

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY REPRESENTATIVES BOYER, Gonzales, Moyer

Introduced: 4/8/91

Referred: Resources, Health, Education & Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska Mental Health Trust Authority and defining its powers
2 and duties; relating to the administration of the trust established by the Alaska Mental
3 Health Enabling Act of 1956 and to appropriations made to it, and to a comprehensive
4 service program for the beneficiaries of the trust; abolishing the Interim Mental Health
5 Trust Commission; relating to the Older Alaskans Commission and the Governor's Council
6 for the Handicapped and Gifted; amending the membership and duties of the Advisory
7 Board on Alcoholism and Drug Abuse and the Alaska Mental Health Board; exempting
8 trust property from municipal taxation; amending Alaska Rule of Civil Procedure 82; and
9 providing for an effective date."

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

11 * Section 1. PURPOSE. (a) It is the purpose of this Act to implement the state's obligation as the
12 trustee of the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat.

1 709, by providing a comprehensive service program for the beneficiaries of the trust and by resolving
2 the serious and significant legal questions attending the status of that trust

3 (1) in accordance with the holding in the decision State v. Weiss, 706 P.2d 681 (Alaska
4 1985), and the principles that guided the development and enactment of ch. 48, SLA 1987;

5 (2) in a manner that

6 (A) provides fair compensation to the trust as agreed upon by the parties to the
7 litigation, subject to approval by the court as fair and equitable to the beneficiaries of the trust;

8 (B) provides adequate assurances that the trust will be administered properly and
9 in a way that determines and meets the necessary expenses of a comprehensive service program
10 for the beneficiaries of the trust;

11 (C) assures appropriate expenditures from the trust;

12 (D) establishes an independent trust authority; and

13 (E) is enforceable.

14 (b) It is the further purpose of this Act that the trust serve, at a minimum, the mentally ill, the
15 mentally defective and retarded, chronic alcoholics suffering from psychoses, and senile people who as
16 a result of their senility suffer major mental illness. In using money from the trust, the needs of persons
17 most impaired cannot be sacrificed to provide services to the less impaired. The trust must provide
18 necessary services to persons most impaired as a first priority and to persons less impaired as a second
19 priority.

20 * Sec. 2. AS 09.25.050(a) is amended to read:

21 (a) The uninterrupted adverse notorious possession of real property under color and claim
22 of title for seven years or more is conclusively presumed to give title to the property except as
23 against the state or the United States. For the purpose of this section, land that is included
24 in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956,
25 P.L. 84-830, 70 Stat. 709, is land owned by the state.

26 * Sec. 3. AS 09.50.270 is amended to read:

27 Sec. 09.50.270. PAYMENT OF JUDGMENT AGAINST THE STATE. Except as
28 provided in AS 37.14.019, [NO] attachment or execution may not [SHALL] issue against the
29 state. When a final judgment is rendered against the state in an action, the clerk of the court
30 shall immediately transmit a certified copy of the judgment to the Department of Administration
31 which shall either approve payment of the judgment against the state if a sufficient appropriation

1 exists for payment, or audit the amount and transmit a copy to the legislature with the
2 recommendation that an appropriation be made for its payment.

3 * Sec. 4. AS 29.45.030(a) is amended to read:

4 (a) The following property is exempt from general taxation:

5 (1) municipal, state, or federally owned property, except that a private leasehold,
6 contract, or other interest in the property is taxable to the extent of the interest;

7 (2) household furniture and personal effects of members of a household;

8 (3) property used exclusively for nonprofit religious, charitable, cemetery,
9 hospital, or educational purposes;

10 (4) property of a nonbusiness organization composed entirely of persons with 90
11 days or more of active service in the armed forces of the United States whose conditions of
12 service and separation were other than dishonorable, or the property of an auxiliary of that
13 organization;

14 (5) money on deposit;

15 (6) the real property of certain residents of the state to the extent and subject to
16 the conditions provided in (e) of this section;

17 (7) real property or an interest in real property that is exempt from taxation under
18 43 U.S.C. 1620(d), as amended;

19 (8) land that is incorporated in the corpus of the trust established by the
20 Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.

21 * Sec. 5. AS 36.30.850(b) is amended to read:

22 (b) This chapter applies to every expenditure of state money by the state, acting through
23 an agency, under a contract, except that this chapter does not apply to

24 (1) grants;

25 (2) contracts for professional witnesses to provide for professional services or
26 testimony relating to existing or probable lawsuits in which the state is or may become a party;

27 (3) contracts of the University of Alaska where the work is to be performed
28 substantially by students enrolled in the university;

29 (4) contracts for medical doctors and dentists;

30 (5) acquisitions or disposals of real property or interest in real property, except
31 as provided in AS 36.30.080;

- 1 (6) disposals under AS 38.05;
- 2 (7) contracts for the preparation of ballots under AS 15.15.030;
- 3 (8) acquisitions or disposals of property and other contracts relating to airports
- 4 under AS 02.15.070, 02.15.090, and 02.15.091;
- 5 (9) disposals of obsolete property under AS 19.05.060;
- 6 (10) disposals of obsolete material or equipment under AS 35.20.060;
- 7 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
- 8 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- 9 (12) contracts of the Department of Fish and Game for flights that involve
- 10 specialized flying and piloting skills and are not point-to-point;
- 11 (13) purchases of income-producing assets for the state treasury or a public
- 12 corporation of the state;
- 13 (14) operation of the state boarding school established under AS 14.16, if the
- 14 State Board of Education or the commissioner of education adopts regulations for use by the state
- 15 boarding school in procurement and contracting;
- 16 (15) a contract that is a delegation, in whole or in part, of investment powers held
- 17 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
- 18 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
- 19 AS 39.35.080;
- 20 (16) a contract that is a delegation, in whole or in part, of investment powers of
- 21 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
- 22 under AS 37.13;
- 23 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
- 24 37.14.099;
- 25 (17) the purchase of books, book binding services, newspapers, periodicals,
- 26 audio-visual materials, network information services access, approval plans, professional
- 27 memberships, archival materials, objects of art, and items for museum or archival acquisition
- 28 having cultural, historical, or archaeological significance; in this paragraph
- 29 (A) "approval plans" means book selection services in which current book
- 30 titles meeting an agency's customized specifications are provided to the agency subject
- 31 to the right of the agency to return those books that do not meet with the agency's

1 approval;

2 (B) "archival materials" means the noncurrent records of an agency that are

3 preserved after appraisal because of their value;

4 (C) "audio-visual materials" means nonbook prerecorded materials,

5 including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact

6 discs, laser discs, and items that require the use of equipment to render them usable;

7 (D) "network information services" means a group of resources from which

8 cataloging information, holdings records, inter-library loans, acquisitions information, and

9 other reference resources can be obtained;

10 (18) contracts for the purchase of standardized examinations for licensure under

11 AS 08;

12 (19) contracts for home health care and adult residential and foster care services

13 provided under regulations adopted by the Department of Health and Social Services;

14 (20) contracts for supplies or services for research projects funded by money

15 received from the federal government or private grants; [OR]

16 (21) guest speakers or performers for an educational or cultural activity; or

17 (22) contracts for services that are entered into by the Alaska Mental Health

18 Trust Authority under AS 47.30.061.

19 * Sec. 6. AS 37.05.146 is amended to read:

20 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146

21 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other

22 state money received by a state agency in connection with the performance of its functions; all

23 program receipts except the following are general fund program receipts:

24 (1) federal receipts;

25 (2) University of Alaska receipts (AS 14.40.491);

26 (3) individual, foundation, or corporation gifts, grants, or bequests that by their

27 terms are restricted to a specific purpose;

28 (4) receipts of the following funds:

29 (A) highway working capital fund (AS 44.68.210);

30 (B) correctional industries fund (AS 33.32.020);

31 (C) loan funds;

- 1 (D) international airport revenue fund (AS 37.15.430);
2 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
3 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity
4 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),
5 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
6 Development and Export Authority (AS 44.88.020);
7 (F) fish and game fund (AS 16.05.100);
8 (G) school fund (AS 43.50.140);
9 (H) training and building fund (AS 23.20.130);
10 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
11 former AS 39.37);
12 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
13 (K) public school trust fund (AS 37.14.110);
14 (L) second injury fund (AS 23.30.040);
15 (M) fishermen's fund (AS 23.35.060);
16 (N) FICA administration fund (AS 39.30.050);
17 (5) mental health trust receipts (AS 37.14.001).

18 * Sec. 7. AS 37.05.540(b) is amended to read:

19 (b) Except for appropriations to the permanent fund or for Alaska permanent fund
20 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,
21 appropriations required to pay the principal and interest on general obligation bonds, [AND]
22 appropriations of money received from a nonstate source in trust for a specific purpose, including
23 revenue of a public enterprise or public corporation of the state that issues revenue bonds, and
24 appropriations made under AS 37.14.013(a)(5) and 37.14.017, appropriations from the treasury
25 made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more
26 than five percent plus the change in population and inflation since the beginning of the preceding
27 fiscal year. For purposes of applying this limit an appropriation is considered to be made in the
28 fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in
29 which the original appropriation is enacted. The determination of the change in population for
30 purposes of this subsection shall be based on an annual estimate of population by the Department
31 of Labor. The determination of the change in inflation for purposes of this subsection shall be

1 based on the Consumer Price Index for all urban consumers for Anchorage prepared by the
2 United States Bureau of Labor Statistics. The amount of money received by the state that is
3 subject to the appropriation limit includes the balance in the general fund carried forward from
4 the preceding fiscal year.

5 * Sec. 8. AS 37.14 is amended by adding new sections to read:

6 Sec. 37.14.001. TRUSTEE. (a) The Alaska Mental Health Trust Authority, established
7 by AS 47.30.011, is the trustee of

8 (1) the trust established under the Alaska Mental Health Enabling Act of 1956,
9 P.L. 84-830, 70 Stat. 709; and

10 (2) the mental health trust income account established under AS 37.14.021.

11 (b) In its capacity as the trustee of the trust established by the enabling Act, the authority
12 has full powers over the corpus and income of the trust.

