

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 65 (HES)**IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE****Offered: 5/6/91****Referred: Judiciary, Finance****Sponsor(s): SENATORS DUNCAN, Zharoff****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, 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 that, at a minimum, meets the necessary expenses of a
12 comprehensive service program for the beneficiaries of the trust;

13 (C) assures appropriate expenditures from the trust;

14 (D) establishes an independent trust authority; and

15 (E) is enforceable.

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

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

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

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

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

1 recommendation that an appropriation be made for its payment.

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

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

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

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

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

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

15 (5) money on deposit;

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

18 (7) real property or an interest in real property that is exempt from taxation under
19 43 U.S.C. 1620(d), as amended.

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

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

23 (1) grants;

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

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

28 (4) contracts for medical doctors and dentists;

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

31 (6) disposals under AS 38.05;

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

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

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

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

9 (18) contracts for the purchase of standardized examinations for licensure under
10 AS 08;

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

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

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

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

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

19 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
20 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other
21 state money received by a state agency in connection with the performance of its functions; all
22 program receipts except the following are general fund program receipts:

23 (1) federal receipts;

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

25 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
26 terms are restricted to a specific purpose;

27 (4) receipts of the following funds:

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

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

30 (C) loan funds;

31 (D) international airport revenue fund (AS 37.15.430);

1 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
2 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity
3 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),
4 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
5 Development and Export Authority (AS 44.88.020);

6 (F) fish and game fund (AS 16.05.100);

7 (G) school fund (AS 43.50.140);

8 (H) training and building fund (AS 23.20.130);

9 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
10 former AS 39.37);

11 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

12 (K) public school trust fund (AS 37.14.110);

13 (L) second injury fund (AS 23.30.040);

14 (M) fishermen's fund (AS 23.35.060);

15 (N) FICA administration fund (AS 39.30.050);

16 **(O) mental health trust income account receipts (AS 37.14.021).**

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

18 (b) Except for appropriations to the permanent fund or for Alaska permanent fund
19 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,
20 appropriations required to pay the principal and interest on general obligation bonds, [AND]
21 appropriations of money received from a nonstate source in trust for a specific purpose, including
22 revenue of a public enterprise or public corporation of the state that issues revenue bonds, **and**
23 **appropriations made under AS 37.14.013(a)(4) and (5) and 37.14.017,** appropriations from the
24 treasury made in a fiscal year may not exceed appropriations made in the preceding fiscal year
25 by more than five percent plus the change in population and inflation since the beginning of the
26 preceding fiscal year. For purposes of applying this limit an appropriation is considered to be
27 made in the fiscal year in which it is enacted and a reappropriation remains attributed to the
28 fiscal year in which the original appropriation is enacted. The determination of the change in
29 population for purposes of this subsection shall be based on an annual estimate of population by
30 the Department of Labor. The determination of the change in inflation for purposes of this
31 subsection shall be based on the Consumer Price Index for all urban consumers for Anchorage

1 prepared by the United States Bureau of Labor Statistics. The amount of money received by the
2 state that is subject to the appropriation limit includes the balance in the general fund carried
3 forward from the preceding fiscal year.

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

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

9 * **Sec. 9.** AS 37.13.040 is amended to read:

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

15 * **Sec. 10.** AS 37.13. is amended by adding a new section to read:

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

21 (b) The corporation shall

22 (1) continually hold and invest the cash assets of the corpus of the trust that are
23 transferred to its custody subject to AS 37.13.120;

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

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

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

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

8 * Sec. 11. AS 37.14 is amended by adding new sections to read:

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

12 (1) the governor;

13 (2) the legislature;

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

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

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

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

27 (c) In reviewing the budget recommendations of the authority for inclusion in the
28 proposed budget for the next fiscal year under art. IX, sec. 12, of the Constitution of the State
29 of Alaska, the governor shall act solely in the best interests of the beneficiaries of the trust and
30 without regard to other potential objects of state expenditure.

31 (d) To the extent that the proposed budget transmitted under art. IX, sec. 12, Constitution

1 of the State of Alaska, differs from the budget recommendations of the authority, the governor
2 shall

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

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

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

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

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

24 (b) The legislature shall annually adopt and transmit to the governor a bill making a
25 separate appropriation of money in the mental health trust income account no later than the 60th
26 day of the regular session. However, the legislature may extend the deadline established by this
27 subsection to the 80th day of the regular session by adopting a concurrent resolution adopted by
28 a two-thirds vote of each house.

