patient as provided in subsections (a) and (b) would not be in the best interest of the patient."

I hope that these examples may serve to dispel some misapprehensions voiced by speakers who appeared in opposition to H.R. 6376. Fuller comment will be found in the detailed statement transmitted herewith. We shall be glad to be of further assistance to the committee in furnishing data or in the drafting of clarifying language where need for such may appear.

Sincerely yours,

ROSWELL B. PERKINS,  
*Assistant Secretary.*

### STATEMENT RE TITLE I, "HOSPITALIZATION OF THE MENTALLY ILL," H.R. 6376

This statement covers particularly those provisions of the bill concerning which questions were raised in the hearings held before the subcom-

## LEGISLATIVE HISTORY

mittee of the Senate Committee on Interior and Insular Affairs February 20 and 21. These may be grouped under the following headings:

- I. The definition of mental illness—inclusion of the mentally retarded and deficient
- II. Procedures for hospitalization
  - Voluntary
  - Compulsory
- III. The rights of patients while hospitalized
  - Right to discharge
  - Other rights
- IV. Provisions relating to the transfer of patients from or to Alaska

### I. THE DEFINITION OF MENTAL ILLNESS—INCLUSION OF THE MENTALLY RETARDED AND DEFICIENT

#### Section 101(i)

The term "mentally ill individual" is defined as meaning: "An individual having a psychiatric or other disease which substantially impairs his mental health or an individual who is mentally defective or mentally retarded."

As will appear from the discussion of the substantive sections of this title, the fact that an individual is determined to be "mentally ill" as defined is not in itself sufficient to authorize his admission to a hospital except upon application made by the individual himself under section 103 (a). The additional factors necessary for hospitalization upon an application made by others are set forth in sections 103 (b), 104, and 108 as will be hereinafter noted.

At the present the mentally defective or mentally retarded in Alaska are hospitalized under the commitment procedure which relates to the "insane." Under this procedure, for example, there are reported to be a number of mentally retarded children who are hospitalized at Morning-side. Since there is no provision in the statutes of Alaska for the hospitalization of the mentally retarded and deficient, where need for institutional treatment is indicated, this group has been included in the statutory definition. Again, however, the fact that an individual is mentally retarded is not ground in itself for hospitalization.

### II. PROCEDURES FOR HOSPITALIZATION

Sections 103, 104, and 108 provide in effect four procedures by which an individual in Alaska may be hospitalized on account of "mental illness" as defined.

#### Section 103(a)

(1) Upon voluntary application by the patient (in the case of a minor under 16, by his guardian). An individual who is mentally ill or has symptoms of mental illness may apply for admission to a hospital and be admitted for observation, diagnosis, care, and treatment. Such application can be made, however, only by an individual "who has sufficient insight or capacity to make responsible application" in his own behalf. In the case of an individual under 16 years of age, the application must be made by the parent or legal guardian.

Such an admission is not in any sense a commitment, and unless the individual becomes dangerous while in the hospital, he must be discharged forthwith upon his request or, in the case of a person under 16, upon the request of his parent or guardian. The only exception to this is a case in which the head of the hospital considers that discharge would be unsafe to the patient or others, which must be certified to the United States commissioner within 48 hours from the request for discharge. In that event, the commissioner may postpone discharge for such period up to 5 days or, in exceptional cases, 15 days, as he may determine to be necessary for commencement of commitment proceedings (sec. 106).

## ALASKA MENTAL HEALTH

Provisions for voluntary hospitalization are now found in the laws of most of the States. The compilation made by the Council of State Governments in 1949 showed 40 States having such provisions at that time.

### Section 103(b)

(2) Admission for care and treatment on application by others. Section 103 (b) provides that an individual may be "admitted for care and treatment" in a hospital upon written application accompanied by a certificate of a licensed physician that the individual in his opinion is mentally ill and because of his illness "either (1) is likely to injure himself or others if allowed to remain at liberty or (2), being in need of care or treatment in a hospital, lacks sufficient insight or capacity to make responsible application" for himself.