13 Sec. 37.14.006. TRUST MANAGEMENT. (a) The Alaska Mental Health Trust
14 Authority

15 (1) shall manage the assets of the trust according to the prudent-person rule; the
16 prudent-person rule as applied to investments of the authority means that in making investments
17 the board shall exercise the judgment and care under the circumstances then prevailing that an
18 institutional investor of ordinary prudence, discretion, and intelligence exercises in the
19 management of large investments entrusted to it not for speculation but for the permanent
20 disposition of funds, considering probable safety of capital as well as probable income; an
21 evaluation to determine whether the board has exercised the requisite judgment and care in its
22 management of the investments of the trust must be

23 (A) based on the facts and circumstances prevailing at the time the asset
24 was incorporated into the trust; and

25 (B) made on an asset-by-asset basis taking into account the entire
26 investment portfolio of the trust;

27 (2) may, notwithstanding (1) of this subsection, retain assets of the trust that have
28 been incorporated into the trust with the trust's establishment until the board determines that it
29 is in the best interests of the trust to exchange or otherwise dispose of those assets;

30 (3) may, notwithstanding (1) of this subsection, use land that is an asset of the
31 trust directly for a comprehensive service program for the trust beneficiaries; and

1 (4) shall delegate management of trust land described in AS 37.14.013(a)(3) to
2 the Department of Natural Resources unless the enforcement provisions of AS 37.14.019 require
3 direct active management by the authority.

4 (b) At the end of each fiscal year, the authority shall transfer from the trust income
5 account established in AS 37.14.021 to the mental health trust corpus an amount sufficient to
6 offset the effect of inflation on the value of the money in the trust corpus during that year, as
7 measured by the change in the calendar year average United States Consumer Price Index for all
8 urban consumers or, if that index no longer exists, an equivalent index.

9 (c) At least annually, the authority shall prepare, publish, and distribute to the legislature
10 and make available to the public a financial report indicating trust revenue and expenditures, and
11 including a statement of its method of allocating the assets of the trust among appropriate
12 investment vehicles. The asset allocation policy shall be designed to provide for prudent
13 diversification and to meet the investment objectives and needs of the authority.

14 * Sec. 9. AS 37.14.011 is repealed and reenacted to read:

15 Sec. 37.14.011. MENTAL HEALTH TRUST CORPUS VALUE. The value as of
16 September 7, 1987, of all land granted under the enabling Act is \$2,243,000,000.

17 * Sec. 10. AS 37.14 is amended by adding new sections to read:

18 Sec. 37.14.013. TRUST CORPUS RECONSTITUTED. (a) On the effective date of this
19 Act, the mental health trust corpus is reconstituted to include

20 (1) land granted to the state under the enabling Act and not transferred or
21 encumbered by the state;

22 (2) land granted to the state under the enabling Act that, on the effective date of
23 this Act, is subject to a land use permit issued by the Department of Natural Resources under
24 AS 38.05;

25 (3) land granted to the state under the enabling Act and subsequently established
26 as legislatively-designated land;

27 (4) money appropriated by the legislature on or before the effective date of this
28 Act and paid by the state to the trust in partial satisfaction of the value of land granted under the
29 enabling Act and not retained by the trust; and

30 (5) money owed by the state to pay for the value of land granted under the
31 enabling Act and not retained by the trust.

1 (b) The value of land granted to the state under the enabling Act and reconstituted as part
2 of the mental health trust corpus by (a) of this section is the amount determined under the
3 procedures approved by the Interim Mental Health Trust Commission established by sec. 1, ch.
4 132, SLA 1986, as set out in the commission's November 7, 1989, resolution.

5 Sec. 37.14.015. PAYMENT BY STATE FOR LAND NOT RETAINED IN THE TRUST.

6 (a) On July 1 of each year, for the land granted under the enabling Act that is not retained by
7 the trust, the state shall pay to the authority an amount calculated to fully pay, in equal annual
8 installments, by July 1, 2021, the principal amount together with interest on the unpaid balance
9 at 10.5 percent per annum.

10 (b) The state and the authority may agree on land, and the value of it, that may be
11 conveyed by the state to the authority in partial satisfaction of the amount due the trust under
12 AS 37.14.013(a)(5).

13 (c) When a principal payment in addition to the required annual payment under (a) of
14 this section is made by the state or when land is conveyed by the state to the trust under (b) of
15 this section,

16 (1) the amount due the trust under AS 37.14.013(a)(5) shall be reduced by the
17 amount of the payment or the value of the land conveyed; and

18 (2) the state and the authority shall recalculate the annual payment, the
19 recalculated payment to be effective as of the next annual payment date under (a) of this section.

20 (d) The value of land granted to the state under the enabling Act and not retained by the
21 trust for which payment is due the trust under AS 37.14.013(a)(5) is the amount determined
22 under the procedures approved by the Interim Mental Health Trust Commission established by
23 sec. 1, ch. 132, SLA 1986, as set out in the commission's November 7, 1989, resolution.

24 Sec. 37.14.017. RENT PAYABLE FOR LEGISLATIVELY-DESIGNATED LAND. (a)
25 On July 1 of each year, for trust land identified in AS 37.14.013(a)(3) the state shall pay rent for
26 that fiscal year to the authority.

27 (b) The annual rent payable for the land identified in (a) of this section is equal to eight
28 percent of the value of the land. At least every five years the value of the land shall be
29 redetermined as follows:

30 (1) the state assessor in the Department of Community and Regional Affairs shall
31 assign the land identified in (a) of this section to geographic areas; in making the assignment,

1 the assessor shall assign trust land outside a municipality to the nearest municipality;

2 (2) the number of acres of land identified in (a) of this section in each geographic
3 area to which the land is assigned by the state assessor shall be divided by the total number of
4 acres identified in AS 37.14.013(a)(3) to determine the weighting factor;

5 (3) the weighting factor for each area shall be multiplied by the average
6 percentage change in land values in the geographic area since the last valuation, as determined
7 by the Department of Community and Regional Affairs under the full value determination
8 procedure specified in AS 14.17.140, to determine the weighted value change for that area;

9 (4) all of the weighted value changes shall be added together to determine the
10 revaluation factor, expressed as a decimal; and

11 (5) one plus the revaluation factor shall be multiplied by the previous total value
12 of the land identified in AS 37.14.013(a)(3) to arrive at the redetermined value of the land
13 identified in AS 37.14.013(a)(3).

14 Sec. 37.14.019. ENFORCEMENT OF PAYMENTS DUE THE TRUST. (a) If the state
15 fails to make a payment required under AS 37.14.015 or 37.14.017, the chief executive officer
16 of the authority shall notify each of the following of the state's failure to make the payment:

17 (1) the governor;
18 (2) the commissioner of revenue;
19 (3) the president of the senate; and
20 (4) the speaker of the house of representatives.

21 (b) The notice shall be in writing and must include a statement of the remedies available
22 to the authority to secure enforcement of its claim for payment.

23 (c) If payment is not made within 15 days after giving notice under (a) of this section,
24 the chair of the board shall convene the board to determine whether the authority shall exercise
25 its rights under this section to collect the payment.

26 (d) If authorized by the board, the authority may apply to the superior court to require
27 payment. If the court determines that a payment due has not been made, the court shall issue
28 a judgment and order to the state, determining the amount of the payment that is due and
29 directing that payment be made. In a proceeding under this subsection, the court is limited to
30 a determination of whether a payment due the authority is due and unpaid and the amount that
31 is due and unpaid. The court shall include in the judgment the authority's full attorney fees. The

1 judgment bears interest at the rate of 10.5 percent per year. The clerk of the court shall provide
2 copies of a judgment and order entered under this subsection to the officials named in (a) of this
3 section.

4 (e) If a judgment and order is issued under (d) of this section while the legislature is in
5 session, the state shall make the payment required by the order within 30 days of the date of the
6 order. If the judgment and order is issued while the legislature is not in session, the state shall
7 make the payment required by the order within 60 days of the date of the order.

8 (f) If, at the end of the period allowed under (e) of this section, the state has failed to
9 satisfy a judgment and order issued under (d) of this section, and if the action is authorized by
10 the board, the authority may apply for and obtain from the court a writ of attachment or writ of
11 execution against the state in the amount due under the judgment and order. The authority

12 (1) shall first attempt to satisfy a writ of execution or attachment out of the bank
13 or other financial accounts of the state;

14 (2) shall, if the judgment and order is not fully satisfied on return of a writ under
15 (1) of this subsection, execute against unencumbered real property of the state;

16 (3) shall, if the judgment and order is not fully satisfied on return of writs under
17 (1) and (2) of this subsection, petition the court to issue an order providing that the authority
18 shall manage the land identified in AS 37.14.013(a)(3) to fulfill the purposes of the trust without
19 regard to its legislatively-designated purpose and receive the income from that land;

20 (4) may, if the judgment and order is not fully satisfied after exhausting the
21 remedies under (1) - (3) of this subsection, foreclose on any security that the authority may have
22 or use another remedy that may be available to the authority.

23 * Sec. 11. AS 37.14.021 is repealed and reenacted to read:

24 Sec. 37.14.021. TRUST INCOME ACCOUNT. (a) The mental health trust income
25 account is established as an account separate from the trust corpus.

26 (b) The mental health trust income account consists of money

27 (1) earned by the authority on its investment of the assets of the trust corpus
28 during the fiscal year;

29 (2) received from the state during the fiscal year as interest on the amount paid
30 by the state under AS 37.14.015;

31 (3) received from the state during the fiscal year under AS 37.14.017; and

1 (4) transferred to the account by the board from any source.

2 (c) Money in the mental health trust income account established in (a) of this section
3 shall first be expended by the authority to meet the necessary expenses of the comprehensive
4 service program under AS 47.30.061.

5 (d) The authority may establish subaccounts within the mental health trust income
6 account.

7 * Sec. 12. AS 37.14 is amended by adding new sections to read:

8 Sec. 37.14.026. TRUST LAND CONVEYANCES. (a) The authority may convey trust
9 land to the state or to a person in exchange for land or money.

10 (b) Before the authority conveys land that is part of the trust, and in addition to any other
11 requirements of law, the authority shall negotiate with the conveyee to establish

12 (1) the value of the land to be conveyed and the value of replacement land, if any,
13 to be incorporated into the trust; if the conveyee proposes to exchange trust land for other land,
14 the conveyee shall make available to the trust replacement land that is of at least equal value and
15 with at least equal income production potential at the time of its transfer or conveyance to the
16 trust; or

17 (2) the amount of compensation due the trust for the land conveyed based on the
18 value of that land at the time of its transfer or conveyance from the trust.

