

S B

493

Senator John W. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

DATE: February 27, 1990

TO: Senator Paul Fischer
Senate HESS Committee Chair

FROM: Senator Jack Coghill

SUBJECT: Sponsor Statement: SB 493; Mental Health Trust.

BILL SUMMARY

This legislation basically goes two things; in the bill they appear in reverse order. First it defines and sets a value for the lands selected or patented under the federal Alaska Mental Health Enabling Act and it defines the corpus of the Mental Health Land Trust. Secondly, it establishes a mathematical formula for the valuation of the fair market rental value, for trust lands. This value is to be deposited in the Mental Health income account, in the general fund (AS 37.14.011(a) - (b)).

FISCAL IMPACT

We have not received a fiscal note as of this day, Tuesday, February 27, but we anticipate there will be fiscal impact since DNR will have to do reevaluations every five years.

ABOUT THE BILL

The bill contains several technical errors which I have addressed in the proposed CS accompanying this memorandum. The changes to the original bill are attached as page two.

The purpose of the bill is rectify the impasse that was reached in November of 1989, regarding the value of the Mental Health Trust lands, between the interim mental health trust commission and the commissioner of natural resources. The cause of the impasse is irrelevant to the importance of acting on this legislation, but it appears to be based in part on a flaw in the process contained in SLA 1987 Chp. 48.

AMENDMENTS TO SB 493

Page 1, line 11: Delete, "fair".

Page 1, line 12: Delate, "market".

Page 1, line 12: After "land" insert,

"selected or patented to the state under sec.
202 of the Alaska Mental Health Enabling Act."

Page 1, line 20: After "Act" insert,

"that is located in municipalities that assess
land for property tax purposes;"

Page 1, line 24: After "municipality" delete the comma and insert,

"since that municipality's assessed values were
used to revalue land selected or patented to
the state under sec. 202 of the Alaska Mental
Health;"

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/12/90

FURTHER: Resources
Finance

Date of 5-Day Notice: 2/22/90
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 3/1/90

H E S S

Committee considered

SB 453

"An Act relating to the reconstitution and administration of the mental health trust."

and recommended:

replace with CS SB 493 (HESS) same title
[] attached amendment(s) new title

[] _____ letter of intent adopted

[] do pass

[] do not pass

[] no recommendation

individual recommendations

[] further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

[] fiscal note(s) _____

[] zero fiscal note(s) _____

[] appropriation-no fiscal note

[] Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

*Log Pass (until a better evaluation of
lands is developed)*
James Duncan - No Rec.
Tom Kelly - No Rec

Paul Fitch (Do Pass)

Chair: Signature and Recommendation



Senate Health, Education and Social Services Committee

Senator Paul Fischer, Chairman

The Senate HESS Committee called for fiscal notes on SB 493 on 2/23/90.

The Departments called were: DNR & H&SS

This bill passed out of committee on 2/28/90.

A Committee Substitute was adopted. Fiscal notes were called for on 3/1/90 from the same departments. To date, No fiscal notes have been received on the original version or the CS version. I have even hand carried the CS version myself to DNR.

I will continue to try to obtain a fiscal note from each of these entities.

DCM - Senate HESS Committee

DCM

FISCAL NOTE

REQUEST: SB493

Revision Date: _____ Agency Affected: Health & Social Services
 Title: An Act relating to the constitution and administration of the Mental Health Trust BRU: _____
 Sponsor: Sen. Coghill Components: _____
 Requestor: Sen. Coghill

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact in FY90.