This provision is an authorization for admission only and carries with it no authority to apprehend the individual and forcibly remove him to the hospital or to have the hospital detain him against his will after admission, except in the emergency cases, as described under point (3) below.

The provision is designed to facilitate access to medical care when needed for a mentally ill individual without submitting the individual to the shock of judicial procedures. The patient admitted on such an application must be forthwith discharged from the hospital upon his own request or upon the request of an interested party which is defined to include "the legal guardian, spouse, parent or parents, adult children, other close adult relatives, or an interested, responsible adult friend" of the patient (sec. 101 (g)). The only exception provided is the same as for the voluntary patient (sec. 106 (3)).

(3) Emergency hospitalization. Section 104 covers those situations in which it may be necessary to take an individual into custody and transport him to the hospital.

If the certificate issued by a licensed physician under section 103 (b) states a belief that the individual is likely to injure himself or others if allowed to remain at liberty, the certificate may be presented for endorsement by the governor or a United States commissioner and when endorsed it will authorize taking the individual into custody and transporting him to a designated hospital. Upon such endorsement any health, welfare, or police officer or any other person deputized for the purpose by a United States commissioner may exercise this authority. The category of persons who exercise such authority is not listed to police officers. This is in line with the purpose of the bill to take the handling of the sick out of the content of a strictly police action and to avoid unnecessary shock to an already disturbed person.

Section 104 (b) is designed for those more critical situations in which it appears that the individual is mentally ill and because of his illness is likely to injure himself or others if not immediately restrained pending the medical examination or certification or the endorsement provided by subsection (a). Any health, welfare, or police officer may act in such emergency situations but must state in the application for the individual's admission to the hospital the circumstances under which the individual was taken into custody and the reasons for the officer's belief.

However, a patient admitted to a hospital under the above-described emergency procedures cannot, if he or an interested person requests his release, be detained in the hospital unless commitment proceedings are instituted within the time limits prescribed in section 106.

According to the compilation made by the Council of State Governments in 1949, some 30 States had statutory provisions for "emergency commitment without court order." The person authorized to take into custody a mentally ill individual who is dangerous varies from "any person" (State of Washington) to designated officers as, in California, a peace or health officer. The common law, of course, recognizes that any person may take a dangerous insane person into custody and hold him temporarily until he can be safely released, arrested upon legal process, or committed under legal authority.

## LEGISLATIVE HISTORY

### Section 108

(4) Commitment to a hospital. This means compulsory hospitalization upon an order which carries with it the power to hold for an indeterminate or a fixed observational period. Commitment is authorized by this bill only by judicial proceedings before a United States commissioner as provided by section 108.

Orders of commitment made be made only after a hearing of which the proposed patient, as well as other interested parties as determined by the commissioner, must be given notice with opportunity to hear, to testify, to present and cross-examine witnesses. Opportunity to be represented by counsel must be afforded to every proposed patient and if neither he nor other provide counsel, the commissioner must appoint one. These provisions are found in subsection (f) of section 108.

Proceedings for commitment are instituted by the filing of a petition, accompanied by a certificate of a licensed physician stating that he has examined the individual and is of the opinion that he is mentally ill and should be hospitalized. The medical certificate is required unless the applicant files a written statement that the individual has refused to submit to an examination by a licensed physician (subsec. (a)).

Upon the filing of the application, notice is given to the patient, to his legal guardian, if any, and to other interested parties (subsec. (b)). At this stage, however, the commissioner, if he has reason to believe that notice would be likely to be injurious to the proposed patient, may omit the notice to him and proceed to the appointment of 2 designated examiners (or 1 if he finds that 2 are not available) (subsec. (c)). If the examiners report that the proposed patient is not mentally ill, the commissioner is authorized to dismiss the application (subsec. (e)). Otherwise, the date for the hearing is fixed and notice is given to the patient, as indicated above, and to the interested parties, as provided in subsection (f).

