

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79 (RESOURCES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 5/8/91

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

Sponsor(s): REPRESENTATIVES BOYER, Gonzales, Moyer

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 an integrated
4 comprehensive mental health program for the people of the state; abolishing the Interim
5 Mental Health Trust Commission; relating to the Older Alaskans Commission and the
6 Governor's Council for the Handicapped and Gifted, and services provided under the
7 Uniform Alcoholism and Intoxication Treatment Act; amending the duties of the Alaska
8 Permanent Fund Corporation and the membership and duties of the Advisory Board on
9 Alcoholism and Drug Abuse and the Alaska Mental Health Board; exempting trust property
10 from municipal taxation; amending Alaska Rule of Civil Procedure 82; and providing for
11 an effective date."

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

1 * **Section 1. PURPOSE.** (a) It is the purpose of this Act to implement the state's obligation as the
2 trustee of the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat.
3 709, by providing an integrated comprehensive mental health program for the people of the state and
4 by resolving the serious and significant legal questions attending the status of that trust

5 (1) in accordance with the holding in the decision *State v. Weiss*, 706 P.2d 681 (Alaska
6 1985), and the principles that guided the development and enactment of ch. 48, SLA 1987;

7 (2) in a manner that

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

10 (B) provides adequate assurances that the trust will be administered properly and
11 in a way that determines and meets the necessary expenses of an integrated comprehensive
12 mental health program for the people of the state;

13 (C) assures appropriate expenditures from the trust; and

14 (D) establishes an independent trust authority.

15 (b) It is the further purpose of this Act that the trust serve, at a minimum, the mentally ill, the
16 mentally defective and retarded, chronic alcoholics suffering from psychoses, and senile people who as
17 a result of their senility suffer major mental illness.

18 (c) In enacting sec. 53 of this Act, the legislature

19 (1) seeks, in conjunction with other conveyances and payments authorized by law, to
20 satisfy the mandate of *State v. Weiss*, 706 P.2d 681 at 684 (Alaska 1985), to reconstitute the trust
21 established under the Alaska Mental Health Enabling Act of 1956;

22 (2) determines that the conveyances to the trust of state land within the boundary of the
23 Kuparuk River Unit Agreement will provide revenue from royalties sufficient to

24 (A) substantially reimburse the reestablished trust for the fair market value of
25 former mental health land sold since the date of its conveyance under 1978 legislation
26 redesignating the former trust land; and

27 (B) provide sufficient contribution of money to the trust corpus to allow the
28 Alaska Mental Health Trust Authority to assume responsibility for the development and
29 implementation of a comprehensive service program for the trust beneficiaries.

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

31 (a) The uninterrupted adverse notorious possession of real property under color and claim

1 of title for seven years or more is conclusively presumed to give title to the property except as
2 against the state or the United States. For the purpose of this subsection, land that is included
3 in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956,
4 P.L. 84-830, 70 Stat. 709, is land owned by the state.

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

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

7 (1) municipal, state, or federally owned property, or land that is incorporated
8 in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956,
9 P.L. 84-830, 70 Stat. 709, except that a private leasehold, contract, or other interest in the
10 property is taxable to the extent of the interest;

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

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

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

18 (5) money on deposit;

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

21 (7) real property or an interest in real property that is exempt from taxation under
22 43 U.S.C. 1620(d), as amended.

23 * Sec. 4. AS 36.30.850(b) is amended to read:

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

26 (1) grants;

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

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

31 (4) contracts for medical doctors and dentists;

- 1 (5) acquisitions or disposals of real property or interest in real property, except
2 as provided in AS 36.30.080;
- 3 (6) disposals under AS 38.05;
- 4 (7) contracts for the preparation of ballots under AS 15.15.030;
- 5 (8) acquisitions or disposals of property and other contracts relating to airports
6 under AS 02.15.070, 02.15.090, and 02.15.091;
- 7 (9) disposals of obsolete property under AS 19.05.060;
- 8 (10) disposals of obsolete material or equipment under AS 35.20.060;
- 9 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
10 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- 11 (12) contracts of the Department of Fish and Game for flights that involve
12 specialized flying and piloting skills and are not point-to-point;
- 13 (13) purchases of income-producing assets for the state treasury or a public
14 corporation of the state;
- 15 (14) operation of the state boarding school established under AS 14.16, if the
16 State Board of Education or the commissioner of education adopts regulations for use by the state
17 boarding school in procurement and contracting;
- 18 (15) a contract that is a delegation, in whole or in part, of investment powers held
19 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
20 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
21 AS 39.35.080;
- 22 (16) a contract that is a delegation, in whole or in part, of investment powers of
23 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
24 under AS 37.13;
- 25 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
26 37.14.099;
- 27 (17) the purchase of books, book binding services, newspapers, periodicals,
28 audio-visual materials, network information services access, approval plans, professional
29 memberships, archival materials, objects of art, and items for museum or archival acquisition
30 having cultural, historical, or archaeological significance; in this paragraph
31 (A) "approval plans" means book selection services in which current book

1 titles meeting an agency's customized specifications are provided to the agency subject
2 to the right of the agency to return those books that do not meet with the agency's
3 approval;

4 (B) "archival materials" means the noncurrent records of an agency that are
5 preserved after appraisal because of their value;

6 (C) "audio-visual materials" means nonbook prerecorded materials,
7 including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact
8 discs, laser discs, and items that require the use of equipment to render them usable;

9 (D) "network information services" means a group of resources from which
10 cataloging information, holdings records, inter-library loans, acquisitions information, and
11 other reference resources can be obtained;

12 (18) contracts for the purchase of standardized examinations for licensure under
13 AS 08;

14 (19) contracts for home health care and adult residential and foster care services
15 provided under regulations adopted by the Department of Health and Social Services;

16 (20) contracts for supplies or services for research projects funded by money
17 received from the federal government or private grants; [OR]

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

19 (22) contracts for services that are entered into by the Alaska Mental Health
20 Trust Authority.

21 * Sec. 5. AS 37.05.540(b) is amended to read:

22 (b) Except for appropriations to the permanent fund or for Alaska permanent fund
23 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,
24 appropriations required to pay the principal and interest on general obligation bonds, [AND]
25 appropriations of money received from a nonstate source in trust for a specific purpose, including
26 revenue of a public enterprise or public corporation of the state that issues revenue bonds, and
27 appropriations authorized by AS 37.14.031(a)(5), appropriations from the treasury made in a
28 fiscal year may not exceed appropriations made in the preceding fiscal year by more than five
29 percent plus the change in population and inflation since the beginning of the preceding fiscal
30 year. For purposes of applying this limit an appropriation is considered to be made in the fiscal
31 year in which it is enacted and a reappropriation remains attributed to the fiscal year in which

1 the original appropriation is enacted. The determination of the change in population for purposes
2 of this subsection shall be based on an annual estimate of population by the Department of Labor.
3 The determination of the change in inflation for purposes of this subsection shall be based on the
4 Consumer Price Index for all urban consumers for Anchorage prepared by the United States
5 Bureau of Labor Statistics. The amount of money received by the state that is subject to the
6 appropriation limit includes the balance in the general fund carried forward from the preceding
7 fiscal year.

8 * Sec. 6. AS 37.13.030 is amended to read:

9 Sec. 37.13.030. PURPOSE. It is the purpose of AS 37.13.010 - 37.13.210 [THIS
10 CHAPTER] to provide a mechanism for the management and investment of those permanent fund
11 assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the
12 findings in AS 37.13.020.

13 * Sec. 7. AS 37.13.040 is amended to read:

14 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established
15 the Alaska Permanent Fund Corporation. The corporation is a public corporation and government
16 instrumentality in the Department of Revenue managed by the board of trustees. The purpose
17 of the board is to manage and invest the assets of the corporation in accordance with
18 AS 37.13.010 - 37.13.210 [THIS CHAPTER].

19 * Sec. 8. AS 37.13. is amended by adding a new section to read:

20 Sec. 37.13.300. CORPORATION TO MANAGE CERTAIN ASSETS OF THE MENTAL
21 HEALTH TRUST. (a) Subject to agreement with the Alaska Mental Health Trust Authority
22 entered into under AS 37.14.009(a)(5), the corporation shall manage the cash assets of the corpus
23 of the trust established under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70
24 Stat. 709.