Changes in CSSB 493 (HESS) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

Prepared by: Richard Renninger
 Division: Administrative Services

Phone: 465-3331
 Date: March 1, 1990

Approved by Commissioner: [Signature]
 Agency: Health & Social Services

Date: 3/2/90

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSSB 493
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 2-Mar-90
Title: An Act relating to the reconstitution and administration of the mental health trust.
Sponsor: Coghill
Requestor: Senate HESS

Agency Affected: Natural Resources
BRU: Land & Water Mgmt Management & Administration
Components: Land & Water Mgmt Commissioner's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: 2-Mar-90

Approved by Commissioner: [Signature] Lennie Gorsuch Date: 2-Mar-90
Agency: Department of Natural Resources

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)



Senate Health, Education and
Social Services Committee

Senator Paul Fischer, Chairman

The Senate HESS Committee called for fiscal notes on SB 493 on 2/23/90.

The Departments called were: DNR & H&SS

This bill passed out of committee on 2/28/90.

A Committee Substitute was adopted. Fiscal notes were called for on 3/1/90 from the same departments. To date, No fiscal notes have been received on the original version or the CS version. I have even hand carried the CS version myself to DNR.

I will continue to try to obtain a fiscal note from each of these entities.

DCM - Senate HESS Committee

DCM

6-2242E
Bradley
2/26/90

Adopted

Original sponsor(s): SEN. COGHILL

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 493 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the reconstitution and adminis-
7 tration of the mental health trust."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 37.14.011(c) is repealed and reenacted to read:

10 (c) The fair market rental value of the land constituting the
11 mental health trust corpus is equal to eight percent of the value of
12 the land selected or patented to the state under sec. 202 of the
13 Alaska Mental Health Enabling Act. At least every five years,
14 commencing with 1992, the value of the land selected or patented to
15 the state under sec. 202 of the Alaska Mental Health Enabling Act,
16 shall be redetermined as follows:

17 (1) the number of acres of land selected or patented to the
18 state under sec. 202 of the Alaska Mental Health Enabling Act in each
19 municipality that assesses land for property tax purposes shall be
20 divided by the total number of acres of land selected or patented to
21 the state under sec. 202 of the Alaska Mental Health Enabling Act that
22 is located in municipalities that assess land for property tax pur-
23 poses; the result of this division is the "weighting factor";

24 (2) the weighting factor for each municipality that assess-
25 es land is multiplied by the average percentage change in assessed
26 values for that municipality since that municipality's assessed values
27 were used to revalue land selected or patented to the state under
28 sec. 202 of the Alaska Mental Health Enabling Act; the result is the
29 "weighted value change" for that municipality;

1 (3) all of the weighted value changes must be added together
2 er to arrive at the "revaluation factor," expressed as a decimal;

3 (4) one plus the revaluation factor must be multiplied by
4 the previous total value of land selected or patented to the state
5 under sec. 202 of the Alaska Mental Health Enabling Act to arrive at
6 the redetermined value of land selected or patented to the state under
7 sec. 202 of the Alaska Mental Health Enabling Act.

8 * Sec. 2. AS 37.14.011 is amended by adding a new subsection to read:

9 (d) The commissioner of natural resources shall calculate the
10 redetermined value of the trust under (c) of this section and provide
11 the redetermined value to the commissioner of revenue and the board
12 established under AS 47.30.661.

13 * Sec. 3. AS 38.05 is amended by adding a new section to read:

14 Sec. 38.05.801. RECONSTITUTION AND ADMINISTRATION OF MENTAL
15 HEALTH LAND TRUST. (a) The value of all land selected by or patented
16 to the state under the Alaska Mental Health Enabling Act, as of
17 September 7, 1987, is \$2,243,000,000.

18 (b) All land within legislative designations on the effective
19 date of this Act and all land made subject to legislative designations
20 in the future constitute the corpus of the mental health land trust.

21 (c) On reconstitution of the trust under this section, land
22 selected by or patented to the state under sec. 202 of the Alaska
23 Mental Health Enabling Act that is not within legislative designations
24 is removed from trust status.

25 (d) The land within legislative designations that constitutes
26 the mental health land trust shall be administered for the legisla-
27 tively designated purposes. The trust shall be compensated for the
28 use of the mental health trust land for the legislatively designated
29 purposes under AS 37.14.011.