19 Sec. 37.14.099. DEFINITIONS. In AS 37.14.001 - 37.14.099,

20 (1) "authority" means the Alaska Mental Health Trust Authority established under
21 AS 47.30.011;

22 (2) "board" means the board of trustees of the authority;

23 (3) "enabling Act" means the Alaska Mental Health Enabling Act of 1956, P.L.
24 84-830, 70 Stat. 709;

25 (4) "land granted under the enabling Act" means

26 (A) that land identified by the Department of Natural Resources to be
27 valued by the commissioner of natural resources under procedures approved by the
28 Interim Mental Health Trust Commission more specifically described in documents
29 labeled "Exhibit A" and attached to each of the re-notices of lis pendens that were
30 recorded in September 1990 at

31 (i) book 2073, pages 388 - 416, Anchorage Recording Office;

- 1 (ii) book 62, pages 394 - 399, Cordova Recording Office;
2 (iii) book 677, pages 62 - 100, Fairbanks Recording Office;
3 (iv) book 19, pages 926 - 954, Haines Recording Office
4 (v) book 201, pages 488 - 491, Homer Recording Office;
5 (vi) book 335, pages 748 - 765, Juneau Recording Office;
6 (vii) book 371, pages 117 - 158, Kenai Recording Office;
7 (viii) book 181, pages 728 - 757, Ketchikan Recording Office;
8 (ix) book 102, pages 869 - 872, Kodiak Recording Office;
9 (x) book 25, pages 195 - 198, McKinley Recording Office;
10 (xi) book 46, pages 001 - 023, Nenana Recording Office;
11 (xii) book 16, pages 393 - 397, Nulato Recording Office;
12 (xiii) book 629, pages 869 - 916, Palmer Recording Office;
13 (xiv) book 35, pages 518 - 534, Petersburg Recording Office;
14 (xv) book 31, pages 621 - 626, Seldovia Recording Office;
15 (xvi) book 90, pages 524 - 538, Sitka Recording Office;
16 (xvii) book 6, pages 286 - 294, Skagway Recording Office;
17 (xviii) book 131, pages 585 - 590, Talkeetna Recording Office;
18 (xix) book 18, pages 643 - 650, Wrangell Recording Office; and

19 (B) all land approved for conveyance and patented under sec. 202 of the
20 enabling Act after September 7, 1987;

21 (5) "legislatively-designated land" means land granted under the enabling Act and
22 subsequently designated by law as a state park, state forest, state game refuge, state wildlife
23 refuge, state game sanctuary, state recreational area, state recreational river, state wilderness park,
24 state marine park, state special management area, state public use area, critical habitat area, bald
25 eagle preserve, bison range, or moose range.

26 * Sec. 13. AS 38.05.800 is repealed and reenacted to read:

27 Sec. 38.05.800. ADMINISTRATION OF CERTAIN LAND WITHIN THE MENTAL
28 HEALTH TRUST. Unless management is transferred to the Alaska Mental Health Trust
29 Authority under AS 37.14.019(f)(3), the department shall manage land identified in
30 AS 37.14.013(a)(3) on behalf of the Alaska Mental Health Trust Authority and under the
31 provisions of AS 37.14.017 for the land's legislatively-designated purpose. The state shall

1 continue to manage the land and its resources in accordance with state law and policy. The
2 management authority of the state includes

3 (1) the right to issue permits, rights-of-ways, mining leases, oil and gas leases,
4 coal leases, and timber contracts;

5 (2) the right to take other actions that do not constitute a conveyance in fee
6 simple; and

7 (3) the right to receive the income from the land managed.

8 * Sec. 14. AS 39.25.120(c)(9) is amended to read:

9 (9) the principal executive officer of the following boards, councils, or
10 commissions:

11 (A) Alaska Public Broadcasting Commission;

12 (B) Professional Teaching Practices Commission;

13 (C) Parole Board;

14 (D) Board of Nursing;

15 (E) Real Estate Commission;

16 (F) Alaska Royalty Oil and Gas Development Advisory Board;

17 (G) Alaska Historical Commission;

18 (H) Alaska State Council on the Arts;

19 (I) Alaska Police Standards Council;

20 (J) Older Alaskans Commission;

21 (K) Alaska Mental Health Board;

22 (L) State Medical Board;

23 (M) Governor's Council for the Handicapped and Gifted;

24 (N) Advisory Board on Alcoholism and Drug Abuse;

25 * Sec. 15. AS 41.15 is amended by adding a new section to read:

26 Sec. 41.15.025. FIRE PROTECTION ON MENTAL HEALTH TRUST LAND. Land
27 that is included in the corpus of the trust established by the Alaska Mental Health Enabling Act
28 of 1956 is, for the purpose of wild fire suppression, land owned by the state, and the state
29 remains responsible for providing and paying for suppression of wild fires on that land.

30 * Sec. 16. AS 44.21.230(a) is amended to read:

31 (a) The commission shall

- 1 (1) formulate a comprehensive statewide plan that identifies the concerns and
2 needs of older Alaskans and, with reference to the plan adopted, prepare and submit to the
3 governor and legislature an annual analysis and evaluation of the services that are provided to
4 older Alaskans;
- 5 (2) make recommendations directly to the governor and legislature with respect
6 to legislation, regulations, and appropriations for programs or services that benefit older Alaskans;
- 7 (3) encourage and aid the development of municipal commissions serving older
8 Alaskans and community-oriented programs and services for the benefit of older Alaskans;
- 9 (4) employ an executive director who serves at the pleasure of the commission;
- 10 (5) help older Alaskans lead dignified, independent, and useful lives;
- 11 (6) request and receive reports and audits from state agencies and local institutions
12 concerned with the conditions and needs of older Alaskans;
- 13 (7) administer, with the approval of the commissioner of administration, federal
14 programs as provided under 42 U.S.C. 3001 - 3045i (Older Americans Act), as amended;
- 15 (8) administer, with the approval of the commissioner of administration, state
16 programs as provided under AS 47.65; [AND]
- 17 (9) give assistance, on request, to the senior housing office in the Department of
18 Community and Regional Affairs in administration of the senior housing loan program under
19 AS 44.47.587 - 44.47.609 and in the performance of the office's other duties under
20 AS 44.47.585; and
- 21 (10) provide recommendations to the Alaska Mental Health Trust Authority
22 concerning the necessary expenses of the comprehensive service program for the
23 beneficiaries of the trust who are described in AS 47.30.061(c)(4) and the use of the money
24 in the mental health trust income account in a manner consistent with AS 47.30.061; in
25 making recommendations affecting the trust, members of the commission assume a duty of
26 loyalty to the trust equivalent to the responsibilities of a private trustee.

27 * Sec. 17. AS 44.29.020 is amended to read:

28 Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social
29 Services shall administer the state programs of public health and social services, including:

- 30 (1) maternal and child health services;
- 31 (2) preventive medical services;

- 1 (3) public health nursing services;
2 (4) nutrition services;
3 (5) health education;
4 (6) laboratories;
5 (7) mental health in a manner consistent with the comprehensive service
6 program plan adopted by the Alaska Mental Health Trust Authority [TREATMENT AND
7 DIAGNOSIS];
8 (8) management of state institutions, except for adult penal institutions;
9 (9) medical facilities;
10 (10) adult public assistance;
11 (11) aid to families with dependent children;
12 (12) child welfare services;
13 (13) general relief; and
14 (14) licensing and supervision of child care facilities.

15 * Sec. 18. AS 44.29.022 is amended by adding a new subsection to read:

16 (d) A regulation that establishes a fee for services under AS 44.29.020(a)(7) that affect
17 the comprehensive service program for beneficiaries of the trust established under the Alaska
18 Mental Health Enabling Act of 1956 may not be adopted under this section unless it has been
19 approved by the Alaska Mental Health Trust Authority.

20 * Sec. 19. AS 44.29.024 is amended by adding a new subsection to read:

21 (c) A regulation that establishes a schedule of reasonable fees for services provided by
22 a contractor or grantee that affect the comprehensive service program for beneficiaries of the trust
23 established under the Alaska Mental Health Enabling Act of 1956 may not be adopted under this
24 section unless it has been approved by the Alaska Mental Health Trust Authority.

25 * Sec. 20. AS 44.29.100 is amended to read:

26 Sec. 44.29.100. ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE. There
27 is established in the Department of Health and Social Services an advisory board on alcoholism
28 and drug abuse. [THE BOARD SHALL FUNCTION AS A STANDING COMMITTEE OF THE
29 STATEWIDE HEALTH COORDINATING COUNCIL ESTABLISHED UNDER AS 18.07.011.]

30 * Sec. 21. AS 44.29.110 is amended to read:

31 Sec. 44.29.110. COMPOSITION. The board consists of 10 [12] members appointed by

1 the governor.

2 * Sec. 22. AS 44.29.115 is amended to read:

3 Sec. 44.29.115. QUALIFICATIONS OF BOARD MEMBERS. The governor shall
4 appoint the 10 [12] members so that the board consists of:

5 (1) one member [TWO MEMBERS] who is [ARE] licensed to practice medicine
6 in the state [, ONE OF WHOM IS CERTIFIED IN PSYCHIATRY BY THE AMERICAN
7 BOARD OF PSYCHIATRY AND NEUROLOGY];

8 (2) one member who is admitted to practice law in the state [ALASKA];

9 (3) four members who are chronic alcoholics with psychoses who are
10 recovering; and

11 (4) four [EIGHT] members who have shown an interest in the problems of
12 alcoholism or drug abuse and who have knowledge of the social problems associated with
13 alcoholism or drug abuse [; AND

14 (4) ONE MEMBER WHO IS A REPRESENTATIVE OF THE LIQUOR INDUSTRY].

15 * Sec. 23. AS 44.29 is amended by adding a new section to read:

16 Sec. 44.29.135. OFFICERS AND STAFF. (a) The board, by a majority of its
17 membership, shall annually elect a chair and other officers it considers necessary from among
18 its membership.

19 (b) The board shall have a paid staff provided by the department, including an executive
20 director who shall be selected by the board. The executive director is in the partially exempt
21 service and shall be compensated at no less than range 21 of the pay plan for state employees
22 under AS 39.27.011(a). The executive director may hire additional employees in the classified
23 service of the state. The department shall provide for the assignment of personnel to the board
24 to ensure the board has the capacity to fulfill its responsibilities. The executive director of the
25 board shall be directly responsible to the board in the performance of the director's duty.