The medical examination is held at a medical facility, at the home of the patient, or at any other suitable place not likely to have a harmful effect on his health. A patient cannot be required to submit to examination against his will unless the United States commissioner has given prior notice to the patient and has ordered him to submit to an examination (subsec. (d)).

The United States commissioner may order the individual's hospitalization based upon findings made upon completion of the hearing and consideration of the record. The finding must be not only that the individual is mentally ill but in addition that the individual is either because of his illness likely to injure himself or others if allowed to remain at liberty or is in need of custody, care, or treatment in a hospital, and, because of his illness, lacks sufficient insight or capacity to make responsible decisions concerning hospitalization.

Jury trial is provided for on an optional basis. Any party may appeal from the decision of the commissioner to the district court (sec. 112).

### III. RIGHTS OF PATIENTS WHILE HOSPITALIZED

H.R. 6376 contains a number of provisions to assure the prompt discharge of patients whenever the circumstances warranting either voluntary or emergency hospitalization or judicial commitment have ceased to exist.

### Section 106

Any individual admitted upon his own application, or that of others, including an individual admitted because likely to injure himself or others, "shall be forthwith discharged therefrom upon his request or upon the request in writing by an interested party" (sec. 106(a)). This is conditioned on his own agreement in the case of the patient admitted on his own application or the consent of the parent or guardian if the individual is under 16 years of age. Exception is likewise made if the head of the hospital files with the United States commissioner, within 48 hours after

## ALASKA MENTAL HEALTH

receipt of the request, a certificate that in his opinion discharge of the patient would be unsafe to the patient or others; in such case discharge may be postponed for not over 5 days for the commencement of judicial proceedings (which the commissioner may extend for 15 days if proceedings cannot reasonably be instituted within the shorter period).

### Section 105

The head of the hospital must in any event arrange for examination within 5 days after admission, by a designated examiner of every patient hospitalized upon application by others. The patient must be discharged if the conditions warranting admission are not found.

### Section 107

Every patient, however hospitalized, is entitled to have the need for his hospitalization determined by judicial proceedings on his own petition or that of an interested party.

### Section 111

Habeas corpus is provided.

### Section 123

The head of the hospital must cause the condition of every patient to be reviewed as frequently as practicable, and at least every 6 months, and must discharge the patient whenever the conditions justifying hospitalization no longer obtain. Provision is also made for conditionally releasing improved patients in convalescent status and for the discharge of such patients.

### Section 121

Other provisions provide for the protection of patients while in the hospital, and impose obligations upon the head of the hospital.

### Section 115

Right to humane care and treatment.

### Section 116

Application of mechanical restraints (limitation on).

### Section 117

Right to communicate and visitation; exercise of civil rights.

### Section 120

Contract care outside Alaska. This applies to those situations in which contract care outside of Alaska, as under the present Morningside contract, may still be provided for Alaska patients. Together with section 102 (b), it is designed to assure to individuals hospitalized outside the Territory protective safeguards under the law of the State where the individual is so hospitalized to the extent that such law applies, in addition to the safeguards embodied in the bill.

### Section 127

Disclosure of information. Confidentiality of clinical records, etc.

## IV. PROVISIONS RELATING TO THE TRANSFER OF PATIENTS FROM OR TO ALASKA

Outside of the provision for contract care of Alaska patients outside Alaska (sec. 102 (b)) these provisions relate to two groups.

1. Individuals, such as veterans, who may be entitled to hospitalization at the expense of the United States.
2. Residents of States who become mentally ill in Alaska and residents of Alaska who become mentally ill while in a State.

Sections 109 (a) and (b) and section 118 (b) relate to the first group of persons entitled to care by the United States. They are derived from section 18 of the Uniform Veterans Guardianship Act which was developed by the National Conference of Commissioners on Uniform Laws and which has been in satisfactory operation for years in most of the States.

## LEGISLATIVE HISTORY

The commissioners have commented thus on section 18 of the Uniform Veterans Guardianship Act.