29 (c) A legislative committee taking action on the bill making an appropriation from the
30 mental health trust income account shall take action on the bill that is solely in the best interests
31 of the beneficiaries of the trust and without regard to other potential objects of state expenditure,

1 and shall proceed substantially as follows:

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

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

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

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

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

27 (1) if the appropriation differs from the recommendations of the authority, the
28 legislature must issue a written report stating with particularity the facts and circumstances upon
29 which it relied in determining it is in the best interests of the beneficiaries of the trust to deviate
30 from the budget recommendations of the authority;

31 (2) if the legislature acts to reduce expenditures from those proposed by the

1 authority, its report must include, but is not limited to, specific evidence that the budget
2 recommendations of the authority proposed for reduction are not needed, or that the authority has
3 overstated the cost of providing the services;

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

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

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

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

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

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

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

28 (f) The legislature shall

29 (1) transmit copies of the report prepared under (e) of this section to the governor,
30 the Office of Management and Budget, the commissioner of health and social services, and all
31 other entities providing services with trust funds for further distribution by the entities to the

1 beneficiaries of the trust and their representatives; and

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

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

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

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

8 Sec. 37.14.009. **TRUST MANAGEMENT.** (a) The Alaska Mental Health Trust
9 Authority

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

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

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

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

27 (3) may, notwithstanding (1) of this subsection, use land that is an asset of the
28 trust directly for the integrated comprehensive mental health program for the people of the state;

29 (4) shall delegate management of trust land described in AS 37.14.013(a)(3) to
30 the Department of Natural Resources unless the enforcement provisions of AS 37.14.019 require
31 direct active management by the authority; and

1 (5) shall contract with the Alaska Permanent Fund Corporation for management
2 of the trust's cash assets, unless the authority finds that the best interests of trust beneficiaries
3 would be served by contracting with another entity.

4 (b) At the end of each fiscal year, the authority shall transfer from the trust income
5 account established in AS 37.14.021 to the mental health trust corpus an amount appropriated by
6 the legislature to offset the effect of inflation on the money in the trust corpus during the year
7 for which the determination of the effect of inflation was made.

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

13 * Sec. 12. AS 37.14.011 is repealed and reenacted to read:

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

16 * Sec. 13. AS 37.14 is amended by adding new sections to read:

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

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

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

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

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

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

31 (b) The value of land granted to the state under the enabling Act and reconstituted as part

1 of the mental health trust corpus by (a) of this section is the amount determined under the
2 procedures approved by the Interim Mental Health Trust Commission established by sec. 1, ch.
3 132, SLA 1986, as set out in the commission's November 7, 1989, resolution.

4 (c) For purposes of (a)(1) of this section, land granted under the enabling Act is
5 encumbered land not to be included in the trust if

6 (1) the land has been conveyed by patent to a municipality before the effective
7 date of this Act;

8 (2) the land is a municipal land selection made under AS 29.65 or under former
9 AS 29.18.190 - 29.18.200 and

10 (A) the land is an approved selection, as that term is defined by
11 AS 29.65.130, approved in writing by the director of lands, Department of Natural
12 Resources, before the effective date of this Act; or

13 (B) the land

14 (i) has been selected by a municipality and on the effective date
15 of this Act the selection has been neither approved nor disapproved by the director
16 of lands, Department of Natural Resources; and

17 (ii) is necessary to fulfill the municipality's entitlement authorized
18 by AS 29.65 or by former AS 29.18.190 - 29.18.200 after all land other than
19 former mental health trust land selected by the municipality is included in the
20 entitlement;

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

25 (4) except as to a municipal selection under (2) of this subsection or an
26 application made under (3) of this subsection, the land has been encumbered before the effective
27 date of this Act by the commissioner of natural resources by a land use authorization, lease, or
28 conveyance when specifically authorized by law or under terms and conditions established by
29 law.

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

31 (a) On July 1 of each year, for the land granted under the enabling Act that is not retained by

1 the trust, the state shall pay to the authority an amount calculated to fully pay, in equal annual
2 installments, by July 1, 2021, the principal amount together with interest on the unpaid balance
3 at 10.5 percent per annum, as appropriated by the legislature to meet the obligation of this
4 subsection.

5 (b) As partial compensation for land granted under the enabling Act that is not retained
6 by the trust for which money is due under (a) of this section, the authority

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

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

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

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

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

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

25 Sec. 37.14.017. RENT PAYABLE FOR LEGISLATIVELY-DESIGNATED LAND. (a)
26 On July 1 of each year, for trust land identified in AS 37.14.013(a)(3) the state shall pay rent for
27 that fiscal year to the authority as appropriated by the legislature to meet the obligation of this
28 section.