25 (b) The corporation shall

26 (1) continually hold and invest the cash assets of the corpus of the trust subject
27 to AS 37.13.120;

28 (2) at least quarterly, prepare, publish, and distribute to the Board of Trustees of
29 the Alaska Mental Health Trust Authority a financial report indicating investment revenue and
30 expenditures, and including a statement setting out the allocation of the cash assets of the trust
31 among investment vehicles;

1 (3) annually prepare, publish, and distribute to the Board of Trustees of the Alaska
2 Mental Health Trust Authority externally audited financial statements and an external audit
3 opinion as to the fair presentation of the financial position of the Alaska mental health trust in
4 conformity with generally accepted accounting principles; and

5 (4) periodically advise the Board of Trustees of the Alaska Mental Health Trust
6 Authority of potential changes to long-range investment policy, including pending asset allocation
7 policy changes, and provide an opportunity for consultation and comment on the potential
8 changes.

9 (c) Net income from the cash assets of the corpus of the trust managed under this section
10 may not be included in the computation of net income available for distribution under
11 AS 37.13.140.

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

13 Sec. 37.14.001. CO-TRUSTEES OF MENTAL HEALTH TRUST. (a) Each of the
14 following is a co-trustee of the trust established under the Alaska Mental Health Enabling Act
15 of 1956:

16 (1) the governor;

17 (2) the legislature;

18 (3) the Alaska Mental Health Trust Authority established by AS 47.30.011.

19 (b) The discharge of a fiduciary duty of a co-trustee is subject to review by the superior
20 court to determine whether a co-trustee, or any contribution of co-trustees, has properly
21 discharged a duty set out in AS 37.14.003, 37.14.005, 37.14.007, or the Alaska Mental Health
22 Enabling Act of 1956. In making its determination, the court has jurisdiction over property of
23 the trust to the extent the court finds it necessary to implement its decisions respecting the proper
24 discharge of a duty under AS 37.14.003, 37.14.005, 37.14.007, or the Alaska Mental Health
25 Enabling Act of 1956.

26 Sec. 37.14.003. GOVERNOR AS CO-TRUSTEE. (a) The governor is a co-trustee of
27 the mental health trust income account and, as a co-trustee, is subject to the provisions of this
28 section.

29 (b) In the appointment of the public members of the Alaska Mental Health Trust
30 Authority under AS 47.30.016(b)(2), the governor is acting as a trustee of the trust.

31 (c) In reviewing the budget recommendations of the authority for inclusion in the

1 proposed budget for the next fiscal year under art. IX, sec. 12, of the Constitution of the State
2 of Alaska, the governor shall act solely in the best interests of the beneficiaries of the trust and
3 without regard to other potential objects of state expenditure.

4 (d) To the extent that the proposed budget transmitted under art. IX, sec. 12, Constitution
5 of the State of Alaska, differs from the budget recommendations of the authority, the governor
6 shall

7 (1) issue a report justifying the changes; the report must state with particularity,
8 with respect to each difference from the authority's proposed budget, the facts and circumstances
9 relied upon by the governor in determining that the best interests of the beneficiaries of the trust
10 require a different budget recommendation;

11 (2) provide the report prepared under (1) of this subsection to the legislature, the
12 authority, and all entities providing services with money from the mental health trust income
13 account for further distribution by the entities to the beneficiaries of the trust and their
14 representatives; and

15 (3) make the report available to the public upon request.

16 (e) In reviewing appropriations of money from the mental health trust income account
17 for possible veto, the governor shall act solely in the best interests of the beneficiaries of the trust
18 and without regard to other potential objects of state expenditures. If the governor vetoes all or
19 a portion of an appropriation by the legislature of money from the mental health trust income
20 account, the governor shall issue a report justifying the vetoes as being in the best interests of
21 the beneficiaries of the trust. The governor's report must state with particularity, with respect
22 to each item vetoed, the facts and circumstances relied upon by the governor in determining that
23 the best interests of the beneficiaries of the trust require a reduction or elimination of the
24 appropriation.

25 Sec. 37.14.005. LEGISLATURE AS CO-TRUSTEE. (a) The legislature is a co-trustee
26 of the mental health trust income account and, as co-trustee, is subject to the provisions of this
27 section.

28 (b) The legislature shall annually adopt and transmit to the governor a bill making a
29 separate appropriation of money in the mental health trust income account no later than the 60th
30 day of the regular session. However, the legislature may extend the deadline established by this
31 subsection to the 80th day of the regular session by adopting a concurrent resolution adopted by

1 a two-thirds vote of each house.

2 (c) A legislative committee taking action on the bill making an appropriation from the
3 mental health trust income account shall take action on the bill that is solely in the best interests
4 of the beneficiaries of the trust and without regard to other potential objects of state expenditure,
5 and shall proceed substantially as follows:

6 (1) if the committee action differs from the recommendations of the authority, the
7 committee shall issue written findings stating with particularity the facts and circumstances upon
8 which it relied in determining that it is in the best interests of the beneficiaries of the trust to
9 deviate from the budget recommendations of the authority;

10 (2) if the committee acts to reduce mental health trust income account
11 expenditures from those proposed by the authority, the written findings must include, but are not
12 limited to, specific evidence that the budget recommendations of the authority proposed for
13 reduction are not needed, or that the authority has overstated the costs of providing the services;

14 (3) if the committee acts to make expenditures that have not been recommended
15 by the authority, the written findings must include, but are not limited to, specific evidence that
16 the proposed addition meets the requirements of AS 47.30.056, is a necessary expense for
17 beneficiaries of the trust, is consistent with the legislature's fiduciary obligations as co-trustee,
18 and is in the best interests of the beneficiaries of the trust;

19 (4) if, as to the authority's recommendation under AS 47.30.046(a)(3) for use of
20 the amount of surplus, if any, in the mental health trust income account for transfer to the general
21 fund, the committee acts to increase the amount of money to be transferred from the trust to the
22 general fund over the authority's recommendations, the committee's written findings must
23 include, but are not limited to, specific evidence that the additional money the committee action
24 would transfer from the trust account to the general fund is not reasonably or foreseeably needed
25 to meet the necessary operating and capital expenses of the integrated comprehensive mental
26 health program for the people of the state to be funded from the trust.

27 (d) In taking action on the bill appropriating money from the mental health trust income
28 account, the legislature shall base its action solely in the best interests of the beneficiaries of the
29 trust without regard to other potential objects of state expenditure and shall proceed substantially
30 as follows:

31 (1) if the appropriation differs from the recommendations of the authority, the

1 legislature must issue a written report stating with particularity the facts and circumstances upon
2 which it relied in determining it is in the best interests of the beneficiaries of the trust to deviate
3 from the budget recommendations of the authority;

4 (2) if the legislature acts to reduce expenditures from those proposed by the
5 authority, its report must include, but is not limited to, specific evidence that the budget
6 recommendations of the authority proposed for reduction are not needed, or that the authority has
7 overstated the cost of providing the services;

8 (3) if the legislature acts to make expenditures that have not been recommended
9 by the authority, its report must include, but is not limited to, specific evidence that the proposed
10 addition meets the requirements of AS 47.30.056, is a necessary expense for the beneficiaries of
11 the trust, is consistent with the legislature's fiduciary obligation as co-trustee, and is in the best
12 interests of the beneficiaries of the trust;

13 (4) if, as to the authority's recommendation under AS 47.30.046(a)(3) for use of
14 the amount of surplus, if any, in the mental health trust income account for transfer to the general
15 fund, the legislature acts to increase the amount of money to be transferred from the trust to the
16 general fund over the authority's recommendations, its report must include, but is not limited to,
17 specific evidence that the additional funds the legislative action would transfer from the trust
18 account to the general fund are not reasonably or foreseeably needed to meet the necessary
19 operating and capital expenses of the integrated comprehensive mental health program for the
20 people of the state to be funded from the trust.

21 (e) Annually, the legislature shall prepare a report of the trustee of the mental health
22 trust. The report must describe, at a minimum,

23 (1) the assets, earnings, and expenditures of the trust as of the end of the
24 preceding fiscal year;

25 (2) comparisons of the trust's assets, earnings, and expenditures with the prior five
26 fiscal years;

27 (3) projections for the trust's assets, earnings, and expenditures during the next
28 five fiscal years; and

29 (4) the amount of money appropriated from the mental health trust income
30 account and, if the appropriation differs from the budget recommendations submitted by the
31 authority, the information required by (d) of this section.

1 (f) The legislature shall
2 (1) transmit copies of the report prepared under (e) of this section to the governor,
3 the Office of Management and Budget, the commissioner of health and social services, and all
4 other entities providing services with trust funds for further distribution by the entities to the
5 beneficiaries of the trust and their representatives; and

6 (2) make copies of the report available to the public upon request.