26 * Sec. 24. AS 44.29.140 is amended to read:

27 Sec. 44.29.140. DUTIES. The board shall

28 (1) act in an advisory capacity to the legislature, the governor, and state
29 agencies [COMMISSIONER OF HEALTH AND SOCIAL SERVICES] in the following matters:

30 (A) [(1)] special problems affecting mental health that alcoholism or drug
31 abuse may present;

1 (B) [(2)] educational research and public informational activities
2 [CONDUCTED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES
3 AND OTHERS] in respect to the problems presented by alcoholism or drug abuse;
4 (C) [(3)] social problems that affect rehabilitation of alcoholics and drug
5 abusers;
6 (D) [(4)] legal processes that affect the treatment and rehabilitation of
7 alcoholics and drug abusers;
8 (E) [(5)] development of programs of prevention, treatment, and
9 rehabilitation for alcoholics and drug abusers; and
10 (F) [(6)] REVIEW OF APPLICATIONS AND SUBSEQUENT
11 RECOMMENDATIONS TO THE COMMISSIONER OF HEALTH AND SOCIAL
12 SERVICES ON USE OF FUNDS FOR GRANTS FOR LOCAL ALCOHOLISM OR
13 DRUG ABUSE PROJECTS AND PROGRAMS;
14 (7)] evaluation of effectiveness of alcoholism and drug abuse programs in the
15 state;

16 (2) make recommendations to the Alaska Mental Health Trust Authority
17 concerning the use of money in the mental health trust income account for the benefit of
18 chronic alcoholics suffering from psychosis; in making recommendations affecting the
19 mental health trust, the members of the board assume a duty of loyalty to the mental health
20 trust equivalent to the responsibilities of a private trustee.

21 * Sec. 25. AS 44.29.140 is amended by adding new subsections to read:

22 (b) The board is the state planning and coordinating body for purposes of federal and
23 state laws relating to alcohol and drug abuse prevention and treatment services.

24 (c) The board shall prepare and maintain a comprehensive plan of services for the
25 prevention and treatment of alcohol and drug abuse.

26 * Sec. 26. AS 47.30 is amended by adding new sections to read:

27 Sec. 47.30.011. ALASKA MENTAL HEALTH TRUST AUTHORITY. (a) The Alaska
28 Mental Health Trust Authority is established as a public corporation of the state that has a legal
29 existence independent of and separate from the state.

30 (b) The purpose of the authority is to ensure an integrated comprehensive mental health
31 program for the people of the state.

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(c) The authority

(1) serves under AS 37.14.001 - 37.14.099 as the trustee of the trust established under the Alaska Mental Health Enabling Act of 1956, and of the mental health trust income account established under AS 37.14.021;

(2) may sue and be sued;

(3) may retain the services of independent counsel when, in the judgment of the authority's board of trustees, independent counsel is needed;

(4) shall insure or indemnify and protect the board, a member of the board, or an agent or employee of the authority against financial loss and expense, including reasonable legal fees and costs, arising out of a claim, demand, suit, or judgment by reason of alleged negligence, alleged violation of civil rights, or alleged wrongful act resulting in death or bodily injury to a person or accidental damage to or destruction of property if the board member, agent, or employee, at the time of the occurrence, was acting under the direction of the authority within the course or scope of the duties of the board member, agent, or employee; and

(5) is exempt from AS 36.30 (State Procurement Code).

(d) The provisions of AS 44.62.330 - 44.62.630 do not apply to the Alaska Mental Health Trust Authority.

Sec. 47.30.016. MEMBERSHIP OF THE BOARD. (a) The authority shall be governed by its board of trustees.

(b) The board consists of nine members appointed by the governor and subject to legislative confirmation. The members shall be appointed

(1) based upon their recognized expertise or experience in financial management and investment, in land management, or in services for the beneficiaries of the trust;

(2) from a list of persons prepared by a panel of five persons who are beneficiaries, or who are the guardians, family members, or representatives of beneficiaries; the panel consists of

(A) one person selected by the Alaska Mental Health Board (AS 47.30.661);

(B) one person selected by the Governor's Council for the Handicapped and Gifted (AS 47.80.030);

(C) one person selected by the Advisory Board on Alcoholism and Drug

1 Abuse (AS 44.29.110);
2 (D) one person selected by the Older Alaskans Commission
3 (AS 44.21.200); and
4 (E) one person selected by the authority.
5 (c) A member of the board may not
6 (1) be an officer or employee of the state; or
7 (2) within the preceding year or during the member's term of office have had an
8 interest in, served on the governing board of, or been employed by an organization that has an
9 interest in, a contract entered into by the authority.
10 (d) A quorum of the board is five members.
11 (e) Members of the board
12 (1) receive an honorarium of \$400 for each day or any part of a day spent at a
13 meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the
14 board; the honorarium under this paragraph shall be adjusted annually for the effect of inflation
15 as measured by the change in the calendar year average United States Consumer Price Index for
16 all urban consumers or, if that index no longer exists, an equivalent index; and
17 (2) are entitled to per diem and travel expenses authorized for boards and
18 commissions under AS 39.20.180.
19 Sec. 47.30.021. TERM OF OFFICE, VACANCIES, AND REMOVAL. (a) Members
20 of the board serve staggered five-year terms. A member shall continue to serve until the
21 member's successor is appointed and confirmed.
22 (b) A vacancy occurring in the membership of the board of trustees of the authority shall
23 be filled within 60 days by appointment of the governor for the unexpired portion of the vacated
24 term.
25 (c) The governor may remove a member of the board only for cause, including
26 incompetence, neglect of duty, misconduct in office, poor attendance, or lack of contribution to
27 the board's work. A member being removed for cause shall be given a copy of the charges and
28 afforded an opportunity to publicly present a defense in person or by counsel upon not less than
29 10 days' written notice. If a member is removed for cause, the governor shall file with the
30 lieutenant governor a complete statement of all charges made against the member and the
31 governor's findings based on the charges, together with a complete record of the proceedings.

1 The removal of a member for cause constitutes a final administrative order. A member seeking
2 to appeal the governor's removal of a member for cause under this subsection shall file a notice
3 of appeal with the superior court under AS 44.62.560.

4 (d) Except for a trustee who has served two consecutive five-year terms, a member of
5 the board may be reappointed. A member of the board who has served two consecutive five-year
6 terms is not eligible for reappointment to the board until one year has intervened.

7 Sec. 47.30.026. OFFICERS AND STAFF. (a) The board shall annually elect a chair
8 and other officers it considers necessary from among its membership.

9 (b) The board shall employ a chief executive officer who shall be selected by the board.
10 The chief executive officer shall be compensated at no less than range 26 of the pay plan for
11 state employees under AS 39.27.011(a). The chief executive officer may

12 (1) hire additional employees;

13 (2) appoint hearing officers to perform the responsibilities set out in
14 AS 47.30.031(b)(7); and

15 (3) contract for the services of consultants and others.

16 (c) The chief executive officer is directly responsible to the board for the performance
17 of the director's duties.

18 Sec. 47.30.031. REGULATIONS. (a) The board shall adopt regulations under the
19 Administrative Procedure Act (AS 44.62) consistent with state law and the fiduciary
20 responsibilities imposed by law on members of boards of directors of corporations having trust
21 responsibilities.

22 (b) The regulations shall address, but are not limited to,

23 (1) the requirements of AS 47.30.061(i) and (k);

24 (2) provisions governing the administration and management of the mental health
25 trust corpus and mental health trust income account under AS 37.14.001 - 37.14.099;

26 (3) provisions concerning the equitable distribution of the earnings of the trust;

27 (4) procedures by which an aggrieved person or group who believe they have not
28 received services that should be provided from the trust may apply to the authority for the
29 provision of the service from trust funds;

30 (5) procedures by which income earned through the provision of trust funded
31 services by any entity can be used to augment or enhance the entity's services;

1 (6) provisions that allow and encourage entities providing trust funded services
2 to integrate those services with other community human services funded by other sources;

3 (7) administrative adjudication procedures, including but not limited to

4 (A) the acceptance of applications under (4) of this subsection;

5 (B) investigations;

6 (C) hearings; and

7 (D) the issuance of administrative orders, as necessary; and

8 (8) procurement procedures.

9 Sec. 47.30.036. DUTIES OF THE BOARD. The board shall

10 (1) preserve and protect the trust corpus in perpetuity;

11 (2) use the trust income to

12 (A) defray the necessary operating and capital expenses of the trust
13 program under AS 47.30.061(a)(1); and

14 (B) meet the annual administrative expenses of the authority;

15 (3) determine and budget for the necessary expenses of the comprehensive service
16 program for the beneficiaries of the trust by producing and annually updating a long range
17 comprehensive trust program plan including

18 (A) forecasts of the number of persons needing services;

19 (B) projections of the resources required to provide the necessary services
20 and facilities;

21 (C) reviews of the status of the comprehensive service program for the
22 beneficiaries of the trust and evaluations of its effectiveness; and

23 (D) program goals, objectives, targets, and time lines;

24 (4) coordinate with other state agencies involved with programs affecting persons
25 in need of mental health services;

26 (5) adopt bylaws governing its meetings, selection of officers, proceedings, and
27 other aspects of board procedure; and

28 (6) make an annual written report of its activities to the legislature, governor, and
29 the public.

30 Sec. 47.30.041. INDIVIDUAL RESPONSIBILITIES OF TRUSTEES. (a) By accepting
31 appointment to the board a person accepts the position as co-trustee of the trust and recognizes

1 that, in exercising its powers, duties, and responsibilities, the board is under a duty to the public
2 and the trust beneficiaries to

- 3 (1) administer the trust solely in the interests of the beneficiaries;
- 4 (2) keep and render clear and accurate accounts with respect to the administration
5 of the trust;
- 6 (3) make public and available complete and accurate information as to the nature
7 and amount of the trust property;
- 8 (4) exercise an equal or higher degree of care in administering the trust than in
9 the management of the person's own personal business;
- 10 (5) take reasonable steps to take and keep control of the trust property;
- 11 (6) use care and skill to preserve the trust property;
- 12 (7) take reasonable steps to realize on claims that are held in the trust;
- 13 (8) defend against actions that may result in a loss to the trust estate, unless under
14 all the circumstances, considering the other duties owed to the trust, it is reasonable not to make
15 that defense;
- 16 (9) keep trust property separate from the person's own property;
- 17 (10) keep trust property separate from other property not subject to the trust so
18 far as it is reasonable to do so;
- 19 (11) see that trust property is designated as property of the trust;
- 20 (12) use care in selecting the bank when making general deposits of trust money
21 in a bank, and properly identify the deposit as a deposit by the authority as trustee;
- 22 (13) use care and skill to make the trust property productive; however, nothing
23 in this paragraph shall prevent the authority from using trust property directly or indirectly, by
24 contractual stipulation or otherwise as a component of the state's mental health program;
- 25 (14) use the income of the trust to pay for the necessary expenses of the
26 comprehensive service program for the beneficiaries of the trust;
- 27 (15) deal impartially with the different trust beneficiaries under the priorities set
28 out in AS 47.30.061; and
- 29 (16) participate in the administration of the trust with the other members of the
30 board, and use care to prevent a co-trustee from committing a breach of trust or to compel a co-
31 trustee to redress a breach of trust.