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

1 (1) the state assessor in the Department of Community and Regional Affairs shall
2 assign the land identified in (a) of this section to geographic areas; in making the assignment,
3 the assessor shall assign trust land outside a municipality to the nearest municipality;

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

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

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

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

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

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

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

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

28 (d) If authorized by the board, the authority may apply to the superior court to require
29 payment. If the court determines that a payment due has not been made, the court shall issue
30 a judgment and order to the state, determining the amount of the payment that is due and
31 directing that payment be made. In a proceeding under this subsection, the court is limited to

1 a determination of whether a payment due the authority is due and unpaid and the amount that
2 is due and unpaid. The court shall include in the judgment the authority's full attorney fees. The
3 judgment bears interest at the rate of 10.5 percent per year. The clerk of the court shall provide
4 copies of a judgment and order entered under this subsection to the officials named in (a) of this
5 section.

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

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

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

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

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

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

25 * **Sec. 14.** AS 37.14.021 is repealed and reenacted to read:

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

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

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

31 (2) received from the state during the fiscal year as interest on the amount paid

1 by the state under AS 37.14.015;

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

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

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

6 * Sec. 15. AS 37.14 is amended by adding new sections to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 management authority of the state includes

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

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

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

7 * Sec. 17. AS 39.25.120(c)(9) is amended to read:

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

10 (A) Alaska Public Broadcasting Commission;

11 (B) Professional Teaching Practices Commission;

12 (C) Parole Board;

13 (D) Board of Nursing;

14 (E) Real Estate Commission;

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

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Older Alaskans Commission;

20 (K) Alaska Mental Health Board;

21 (L) State Medical Board;

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

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

24 * Sec. 18. AS 41.15 is amended by adding a new section to read:

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

29 * Sec. 19. AS 44.21.230(a) is amended to read:

30 (a) The commission shall

31 (1) formulate a comprehensive statewide plan that identifies the concerns and

1 needs of older Alaskans and, with reference to the plan adopted, prepare and submit to the
2 governor and legislature an annual analysis and evaluation of the services that are provided to
3 older Alaskans;

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

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

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

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

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

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

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

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

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

26 * Sec. 20. AS 44.29.022 is amended by adding a new subsection to read:

27 (d) A regulation that establishes a fee for services under AS 44.29.020(a)(7) that affect
28 the integrated comprehensive mental health program for the people of the state established under
29 the Alaska Mental Health Enabling Act of 1956 may not be adopted under this section unless it
30 has been approved by the Alaska Mental Health Trust Authority.

31 * Sec. 21. AS 44.29.024 is amended by adding a new subsection to read:

1 (c) A regulation that establishes a schedule of reasonable fees for services provided by
2 a contractor or grantee that affect the integrated comprehensive mental health program for the
3 people of the state established under the Alaska Mental Health Enabling Act of 1956 may not
4 be adopted under this section unless it has been approved by the Alaska Mental Health Trust
5 Authority.

6 * Sec. 22. AS 44.29.100 is amended to read:

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

11 * Sec. 23. AS 44.29.110 is amended to read:

12 Sec. 44.29.110. COMPOSITION. The board consists of 15 [12] members, 14 of whom
13 are public members appointed by the governor, and the 15th who is the director of the
14 division of alcoholism and drug abuse ex officio.

15 * Sec. 24. AS 44.29.115 is amended to read:

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

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

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

22 (3) four members who are chronic alcoholics with psychoses who are
23 recovering;

24 (4) three members who are substance abuse treatment professionals who
25 represent public and private providers of substance abuse prevention and treatment
26 services; and

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

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

1 * Sec. 25. AS 44.29.120 is amended to read:

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

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

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

10 * Sec. 26. AS 44.29.130 is amended to read:

11 Sec. 44.29.130. COMPENSATION, PER DIEM, AND EXPENSES. The public
12 members [MEMBERS] of the board are not entitled to a salary, but are entitled to per diem,
13 reimbursement for travel, and other expenses authorized by law for other boards.