7 Sec. 37.14.007. **AUTHORITY AS CO-TRUSTEE.** The Alaska Mental Health Trust
8 Authority, established by AS 47.30.011, is a co-trustee of

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

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

12 Sec. 37.14.009. **TRUST MANAGEMENT.** (a) The Alaska Mental Health Trust
13 Authority

14 (1) shall manage the assets of the trust, except the assets of the trust managed
15 by the Alaska Permanent Fund Corporation under AS 37.13.300; the assets of the trust managed
16 by the authority shall be managed according to the prudent-person rule; the prudent-person rule
17 as applied to investments of the authority means that in making investments the board shall
18 exercise the judgment and care under the circumstances then prevailing that an institutional
19 investor of ordinary prudence, discretion, and intelligence exercises in the management of large
20 investments entrusted to it not for speculation but for the permanent disposition of funds,
21 considering probable safety of capital as well as probable income; an evaluation to determine
22 whether the board has exercised the requisite judgment and care in its management of the
23 investments of the trust must be

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

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

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

31 (3) may, notwithstanding (1) of this subsection, use land that is an asset of the

1 trust directly for an integrated comprehensive mental health program for the people of the state;
2 (4) shall delegate management of trust land described in AS 37.14.031(a)(3) to
3 the Department of Natural Resources; and
4 (5) shall contract with the Alaska Permanent Fund Corporation for management
5 of the trust's cash assets, unless the authority finds that the best interests of the trust beneficiaries
6 would be served by contracting with another entity.
7 (b) At the end of each fiscal year, the authority shall transfer from the trust income
8 account established in AS 37.14.021 to the mental health trust corpus an amount appropriated by
9 the legislature to offset the effect of inflation on the money in the trust corpus during the year
10 for which the determination of the effect of inflation was made.
11 (c) At least annually, the authority shall prepare, publish, and distribute to the legislature
12 and make available to the public a financial report indicating trust revenue and expenditures, and
13 including a statement of its method of allocating the assets of the trust among appropriate
14 investment vehicles. The asset allocation policy shall be designed to provide for prudent
15 diversification and to meet the investment objectives and needs of the authority.
16 * Sec. 10. AS 37.14.021 is repealed and reenacted to read:
17 Sec. 37.14.021. TRUST INCOME ACCOUNT. (a) The mental health trust income
18 account is established as an account separate from the trust corpus. The mental health trust
19 income account consists of money
20 (1) earned by the authority on its investment of the assets of the trust corpus
21 during the fiscal year;
22 (2) paid by the state under AS 37.14.041; and
23 (3) transferred to the account by the board from any source.
24 (b) The authority may establish subaccounts within the mental health trust income
25 account.
26 (c) Expenditure of money from the mental health trust income account is subject to
27 AS 37.07 (Executive Budget Act).
28 * Sec. 11. AS 37.14 is amended by adding new sections to read:
29 Sec. 37.14.031. TRUST CORPUS RECONSTITUTED. (a) On the effective date of this
30 section, the mental health trust corpus is reconstituted to include
31 (1) land granted to the state under the enabling Act and not transferred or

1 encumbered by the state;

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

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

7 (4) land transferred by the state by law or land that is selected under (b) of this
8 section; and

9 (5) money paid by the state and directed by a law to be placed in the trust corpus.

10 (b) As partial compensation for land granted under the enabling Act that is not retained
11 by the trust, the authority

12 (1) shall select, from vacant, unappropriated, and unreserved land of the state, and
13 the state shall convey to the trust, an amount of land equal in value at the time of its selection
14 to \$200,000,000; and

15 (2) may, in addition to the land selected and conveyed under (1) of this
16 subsection, select, from vacant, unappropriated, and unreserved land of the state, and the state
17 shall convey to the trust, other land that is mutually agreeable to the authority and the
18 commissioner of natural resources.

19 (c) For purposes of (a) of this section, land granted under the enabling Act is encumbered
20 land not to be included in the trust if the land

21 (1) has been conveyed by patent to a municipality before the effective date of this
22 section;

23 (2) is a municipal land selection made under AS 29.65 or under former
24 AS 29.18.190 - 29.18.200 and

25 (A) is an approved selection, as that term is defined by AS 29.65.130,
26 approved in writing by the director of lands, Department of Natural Resources, before the
27 effective date of this section; or

28 (B) has been selected by a municipality and on the effective date of this
29 section the selection has been neither approved nor disapproved by the director of lands,
30 Department of Natural Resources, and the land selected is necessary to fulfill the
31 municipality's entitlement authorized by AS 29.65 or by former AS 29.18.190 - 29.18.200

1 after all land other than former mental health trust land selected by the municipality is
2 included in the entitlement;

3 (3) was subject to an application for an easement or right-of-way under
4 AS 38.05.850 and, on or before July 9, 1990, the applicant had filed with the Department of
5 Natural Resources an as-built survey for construction of a road within the easement or right-of-
6 way for which the application was submitted; or

7 (4) except as to a municipal selection under (2) of this subsection or an
8 application made under (3) of this subsection, has been

9 (A) conveyed by deed;

10 (B) made subject to a lease or to a contract for sale or lease;

11 (C) made subject to an easement or right-of-way;

12 (D) made subject to a mineral lease;

13 (E) made subject to a reservation for public use by statute;

14 (F) made subject to interagency land management assignments made by
15 the Department of Natural Resources; or

16 (G) encumbered before the effective date of this section by the
17 commissioner of natural resources by a land use authorization, lease, or conveyance when
18 specifically authorized by law or under terms and conditions established by law.

19 Sec. 37.14.041. RENT PAYABLE FOR LEGISLATIVELY-DESIGNATED LAND. (a)
20 On July 1 of each year, for trust land identified in AS 37.14.031(a)(3), the state shall pay rent
21 for that fiscal year to the authority as appropriated by the legislature to meet the obligation of
22 this section.

23 (b) Unless adjusted under (c) of this section or as required by law, the annual rent
24 payable for the land identified in this section is \$61,000,000.

25 (c) When a principal payment in addition to the required annual payment under (b) of
26 this section is appropriated by the legislature and made by the state, or when land is conveyed
27 by the state to the trust under AS 37.14.031(b)(2),

28 (1) the amount due the trust under (b) of this section shall be reduced by the
29 amount of the payment or the value of the land conveyed; and

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

1 Sec. 37.14.051. ENFORCEMENT OF PAYMENTS DUE THE TRUST. (a) If the state
2 fails to make a payment required under AS 37.14.041, the chief executive officer of the authority
3 shall notify each of the following of the state's failure to make the payment:

- 4 (1) the governor;
5 (2) the commissioner of revenue;
6 (3) the president of the senate; and
7 (4) the speaker of the house of representatives.

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

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

13 (d) If authorized by the board, the authority may apply to the superior court to require
14 payment. In a proceeding under this subsection, the court is limited to a determination of
15 whether a payment due the authority is due and unpaid and the amount that is due and unpaid.
16 The court shall include in the judgment the authority's full attorney fees. The judgment bears
17 interest at the rate of 10.5 percent per year. The clerk of the court shall provide copies of a
18 judgment and order entered under this subsection to the officials named in (a) of this section.

19 Sec. 37.14.061. TRUST LAND CONVEYANCES. (a) The authority may convey trust
20 land to the state or to a person in exchange for land or money.

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

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

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

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

31 (1) "authority" means the Alaska Mental Health Trust Authority established under

1 AS 47.30.011;

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

3 (3) "enabling Act" means the Alaska Mental Health Enabling Act of 1956, P.L.
4 84-830, 70 Stat. 709;

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

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

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

12 (ii) book 62, pages 394 - 399, Cordova Recording Office;

13 (iii) book 677, pages 62 - 100, Fairbanks Recording Office;

14 (iv) book 19, pages 926 - 954, Haines Recording Office

15 (v) book 201, pages 488 - 491, Homer Recording Office;

16 (vi) book 335, pages 748 - 765, Juneau Recording Office;

17 (vii) book 371, pages 117 - 158, Kenai Recording Office;

18 (viii) book 181, pages 728 - 757, Ketchikan Recording Office;

19 (ix) book 102, pages 869 - 872, Kodiak Recording Office;

20 (x) book 25, pages 195 - 198, McKinley Recording Office;

21 (xi) book 46, pages 001 - 023, Nenana Recording Office;

22 (xii) book 16, pages 393 - 397, Nulato Recording Office;

23 (xiii) book 629, pages 869 - 916, Palmer Recording Office;

24 (xiv) book 35, pages 518 - 534, Petersburg Recording Office;

25 (xv) book 31, pages 621 - 626, Seldovia Recording Office;

26 (xvi) book 90, pages 524 - 538, Sitka Recording Office;

27 (xvii) book 6, pages 286 - 294, Skagway Recording Office;

28 (xviii) book 131, pages 585 - 590, Talkeetna Recording Office;

29 (xix) book 18, pages 643 - 650, Wrangell Recording Office; and

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

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

6 * Sec. 12. AS 38.05.290(b) is amended to read:

7 (b) Consistent with the best interests of the state, in the selection of land under the
8 Alaska Statehood Act after the effective date of this section and until January 3, 1994,

9 (1) it is the policy of the state to make available the maximum land area for
10 the corpus of the trust established under the Alaska Mental Health Enabling Act of 1956,
11 P.L. 84-830, 70 Stat. 709, and reconstituted by AS 37.14.001; and

12 (2) subject to the prior right of the Alaska Mental Health Trust Authority
13 to nominate land for conveyance or exchange, in the selection of general grant land it is the
14 policy of the state to make available the maximum land area from which municipalities may
15 fulfill land entitlements under AS 29.65 or former AS 29.18.201 - 29.18.213.