"Those provisions will facilitate the placing of patients in appropriate Federal institutions especially equipped to treat a particular type of mental trouble and save the patient distress and sometimes definite harm incident to a second adjudication experience in the State to which transferred. It will also save substantial expense to the various States, to the Federal Government, and to the patients."

Subsections (a) and (b) of section 119 resemble 48 U.S.C. 48 of the present law applicable to Alaska in that they authorize arrangements by which a patient hospitalized under the judicial procedure in Alaska but who is not a resident of Alaska may be returned to his State of legal residence. A nonresident patient not hospitalized under the judicial procedures may also be returned if the patient or his guardian consents. Also under reciprocal arrangement, residents of Alaska who have been hospitalized in a State may be transferred back to Alaska. Such provisions are commonly found in State laws relating to the mentally ill.

An added provision—subsection (c)—is designed to obviate the need for transfer in situations where the interest of the patient would be better served by allowing his care to be continued in the State where he is, the expense to be reimbursed by the State of legal residence. (Personal liability for the expense of hospitalization is provided for by section 128 (a) which is derived from the present law. 48 U.S.C. 48a.) It is suggested that this provision be amended to make clear that it is to apply only "when it appears that transfer of the patient as provided in subsections (a) and (b) of section 119 would not be in the best interest of the patient."

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
*April 16, 1956.*

HON. BARRY GOLDWATER,  
*United States Senate,  
Washington 25, D. C.*

DEAR SENATOR GOLDWATER: This letter is in response to your request of March 23, 1956, for the Department's comments on a committee print of amendments (in the nature of a substitute) intended to be proposed to H. R. 6376, relating to the hospitalization and care of the mentally ill of Alaska.

The principal change which your proposed amendments would make in the bill would be to delete the hospitalization procedures included in title I, thus leaving in effect the present procedural law relating to the commitment, hospitalization, care, and treatment of the mentally ill of Alaska until the Territorial legislature has availed itself of the opportunity, afforded by the bill, to enact such legislation on the subject as it deems best.

The paramount purpose of the bill, as also of the committee print, is, of course, to effect the transfer of basic responsibility and authority in this field from the Federal Government to the Territory, where responsibility in the mental health field belongs. This—as provided in H.R. 6376—logically includes a grant of unfettered authority to the Territory to legislate in this field. It was considered, however, that if this responsibility was to be suddenly cast on the Territory, fairness demanded that the transfer be accompanied at the outset by a modernized legal base for hospitalization. This consideration is especially pertinent because a restriction in the organic act for the Territory has so far precluded the Territory from improving the present archaic commitment procedures.

The procedures contained in H.R. 6376, with the amendments suggested by us in our report on S. 2518, are consistent with modern concepts for the hospitalization and treatment of the mentally ill. At the same time, we believe, they combine an enlightened concern for the patient's health with full safeguards of his rights. For these reasons, and in view of the

## ALASKA MENTAL HEALTH

widespread desire and support in Alaska for these provisions of the bill, we urge favorable consideration of the hospitalization procedures now included in title I, with the amendments we have recommended.

Your letter indicates that, basically, you share our view of the matter but that, because of opposition to, and misunderstanding of, these provisions evidenced before the committee, you consider it preferable to leave the entire matter of hospitalization procedure to the Territory from the very outset, rather than merely as a matter of future improvement. As we have indicated, we believe that complete transfer of basic responsibility and authority in this field to the Territory (together with the necessary fiscal and other economic aid provisions of the bill) is paramount. Hence, if in the judgment of the committee retention of the hospitalization procedures in the bill would jeopardize its passage, or if, in the event of retention of title I, substantial amendments contrary to the purpose of its key provisions were considered inevitable, we agree that it would be preferable to delete the entire hospitalization procedure and to rely upon the provisions of the bill authorizing the Territorial legislature to adopt desirable laws in this field.