1 (b) By accepting appointment to the board, a person accepts the position as co-trustee
2 of the trust and recognizes that, in exercising its powers, duties, and responsibilities, the board
3 is otherwise subject to the same fiduciary duties as a private trustee under private trust law
4 principles.

5 Sec. 47.30.046. MANAGEMENT OF MENTAL HEALTH TRUST INCOME
6 ACCOUNT. The board shall

7 (1) annually, not later than August 1, report to the governor and the legislature
8 a determination of the amount

9 (A) to be expended from the mental health trust income account to

10 (i) meet the administrative expenses of the authority;

11 (ii) offset the effect of inflation on the value of the trust corpus as
12 required under AS 37.14.006(b); and

13 (iii) meet the necessary operating and capital expenses of the
14 comprehensive service program for the beneficiaries of the trust;

15 (B) needed from the general fund, if any, that is required during the next
16 fiscal year to meet the necessary operating and capital expenses of the comprehensive
17 service program for the beneficiaries of the trust; and

18 (C) estimated to be surplus, if any, in the mental health trust income
19 account for transfer into the general fund on September 15; and

20 (2) annually, not later than September 15, transfer the surplus, if any, in the
21 mental health trust income account that is not reasonably or foreseeably needed to meet the
22 necessary operating and capital expenses of the comprehensive service program for the
23 beneficiaries of the trust into the general fund to be used for other public purposes.

24 Sec. 47.30.051. AUTHORITY ADMINISTRATIVE BUDGET. (a) By December 15
25 of each year, the authority shall prepare and submit to the legislature for its approval a proposed
26 budget to meet the authority's administrative expenses for the next fiscal year.

27 (b) The authority may not spend money for administrative expenses except as approved
28 by the legislature unless the expenditure has been approved by the court as necessary to fulfill
29 the purposes of the trust and the duties of the trustees.

30 Sec. 47.30.056. SUBMISSIONS REQUIRING USE OF TRUST MONEY. An agency
31 or entity proposing an expenditure of money by the trust must present its proposal to the

1 authority under regulations adopted under AS 47.30.031.

2 Sec. 47.30.061. USE OF MONEY IN THE MENTAL HEALTH TRUST INCOME
3 ACCOUNT. (a) The authority shall use money in the mental health trust income account
4 established in AS 37.14.021 to

5 (1) provide a comprehensive program of services as required by this section; and

6 (2) meet the authority's annual administrative expenses.

7 (b) In making expenditures under (a)(1) of this section, the authority shall guarantee a
8 priority in service delivery to persons identified in this section who, as a result of a disorder
9 identified in this section,

10 (1) may require or are at risk of hospitalization; or

11 (2) experience such major impairment of self-care, self-direction, or social and
12 economic functioning that they require continuing or intensive services.

13 (c) The comprehensive program of services funded by the trust shall provide services
14 needed by

15 (1) the mentally ill;

16 (2) the mentally defective and retarded;

17 (3) chronic alcoholics suffering from psychoses; and

18 (4) senile people who as a result of their senility suffer major mental illness.

19 (d) In (c) of this section, "the mentally ill" includes persons with the following mental
20 disorders:

21 (1) schizophrenia;

22 (2) delusional (paranoid) disorder;

23 (3) mood disorders;

24 (4) anxiety disorders;

25 (5) somatoform disorders;

26 (6) organic mental disorders;

27 (7) personality disorders;

28 (8) dissociative disorders;

29 (9) other psychotic or severe and persistent mental disorders manifested by
30 behavioral changes and symptoms of comparable severity to those manifested by persons with
31 mental disorders listed in this subsection; and

1 (10) persons who have been diagnosed by a licensed psychologist, psychiatrist,
2 or physician licensed to practice medicine in the state and, as a result of the diagnosis, have been
3 determined to have a childhood disorder manifested by behaviors or symptoms suggesting risk
4 of developing a mental disorder listed in this subsection.

5 (e) In (c) of this section, "the mentally defective and retarded" includes persons with the
6 following neurologic or mental disorders:

- 7 (1) cerebral palsy;
- 8 (2) epilepsy;
- 9 (3) mental retardation;
- 10 (4) autistic disorder;
- 11 (5) severe organic brain impairment;
- 12 (6) significant developmental delay during early childhood indicating risk of
13 developing a disorder listed in this subsection;
- 14 (7) other severe and persistent mental disorders manifested by behaviors and
15 symptoms similar to those manifested by persons with disorders listed in this subsection.

16 (f) In (c) of this section, "chronic alcoholics suffering from psychoses" includes persons
17 with the following disorders:

- 18 (1) alcohol withdrawal delirium (delirium tremens);
- 19 (2) alcohol hallucinosis;
- 20 (3) alcohol amnestic disorder;
- 21 (4) dementia associated with alcoholism;
- 22 (5) alcohol-induced organic mental disorder;
- 23 (6) alcoholic depressive disorder;
- 24 (7) other severe and persistent disorders associated with a history of prolonged
25 or excessive drinking or episodes of drinking out of control and manifested by behavioral
26 changes and symptoms similar to those manifested by persons with disorders listed in this
27 subsection.

28 (g) In (c) of this section, "senile people who as a result of their senility suffer major
29 mental illness" includes persons with the following mental disorders:

- 30 (1) primary degenerative dementia of the Alzheimer type;
- 31 (2) multi-infarct dementia;

- 1 (3) senile dementia;
2 (4) presenile dementia;
3 (5) other severe and persistent mental disorders manifested by behaviors and
4 symptoms similar to those manifested by persons with disorders listed in this subsection.

5 (h) Persons not included in (b) and (c) of this section may be provided services under
6 the comprehensive service program to be paid for from the trust provided the authority
7 determines that the provision of services is consistent with its obligation as trustee under (b) and
8 (c) of this section.

9 (i) The authority shall adopt regulations defining the disorders identified in this section
10 to reflect revisions in the diagnostic nomenclature of the health professions serving the
11 beneficiaries of the trust. The authority shall review and revise the regulations as necessary.
12 Regulations adopted under this subsection must be in the long term best interest of the trust and
13 of persons with disorders equivalent to those identified in (b) and (c) of this section.

14 (j) In this section, "a comprehensive service program" includes, at a minimum, each of
15 the following services for the beneficiaries of the trust as appropriate:

- 16 (1) emergency services on a 24-hour basis;
17 (2) screening examination and evaluation services required to complete the
18 involuntary commitment process under AS 47.30.700 - 47.30.815;
19 (3) inpatient care;
20 (4) crisis stabilization services, which may include:
21 (A) active community outreach;
22 (B) in-hospital contact;
23 (C) mobile crisis teams of mental health professionals;
24 (D) crisis beds to provide a short term residential program for persons
25 experiencing an acute episode of mental illness that requires temporary removal from a
26 home environment;
27 (5) treatment services, which may include
28 (A) diagnosis, testing, and evaluation of medical needs;
29 (B) medication monitoring;
30 (C) physical examinations;
31 (D) dispensing psychotropic and other medication;

- 1 (E) detoxification;
2 (F) individual or group therapy;
3 (G) aftercare;
4 (6) case management, which may include
5 (A) evaluation of needs;
6 (B) development of individualized treatment plans;
7 (C) enhancement of access to available resources and programs;
8 (D) development of interagency contacts and family involvement;
9 (E) advocacy;
10 (7) daily structure and support, which may include
11 (A) daily living skills training;
12 (B) socialization activities;
13 (C) recreation;
14 (D) transportation;
15 (E) day care services;
16 (F) client and care provider education and support services;
17 (8) residential services, which may include
18 (A) crisis or respite care;
19 (B) board and care;
20 (C) foster care, group homes, halfway houses, or supervised apartments;
21 (D) intermediate care facilities;
22 (E) long term care facilities;
23 (F) in-home care;
24 (9) vocational services, which may include
25 (A) prevocational services;
26 (B) work adjustment;
27 (C) supported work;
28 (D) sheltered work;
29 (E) training in which participants achieve useful work experience;
30 (10) outpatient screening, diagnosis, and treatment services, including individual,
31 family, and group psychotherapy, counseling, and referral; and

1 (11) administrative services, including appropriate operating expenses of state
2 agencies and other service providers.

3 (k) The authority shall adopt regulations regarding the services described in (j) of this
4 section to reflect advances in the appropriate professions serving the beneficiaries of the trust.
5 The authority shall review and revise the regulations as necessary. Regulations adopted under
6 this subsection must be in the long term best interest of the mental health trust.

7 Sec. 47.30.066. DEFINITIONS. In AS 47.30.011 - 47.30.066,

8 (1) "authority" means the Alaska Mental Health Trust Authority established by
9 AS 47.30.011;

10 (2) "board" means the board of trustees of the authority;

11 (3) "trust" means the trust established by the Alaska Mental Health Enabling Act
12 of 1956, P.L.84-830, 70 Stat.709.

13 * Sec. 27. AS 47.30 is amended by adding a new section to read:

14 Sec. 47.30.472. POWERS AND DUTIES OF ALASKA MENTAL HEALTH TRUST
15 AUTHORITY. The Alaska Mental Health Trust Authority established by AS 47.30.011

16 (1) shall include within the plan for the comprehensive service program for the
17 beneficiaries of the mental health trust the services and facilities that are necessary for the care
18 and treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in
19 AS 47.30.061(f); in preparing the plan of services for persons identified in this paragraph, the
20 authority shall coordinate with the Advisory Board on Alcoholism and Drug Abuse;

21 (2) shall use money in the mental health trust income account established under
22 AS 37.14.021 to provide the necessary services identified in (1) of this section and in accordance
23 with AS 47.30.061;

24 (3) may accept and deposit in accounts established for that purpose, grants from
25 the federal government or gifts or contributions from other sources to assist in implementing this
26 section.