14 * Sec. 27. AS 44.29 is amended by adding a new section to read:

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

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

25 * Sec. 28. AS 44.29.140 is amended to read:

26 Sec. 44.29.140. DUTIES. The board shall

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

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

31 (B) [(2)] educational research and public informational activities

1 [CONDUCTED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES
2 AND OTHERS] in respect to the problems presented by alcoholism or drug abuse;

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

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

7 (E) [(5)] development of programs of prevention, treatment, and
8 rehabilitation for alcoholics and drug abusers; **and**

9 (F) [(6)] REVIEW OF APPLICATIONS AND SUBSEQUENT
10 RECOMMENDATIONS TO THE COMMISSIONER OF HEALTH AND SOCIAL
11 SERVICES ON USE OF FUNDS FOR GRANTS FOR LOCAL ALCOHOLISM OR
12 DRUG ABUSE PROJECTS AND PROGRAMS;

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

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

22 * Sec. 29. AS 44.29.140 is amended by adding new subsections to read:

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

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

27 * Sec. 30. AS 47.30 is amended by adding new sections to read:

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

31 (b) The purpose of the authority is to ensure an integrated comprehensive mental health

1 program for the people of the state.

2 (c) The authority

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

6 (2) may sue and be sued;

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

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

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

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

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

21 (b) The board consists of

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

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

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

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

- 1 (i) one person selected by the Alaska Mental Health Board
2 (AS 47.30.661);
3 (ii) one person selected by the Governor's Council for the
4 Handicapped and Gifted (AS 47.80.030);
5 (iii) one person selected by the Advisory Board on Alcoholism and
6 Drug Abuse (AS 44.29.110);
7 (iv) one person selected by the Older Alaskans Commission
8 (AS 44.21.200);
9 (v) one person selected by the Alaska Native Health Board; and
10 (vi) one person selected by the authority.

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

- 13 (1) be an officer or employee of the state; or
14 (2) within the preceding two years or during the member's term of office have
15 had an interest in, served on the governing board of, or been employed by an organization that
16 has an interest in, a contract entered into by the authority.

17 (d) A quorum of the board is four voting members.

18 (e) The members of the board who are commissioners or their designees are entitled to
19 per diem and travel expenses authorized for state employees. The public members of the board
20 appointed under (b)(2) of this section

21 (1) receive an honorarium of \$200 for each day or any part of a day spent at a
22 meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the
23 board; and

24 (2) are entitled to per diem and travel expenses authorized for boards and
25 commissions under AS 39.20.180.

26 Sec. 47.30.021. TERM OF OFFICE, VACANCIES, AND REMOVAL. (a) The public
27 members of the board appointed under AS 47.30.016(b)(2) serve staggered five-year terms. A
28 public member shall continue to serve until the member's successor is appointed and confirmed.

29 (b) A vacancy occurring in the membership of the public members of the board of
30 trustees of the authority appointed under AS 47.30.016(b)(2) shall be filled within 60 days by
31 appointment of the governor for the unexpired portion of the vacated term.

1 (c) The governor may remove a public member of the board appointed under
2 AS 47.30.016(b)(2) only for cause, including incompetence, neglect of duty, misconduct in office,
3 poor attendance, or lack of contribution to the board's work. A member being removed for cause
4 shall be given a copy of the charges and afforded an opportunity to publicly present a defense
5 in person or by counsel upon not less than 10 days' written notice. If a member is removed for
6 cause, the governor shall file with the lieutenant governor a complete statement of all charges
7 made against the member and the governor's findings based on the charges, together with a
8 complete record of the proceedings. The removal of a member for cause constitutes a final
9 administrative order. A member seeking to appeal the governor's removal of a member for cause
10 under this subsection shall file a notice of appeal with the superior court under AS 44.62.560.

11 (d) Except for a trustee who has served two consecutive five-year terms, a public member
12 of the board appointed under AS 47.30.016(b)(2) may be reappointed. A public member of the
13 board appointed under AS 47.30.016(b)(2) who has served two consecutive five-year terms is not
14 eligible for reappointment to the board until one year has intervened.

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

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

- 20 (1) hire additional employees;
21 (2) appoint hearing officers to perform the responsibilities set out in
22 AS 47.30.031(b)(7); and
23 (3) contract for the services of consultants and others.

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

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

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

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

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

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

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

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

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

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

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

13 (B) investigations;

14 (C) hearings; and

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

16 (8) procurement procedures;

17 (9) provisions that establish a process for planning for a comprehensive delivery
18 system to be paid for from the mental health trust income account.

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

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

21 (2) coordinate with other state agencies involved with programs affecting persons
22 in need of mental health services;

23 (3) adopt bylaws governing its meetings, selection of officers, proceedings, and
24 other aspects of board procedure;

25 (4) make an annual written report of its activities to the legislature, governor, and
26 the public; and

27 (5) fulfill its obligations under AS 47.30.046.