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

17 Sec. 38.05.800. ADMINISTRATION OF CERTAIN LAND WITHIN THE MENTAL
18 HEALTH TRUST. The department shall manage land identified in AS 37.14.031(a)(3) on behalf
19 of the Alaska Mental Health Trust Authority for the land's legislatively-designated purpose. The
20 state shall continue to manage the land and its resources in accordance with state law and policy.
21 The management authority of the state includes

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

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

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

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

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

30 (A) Alaska Public Broadcasting Commission;

31 (B) Professional Teaching Practices Commission;

- 1 (C) Parole Board;
- 2 (D) Board of Nursing;
- 3 (E) Real Estate Commission;
- 4 (F) Alaska Royalty Oil and Gas Development Advisory Board;
- 5 (G) Alaska Historical Commission;
- 6 (H) Alaska State Council on the Arts;
- 7 (I) Alaska Police Standards Council;
- 8 (J) Older Alaskans Commission;
- 9 (K) Alaska Mental Health Board;
- 10 (L) State Medical Board;
- 11 (M) Governor's Council for the Handicapped and Gifted;
- 12 (N) Advisory Board on Alcoholism and Drug Abuse;

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

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

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

19 (a) The commission shall

20 (1) formulate a comprehensive statewide plan that identifies the concerns and
21 needs of older Alaskans and, with reference to the plan adopted, prepare and submit to the
22 governor and legislature an annual analysis and evaluation of the services that are provided to
23 older Alaskans;

24 (2) make recommendations directly to the governor and legislature with respect
25 to legislation, regulations, and appropriations for programs or services that benefit older Alaskans;

26 (3) encourage and aid the development of municipal commissions serving older
27 Alaskans and community-oriented programs and services for the benefit of older Alaskans;

28 (4) employ an executive director who serves at the pleasure of the commission;

29 (5) help older Alaskans lead dignified, independent, and useful lives;

30 (6) request and receive reports and audits from state agencies and local institutions
31 concerned with the conditions and needs of older Alaskans;

1 (7) administer, with the approval of the commissioner of administration, federal
2 programs as provided under 42 U.S.C. 3001 - 3045i (Older Americans Act), as amended;

3 (8) administer, with the approval of the commissioner of administration, state
4 programs as provided under AS 47.65; [AND]

5 (9) give assistance, on request, to the senior housing office in the Department of
6 Community and Regional Affairs in administration of the senior housing loan program under
7 AS 44.47.587 - 44.47.609 and in the performance of the office's other duties under
8 AS 44.47.585; and

9 (10) provide recommendations to the Alaska Mental Health Trust Authority
10 concerning the integrated comprehensive mental health program for the people of the state
11 who are described in AS 47.30.056(b)(4) and the use of the money in the mental health trust
12 income account in a manner consistent with AS 47.30.056; in making recommendations
13 affecting the trust, members of the commission assume a duty of loyalty to the trust
14 equivalent to the responsibilities of a private trustee.

15 * Sec. 17. 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 integrated comprehensive mental health program for the people of the state established under
18 AS 47.30.011 - 47.30.061 may not be adopted under this section unless it has been approved by
19 the Alaska Mental Health Trust Authority.

20 * Sec. 18. 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 integrated comprehensive mental health program for the
23 people of the state established under AS 47.30.011 - 47.30.061 may not be adopted under this
24 section unless it has been approved by the Alaska Mental Health Trust Authority.

25 * Sec. 19. 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. 20. AS 44.29.110 is amended to read:

31 Sec. 44.29.110. COMPOSITION. The board consists of 15 [12] members, 14 of whom

1 are public members appointed by the governor, and the 15th who is the director of the
2 division of alcoholism and drug abuse ex officio.

3 * Sec. 21. AS 44.29.115 is amended to read:

4 Sec. 44.29.115. QUALIFICATIONS OF BOARD MEMBERS. The governor shall
5 appoint the 14 public [12] members so that the board consists of the following public members:

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

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

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

12 (4) three members who are substance abuse treatment professionals who
13 represent public and private providers of substance abuse prevention and treatment
14 services; and

15 (5) five [EIGHT] members who have shown an interest in the problems of
16 alcoholism or drug abuse and who have knowledge of the social problems associated with
17 alcoholism or drug abuse [; AND

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

20 * Sec. 22. AS 44.29.120 is amended to read:

21 Sec. 44.29.120. TERM OF OFFICE. (a) The governor shall appoint the public
22 members of the board for staggered terms of four years.

23 (b) The governor shall fill a vacancy of a public member on the board by appointment
24 for the unexpired part of the vacated term.

25 (c) Public [BOARD] members of the board serve at the pleasure of the governor. The
26 governor shall replace a public [ANY] member who by poor attendance or lack of contribution
27 to the board's work demonstrates ineffectiveness as a board member. In this subsection, "poor
28 attendance" means the failure to attend three or more consecutive meetings.

29 * Sec. 23. AS 44.29.130 is amended to read:

30 Sec. 44.29.130. COMPENSATION, PER DIEM, AND EXPENSES. The public
31 members [MEMBERS] of the board are not entitled to a salary, but are entitled to per diem,

1 reimbursement for travel, and other expenses authorized by law for other boards.

2 * Sec. 24. AS 44.29 is amended by adding a new section to read:

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

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

13 * Sec. 25. AS 44.29.140 is amended to read:

14 Sec. 44.29.140. DUTIES. The board shall

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

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

19 (B) [(2)] educational research and public informational activities
20 [CONDUCTED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES
21 AND OTHERS] in respect to the problems presented by alcoholism or drug abuse;

22 (C) [(3)] social problems that affect rehabilitation of alcoholics and drug
23 abusers;

24 (D) [(4)] legal processes that affect the treatment and rehabilitation of
25 alcoholics and drug abusers;

26 (E) [(5)] development of programs of prevention, treatment, and
27 rehabilitation for alcoholics and drug abusers; and

28 (F) [(6)] REVIEW OF APPLICATIONS AND SUBSEQUENT
29 RECOMMENDATIONS TO THE COMMISSIONER OF HEALTH AND SOCIAL
30 SERVICES ON USE OF FUNDS FOR GRANTS FOR LOCAL ALCOHOLISM OR
31 DRUG ABUSE PROJECTS AND PROGRAMS;

1 (7)] evaluation of effectiveness of alcoholism and drug abuse programs in the
2 state;

3 (2) provide recommendations to the Alaska Mental Health Trust Authority
4 concerning the integrated comprehensive mental health program for the people of the state
5 who are described in AS 47.30.056(b)(3), and concerning the use of money in the mental
6 health trust income account in a manner consistent with regulations adopted under
7 AS 47.30.031; in making recommendations affecting the mental health trust, the members
8 of the board assume a duty of loyalty to the mental health trust equivalent to the
9 responsibilities of a private trustee.

10 * Sec. 26. AS 44.29.140 is amended by adding new subsections to read:

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

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

15 * Sec. 27. AS 47.30 is amended by adding new sections to read:

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

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

21 (c) The authority

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

25 (2) may sue and be sued;

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

28 (4) shall insure or indemnify and protect the board, a member of the board, or an
29 agent or employee of the authority against financial loss and expense, including reasonable legal
30 fees and costs, arising out of a claim, demand, suit, or judgment by reason of alleged negligence,
31 alleged violation of civil rights, or alleged wrongful act resulting in death or bodily injury to a

1 person or accidental damage to or destruction of property if the board member, agent, or
2 employee, at the time of the occurrence, was acting under the direction of the authority within
3 the course or scope of the duties of the board member, agent, or employee; and

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

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

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

9 (b) The board consists of

10 (1) the commissioners of health and social services, natural resources, and
11 revenue, or their designees, who are nonvoting ex officio trustees;

12 (2) seven public members appointed by the governor; the members appointed
13 under this paragraph shall be appointed

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

17 (B) after the governor has considered a list of persons prepared by a panel
18 of six persons who are beneficiaries, or who are the guardians, family members, or
19 representatives of beneficiaries; the panel consists of

20 (i) one person selected by the Alaska Mental Health Board
21 (AS 47.30.661);

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

24 (iii) one person selected by the Advisory Board on Alcoholism and
25 Drug Abuse (AS 44.29.110);

26 (iv) one person selected by the Older Alaskans Commission
27 (AS 44.21.200);

28 (v) one person selected by the Alaska Native Health Board; and

29 (vi) one person selected by the authority.