27 * Sec. 28. AS 47.30.520 is amended to read:

28 Sec. 47.30.520. LEGISLATIVE PURPOSE. It is the purpose of the [LEGISLATURE
29 IN ENACTING THE] Community Mental Health Services Act to

30 (1) [TO] provide a range of community based inpatient, outpatient, and
31 support services for persons with mental disorders;

1 (2) [OR EMOTIONAL DISTURBANCES AND TO] assist [LOCAL]
2 communities in planning, organizing, and financing community mental health services through
3 locally developed, administered, and controlled community mental health programs;

4 (3) [. IT IS FURTHER INTENDED TO] better develop and use [UTILIZE
5 EXISTING] resources at both state and local levels;

6 (4) [IN ORDER TO (1)] develop and implement plans for comprehensive
7 [INITIATING MAXIMUM] mental health services based on demonstrated need on a regional
8 basis [FOR SERVICES IN EACH GEOGRAPHICAL PLANNING AREA, AS WELL AS
9 REGIONALIZED COMPREHENSIVE MENTAL HEALTH SERVICES];

10 (5) [(2)] improve the effectiveness of existing mental health services;

11 (6) [(3)] integrate state-operated and community mental health programs into a
12 unified mental health system;

13 (7) ensure that consumers, families, and representatives of [(4) PROVIDE A
14 MEANS FOR PARTICIPATION BY LOCAL.] communities within mental health planning
15 regions can participate in determining [THE DETERMINATION OF] the need for and the
16 allocation of mental health resources;

17 (8) [(5) ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
18 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH SERVICES;

19 (6)] provide a means of allocating money available for state mental health
20 services [FUNDS] according to community needs;

21 (9) [(7)] encourage the full use of all existing public or private agencies, facilities,
22 personnel, and funds to accomplish these objectives; and

23 (10) [(8)] prevent unnecessary duplication and fragmentation of services and
24 expenditures.

25 * Sec. 29. AS 47.30 is amended by adding new sections to read:

26 Sec. 47.30.523. COMMUNITY MENTAL HEALTH PROGRAM POLICY AND
27 PRINCIPLES. (a) It is the policy of the state that

28 (1) the community mental health program provide a comprehensive and integrated
29 system of community based facilities, supports, and mental health services including child and
30 adolescent screening and diagnosis, inpatient, outpatient, prevention, consultation, and education
31 services;

1 (2) persons most in need of community mental health services be afforded an
2 enforceable priority for receiving appropriate services;

3 (3) the community mental health program be coordinated, to the maximum extent
4 possible, with the programs established under AS 47.37, AS 47.65, AS 47.80, and other programs
5 affecting the well being of persons in need of mental health services.

6 (b) Community mental health program service delivery principles include the principles
7 that persons

8 (1) have ready and prompt access to necessary screening, diagnosis, and treatment;

9 (2) receiving community mental health services be informed of their rights,
10 including their rights to confidentiality and to treatment with dignity;

11 (3) be provided community mental health services by staff and programs that
12 reflect the culture, linguistic, and other social characteristics of their community and that
13 incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and
14 treatment needs;

15 (4) in need of community mental health services, and their families, be
16 encouraged to participate in formulating, delivering, and evaluating treatment and rehabilitation;

17 (5) in need of community mental health services be provided treatment and
18 rehabilitation services designed to minimize institutionalization and maximize individual potential;

19 (6) be treated in the least restrictive alternative environment consistent with their
20 treatment needs, enabling the person to live as normally as possible;

21 (7) be provided necessary treatment as close to the person's home as possible;

22 (8) be informed of and allowed to participate in planning their own treatment as
23 much as possible.

24 Sec. 47.30.525. DUTIES OF DIVISION OF MENTAL HEALTH AND
25 DEVELOPMENTAL DISABILITIES. The division of mental health and developmental
26 disabilities shall

27 (1) assist the authority in planning, coordinating, and implementing the mental
28 health program;

29 (2) advise and support the advisory bodies established in AS 47.30.661 and
30 AS 47.80.030 in fulfilling their planning responsibilities related to the mental health program;

31 (3) give technical assistance to entities that provide or propose to provide services

- 1 funded by the trust;
- 2 (4) develop and recommend to the authority regulations and standards for mental
3 health services, facilities, and providers;
- 4 (5) assist the authority by administering grant programs for the delivery of
5 services funded by the trust;
- 6 (6) at least biennially, obtain for the authority financial and performance audits
7 of each entity providing services funded by the mental health trust income account;
- 8 (7) operate mental health programs and facilities as directed by the Alaska Mental
9 Health Trust Authority.

10 * Sec. 30. AS 47.30.540 is amended to read:

11 Sec. 47.30.540. ELIGIBLE LOCAL COMMUNITY ENTITIES. (a) A city or borough
12 government or other political subdivision of the state, a nonprofit corporation, or a combination
13 of these, is eligible to receive funds and administer local programs under AS 47.30.520 -
14 47.30.620. In order to ensure equitable access to funds and programs through the state, the
15 authority [DEPARTMENT] shall determine appropriate geographical areas to be served by local
16 programs in consultation with representatives of the geographical areas in question.

17 (b) An [THE] entity designated by the authority [DEPARTMENT IN THE LOCAL
18 AREA AS THE ORGANIZATIONAL UNIT] to receive money [FUNDS] under AS 47.30.520 -
19 47.30.620 [AND TO ADMINISTER THE PROGRAM] shall ensure a broad base of community
20 support as evidenced by a governing board reasonably representative of the professional, civic,
21 and citizen groups in the community and including persons with mental disorders or family
22 members of persons with mental disorders. No more than two members, or 40 percent of the
23 membership, whichever is greater, may be providers of services under the program. In order to
24 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

25 (1) give priority to mental health programs and services consistent with the
26 priorities set out in AS 47.30.061 and that provide the [HAVE A] maximum services for the
27 least expenditure of money from the mental health trust income account and from other
28 state funds, including consideration of money from other sources [EFFECT ON OTHER TAX
29 FUNDED PROGRAMS];

30 (2) furnish services through a qualified staff meeting reasonable standards of
31 experience and training;

1 (3) conform to a state cost accounting system showing the true cost of services
2 rendered, collect fees for services according to a schedule based on an analysis of reasonable
3 ability to pay, and provide that a person may not be refused services because of inability to pay
4 for those services;

5 (4) maintain adequate clinical and administrative records and furnish periodic
6 reports to the division [DEPARTMENT];

7 (5) furnish the authority and the division [DEPARTMENT] an annual report of
8 the preceding fiscal year, including an evaluation of the effectiveness of the previous year's
9 programs and their costs; and

10 (6) furnish the authority and the division, in accordance with the regulations
11 of the authority, [DEPARTMENT EACH YEAR A] satisfactory needs assessments for the
12 population and area it serves and an annual update of a long-range planning and budget
13 statement that describes program goals for the coming year, the steps and resources necessary
14 to implement the goals, the projected means by which these resources will be secured, and the
15 procedures necessary to evaluate the program; and

16 (7) cooperate with the division to obtain audits required under
17 AS 47.30.525(6).

18 (c) Members of local governing boards may be reimbursed for necessary travel expenses
19 incurred in the organization and operation of local programs as may be determined by the
20 authority [DEPARTMENT].

21 * Sec. 31. AS 47.30.545 is repealed and reenacted to read:

22 Sec. 47.30.545. POPULATIONS TO BE SERVED. The entities designated by the
23 authority to receive money under AS 47.30.540(b) shall provide one or more of the services that
24 are set out in AS 47.30.061(j) to persons identified in AS 47.30.061.

25 * Sec. 32. AS 47.30.547 is amended to read:

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

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

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

31 (3) establish staffing patterns of qualified and trained personnel that reflect the

1 cultural, linguistic, and other social characteristics of the community and that incorporate
2 multidisciplinary professional staff to meet client functional levels and diagnostic and treatment
3 needs;

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

6 (5) design screening, diagnosis, treatment, and rehabilitation services to
7 maximize individual potential and to minimize institutionalization; and

8 (6) provide services in the least restrictive setting, enabling the person
9 receiving the services to live as normally as possible.

10 * Sec. 33. AS 47.30.550 is amended to read:

11 Sec. 47.30.550. COST SHARING FORMULA; LIMITATIONS. (a) In a district
12 designated by the department as a poverty area, the authority [DEPARTMENT] may pay
13 [FUND] not more than 90 percent of the eligible costs of the [COMMUNITY] mental health
14 services to be furnished by the entity designated to provide the services [UNDER AN
15 ENTITY'S APPROVED PLAN].

16 (b) In a district that has not been designated by the department as a poverty area, the
17 authority [DEPARTMENT] may pay [FUND] not more than 75 percent of the eligible costs of
18 the community mental health services to be furnished by the entity designated to provide the
19 services [UNDER AN ENTITY'S APPROVED PLAN].

20 (c) Notwithstanding (a) and (b) of this section, if the authority [DEPARTMENT]
21 determines that sufficient money [FUNDS] from other sources is [ARE] unavailable, then the
22 authority [DEPARTMENT] shall pay [FUND] the percent of the eligible costs that is necessary
23 in order to ensure that services for persons eligible for services under AS 47.30.520 - 47.30.620
24 [CHRONICALLY MENTALLY ILL ADULTS AND SEVERELY MENTALLY ILL
25 CHILDREN, AND OTHER COMMUNITY MENTAL HEALTH SERVICES] to be furnished
26 by the entity designated to provide the services [UNDER AN ENTITY'S APPROVED PLAN]
27 are made available [BY THE ENTITY. FUNDING UNDER THIS SUBSECTION IS SUBJECT
28 TO THE AVAILABILITY OF LEGISLATIVE APPROPRIATIONS FOR THE PURPOSE].

29 (d) Income earned by an entity for services provided [THROUGH A COMMUNITY
30 MENTAL HEALTH PROJECT FUNDED] under AS 47.30.520 - 47.30.620 must [SHALL] be
31 used, as approved by the authority [DEPARTMENT], to augment or enhance the [ENTITY'S

1 **MENTAL HEALTH] services provided by the entity.**

2 * **Sec. 34.** AS 47.30.570 is amended to read:

3 Sec. 47.30.570. **ELIGIBLE COSTS; MAINTENANCE OF LOCAL EFFORT.** The
4 **authority** [DEPARTMENT] shall adopt regulations specifying the types of services and program
5 costs eligible for **financial support payable by the authority** [STATE PARTICIPATION].
6 These regulations must include

7 [(1) A PROVISION EXCLUDING CAPITAL EXPENDITURES AS ELIGIBLE
8 COSTS; AND

9 (2)] a requirement that the [COMMUNITY ENTITY] contractor or applicant
10 agrees as a condition of contract approval that it will not supplant existing local **financial**
11 [FUND] support [OF COMMUNITY MENTAL HEALTH SERVICES] with **money** [FUNDS]
12 received under AS 47.30.520 - 47.30.620 and that it will continue local **financial** [FUNDING]
13 support of **the** [COMMUNITY MENTAL HEALTH] services, in any year in which it contracts
14 with the **authority** [DEPARTMENT], at a level that is at least equal to the local **financial**
15 [FUNDING] support in the previous year.

