

January 26, 2021

Senator Bert Stedman
Co-Chair, Senate Finance
State Capitol, Room 518
Juneau, AK 99801

Senator Click Bishop
Co-Chair, Senate Finance
State Capitol, Room 121
Juneau, AK 99801

Sent via email

Dear Senate Finance Co-Chairs,

I am writing to express important concerns with proposed direct appropriations of more than \$16M in Trust Budget Reserves in the Governor's FY22 budgets and FY21 supplemental budget proposals.

As required in statute, the Alaska Mental Health Trust Authority (Trust) submitted a trustee-approved FY22 budget based on Alaska's integrated comprehensive mental health program plan in September 2020. This budget was adopted following extensive stakeholder engagement and board consideration and contained approved spending from the Trust settlement income account, as well as recommendations for general fund (GF/MH) expenditures. State agencies actively participated in this process. For FY22, the board of Trustees appropriated \$16.7M of MHTAAR/MHT Admin and recommended the appropriation of \$12.4M of GF/MH funds and \$8.1M of Other funds for FY22.

Upon review of the Governor's proposed FY22 budgets the Trust discovered the inclusion of \$10.3M from the Mental Health Trust Budget Reserves (fund source code 1268). These funds were not included or approved by the board of trustees in their FY22 budget. This amount includes the proposed use of \$4.3M in Mental Health Trust Budget Reserves to replace specific board of trustee approved FY22 GF/MH budget recommendations, and an additional \$6M of Mental Health Trust Budget Reserves to fund Alaska Psychiatric Institute (API).

In addition to proposed spending of Trust Budget Reserves in the FY22 budgets, the Governor's FY21 supplemental proposal also includes the proposed use of \$6M in Trust Budget Reserves for API. Like the proposed FY22 spending, the Trust was not informed of this prior to release nor have the use of these Trust funds been approved by the board of trustees. Furthermore, OMB documentation

describes the intent to appropriate Mental Health Trust Budget Reserves in future years as well.

These proposals are inadvisable for two primary reasons:

First, the Department of Law has historically defended the Trust as implemented in statute (including the budget process). Counsel advises that an appropriation that departs from the statutory process, as contemplated by the Governor's FY22 budgets and FY21 supplemental, is a likely breach of the State's federal trust responsibilities. The settlement of costly and protracted litigation between the State and Trust beneficiaries in 1994 deliberately insulated trust funds from another breach of the federal trust by assigning primary fiduciary and budgetary responsibility to the independent Alaska Mental Health Trust Authority. The State has adhered to that negotiated and court-approved design for 26 years – since 1994 the State has never appropriated directly from Trust funds. An abrupt, unilateral departure from the statutory process that implements the 1994 settlement upsets the delicate balance among present and future Trust beneficiary interests the Trust Authority was created to find and maintain.

In addition, this action would also throw the Trust's budgeting and financial management systems into disarray and create confusion. If the State withdraws Trust funds without regard to Alaska's integrated comprehensive mental health program and the budget proposed by the Trust, the Trust will be unable to effectively manage its assets. Current Trust policy limits expenditures from the Trust in any given year to ensure that sufficient funds are available to consistently meet the needs of future beneficiaries. This responsibility to both present and future beneficiaries is a core element of the federal trust as reaffirmed by the 1994 settlement, and any unilateral State action that materially alters the balance of interests will ultimately damage rather than improve the State's fiscal condition.

Second, Trust budget reserves are essential to the Trust's mission. The Trust holds budget reserves, amongst its trust assets, in order to improve the lives of current and future Trust beneficiaries. As recommended by the Trust's financial consultants and described in the Trust's Asset Management Policy Statement (AMPS), reserves are necessary "to fulfill funding requirements during market downturns." If the Trust operated without budget reserves, the amount of funds available to support programs, services, and individual Trust beneficiaries would vary widely year to year – challenging planning and budgeting for the Trust, and negatively impacting the many partners we fund, including our MHTAAR funded State partners. Even with the superior investment management performed for the Trust by the Alaska Permanent Fund Corporation (APFC) and the Department of Revenue (DOR) low or negative returns are possible. In nine of the years since the State's trust responsibilities were delegated to the Trust Authority in 1994, low or negative returns would have reduced Trust spending were it not for the Trust's budget reserves.

The Trust carefully manages its budget reserves (which are part of the income from trust assets) as a component of the overall trust. The budget reserves are invested by both the APFC and the DOR. The investment returns from the budget reserves continue to generate income that further enhances the Trust's ability to fund beneficiary programs every year. Any premature use of budget reserves must consider the loss of these anticipated earnings. If or when Trust budget reserves exceed the targets established in the AMPS, our statutes and policies require the Trust to consider inflation-proofing the Mental Health Trust Fund before other spending is considered. An evaluation of potential inflation-proofing is underway and will be considered by trustees before the end of the fiscal year.

Finally, since its inception in 1994, the Trust and the State have worked closely, collaboratively, and successfully to improve the lives of Trust beneficiaries. As evidence of our ability and experience as a funding partner is the \$250M of Trust funds we have authorized for use by state agencies since 1996. Clearly, we are willing and able to provide funds when mutually supported projects are approved through the process spelled out in statute. We look forward to continued collaboration with the State.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael K. Abbott". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael K. Abbott
Chief Executive Officer
Alaska Mental Health Trust Authority

Cc:

Members, Board of Trustees, Alaska Mental Health Trust Authority
Neil Steiniger, Director, Office of Management and Budget
Alexei Painter, Legislative Fiscal Analyst, Legislative Finance Division
Lucinda Mahoney, Commissioner, Department of Revenue
Adam Crum, Commissioner, Department of Health and Social Services
Bev Schoonover, Executive Director, Alaska Mental Health Board/Advisory
Board on Alcoholism and Drug Abuse
Kristin Vandagriff, Executive Director, Governor's Council on Disabilities and
Special Education
Lisa Morely, Executive Director, Alaska Commission on Aging