There will be submitted to you separately a staff memorandum and marked-up copy of the committee print suggesting some revisions in the committee print which are believed necessary to carry out your purpose and provide for a smooth and timely transition from the Federal administration of the hospitalization program to administration by the Territory. In addition, the staff memorandum and markup suggest amendments to the committee print so as to make clear beyond doubt that the benefits of the bill could be made available to the mentally retarded and mentally deficient, as well as those who are in a strict sense mentally ill. Otherwise, those unfortunates who are mentally retarded or defective, and who are now as a matter of necessity dealt with under present commitment procedures, might find themselves without access to the benefits of the mental health program envisioned by the bill. For your consideration, the markup of the committee print also embodies the suggestions for amendments to title II submitted in our testimony before the subcommittee and in our report on S. 2973.

Sincerely yours,

ROSWELL B. PERKINS,  
*Assistant Secretary.*

## CONFERENCE REPORT NO. 2735

### STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on amendments of the Senate to the bill (H.R. 6376) to provide for the hospitalization and care of the mentally ill of Alaska, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report.

H.R. 6376, as reported by the House, contained three titles. Title I contained detailed hospitalization and commitment procedures, title II contained the land and monetary grants necessary to implement the act, and title III contained miscellaneous provisions pertaining to the existing contract and appropriation of funds.

H.R. 6376, in title I, as reported by the Senate, gives authority to the Territory of Alaska to enact such laws on the subject of mental health as it may deem appropriate. This action would vest in the people of Alaska re-

## LEGISLATIVE HISTORY

sponsibility in the field of mental health comparable to that of the several States and the other Territories of the United States. In conference, the Senate version of title I was accepted in the anticipation that the Legislature of the Territory of Alaska will act to modify existing commitment, hospitalization, and treatment procedures for Alaska's mentally ill.

Both versions of title II of H.R. 6376 are identical in substance but with a minor change in wording. The House-passed bill provided that the monetary returns realized from the land grants would be administered by the Territory of Alaska as a public trust for the hospitalization and care of the mentally ill in Alaska. The Senate-reported bill specifies that these returns shall be applied to meet the necessary expenses of the mental-health program in Alaska. The managers on the part of the House accepted this Senate amendment which broadens the use of the revenues for use of the Alaska mental-health program rather than for the hospitalization and care of the mentally ill in Alaska.

Title III of H.R. 6376, as reported by the House is considerably different in section 301(b), in wording, but not in context from the Senate-reported bill. The Senate language recognized the desirability of providing a limited transition period between the effective date of the act and the time when the Territory must assume full responsibility for the implementation of the Alaska mental-health program. In recognition of this possibility, and to allow time for the Alaska Legislature to amend existing law governing care and treatment of Alaska insane, the Senate version fixes the mandatory transfer date on the 210th day after enactment of H.R. 6376. The House managers—particularly in view of agreement to delete the commitment provisions—have agreed to this Senate amendment to the House-passed bill.

Section 302(a) of the Senate-passed bill deals with the existing contract between the Secretary of the Interior and the Sanitarium Co. of Portland, Oreg., in which the mentally ill of Alaska are now being treated at Federal expense. This section provided that the Secretary shall, within 30 days after the enactment of the bill, either assign the contract to the Governor of Alaska with his concurrence, or terminate the contract in accordance with its terms. Assignment would take effect on the 210th day after the effective date of the act. The existing contract provides for termination upon 6 months' notice. The conferees amended section 302(a) to extend the time that the Secretary shall assign the contract to the Governor of Alaska or to terminate it from 30 to 210 days. This extension of time will permit the arrangement of the necessary transfer details. Prior to the acceptance of this amendment, letters of approval were obtained from the Department of the Interior and Health, Education, and Welfare. These reports are included as appendixes to this statement of managers.