28 Sec. 47.30.041. INDIVIDUAL RESPONSIBILITIES OF TRUSTEES. (a) In exercising
29 the powers, duties, and responsibilities of a trustee, a trustee is under a duty to the public and
30 the trust beneficiaries to

31 (1) administer the trust solely in the interests of the beneficiaries;

- 1 (2) keep and render clear and accurate accounts with respect to the administration
2 of the trust;
- 3 (3) make public and available complete and accurate information as to the nature
4 and amount of the trust property;
- 5 (4) exercise an equal or higher degree of care in administering the trust than in
6 the management of the person's own personal business;
- 7 (5) take reasonable steps to take and keep control of the trust property;
- 8 (6) use care and skill to preserve the trust property;
- 9 (7) take reasonable steps to realize on claims that are held in the trust;
- 10 (8) defend against actions that may result in a loss to the trust estate, unless under
11 all the circumstances, considering the other duties owed to the trust, it is reasonable not to make
12 that defense;
- 13 (9) keep trust property separate from the person's own property;
- 14 (10) keep trust property separate from other property not subject to the trust so
15 far as it is reasonable to do so;
- 16 (11) see that trust property is designated as property of the trust;
- 17 (12) use care in selecting the bank when making general deposits of trust money
18 in a bank, and properly identify the deposit as a deposit by the authority as trustee;
- 19 (13) use care and skill to make the trust property productive; however, nothing
20 in this paragraph shall prevent the authority from using trust property directly or indirectly, by
21 contractual stipulation or otherwise as a component of the state's mental health program;
- 22 (14) deal impartially with the different trust beneficiaries under the priorities set
23 out in AS 47.30.056; and
- 24 (15) participate in the administration of the trust with the other members of the
25 board, and use care to prevent a co-trustee from committing a breach of trust or to compel a co-
26 trustee to redress a breach of trust.

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

31 Sec. 47.30.046. MANAGEMENT OF MENTAL HEALTH TRUST INCOME

1 ACCOUNT. (a) The board shall annually, not later than September 15, submit to the governor
2 and the Alaska Legislative Council a budget for the next fiscal year. The budget must include
3 the authority's determination of the amount

4 (1) recommended for expenditure from the mental health trust income account
5 during the next fiscal year to

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

7 (B) offset the effect of inflation on the value of the trust corpus as
8 required under AS 37.14.009(b); and

9 (C) meet the necessary operating and capital expenses of the integrated
10 comprehensive mental health program for the people of the state;

11 (2) recommended for expenditure from the general fund, if any, during the next
12 fiscal year to meet the necessary operating and capital expenses of the integrated comprehensive
13 mental health program for the people of the state; and

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

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

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

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

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

31 (4) the authority's budget recommendations submitted under (a) of this section,

1 and its reasons under AS 47.30.056 for making those recommendations;

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

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

8 (7) projections of the resources required to provide the necessary services and
9 facilities; and

10 (8) reviews of the status of the integrated comprehensive mental health program
11 for the people of the state, including evaluation of program goals, objectives, targets and
12 timelines, and overall effectiveness.

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

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

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

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

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

25 (1) the mentally ill;

26 (2) the mentally defective and retarded;

27 (3) chronic alcoholics suffering from psychoses; and

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

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

31 (1) shall give priority in service delivery to persons who, as a result of a mental

1 disorder or of a disorder identified in (b) of this section;

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

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

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

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

9 (1) schizophrenia;

10 (2) delusional (paranoid) disorder;

11 (3) mood disorders;

12 (4) anxiety disorders;

13 (5) somatoform disorders;

14 (6) organic mental disorders;

15 (7) personality disorders;

16 (8) dissociative disorders;

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

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

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

26 (1) cerebral palsy;

27 (2) epilepsy;

28 (3) mental retardation;

29 (4) autistic disorder;

30 (5) severe organic brain impairment;

31 (6) significant developmental delay during early childhood indicating risk of

1 developing a disorder listed in this subsection;

2 (7) other severe and persistent mental disorders manifested by behaviors and
3 symptoms similar to those manifested by persons with disorders listed in this subsection.