30 (c) A public member of the board appointed by the governor under (b)(2) of this section
31 may not

1 (1) be an officer or employee of the state; or
2 (2) within the preceding two years or during the member's term of office have
3 had an interest in, served on the governing board of, or been employed by an organization that
4 has an interest in, a contract entered into by the authority.
5 (d) A quorum of the board is four voting members.
6 (e) The members of the board who are commissioners or their designees are entitled to
7 per diem and travel expenses authorized for state employees. The public members of the board
8 appointed under (b)(2) of this section
9 (1) receive an honorarium of \$200 for each day or any part of a day spent at a
10 meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the
11 board; and
12 (2) are entitled to per diem and travel expenses authorized for boards and
13 commissions under AS 39.20.180.
14 Sec. 47.30.021. TERM OF OFFICE, VACANCIES, AND REMOVAL. (a) The public
15 members of the board appointed under AS 47.30.016(b)(2) serve staggered five-year terms. A
16 public member shall continue to serve until the member's successor is appointed and confirmed.
17 (b) A vacancy occurring in the membership of the public members of the board of
18 trustees of the authority appointed under AS 47.30.016(b)(2) shall be filled within 60 days by
19 appointment of the governor for the unexpired portion of the vacated term.
20 (c) The governor may remove a public member of the board appointed under
21 AS 47.30.016(b)(2) only for cause, including incompetence, neglect of duty, misconduct in office,
22 poor attendance, or lack of contribution to the board's work. A member being removed for cause
23 shall be given a copy of the charges and afforded an opportunity to publicly present a defense
24 in person or by counsel upon not less than 10 days' written notice. If a member is removed for
25 cause, the governor shall file with the lieutenant governor a complete statement of all charges
26 made against the member and the governor's findings based on the charges, together with a
27 complete record of the proceedings. The removal of a member for cause constitutes a final
28 administrative order. A member seeking to appeal the governor's removal of a member for cause
29 under this subsection shall file a notice of appeal with the superior court under AS 44.62.560.
30 (d) Except for a trustee who has served two consecutive five-year terms, a public member
31 of the board appointed under AS 47.30.016(b)(2) may be reappointed. A public member of the

1 board appointed under AS 47.30.016(b)(2) who has served two consecutive five-year terms is not
2 eligible for reappointment to the board until one year has intervened.

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

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

8 (1) hire additional employees;

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

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

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

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

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

19 (1) the requirements of AS 47.30.056(h) and (j);

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

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

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

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

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

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

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

- 1 (B) investigations;
2 (C) hearings; and
3 (D) the issuance of administrative orders, as necessary;
4 (8) procurement procedures; and
5 (9) provisions that establish a process for planning a comprehensive mental health
6 service delivery system to be paid for from the mental health trust income account.

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

- 8 (1) preserve and protect the trust corpus in perpetuity;
9 (2) coordinate with other state agencies involved with programs affecting persons
10 in need of mental health services;
11 (3) adopt bylaws governing its meetings, selection of officers, proceedings, and
12 other aspects of board procedure;
13 (4) make an annual written report of its activities to the legislature, governor, and
14 the public; and
15 (5) fulfill its obligations under AS 47.30.046.

16 Sec. 47.30.041. INDIVIDUAL RESPONSIBILITIES OF TRUSTEES. (a) By accepting
17 appointment to the board a person accepts the position as co-trustee of the trust and recognizes
18 that, in exercising its powers, duties, and responsibilities, the board is under a duty to the public
19 and the trust beneficiaries to

- 20 (1) administer the trust solely in the interests of the beneficiaries;
21 (2) keep and render clear and accurate accounts with respect to the administration
22 of the trust;
23 (3) make public and available complete and accurate information as to the nature
24 and amount of the trust property;
25 (4) exercise an equal or higher degree of care in administering the trust than in
26 the management of the person's own personal business;
27 (5) take reasonable steps to take and keep control of the trust property;
28 (6) use care and skill to preserve the trust property;
29 (7) take reasonable steps to realize on claims that are held in the trust;
30 (8) defend against actions that may result in a loss to the trust estate, unless under
31 all the circumstances, considering the other duties owed to the trust, it is reasonable not to make

1 that defense;

2 (9) keep trust property separate from the person's own property;

3 (10) keep trust property separate from other property not subject to the trust so

4 far as it is reasonable to do so;

5 (11) see that trust property is designated as property of the trust;

6 (12) use care in selecting the bank when making general deposits of trust money

7 in a bank, and properly identify the deposit as a deposit by the authority as trustee;

8 (13) use care and skill to make the trust property productive; however, nothing

9 in this paragraph shall prevent the authority from using trust property directly or indirectly, by

10 contractual stipulation or otherwise as a component of the state's mental health program;

11 (14) deal impartially with the different trust beneficiaries under the priorities set

12 out in AS 47.30.056; and

13 (15) participate in the administration of the trust with the other members of the

14 board, and use care to prevent a co-trustee from committing a breach of trust or to compel a co-

15 trustee to redress a breach of trust.

16 (b) By accepting appointment to the board, a person accepts the position as co-trustee

17 of the trust and recognizes that, in exercising its powers, duties, and responsibilities, the board

18 is otherwise subject to the same fiduciary duties as a private trustee under private trust law

19 principles.

20 Sec. 47.30.046. MANAGEMENT OF MENTAL HEALTH TRUST INCOME

21 ACCOUNT. (a) The board shall annually, not later than September 15, submit to the governor

22 and the Alaska Legislative Council a budget for the next fiscal year. The budget must include

23 the authority's determination of the amount

24 (1) recommended for expenditure from the mental health trust income account

25 during the next fiscal year to

26 (A) meet the administrative expenses of the authority;

27 (B) offset the effect of inflation on the value of the trust corpus as

28 required under AS 37.14.009(b); and

29 (C) meet the necessary operating and capital expenses of the integrated

30 comprehensive mental health program for the people of the state;

31 (2) recommended for expenditure from the general fund, if any, during the next

1 fiscal year to meet the necessary operating and capital expenses of the integrated comprehensive
2 mental health program for the people of the state; and

3 (3) in the mental health trust income account, if any, that is not reasonably or
4 foreseeably needed to meet the necessary operating and capital expenses of the integrated
5 comprehensive mental health program for the people of the state that may be transferred into the
6 general fund to be used for other public purposes.

7 (b) When the authority submits its proposed budget under (a) of this section, the authority
8 shall also provide to the legislative council, the governor, the Office of Management and Budget,
9 the commissioner of health and social services, and all entities providing services with money
10 in the mental health trust income account for further distribution by the entities to the
11 beneficiaries of the trust and their representatives, and shall make available to the public, upon
12 request, a written financial report of the authority. The report must describe at least the
13 following:

14 (1) the assets, earnings, and expenditures of the trust as of the end of the
15 preceding fiscal year;

16 (2) comparisons of the trust's assets, earnings, and expenditures with the prior five
17 fiscal years;

18 (3) projections of the trust's assets, earnings, and expenditures for the next five
19 fiscal years;

20 (4) the authority's budget recommendations submitted under (a) of this section,
21 and its reasons under AS 47.30.056 for making those recommendations;

22 (5) the authority's guidelines for the establishment of services; the provision of
23 service shall be based on the principle that services paid for from the trust are provided to
24 recipients as close to the recipient's home and family as practical with due consideration of
25 demographics, mental health service requirements, use of mental health services, economic
26 feasibility, and capital expenditures required for provision of minimum levels of service;

27 (6) forecasts of the number of persons needing services;

28 (7) projections of the resources required to provide the necessary services and
29 facilities; and

30 (8) reviews of the status of the integrated comprehensive mental health program
31 for the people of the state, including evaluation of program goals, objectives, targets and

1 timeliness, and overall effectiveness.

2 Sec. 47.30.051. SUBMISSIONS REQUIRING USE OF TRUST MONEY. An agency
3 or entity proposing an expenditure of money by the trust shall present its proposal to the
4 authority under regulations adopted under AS 47.30.031.