1 (e) Before the state may remove land that is part of the mental
 2 health trust corpus from trust status, replacement land, equal in
 3 value at the time of replacement, shall be designated mental health
 4 land and added to the trust corpus. Before replacement, the commis-
 5 sioner shall identify the land proposed as replacement land and recom-
 6 mend the proposed replacement to the board established under AS 47.-
 7 30.661. If the board approves the replacement, the commissioner will
 8 transfer the land to the trust. If the board does not approve the
 9 transfer, the land proposed for removal remains in the trust.

10 * Sec. 4. AS 28.05.300 is repealed.



LAWS OF ALASKA

1987

Source

GSHB 92(Fin) am

Chapter No.

48

AN ACT

Relating to the Alaska Mental Health Trust; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 8, 1987
Actual Effective Date: Sections 7-10 take effect July 1, 1987; remainder of Act takes effect September 6, 1987.

AN ACT

Relating to the Alaska Mental Health Trust;
and providing for an effective date.

* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds

(1) the United States Congress passed the Alaska Mental Health Enabling Act of 1956, P.L. No. 84-830, 70 Stat. 709, "To confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibility for the hospitalization of committed mental patients, and for other purposes;"

(2) in sec. 202 of the Alaska Mental Health Enabling Act, the Congress granted the territory the right to select up to 1,000,000 acres of federal land to serve as a source of funds to support the territory's mental health program;

(3) in subsection 202(e), the Congress specifically provided that the land so granted, as well as any income from the land and proceeds from dispositions of the land, were to be administered as "a public trust and such proceeds and income shall first be applied to meet the necessary expenses of the mental health program of Alaska," that "Such lands, income, and proceeds shall be managed and utilized in such manner as the Legislature of Alaska may provide," that the land may be "sold, leased, mortgaged, exchanged or otherwise disposed of in such manner as the Legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended or used by the Territory of Alaska," and that the Alaska Legislature must exercise this broad authority "in a manner compatible with

Chapter 48

the conditions and requirements imposed by this Act;"

(4) in requiring that the proceeds and income of the 1,000,000-acre land grant "first be applied to meet the necessary expenses of the mental health program of Alaska," it was the intent of the Congress that additional public funds be appropriated by the legislature to supplement the proceeds and income from the land grant if those proceeds and income are insufficient to meet the necessary expenses of the mental health program of Alaska;

(5) if the proceeds and income from the 1,000,000-acre land grant exceed the necessary expenses of the mental health program of Alaska, the Congress authorized the legislature to appropriate the excess proceeds and income for other public purposes;

(6) because of the highly desirable location and character of much of the land selected by the state under the Act, for example, in and around major population centers, suitable for parks and game refuges, and other uses, and the difficulties associated with disposing of or dedicating the land for purposes that would not result in the receipt of funds that could be used for mental health purposes, for example, satisfaction of municipal entitlements, placement in parks and game refuges, and other uses, without compensation to the trust, the Tenth Alaska State Legislature enacted ch. 181 and 182, SLA 1978, which, among other things, redesignated all mental health lands as general grant lands;

(7) both ch. 181 and 182, SLA 1978, also created the mental health fund into which, as compensation to the trust, a sum equal to one and one-half percent of all revenue received from the management of state land was to be deposited and from which only the income could be appropriated exclusively for mental health purposes;

(8) a significant difference between ch. 181 and 182, SLA 1978, was that ch. 182 made the deposit of one and one-half percent of all public CSHB 92(Fin) am

income of the 1,000,000-
necessary expenses of the
ment of the Congress that
legislature to supplement
those proceeds and income
of the mental health pro-

the 1,000,000-acre land
health program of Alaska,
state the excess proceeds

ocation and character of
Act. for example, in and
sa and game refuges, and
deposing of or dedicating
the receipt of funds that
example, satisfaction of
game refuges, and other
Alaska State Legislature
other things, redesignated

also created the mental
trust, a sum equal to one
the management of state
income could be appro-