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

6 (1) alcohol withdrawal delirium (delirium tremens);

7 (2) alcohol hallucinosis;

8 (3) alcohol amnestic disorder;

9 (4) dementia associated with alcoholism;

10 (5) alcohol-induced organic mental disorder;

11 (6) alcoholic depressive disorder;

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

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

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

19 (2) multi-infarct dementia;

20 (3) senile dementia;

21 (4) presenile dementia;

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

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

31 (1) means public health programs and services that, on the effective date of this

1 Act, are separately recognizable and administered as community mental health services, services
2 for the developmentally disabled, alcoholism services, and services for older Alaskans suffering
3 from Alzheimer's disease and related disorders, without regard to the administrative unit directly
4 responsible for the delivery of the service;

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

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

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

10 (C) inpatient care;

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

12 (i) active community outreach;

13 (ii) in-hospital contact;

14 (iii) mobile crisis teams of mental health professionals;

15 (iv) crisis beds to provide a short term residential program for
16 persons experiencing an acute episode of mental illness that requires temporary
17 removal from a home environment;

18 (E) treatment services, which may include

19 (i) diagnosis, testing, and evaluation of medical needs;

20 (ii) medication monitoring;

21 (iii) physical examinations;

22 (iv) dispensing psychotropic and other medication;

23 (v) detoxification;

24 (vi) individual or group therapy;

25 (vii) aftercare;

26 (F) case management, which may include

27 (i) evaluation of needs;

28 (ii) development of individualized treatment plans;

29 (iii) enhancement of access to available resources and programs;

30 (iv) development of interagency contacts and family involvement;

31 (v) advocacy;

1 (G) daily structure and support, which may include

2 (i) daily living skills training;

3 (ii) socialization activities;

4 (iii) recreation;

5 (iv) transportation;

6 (v) day care services;

7 (vi) client and care provider education and support services;

8 (H) residential services, which may include

9 (i) crisis or respite care;

10 (ii) board and care;

11 (iii) foster care, group homes, halfway houses, or supervised
12 apartments;

13 (iv) intermediate care facilities;

14 (v) long-term care facilities;

15 (vi) in-home care;

16 (I) vocational services, which may include

17 (i) prevocational services;

18 (ii) work adjustment;

19 (iii) supported work;

20 (iv) sheltered work;

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

22 (J) outpatient screening, diagnosis, and treatment services, including
23 individual, family, and group psychotherapy, counseling, and referral; and

24 (K) administrative services, including appropriate operating expenses of
25 state agencies and other service providers.

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

30 (k) The authority may not enter into a contract for services unless the services to be
31 provided under the contract are consistent with the plan for the integrated comprehensive mental

1 health program for the people of the state.

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

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

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

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

8 * Sec. 31. AS 47.30 is amended by adding a new section to read:

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

11 (1) shall include within the plan for the integrated comprehensive mental health
12 program for the people of the state the services and facilities that are necessary for the care and
13 treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in
14 AS 47.30.056(b)(3) and (f); in preparing the plan of services for persons identified in this
15 paragraph, the authority shall coordinate with the Advisory Board on Alcoholism and Drug
16 Abuse;

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

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

23 * Sec. 32. AS 47.30.520 is amended to read:

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

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

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

31 (3) [. IT IS FURTHER INTENDED TO] better **develop and use** [UTILIZE

1 EXISTING] resources at both state and local levels;

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

6 (5) [(2)] improve the effectiveness of existing mental health services;

7 (6) [(3)] integrate state-operated and community mental health programs into a
8 unified mental health system;

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

13 (8) [(5) ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
14 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH SERVICES;

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

17 (9) [(7)] encourage the full use of all existing public or private agencies, facilities,
18 personnel, and funds to accomplish these objectives; and

19 (10) [(8)] prevent unnecessary duplication and fragmentation of services and
20 expenditures.

21 * Sec. 33. AS 47.30 is amended by adding a new section to read:

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

24 (1) the community mental health program provide a comprehensive and integrated
25 system of community based facilities, supports, and mental health services including child and
26 adolescent screening and diagnosis, inpatient, outpatient, prevention, consultation, and education
27 services;

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

30 (3) the community mental health program be coordinated, to the maximum extent
31 possible, with the programs established under AS 47.37, AS 47.65, AS 47.80, and other programs

1 affecting the well being of persons in need of mental health services.

2 (b) Community mental health program service delivery principles include the principles
3 that persons

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

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

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

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

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

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

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

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

20 * Sec. 34. AS 47.30.530 is amended by adding a new subsection to read:

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

23 * Sec. 35. AS 47.30.540 is amended to read:

24 Sec. 47.30.540. ELIGIBLE LOCAL COMMUNITY ENTITIES. (a) A city or borough
25 government or other political subdivision of the state, a nonprofit corporation, or a combination
26 of these, is eligible to receive funds and administer local programs under AS 47.30.520 -
27 47.30.620. In order to ensure equitable access to funds and programs through the state, the
28 authority [DEPARTMENT] shall determine appropriate geographical areas to be served by local
29 programs in consultation with representatives of the geographical areas in question.