16 * **Sec. 35.** AS 47.30.590 is amended to read:

17 Sec. 47.30.590. **PATIENT RIGHTS AND THE CONFIDENTIAL NATURE OF**
18 **RECORDS AND INFORMATION.** The **authority** [DEPARTMENT] shall adopt regulations to
19 assure patient rights and to safeguard the confidential nature of records and information about
20 the recipients of services provided under **this chapter** [AS 47.30.520 - 47.30.620]. The
21 regulations must require that [LOCAL COMMUNITY] entities **identified in AS 47.30.540(b)**
22 develop and include in any plan submitted for approval adequate provisions for safeguarding
23 confidential information. The [DEPARTMENT'S] regulations must provide for disclosure of
24 confidential information **to parents or guardians,** to mental health professionals providing
25 services to a recipient, and to other appropriate service agencies when it is in the defined best
26 interests of the patient.

27 * **Sec. 36.** AS 47.30.610 is repealed and reenacted to read:

28 Sec. 47.30.610. **DEFINITIONS.** In AS 47.30.520 - 47.30.610,

29 (1) "authority" means the Alaska Mental Health Trust Authority established in
30 AS 47.30.011;

31 (2) "department" means the Department of Health and Social Services;

1 (3) "division" means the division of mental health and developmental disabilities
2 in the Department of Health and Social Services;

3 (4) "persons with mental disorders" means persons with disorders currently
4 included within nationally accepted diagnostic systems of the mental health professions;

5 (5) "poverty area" means an election district in which 15 percent or more of the
6 population, based upon the most recent census data, falls under 125 percent of the Office of
7 Economic Opportunity poverty guidelines;

8 (6) "trust" has the meaning given in AS 47.30.066.

9 * Sec. 37. AS 47.30.660 is amended to read:

10 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. (a) The department
11 shall assist the Alaska Mental Health Trust Authority in the fulfillment of its duties. The
12 department shall coordinate with federal, state, regional, local, and private entities involved
13 in delivery of mental health services. The department shall implement a comprehensive and
14 integrated system of care that meets the service needs of the beneficiaries of the trust
15 established under the Alaska Mental Health Enabling Act of 1956, as determined by the
16 Alaska Mental Health Trust Authority and the goals and objectives of the plan approved
17 by the authority.

18 (b) The department, in fulfilling its duties under this section and through its division
19 of mental health and developmental disabilities, [IS THE MENTAL HEALTH AUTHORITY
20 OF THE STATE AND] shall

21 (1) administer a comprehensive program of services for persons with mental
22 disorders [FOR THE PREVENTION OF MENTAL ILLNESS AND THE CARE AND
23 TREATMENT OF THE MENTALLY ILL, INCLUDING INPATIENT AND OUTPATIENT
24 CARE AND TREATMENT AND THE PROCUREMENT OF SERVICES OF SPECIALISTS
25 OR OTHER PERSONS ON A CONTRACTUAL OR OTHER BASIS];

26 (2) take the actions and undertake the obligations that are necessary to participate
27 in federal grants-in-aid programs and accept federal or other financial aid from whatever sources
28 for the study, examination, care, and treatment of persons with mental disorders [THE
29 MENTALLY ILL];

30 (3) administer AS 47.30.660 - 47.30.915;

31 (4) designate, operate, and maintain treatment facilities equipped and qualified to

1 provide inpatient and outpatient care and treatment for persons with mental disorders [THE
2 MENTALLY ILL];

3 (5) provide for the placement of [MENTALLY ILL] patients with mental
4 disorders in designated treatment facilities;

5 (6) enter into arrangements with governmental agencies for the care or treatment
6 of persons with mental disorders [THE MENTALLY ILL] in facilities of the governmental
7 agencies in the state or in another state;

8 (7) enter into contracts with treatment facilities for the custody and care or
9 treatment of persons with mental disorders [THE MENTALLY ILL]; contracts under this
10 paragraph are governed by AS 36.30 (State Procurement Code);

11 (8) enter into contracts, which incorporate safeguards consistent with
12 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
13 state for the custody and care or treatment of patients previously committed from this state under
14 48 U.S.C. 46 et seq., and P.L. 84-830 [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat.
15 709;

16 (9) prescribe the form of applications, records, reports, requests for release, and
17 consents to medical or psychological treatment required by AS 47.30.660 - 47.30.915;

18 (10) require reports from the head of a treatment facility concerning the care of
19 patients;

20 (11) visit each treatment facility at least annually to review methods of care or
21 treatment for patients;

22 (12) investigate complaints made by a patient or an interested party on behalf of
23 a patient;

24 (13) delegate upon mutual agreement to another officer or agency of it, or a
25 political subdivision of the state, or a treatment facility designated, any of the duties and powers
26 imposed upon it by AS 47.30.660 - 47.30.915; [AND]

27 (14) propose to the Alaska Mental Health Trust Authority [ADOPT]
28 regulations to implement the provisions of AS 47.30.660 - 47.30.915; and

29 (15) provide technical assistance and training to providers of mental health
30 services.

31 * Sec. 38. AS 47.30.662 is repealed and reenacted to read:

1 Sec. 47.30.662. COMPOSITION. (a) The board consists of not fewer than 18 nor more
2 than 24 members appointed by the governor, with due regard for the demographics of the state
3 and balanced geographic representation of the state. The membership and committees of the
4 board shall fulfill the requirements of P.L. 99-660, as amended.

5 (b) Not less than one-half of the members shall be persons with a mental disorder
6 identified in AS 47.30.061(c)(1) or members of their families.

7 (c) The board members

8 (1) shall include the director of the division of mental health and developmental
9 disabilities in the department; and

10 (2) may include representatives of the principal state agencies with respect to
11 education, vocational rehabilitation, criminal justice, housing, social services, medical assistance,
12 substance abuse, and aging.

13 (d) Board members appointed under (c) of this section may not vote on matters before
14 the board.

15 (e) The board members shall include at least two licensed mental health professionals
16 who represent public and private providers of mental health services and at least one member
17 who is admitted to practice law in the state. Members appointed under this subsection may also
18 be family members identified under (b) of this section.

19 * Sec. 39. AS 47.30.664(b) is amended to read:

20 (b) The board shall have a paid staff provided by the department, including, but not
21 limited to, an executive director who shall be selected by the board [FROM CANDIDATES
22 PROVIDED BY THE DEPARTMENT]. The executive director is in the partially exempt service
23 and shall be compensated at no less than range 21 of the pay plan for state employees under
24 AS 39.27.011(a). The executive director may hire additional employees in the classified service
25 of the state. The department shall provide for the assignment of personnel to the board to
26 ensure the board has the capacity to fulfill its responsibilities. The executive director [AND
27 THE STAFF] of the board shall be directly responsible to the board in the performance of the
28 director's [THEIR] duties.

29 * Sec. 40. AS 47.30.666 is repealed and reenacted to read:

30 Sec. 47.30.666. DUTIES OF THE BOARD. The board is the state planning and
31 coordinating body for the purpose of federal and state laws relating to mental health services for

1 persons with mental disorders identified in AS 47.30.061(b), (d), (g), and (h). On behalf of those
2 persons, the board shall

3 (1) prepare and maintain a comprehensive plan of treatment and rehabilitation
4 services;

5 (2) propose an annual implementation plan consistent with the comprehensive plan
6 and with due regard for the findings from evaluation of existing programs;

7 (3) provide a public forum for the discussion of issues related to the mental health
8 services for which the board has planning and coordinating responsibility;

9 (4) advocate the needs of persons with mental disorders before executive agencies
10 and the legislature and the public;

11 (5) advise the legislature, the governor, the Alaska Mental Health Trust Authority,
12 and other state agencies in matters affecting persons with mental disorders, including, but not
13 limited to,

14 (A) development of necessary services for diagnosis, treatment, and
15 rehabilitation;

16 (B) evaluation of the effectiveness of programs in the state for diagnosis,
17 treatment, and rehabilitation;

18 (C) legal processes that affect screening, diagnosis, treatment, and
19 rehabilitation;

20 (6) make recommendations to the Alaska Mental Health Trust Authority
21 concerning the mental health program of the state and the use of money in the mental health trust
22 income account in a manner consistent with AS 47.30.061; in making recommendations affecting
23 the mental health trust, the members of the board assume a duty of loyalty to the mental health
24 trust equivalent to that of a private trustee; and

25 (7) submit periodic reports regarding its planning, evaluation, advocacy, and other
26 activities.

27 * Sec. 41. AS 47.30 is amended by adding a new section to read:

28 Sec. 47.30.667. COMPENSATION, PER DIEM, AND EXPENSES. The board members
29 appointed under AS 47.30.662(b) and (c) are not entitled to a salary, but are entitled to per diem,
30 reimbursement for travel, and other expenses authorized by law for boards and commissions
31 under AS 39.20.180.

1 * Sec. 42. AS 47.30.910(d) is amended to read:

2 (d) All money paid by the patient or on the patient's behalf to the department under this
3 section shall be deposited in the mental health trust income account established in
4 AS 37.14.021 [GENERAL FUND].

5 * Sec. 43. AS 47.30.910(g) is amended to read:

6 (g) The Alaska Mental Health Trust Authority [COMMISSIONER OF
7 ADMINISTRATION] shall separately account for medical care and treatment fees collected under
8 this section. Notwithstanding AS 37.10.050, the authority shall deposit the fees collected in
9 the mental health trust income account [THAT THE DEPARTMENT DEPOSITS IN THE
10 GENERAL FUND. THE ANNUAL ESTIMATED BALANCE IN THE ACCOUNT MAY BE
11 USED BY THE LEGISLATURE TO MAKE APPROPRIATIONS TO THE DEPARTMENT
12 TO CARRY OUT THE PURPOSES OF THIS SECTION].