. 181 and 182, SLA 1978,
1/2 percent of all public

and revenue into the mental health fund "subject to legislative appropri-
tion of sufficient funds";

(9) because ch. 182, SLA 1978 became law after ch. 181, SLA 1978
became law, the provisions of ch. 182, SLA 1978 have been considered con-
trolling, including specifically the provision that deposits to the mental
health fund would be "subject to legislative appropriation of sufficient
funds";

(10) the legislature has never appropriated funds to the mental
health fund;

(11) a class-action lawsuit, *Weiss v. State*, 4FA-82-2208, was
filed on November 16, 1982, seeking a judicial determination that the
Alaska Mental Health Enabling Act had established a "public trust" under
which the state had received the 1,000,000-acre land grant, that the 1978
legislation redesignating mental health land as general grant land was a
breach of that trust, and that the appropriate remedy was to invalidate the
1978 legislation and return mental health land to trust status;

(12) in *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the Alaska
Supreme Court held that the Alaska Mental Health Enabling Act established a
public trust, that the 1978 legislation redesignating mental health land as
general grant land was a breach of the trust, and that the appropriate
remedy was to return mental health land still in state ownership to trust
status and, for mental health land that the state had "sold" between 1978
and the date of the court's decision, to compensate the trust for the fair
market value of mental health land so "sold" as of the date of their
"sale," subject to a set-off for state mental health expenditures during
the same period;

(13) while the court returned mental health land to trust status,
it did not specify the nature of the state's obligations with respect to
managing the trust land, leaving significant questions unanswered that may

Chapter 48

require additional costly and time-consuming litigation;

(14) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because it diverts attention from the goal the Congress sought to achieve through the Act's land grant, the funding of a mental health program;

(15) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because it has the potential to be extremely divisive, pitting the advocates of stringent mental health trust land management against those who envision state-owned mental health land managed for its highest and best use, including conveyance to municipalities in satisfaction of municipal entitlements, placement in parks and game refuges, and other uses, without a major expenditure to compensate the mental health trust for the fair market value of the land;

(16) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because advocates of stringent mental health trust land management may seek the invalidation of state conveyances of mental health land to third parties, particularly municipalities and Native corporations organized under the Alaska Native Claims Settlement Act, a course of action that at best will place a cloud on the third parties' title to those lands and at worst will result in those third parties losing title to their lands, causing economic and other harm and further dividing those who advocate stringent mental health trust land management from those who believe all state-owned land, including mental health land, should be managed for its highest and best use;

(17) continued costly and time-consuming litigation over mental health trust land management is not in the public interest because advocates of stringent mental health trust land management may seek the invalidation of legislative designations of mental health land as state

arks, sta
the land f
who advoca
believe a
managed fo
(
current a
his time
ation, w
mental he
managing
satisfact
uges, w
modate
mental h
Alaska.
Alaska,
land fr
value o
be, in
fair ma
trust
substan
trust,
dedica

1 parks, state game refuges, state forests, etc., placing the future use of
2 the land for the designated purposes in doubt and further dividing those
3 who advocate stringent mental health trust land management from those who
4 believe all state-owned land, including mental health land, should be
5 managed for its highest and best use;

6 (18) the failure of the Alaska Legislature to deal with the
7 current situation by properly reconstituting the mental health trust at
8 this time will lead to continued costly, time-consuming, and divisive liti-
9 gation, which is not in the public interest;

10 (19) the same problems that led to the 1978 redesignation of
11 mental health land as general grant land, for example, the desirability of
12 managing mental health land for its highest and best use, including the
13 satisfaction of municipal entitlements, inclusion in parks and game ref-
14 uges, will continue to pose difficulties in the state's efforts to accom-
15 modate the public's needs generally with the obligation to administer
16 mental health land as a trust;