30 (b) An [THE] entity designated by the authority [DEPARTMENT IN THE LOCAL
31 AREA AS THE ORGANIZATIONAL UNIT] to receive money [FUNDS] under AS 47.30.520 -

1 47.30.620 [AND TO ADMINISTER THE PROGRAM] shall ensure a broad base of community
2 support as evidenced by a governing board reasonably representative of the professional, civic,
3 and citizen groups in the community and including persons with mental disorders or family
4 members of persons with mental disorders. No more than two members, or 40 percent of the
5 membership, whichever is greater, may be providers of services under the program. In order to
6 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

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

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

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

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

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

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

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

31 * Sec. 36. AS 47.30.545 is repealed and reenacted to read:

1 Sec. 47.30.545. POPULATIONS TO BE SERVED. The entities designated by the
2 authority to receive money under AS 47.30.540(b) shall provide one or more of the services that
3 are set out in AS 47.30.056(i) to persons identified in AS 47.30.056.

4 * Sec. 37. AS 47.30.547 is amended to read

5 Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES.

6 An entity that provides community mental health services shall

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

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

10 (3) establish staffing patterns of qualified and trained personnel that reflect the
11 cultural, linguistic, and other social characteristics of the community and that incorporate
12 multidisciplinary professional staff to meet client functional levels and diagnostic and treatment
13 needs;

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

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

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

20 * Sec. 38. AS 47.30.590 is amended to read:

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

31 * Sec. 39. AS 47.30.610 is repealed and reenacted to read:

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

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

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

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

8 (4) "trust" has the meaning given in AS 47.30.061.

9 * Sec. 40. AS 47.30.660 is amended to read:

10 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. (a) The department
11 shall

12 (1) prepare, and periodically revise and amend, a plan for an integrated
13 comprehensive mental health program for the people of the state; the preparation of the
14 plan and any revision or amendment of it shall

15 (A) be made in conjunction with the Alaska Mental Health Trust
16 Authority;

17 (B) be coordinated with federal, state, regional, local, and private
18 entities involved in mental health services; and

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

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

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

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

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

5 (3) administer AS 47.30.660 - 47.30.915;

6 (4) designate, operate, and maintain treatment facilities equipped and qualified to
7 provide inpatient and outpatient care and treatment for persons with mental disorders [THE
8 MENTALLY ILL];

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

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

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

17 (8) enter into contracts, which incorporate safeguards consistent with
18 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
19 state for the custody and care or treatment of patients previously committed from this state under
20 48 U.S.C. 46 et seq., and P.L. 84-830 [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat.
21 709;

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

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

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

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

30 (13) delegate upon mutual agreement to another officer or agency of it, or a
31 political subdivision of the state, or a treatment facility designated, any of the duties and powers

1 imposed upon it by AS 47.30.660 - 47.30.915; [AND]

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

4 (15) provide technical assistance and training to providers of mental health
5 services.

6 * Sec. 41. AS 47.30.662 is repealed and reenacted to read:

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

11 (b) Not less than one-half of the members shall be persons with a mental disorder
12 identified in AS 47.30.056(b)(1) or members of their families.

13 (c) The board members

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

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

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

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

25 * Sec. 42. AS 47.30.664(b) is amended to read:

26 (b) The board shall have a paid staff provided by the department, including, but not
27 limited to, an executive director who shall be selected by the board [FROM CANDIDATES
28 PROVIDED BY THE DEPARTMENT]. The executive director is in the partially exempt service
29 and shall be compensated at no less than range 21 of the pay plan for state employees under
30 AS 39.27.011(a). The executive director may hire additional employees in the classified service
31 of the state. The department shall provide for the assignment of personnel to the board to

1 ensure the board has the capacity to fulfill its responsibilities. The executive director [AND
2 THE STAFF] of the board shall be directly responsible to the board in the performance of the
3 director's [THEIR] duties.

4 * Sec. 43. AS 47.30.666 is repealed and reenacted to read:

5 Sec. 47.30.666. DUTIES OF THE BOARD. The board is the state planning and
6 coordinating body for the purpose of federal and state laws relating to mental health services for
7 persons with mental disorders identified in AS 47.30.056(b)(1) and (4). On behalf of those
8 persons, the board shall

9 (1) prepare and maintain a comprehensive plan of treatment and rehabilitation
10 services;

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

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

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

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

20 (A) development of necessary services for diagnosis, treatment, and
21 rehabilitation;

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

24 (C) legal processes that affect screening, diagnosis, treatment, and
25 rehabilitation;

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

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

3 * **Sec. 44.** AS 47.30 is amended by adding a new section to read:

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

8 * **Sec. 45.** AS 47.30.910(d) is amended to read:

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

12 * **Sec. 46.** AS 47.30.910(g) is amended to read:

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

20 * **Sec. 47.** AS 47.30.910 is amended by adding a new subsection to read:

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

23 * **Sec. 48.** AS 47.30.915 is amended by adding a new paragraph to read:

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

25 * **Sec. 49.** AS 47.37.040 is amended by adding a new paragraph to read:

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

28 * **Sec. 50.** AS 47.37 is amended by adding a new section to read:

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

1 in this chapter.