13 * Sec. 44. AS 47.30.910 is amended by adding a new subsection to read:

14 (h) The Alaska Mental Health Trust Authority shall adopt regulations establishing
15 procedures to be used under this section.

16 * Sec. 45. AS 47.30.915(12) is amended to read:

17 (12) "mental illness" means a disorder identified in AS 47.30.061(c)(1), (3), and
18 (4) and includes an organic, mental, or emotional impairment that has substantial adverse effects
19 on an individual's ability to exercise conscious control of the individual's actions or ability to
20 perceive reality or to reason or understand; [MENTAL RETARDATION, EPILEPSY, DRUG
21 ADDICTION, AND ALCOHOLISM DO NOT PER SE CONSTITUTE MENTAL ILLNESS,
22 ALTHOUGH PERSONS SUFFERING FROM THESE CONDITIONS MAY ALSO BE
23 SUFFERING FROM MENTAL ILLNESS;]

24 * Sec. 46. AS 47.37.040 is amended by adding a new paragraph to read:

25 (20) conduct program planning activities approved by the Advisory Board on
26 Alcoholism and Drug Abuse.

27 * Sec. 47. AS 47.80.070(b) is amended to read:

28 (b) The council shall have a paid staff provided by the department, including an
29 executive director selected by the council. The executive director is in the partially exempt
30 service and shall be compensated at no less than range 21 of the pay plan for state
31 employees under AS 39.27.011(a). The executive director may hire additional employees

1 in the classified service of the state. The department shall provide for the assignment of
2 personnel to the council to ensure that the council has the capacity to fulfill its responsibilities.
3 The personnel shall be directly responsible to the council for performance of their duties.

4 * Sec. 48. AS 47.80.090 is amended to read:

5 Sec. 47.80.090. RESPONSIBILITIES. The council shall

6 (1) serve as a forum by which issues and benefits regarding current and potential
7 services to handicapped and gifted persons may be discussed by consumer, public, private,
8 professional, and lay interests;

9 (2) advocate the needs of handicapped and gifted persons before the executive and
10 legislative branches of the state government and before the public;

11 (3) advise the executive and legislative branches of the state government and the
12 private sector on programs and policies pertaining to current and potential services to
13 handicapped or gifted persons and their families;

14 (4) submit periodic reports to the commissioner of health and social services, the
15 commissioner of education, and to other appropriate departments, on the effects of current federal
16 and state programs regarding services to handicapped or gifted persons; these reports shall
17 include program performance reports to the governor, the federal government, and to state
18 agencies as required by P.L. 91-517, P.L. 94-103, or P.L. 94-142, as amended;

19 (5) in conjunction with the Departments of Health and Social Services and
20 Education, develop, prepare, adopt, periodically review, and revise as necessary an annual state
21 plan prescribing programs which meet the needs of persons with developmental disabilities as
22 required under P.L. 91-517 or P.L. 94-103, as amended;

23 (6) review and comment to commissioners of state departments on all state plans
24 and proposed regulations relating to programs for persons with handicaps before the adoption of
25 a plan or regulation; for this purpose, the appropriate departments shall submit the plans and
26 proposed regulations to the council;

27 (7) recommend the priorities and specifications for the use of funds received by
28 the state under P.L. 91-517, P.L. 94-103, and P.L. 94-142, as amended;

29 (8) [SUBMIT] annually submit

30 (A) to the commissioner of health and social services, the commissioner
31 of education, and the commissioner of community and regional affairs a proposed

1 interdepartmental program budget for services to handicapped or gifted persons which
2 includes, insofar as possible, projected revenues and expenditures for programs
3 implemented by state agencies, local governmental agencies, and private organizations;
4 the interdepartmental program budget is an informational supplement to the regular annual
5 budgetary submissions of the departments to the Office of the Governor;

6 (B) recommendations to the Alaska Mental Health Trust Authority
7 concerning the program of services for the beneficiaries identified in
8 AS 47.30.061(c)(2) of the trust established by the Alaska Mental Health Enabling Act
9 of 1956 and use of the money in the mental health trust income account in a manner
10 consistent with AS 47.30.061; in making recommendations affecting the trust,
11 members of the council assume a duty of loyalty to the trust equivalent to that of a
12 private trustee;

13 (9) provide information and guidance for the development of appropriate special
14 educational programs and services for exceptional children as defined in AS 14.30.350;

15 (10) monitor and evaluate budgets or other implementation plans and programs
16 for handicapped and gifted persons to assure nonduplication of services and encourage efficient
17 and coordinated use of federal, state, and private resources in the provision of services; members
18 of the council, with the approval of the council, have access to information in the possession of
19 state agencies subject to disclosure restrictions imposed by state or federal confidentiality or
20 privacy laws;

21 (11) perform other duties required under P.L. 91-517, P.L. 94-103, P.L. 94-142,
22 as amended, or AS 14.30.231, and as the governor may assign; and

23 (12) govern the special education service agency, and may hire personnel
24 necessary to operate the agency.

25 * Sec. 49. AS 47.80.110 is amended to read:

26 Sec. 47.80.110. PROGRAM PRINCIPLES. The system of services and facilities required
27 under AS 47.80.100 shall accord with the principles [PRINCIPLE] that service providers shall

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

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

31 (3) establish staffing patterns that reflect the cultural, linguistic, and other

1 social characteristics of the community and that incorporate multidisciplinary professional
2 staff to meet client functional levels and diagnostic and treatment needs;

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

5 (5) design treatment [, SERVICES,] and habilitation [SHALL BE DESIGNED]
6 to maximize individual potential and [,] minimize institutionalization; [,] and

7 (6) provide services [SHALL BE PROVIDED] in the least restrictive setting,
8 enabling a person to live as normally as possible within the limitations of the handicap.

9 * Sec. 50. AS 47.30.530, 47.30.546, and 47.30.560; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and
10 secs. 7 - 10, ch. 48, SLA 1987 are repealed.

11 * Sec. 51. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT
12 DISTRIBUTION MECHANISM. Not later than January 1, 1993, the Board of Trustees of the Alaska
13 Mental Health Trust Authority, after consulting with organizations and persons affected by this Act, shall

14 (1) consistent with AS 47.30.061(i), added by sec. 26 of this Act, adopt regulations
15 regarding persons who are to receive services funded by money in the mental health trust income
16 account under AS 37.14.021, as amended by sec. 11 of this Act;

17 (2) publish its finding and estimates regarding the number of persons in need under the
18 regulations adopted under (1) of this section;

19 (3) consistent with AS 47.30.061(k), added by sec. 26 of this Act, adopt regulations
20 regarding the services and facilities upon which expenditures are to be made from money in the mental
21 health trust income account under AS 37.14.021, as amended by sec. 11 of this Act; the regulations may
22 permit the use of the mental health trust income account money for programs or services to which
23 beneficiaries of the trust established by the Alaska Mental Health Enabling Act of 1956 are otherwise
24 entitled without spending trust assets, but the use of the money is limited to the additional costs of
25 providing specific mental health services for beneficiaries of the trust; the money may be expended for
26 services that are provided to the public generally by the state, but the expenditure of the earnings is
27 limited to the additional costs of providing specific mental health services for beneficiaries of the trust;
28 and

29 (4) publish its findings and projections regarding the necessary expenditure of money
30 from the mental health trust income account for the services and facilities identified under (3) of this
31 section; the projections may be based on a formula that considers distribution, demographics, and level

1 of functioning of the persons to be served and the cost of service delivery on a regional basis.

2 * Sec. 52. TRANSITIONAL PROVISIONS: BUDGET DEVELOPMENT. Notwithstanding the
3 repeal of AS 47.30.530 by sec. 50 of this Act, until the Board of Trustees of the Alaska Mental Health
4 Trust Authority adopts regulations under sec. 51 of this Act, or until January 1, 1993, whichever is
5 earlier, the Department of Health and Social Services shall prepare and submit budgets and receive and
6 distribute state appropriations in accordance with AS 47.30.520 - 47.30.620.

7 * Sec. 53. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.
8 Notwithstanding AS 47.30.016, added by sec. 26 of this Act,

9 (1) the initial appointments to the Board of Trustees of the Alaska Mental Health Trust
10 Authority shall be made by the governor from a list of candidates submitted to the governor by the
11 Alaska Mental Health Board;

12 (2) the initial appointees shall be appointed to initial terms as follows: two shall be
13 appointed for terms of one year, two shall be appointed for terms of two years, two shall be appointed
14 for terms of three years, two shall be appointed for terms of four years, and one shall be appointed for
15 a term of five years.

16 * Sec. 54. INITIAL VALUATION OF LEGISLATIVELY-DESIGNATED TRUST LAND.
17 Notwithstanding AS 37.14.017(b), added by sec. 10 of this Act, the value as of September 7, 1987, of
18 mental health trust land that is established as legislatively-designated land that is included in the trust
19 is the amount determined under the procedures approved by the Interim Mental Health Trust Commission
20 under its resolution dated November 7, 1989. The first redetermination of the value of the land under
21 AS 37.14.017(b), added by sec. 10 of this Act, shall be completed no later than July 1, 1992. In this
22 section, "legislatively-designated land" has the meaning given in AS 37.14.099, added by sec. 12 of this
23 Act.

24 * Sec. 55. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON
25 ALCOHOLISM AND DRUG ABUSE. Notwithstanding AS 44.29.110 and 44.29.115, as amended by
26 secs. 21 and 22 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who
27 are serving on the effective date of this Act continue to serve their unexpired terms. Vacancies on the
28 advisory board occurring after the effective date of this Act shall be filled by the governor under the
29 provisions of AS 44.29.115, as amended by sec. 22 of this Act.

30 * Sec. 56. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH
31 BOARD. Notwithstanding AS 47.30.662, as amended by sec. 38 of this Act, the members of the Alaska

1 Mental Health Board who are serving on the effective date of this Act continue to serve their unexpired
2 terms. Vacancies on the board occurring after the effective date of this Act, and new positions created
3 by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as amended by sec. 38
4 of this Act. When making appointments to new positions on the board, the governor shall ensure that
5 the initial terms of new members maintain the staggered term requirement of AS 47.30.663.

6 * Sec. 57. The provisions of AS 37.14.019(d), as added by sec. 10 of this Act, have the effect of
7 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
8 actions.

9 * Sec. 58. This Act takes effect upon incorporation into a final settlement and order approved by the
10 superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil. The superior court shall advise the
11 lieutenant governor and the revisor of statutes when the final settlement and order of Weiss v. State of
12 Alaska has been approved.