Section 302(b) of the Senate-reported bill provides that 210 days after the date of the enactment of this act the unexpended balances of appropriations available to the Department of the Interior for the care of the Alaska insane shall be transferred to the Governor of Alaska to be used primarily in the administration of all laws pertaining to the Alaska insane. It also provides that for the remainder of the fiscal year ending June 30, 1957, additional funds are authorized to be appropriated to the Secretary of the Interior for transfer to the Governor of Alaska as are necessary for the



## ALASKA MENTAL HEALTH

care of the Alaska insane. Since the House conferees saw the importance of this amendment in order to be assured that the mentally ill would be properly cared for during fiscal 1957, they agreed to this Senate amendment.

Subsection 302(c) provides that costs of transporting patients to a hospital outside of Alaska shall continue to be paid by the Department of Justice until July 1, 1957. The House conferees agreed to accept subsection 302(c) which provides this transportation.

Finally, the House managers agreed to and accepted the amendment whereby the Senate substituted new language for the title of the bill as follows:

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.

In all other respects the conference committee agreed to the minor changes adopted in the Senate-passed bill.

LEO W. O'BRIEN,  
ED EDMONDSON,  
EDITH GREEN,  
JOHN R. PILLION,

*Managers on the Part of the House.*

## APPENDIX

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
*July 11, 1956.*

HON. HENRY M. JACKSON,  
*Chairman, Territories Subcommittee,  
Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your letter of July 2, 1956, advising us of the conference agreement on H.R. 6376, the Alaska mental health bill, subject to the concurrence of this Department and the Department of the Interior concerning two amendments to section 302 (a) of the bill agreed to by the conferees.

Section 302 (a) of the bill, which would be amended by the conference amendments, relates to the authority of the Secretary of the Interior to assign to the Territory or to terminate the existing contract with Morning-side Hospital for the care and treatment of mental patients committed from Alaska. Inasmuch as this, so far as the Federal Government is concerned, is entrusted solely to the Secretary of the Interior, we would defer to the views of the Interior Department as to the acceptability and workability of the conference amendments. We understand that that Department has no objection to the amendments and we therefore likewise concur.

We are gratified to know that this will make unnecessary another meeting of the conferees and will thus expedite passage of the bill which is very much needed by the people of Alaska.

Time has not permitted us to obtain the advice of the Bureau of the Budget in connection with this report.

Sincerely yours,

M. B. FOLSOM, *Secretary.*

## LEGISLATIVE HISTORY

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D. C., July 12, 1956.

Hon. HENRY M. JACKSON,  
*Chairman, Territories Subcommittee,  
Committee on Interior and Insular Affairs,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR JACKSON: This will reply to your letter of July 2, in which you request the comments of this Department on the proposed action of the conferees with respect to H.R. 6376, the Alaska mental health bill. The conferees have agreed to the Senate amendment, except that section 302 (a), the section which as reported by the committee would have required the Secretary of this Department either to assign or terminate the current hospital contract within 30 days, would be amended to authorize such an assignment or termination within 210 days.

This Department has on objection to the proposed action of the conferees.

Sincerely yours,

WESLEY A. D'EWART,  
*Assistant Secretary of the Interior.*

### FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION—EMBEZZLEMENT AND FRAUD

*For text of Act see p. 831*

Senate Report No. 2730, July 20, 1956 [To accompany H.R. 10111]

House Report No. 2483, June 26, 1956 [To accompany H.R. 10111]

The Senate Report is set out.

#### Senate Report No. 2730

THE Committee on the Judiciary, to which was referred the bill (H.R. 10111) to amend sections 657 and 1006 of title 18 of the United States Code to include within the purview of such sections certain State savings and loan associations, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to bring State-chartered savings and loan institutions whose deposits are insured by the Federal Savings and Loan Insurance Corporation within the protection of section 657 of title 18, United States Code, which provides criminal penalties for embezzlement and other types of defalcation; and within the protection of section 1006 of title 18, United States Code, which provides criminal penalties for the making of false entries and other types of fraudulent or unauthorized conduct.

#### STATEMENT

Section 657 of title 18, United States Code, and section 1006 of title 18, United States Code, apply to persons connected with savings