2 * Sec. 51. AS 47.80.070(b) is amended to read:

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

10 * Sec. 52. AS 47.80.090 is amended by adding a new paragraph to read:

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

17 * Sec. 53. AS 47.80.110 is amended to read:

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

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

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

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

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

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

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

1 * **Sec. 54.** AS 47.30.546, 47.30.550, 47.30.560, and 47.30.570; secs. 1, 2, 4, and 5, ch. 132,
2 SLA 1986; and secs. 7 - 10, ch. 48, SLA 1987 are repealed.

3 * **Sec. 55. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT**
4 **DISTRIBUTION MECHANISM.** Not later than January 1, 1993, the Board of Trustees of the Alaska

5 Mental Health Trust Authority, after consulting with organizations and persons affected by this Act, shall
6 (1) consistent with AS 47.30.056(h), added by sec. 30 of this Act, adopt regulations
7 regarding persons who are to receive services funded by money in the mental health trust income
8 account under AS 37.14.021, as amended by sec. 14 of this Act;

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

11 (3) consistent with AS 47.30.056(j), added by sec. 30 of this Act, adopt regulations
12 regarding the services and facilities upon which expenditures are to be made from money in the mental
13 health trust income account under AS 37.14.021, as amended by sec. 14 of this Act; the regulations may
14 not permit the use of trust account money for programs or services to which beneficiaries of the trust
15 established by the Alaska Mental Health Enabling Act of 1956 are otherwise entitled without spending
16 trust assets; trust earnings may not be expended for services that are provided to the public generally by
17 the state; and

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

22 * **Sec. 56. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.**
23 Notwithstanding AS 47.30.016 and 47.30.021, added by sec. 30 of this Act,

24 (1) the initial appointments of the public members of the Board of Trustees of the Alaska
25 Mental Health Trust Authority appointed under AS 47.30.016(b)(2), added by sec. 30 of this Act, shall
26 be made by the governor after considering a list of candidates submitted to the governor by the Alaska
27 Mental Health Board;

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

1 * **Sec. 57. INITIAL VALUATION OF LEGISLATIVELY-DESIGNATED TRUST LAND.**
2 Notwithstanding AS 37.14.017(b), added by sec. 13 of this Act, the value as of September 7, 1987, of
3 mental health trust land that is established as legislatively-designated land that is included in the trust
4 is the amount determined under the procedures approved by the Interim Mental Health Trust Commission
5 under its resolution dated November 7, 1989. The first redetermination of the value of the land under
6 AS 37.14.017(b), added by sec. 13 of this Act, shall be completed no later than July 1, 1992. In this
7 section, "legislatively-designated land" has the meaning given in AS 37.14.099, added by sec. 15 of this
8 Act.

9 * **Sec. 58. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON**
10 **ALCOHOLISM AND DRUG ABUSE.** Notwithstanding AS 44.29.110 and 44.29.115, as amended by
11 secs. 23 and 24 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who
12 are serving on the effective date of this Act continue to serve their unexpired terms. Vacancies on the
13 advisory board occurring after the effective date of this Act shall be filled by the governor under the
14 provisions of AS 44.29.115, as amended by sec. 24 of this Act.

15 * **Sec. 59. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH**
16 **BOARD.** Notwithstanding AS 47.30.662, as amended by sec. 41 of this Act, the members of the Alaska
17 Mental Health Board who are serving on the effective date of this Act continue to serve their unexpired
18 terms. Vacancies on the board occurring after the effective date of this Act, and new positions created
19 by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as amended by sec. 41
20 of this Act. When making appointments to new positions on the board, the governor shall ensure that
21 the initial terms of new members maintain the staggered term requirement of AS 47.30.663.

22 * **Sec. 60.** The provisions of AS 37.14.019(d), as added by sec. 13 of this Act, have the effect of
23 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
24 actions.

25 * **Sec. 61.** This Act takes effect upon incorporation into a final settlement and order approved by the
26 superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil. The superior court shall advise the
27 lieutenant governor and the revisor of statutes when the final settlement and order of Weiss v. State of
28 Alaska has been approved.