5 Sec. 47.30.056. USE OF MONEY IN THE MENTAL HEALTH TRUST INCOME
6 ACCOUNT. (a) If appropriated by law or if authorized by the court under AS 37.14.001(b), the
7 authority shall use money in the mental health trust income account established in AS 37.14.021
8 to

9 (1) provide an integrated comprehensive mental health program for the people
10 of the state, as required by this section; and

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

12 (b) In making expenditures under (a)(1) of this section, the authority shall, at a minimum,
13 provide for a reasonable level of necessary services to

14 (1) the mentally ill;

15 (2) the mentally defective and retarded;

16 (3) chronic alcoholics suffering from psychoses; and

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

18 (c) The integrated comprehensive mental health program for the people of the state for
19 which expenditures are made under this section

20 (1) shall give priority in service delivery to persons who, as a result of a mental
21 disorder or of a disorder identified in (b) of this section;

22 (A) may require or are at risk of hospitalization; or

23 (B) experience such major impairment of self-care, self-direction, or social
24 and economic functioning that they require continuing or intensive services;

25 (2) may, at the discretion of the board, include services to persons who are not
26 included under (b) or (c)(1) of this section.

27 (d) In (b)(1) of this section, "the mentally ill" includes persons with the following mental
28 disorders:

29 (1) schizophrenia;

30 (2) delusional (paranoid) disorder;

31 (3) mood disorders;

- 1 (4) anxiety disorders;
2 (5) somatoform disorders;
3 (6) organic mental disorders;
4 (7) personality disorders;
5 (8) dissociative disorders;
6 (9) other psychotic or severe and persistent mental disorders manifested by
7 behavioral changes and symptoms of comparable severity to those manifested by persons with
8 mental disorders listed in this subsection; and

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

13 (e) In (b)(2) of this section, "the mentally defective and retarded" includes persons with
14 the following neurologic or mental disorders:

- 15 (1) cerebral palsy;
16 (2) epilepsy;
17 (3) mental retardation;
18 (4) autistic disorder;
19 (5) severe organic brain impairment;
20 (6) significant developmental delay during early childhood indicating risk of
21 developing a disorder listed in this subsection;
22 (7) other severe and persistent mental disorders manifested by behaviors and
23 symptoms similar to those manifested by persons with disorders listed in this subsection.

24 (f) In (b)(3) of this section, "chronic alcoholics suffering from psychoses" includes
25 persons with the following disorders:

- 26 (1) alcohol withdrawal delirium (delirium tremens);
27 (2) alcohol hallucinosis;
28 (3) alcohol amnestic disorder;
29 (4) dementia associated with alcoholism;
30 (5) alcohol-induced organic mental disorder;
31 (6) alcoholic depressive disorder;

1 (7) other severe and persistent disorders associated with a history of prolonged
2 or excessive drinking or episodes of drinking out of control and manifested by behavioral
3 changes and symptoms similar to those manifested by persons with disorders listed in this
4 subsection.

5 (g) In (b)(4) of this section, "senile people who as a result of their senility suffer major
6 mental illness" includes persons with the following mental disorders:

7 (1) primary degenerative dementia of the Alzheimer type;

8 (2) multi-infarct dementia;

9 (3) senile dementia;

10 (4) presenile dementia;

11 (5) other severe and persistent mental disorders manifested by behaviors and
12 symptoms similar to those manifested by persons with disorders listed in this subsection.

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

18 (i) In this section, "an integrated comprehensive mental health program for the people
19 of the state"

20 (1) means public health programs and services that, on the effective date of this
21 section, are separately recognizable and administered as community mental health services,
22 services for the developmentally disabled, alcoholism services, and services for older Alaskans
23 suffering from Alzheimer's disease and related disorders, without regard to the administrative unit
24 directly responsible for the delivery of the service;

25 (2) includes, at a minimum, each of the following services for the beneficiaries
26 of the trust as appropriate:

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

28 (B) screening examination and evaluation services required to complete
29 the involuntary commitment process under AS 47.30.700 - 47.30.815;

30 (C) inpatient care;

31 (D) crisis stabilization services, which may include:

- 1 (i) active community outreach;
2 (ii) in-hospital contact;
3 (iii) mobile crisis teams of mental health professionals;
4 (iv) crisis beds to provide a short term residential program for
5 persons experiencing an acute episode of mental illness that requires temporary
6 removal from a home environment;
- 7 (E) treatment services, which may include
8 (i) diagnosis, testing, and evaluation of medical needs;
9 (ii) medication monitoring;
10 (iii) physical examinations;
11 (iv) dispensing psychotropic and other medication;
12 (v) detoxification;
13 (vi) individual or group therapy;
14 (vii) aftercare;
- 15 (F) case management, which may include
16 (i) evaluation of needs;
17 (ii) development of individualized treatment plans;
18 (iii) enhancement of access to available resources and programs;
19 (iv) development of interagency contacts and family involvement;
20 (v) advocacy;
- 21 (G) daily structure and support, which may include
22 (i) daily living skills training;
23 (ii) socialization activities;
24 (iii) recreation;
25 (iv) transportation;
26 (v) day care services;
27 (vi) client and care provider education and support services;
- 28 (H) residential services, which may include
29 (i) crisis or respite care;
30 (ii) board and care;
31 (iii) foster care, group homes, halfway houses, or supervised

1 apartments;

2 (iv) intermediate care facilities;

3 (v) long-term care facilities;

4 (vi) in-home care;

5 (I) vocational services, which may include

6 (i) prevocational services;

7 (ii) work adjustment;

8 (iii) supported work;

9 (iv) sheltered work;

10 (v) training in which participants achieve useful work experience;

11 (J) outpatient screening, diagnosis, and treatment services, including

12 individual, family, and group psychotherapy, counseling, and referral; and

13 (K) administrative services, including appropriate operating expenses of

14 state agencies and other service providers.

15 (j) The authority shall adopt regulations regarding the services described in (i) of this

16 section to reflect advances in the appropriate professions serving the beneficiaries of the trust.

17 The authority shall review and revise the regulations as necessary. Regulations adopted under

18 this subsection must be in the long term best interest of the mental health trust.

19 (k) The authority may not enter into a contract for services unless the services to be

20 provided under the contract are consistent with the plan for the integrated comprehensive mental

21 health program for the people of the state.

22 Sec. 47.30.061. DEFINITIONS. In AS 47.30.011 - 47.30.061,

23 (1) "authority" means the Alaska Mental Health Trust Authority established by

24 AS 47.30.011;

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

26 (3) "trust" means the trust established by the Alaska Mental Health Enabling Act

27 of 1956, P.L.84-830, 70 Stat. 709.

28 * Sec. 28. AS 47.30 is amended by adding a new section to read:

29 Sec. 47.30.472. POWERS AND DUTIES OF ALASKA MENTAL HEALTH TRUST

30 AUTHORITY. The Alaska Mental Health Trust Authority established by AS 47.30.011

31 (1) shall include within the plan for the integrated comprehensive mental health

1 program for the people of the state the services and facilities that are necessary for the care and
2 treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in
3 AS 47.30.056(b)(3) and (f); in preparing the plan of services for persons identified in this
4 paragraph, the authority shall coordinate with the Advisory Board on Alcoholism and Drug
5 Abuse;

6 (2) shall use money appropriated from the mental health trust income account
7 established under AS 37.14.021 to provide the necessary services identified in (1) of this section
8 and in accordance with AS 47.30.056;

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

12 * Sec. 29. AS 47.30.520 is amended to read:

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

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

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

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

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

26 (5) [(2)] improve the effectiveness of existing mental health services;

27 (6) [(3)] integrate state-operated and community mental health programs into a
28 unified mental health system;

29 (7) ensure that consumers, families, and representatives of [(4) PROVIDE A
30 MEANS FOR PARTICIPATION BY LOCAL] communities within mental health planning
31 regions can participate in determining [THE DETERMINATION OF] the need for and the

1 allocation of mental health resources;
2 (8) [(5) ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
3 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH SERVICES;
4 (6)] provide a means of allocating money available for state mental health
5 services [FUNDS] according to community needs;
6 (9) [(7)] encourage the full use of all existing public or private agencies, facilities,
7 personnel, and funds to accomplish these objectives; and
8 (10) [(8)] prevent unnecessary duplication and fragmentation of services and
9 expenditures.

10 * Sec. 30. AS 47.30 is amended by adding a new section to read:

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

13 (1) the community mental health program provide a comprehensive and integrated
14 system of community based facilities, supports, and mental health services including child and
15 adolescent screening and diagnosis, inpatient, outpatient, prevention, consultation, and education
16 services;

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

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

22 (b) Community mental health program service delivery principles include the principles
23 that persons

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

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

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

31 (4) in need of community mental health services, and their families, be

1 encouraged to participate in formulating, delivering, and evaluating treatment and rehabilitation;
2 (5) in need of community mental health services be provided treatment and
3 rehabilitation services designed to minimize institutionalization and maximize individual potential;
4 (6) be treated in the least restrictive alternative environment consistent with their
5 treatment needs, enabling the person to live as normally as possible;
6 (7) be provided necessary treatment as close to the person's home as possible;
7 (8) be informed of and allowed to participate in planning their own treatment as
8 much as possible.

9 * Sec. 31. AS 47.30.530 is amended by adding a new subsection to read:

10 (b) In performing its duties under (a) of this section, the department shall coordinate with
11 the Alaska Mental Health Trust Authority established in AS 47.30.011.

12 * Sec. 32. AS 47.30.540 is amended to read:

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

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

28 (1) give priority to mental health programs and services consistent with the
29 priorities set out in AS 47.30.056 and that provide the [HAVE A] maximum services for the
30 least expenditure of money from the mental health trust income account [EFFECT ON
31 OTHER TAX FUNDED PROGRAMS];

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

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

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

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

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

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. 33. 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 47.30.056(i) to persons identified in AS 47.30.056.

25 * Sec. 34. 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. 35. AS 47.30.590 is amended to read:

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

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

22 Sec. 47.30.610. DEFINITIONS. In AS 47.30.520 - 47.30.610,

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

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

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

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

30 (5) "poverty area" means an election district in which 15 percent or more of the
31 population, based upon the most recent census data, falls under 125 percent of the Office of

1 Economic Opportunity poverty guidelines;

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

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

4 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. (a) The department
5 shall

6 (1) prepare, and periodically revise and amend, a plan for an integrated
7 comprehensive mental health program for the people of the state; the preparation of the
8 plan and any revision or amendment of it must

9 (A) be made in conjunction with the Alaska Mental Health Trust
10 Authority;

11 (B) coordinate with federal, state, regional, local, and private entities
12 involved in mental health services;

13 (C) conform to the regulations adopted by the Alaska Mental Health
14 Trust Authority under AS 47.30.031(b)(9); and

15 (2) implement an integrated comprehensive system of care that meets the
16 service needs of the beneficiaries of the trust established under the Alaska Mental Health
17 Enabling Act of 1956, as determined by the plan.

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 47.30.056(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 47.30.056(b)(1) and (4). 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) provide recommendations to the Alaska Mental Health Trust Authority
21 concerning the integrated comprehensive mental health program for the people of the state who
22 are described in AS 47.30.056(b)(1) and (4) and the use of money in the mental health trust
23 income account in a manner consistent with regulations adopted under AS 47.30.031; in making
24 recommendations affecting the mental health trust, the members of the board assume a duty of
25 loyalty to the mental health trust equivalent to that of a private trustee; and

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

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

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

1 under AS 39.20.180.

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

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

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

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

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

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

17 * Sec. 45. AS 47.30.915 is amended by adding a new paragraph to read:

18 (18) "persons with mental disorders" has the meaning given in AS 47.30.610.

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

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

22 * Sec. 47. AS 47.37 is amended by adding a new section to read:

23 Sec. 47.37.125. PAYMENT FOR SERVICES. Subject to appropriation by the legislature
24 or court order entered under AS 37.14.001(b), money in the mental health trust income account
25 established in AS 37.14.021 may be used to support a service provided under the authority given
26 in this chapter.

27 * Sec. 48. 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. 49. AS 47.80.090 is amended by adding a new paragraph to read:

5 (13) recommend to the Alaska Mental Health Trust Authority concerning the
6 integrated comprehensive mental health program for the people of the state who are described
7 in AS 47.30.056(b)(2) and the use of the money in the mental health trust income account in a
8 manner consistent with regulations adopted under AS 47.30.031; in making recommendations
9 affecting the trust, members of the council assume a duty of loyalty to the trust equivalent to that
10 of a private trustee.

11 * Sec. 50. AS 47.80.110 is amended to read:

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

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

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

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

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

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

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

26 * Sec. 51. AS 47.30.546 and 47.30.560; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and secs. 7 - 10,
27 ch. 48, SLA 1987 are repealed.

28 * Sec. 52. AS 37.14.011(b) and 37.14.011(c) are repealed.

29 * Sec. 53. CONVEYANCE OF STATE LAND, TIDELAND, AND SUBMERGED LAND. (a)
30 Subject to reservation of the interests described in (b) of this section, the upland, tide, and submerged
31 land within the following parcels is conveyed to the Alaska Mental Health Trust Authority:

- 1 (1) Township 14 North, Range 8 East, Umiat Meridian
2 Section 19
3 Sections 30 - 31
4 (2) Township 14 North, Range 9 East, Umiat Meridian
5 Sections 24 - 25
6 Section 36
7 (3) Township 13 North, Range 8 East, Umiat Meridian
8 Sections 1 - 3
9 Sections 10 - 15
10 Sections 19 - 36
11 (4) Township 13 North, Range 9 East, Umiat Meridian
12 Sections 1 - 12
13 Sections 15 - 22
14 Sections 25 - 36
15 (5) Township 12 North, Range 8 East, Umiat Meridian
16 (6) Township 12 North, Range 9 East, Umiat Meridian
17 (7) Township 12 North, Range 10 East, Umiat Meridian
18 Sections 1 - 12
19 Sections 14 - 23
20 Sections 25 - 36
21 (8) Township 12 North, Range 11 East, Umiat Meridian
22 Sections 5 - 8
23 Section 31
24 (9) Township 11 North, Range 7 East, Umiat Meridian
25 Sections 24 - 26
26 Sections 34 - 36
27 (10) Township 11 North, Range 8 East, Umiat Meridian
28 (11) Township 11 North, Range 9 East, Umiat Meridian
29 (12) Township 11 North, Range 10 East, Umiat Meridian
30 (13) Township 11 North, Range 11 East, Umiat Meridian
31 Sections 5 - 8

- 1 Sections 16 - 22
- 2 Sections 27 - 33
- 3 (14) Township 10 North, Range 7 East, Umiat Meridian
- 4 Sections 1 - 4
- 5 Sections 9 - 16
- 6 Sections 21 - 28
- 7 Sections 33 - 36
- 8 (15) Township 10 North, Range 8 East, Umiat Meridian
- 9 (16) Township 10 North, Range 9 East, Umiat Meridian
- 10 (17) Township 10 North, Range 10 East, Umiat Meridian
- 11 (18) Township 10 North, Range 11 East, Umiat Meridian
- 12 Sections 5- 8
- 13 Sections 17 - 20
- 14 Sections 29 - 32
- 15 (19) Township 9 North, Range 9 East
- 16 Sections 1 - 24
- 17 (20) Township 9 North, Range 10 East
- 18 Sections 1 - 24
- 19 Sections 27 - 34
- 20 (21) Township 9 North, Range 11 East
- 21 Sections 5 - 8
- 22 Sections 17 - 20.

23 (b) The conveyance made by (a) of this section does not include the conveyance or transfer to

24 the Alaska Mental Health Trust Authority of mineral lease rentals, royalties, royalty sale proceeds,

25 federal mineral revenue sharing payments, and bonuses received by the state from land conveyed to the

26 trust under (a) of this section that are subject to placement in the Alaska permanent fund under art. IX,

27 sec. 15, Constitution of the State of Alaska, and under AS 37.13.010.

28 * Sec. 54. INTERPRETATION. (a) The conveyance made by sec. 53(a) of this Act is a conveyance

29 made under AS 37.14.031(a)(4) as compensation to the corpus of the trust under the Alaska Mental

30 Health Enabling Act, and is made in order to partially compensate the trust for the value of land granted

31 to the trust under the Alaska Mental Health Enabling Act of 1956 and not thereafter retained in trust

1 status.

2 (b) The conveyance made by sec. 53(a) of this Act constitutes a transfer by the state to the trust
3 of a portion of the state's interest in North Slope land managed for the development of oil under the
4 Kuparuk River Unit Agreement authorized by AS 31.05.110.

5 * Sec. 55. APPLICABILITY. Nothing in this Act is intended to affect

6 (1) the payment of money due the Alaska permanent fund under art. IX, sec. 15,
7 Constitution of the State of Alaska and AS 37.13.010;

8 (2) the state's levy and collection of taxes under AS 43.

9 * Sec. 56. INTERIM ADMINISTRATION. (a) The commissioner of administration shall establish
10 and maintain a separate account for receipts due the state under AS 38 from the land conveyed under
11 sec. 53(a) of this Act for money that is not subject to deposit in the permanent fund under art. IX, sec.
12 15, Constitution of the State of Alaska, and AS 37.13.010 and that is received by the state on and after
13 the effective date of this section and before the date that is 91 days after the execution of the oath of
14 office by the members of the board of trustees of the Alaska Mental Health Trust Authority first
15 appointed under AS 47.30.016, enacted by sec. 27 of this Act.

16 (b) The legislature may appropriate the receipts accounted for under (a) of this section to the
17 trust corpus of the Alaska Mental Health Trust Authority.

18 * Sec. 57. EXTENSION AUTHORIZED. The board of trustees and the commissioner of
19 administration may negotiate an extension of the commissioner's responsibilities under sec. 56(a) of this
20 Act for a period not to exceed one year.

21 * Sec. 58. CONTINGENT EFFECTIVENESS. Sections 1(c) and 53 - 56 of this Act take effect only
22 if the conveyance set out in sec. 53(a) of this Act is approved by the board of trustees of the Alaska
23 Mental Health Trust Authority within 90 days of the effective date of this section.

24 * Sec. 59. PROCEEDS OF RENTAL VALUE OF LAND DURING FISCAL YEAR 1992
25 AUTHORIZED FOR ALLOCATION TO THE MENTAL HEALTH TRUST INCOME ACCOUNT.
26 After June 30, 1991, and until June 30, 1992, the rental value of land constituting the mental health trust
27 corpus is equal to six percent of the unrestricted general fund revenue of the state for the fiscal year.
28 The commissioner of revenue shall allocate that amount from the general fund to the mental health trust
29 income account established by AS 37.14.021(a), as amended by sec. 10 of this Act.

30 * Sec. 60. REDEMPTION OF LEGISLATIVELY-DESIGNATED LAND. (a) The state shall
31 redeem trust land identified in AS 37.14.031(a)(3) by exchanging land under AS 37.14.061 or by paying

1 to the authority the value of the land at the time of the land's redemption. Unless there is a dispute as
2 to the value of the land proposed for redemption, the authority is required to accept the state payment
3 tendered for the land and release claims the trust may have on the land.

4 (b) Land that is redeemed by the state under this subsection may not thereafter be treated as trust
5 land identified in AS 37.14.031(a)(3). When the state pays for redemption of legislatively-designated
6 land under this section, the amount due the state under AS 37.14.041 shall be reduced by the amount
7 of the payment for the land conveyed, the adjustment to be effective as of the date of the next rent
8 payment to the trust due under AS 37.14.041.

9 (c) Notwithstanding any other provision of law, unless the authority and the commissioner of
10 natural resources agree on the land's value, the Alaska Supreme Court has original jurisdiction to hear
11 and establish the value of land redeemed under (a) of this section. The court

12 (1) shall determine the value of the land;

13 (2) may refer the proceedings for the valuation of the land to a special master; if
14 appointed, the special master

15 (A) may exercise the powers authorized by Rule 53(b) of the Alaska Rules of
16 Civil Procedure;

17 (B) shall proceed substantially in the manner required by Rule 53(c) and 53(d)
18 of the Alaska Rules of Civil Procedure;

19 (C) is entitled to the compensation payable to a special master under Rule 53(a)
20 of the Alaska Rules of Civil Procedure; and

21 (D) shall make a recommended decision to the court.

22 * Sec. 61. LAND SELECTION. After the effective date of this section and until January 3, 1994,
23 the board of trustees of the Alaska Mental Health Trust Authority may nominate federal land it
24 determines may be valuable to the trust for selection under the Alaska Statehood Act (P.L. 85-508, 72
25 Stat. 339), as amended, and request the commissioner of natural resources to select the land for the state
26 through the federal land selection process.

27 * Sec. 62. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT
28 DISTRIBUTION MECHANISM. Not later than January 1, 1993, the Board of Trustees of the Alaska
29 Mental Health Trust Authority, after consulting with organizations and persons affected by this section,
30 shall

31 (1) consistent with AS 47.30.056(h), added by sec. 27 of this Act, adopt regulations

1 regarding persons who are to receive services funded by money in the mental health trust income
2 account under AS 37.14.021, as amended by sec. 10 of this Act;

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

5 (3) consistent with AS 47.30.056(j), added by sec. 27 of this Act, adopt regulations
6 regarding the services and facilities upon which expenditures are to be made from money in the mental
7 health trust income account under AS 37.14.021, as amended by sec. 10 of this Act; the regulations may
8 permit the use of the mental health trust income account money for programs or services to which
9 beneficiaries of the trust established by the Alaska Mental Health Enabling Act of 1956 are otherwise
10 entitled without spending trust assets, but the use of the money is limited to the additional costs of
11 providing specific mental health services for beneficiaries of the trust; the money may be expended for
12 services that are provided to the public generally by the state, but the expenditure of the earnings is
13 limited to the additional costs of providing specific mental health services for beneficiaries of the trust;
14 and

15 (4) publish its findings and projections regarding the necessary expenditure of money
16 from the mental health trust income account for the services and facilities identified under (3) of this
17 section; the projections may be based on a formula that considers distribution, demographics, and level
18 of functioning of the persons to be served and the cost of service delivery on a regional basis.

19 * Sec. 63. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.
20 Notwithstanding AS 47.30.016, added by sec. 27 of this Act,

21 (1) the initial appointments of the public members of the Board of Trustees of the Alaska
22 Mental Health Trust Authority appointed under AS 47.30.016(b)(2), added by sec. 27 of this Act, shall
23 be made by the governor after considering a list of candidates submitted to the governor by the Alaska
24 Mental Health Board;

25 (2) the initial appointees shall be appointed to initial terms as follows: one shall be
26 appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed
27 for a term of three years, two shall be appointed for terms of four years, and two shall be appointed for
28 terms of five years.

29 * Sec. 64. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON
30 ALCOHOLISM AND DRUG ABUSE. Notwithstanding AS 44.29.110 and 44.29.115, as amended by
31 secs. 20 and 21 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who

1 are serving on the effective date of this section continue to serve their unexpired terms. Vacancies on
2 the advisory board occurring after the effective date of this section shall be filled by the governor under
3 the provisions of AS 44.29.115, as amended by sec. 21 of this Act.

4 * Sec. 65. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH
5 BOARD. Notwithstanding AS 47.30.662, as amended by sec. 38 of this Act, the members of the Alaska
6 Mental Health Board who are serving on the effective date of this section continue to serve their
7 unexpired terms. Vacancies on the board occurring after the effective date of this section, and new
8 positions created by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as
9 amended by sec. 38 of this Act. When making appointments to new positions on the board, the governor
10 shall ensure that the initial terms of new members maintain the staggered term requirement of
11 AS 47.30.663.

12 * Sec. 66. TRANSITIONAL PROVISIONS: ENCUMBERED LAND. The commissioner of natural
13 resources shall, not later than six months after the effective date of this section or not later than March 1,
14 1992, whichever is earlier, prepare and transmit to the legislature a report providing a description of
15 former mental health trust land encumbered by the state on the effective date of this section under
16 AS 37.14.031(a)(1), added by sec. 11 of this Act.

17 * Sec. 67. The provisions of AS 37.14.051(d), as added by sec. 11 of this Act, have the effect of
18 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
19 actions.

20 * Sec. 68. Section 58 of this Act takes effect on the date of execution of the oath of office by the
21 members of the board of trustees of the Alaska Mental Health Trust Authority first appointed under
22 AS 47.30.016, added by sec. 27 of this Act.

23 * Sec. 69. Sections 53 - 57 of this Act take effect on the date of receipt by the governor of a
24 resolution approved by a majority of the members of the board of trustees of the Alaska Mental Health
25 Trust Authority first appointed under AS 47.30.016, added by sec. 27 of this Act. The governor shall
26 advise the lieutenant governor and the revisor of statutes of receipt of the resolution under this section.

27 * Sec. 70. Section 66 of this Act takes effect immediately under AS 01.10.070(c).

28 * Sec. 71. Section 52 of this Act takes effect July 1, 1991.

29 * Sec. 72. Section 60 of this Act is repealed June 30, 2007.

30 * Sec. 73. Except for secs. 52 - 58, and 66, this Act takes effect upon incorporation into a final
31 settlement and order approved by the superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil.

1 The superior court shall advise the lieutenant governor and the revisor of statutes when the final
2 settlement and order of Weiss v. State of Alaska has been approved.