17 (20) under art. VIII, sec. 2, Constitution of the State of
18 Alaska, as construed by the Alaska Supreme Court in State v. University of
19 Alaska, 624 P.2d 807 (1981), the legislature has the authority to remove
20 land from trust status if the trust is compensated for the fair market
21 value of the land;

22 (21) the state is not now, and in the foreseeable future will not
23 be, in a position to compensate the mental health trust in money for the
24 fair market value of mental health land;

25 (22) even if the state were able to compensate the mental health
26 trust in money for the fair market value of mental health land, there is a
27 substantial legal question whether that compensation, as the corpus of the
28 trust, could be preserved in perpetuity or whether the prohibition on
29 dedicated funds in art. IX, sec. 7, Constitution of the State of Alaska,

Chapter 48

would require that those funds be made available for appropriation by the legislature under the terms of the Alaska Mental Health Enabling Act;

(23) under art. VIII, sec. 2, Constitution of the State of Alaska, and subsection 202(e) of the Alaska Mental Health Enabling Act, the legislature has broad authority over all state land, including mental health land, and can permissibly remove mental health land from trust status if, consistent with its trust responsibilities, it simultaneously designates other state land of equivalent value as mental health land;

(24) the Congress' goal of funding a mental health program, and the public interest in having attention focused on the problems of the mentally ill and not questions regarding mental health trust land management, will be best served by establishing a mechanism for generating revenue from mental health land that minimizes the number and complexity of related land management decisions;

(25) reconstituting the mental health trust with state land that has a substantial likelihood of remaining in state ownership in perpetuity, and compensating the mental health trust for state use of that land through annual identification of an amount of state general fund revenue equal to the fair market rental value of the land as a separate account in the general fund, would minimize the number and complexity of land management decisions and would result in the following benefits to the mental health trust:

(A) it would ensure that the mental health trust corpus will be preserved in perpetuity;

(B) it would reconstitute a mental health trust corpus equal in value to the original 1,000,000-acre mental health trust corpus, with no reduction (in the nature of a set-off) for state mental health expenditures;

(C) it would make the entire mental health trust corpus

productive in that each acre of mental health trust land would produce its fair market rental value annually;

(D) the mental health trust would not incur administrative expenses;

(E) it would focus attention on questions related to the state's mental health programs and the levels of appropriations for those programs;

(26) reconstituting the mental health trust with state land that has a substantial probability of remaining in state ownership in perpetuity would result in the following benefits to the state generally:

(A) it would free all mental health land not in legislatively designated areas for nontrust uses;

(B) the only significant expenditure of public funds that would be required would be appropriations for appraisal of the land to ensure equal value, an expenditure that would be required no matter what form of trust reconstitution is selected; and

(C) it would establish an additional safeguard against disposal of the newly designated mental health trust land, that is, those in legislatively designated areas, in that, prior to such disposal, equal value replacement land would have to be identified and redesignated as trust land;

(27) the legislature will best serve the public interest by reconstituting the mental health trust with land in legislatively designated areas, continuing to use that land for the legislatively designated purposes, compensating the trust for the use of the land through annual identification of an amount of general fund revenue equal to the fair market rental value of the land and designation in the general fund of that amount of funds as the special mental health trust income account, and creating a board to assist and advise the legislative and executive

able for appropriation by the
Mental Health Enabling Act;
restitution of the State of
Mental Health Enabling Act, the
state land, including mental
mental health land from trust
abilities, it simultaneously
as mental health land;
a mental health program, and
based on the problems of the
mental health trust land manage-
mechanism for generating reve-
the number and complexity of
with trust with state land that
state ownership in perpetuity,
state use of that land through
general fund revenue equal to
a separate account in the
complexity of land management
benefits to the mental health
mental health trust corpus
mental health trust corpus
100-acre mental health trust
of a set-off) for state
mental health trust corpus

Chapter 48

1 branches of government on matters relating to the mental health program
2 Alaska.

3 (b) The purposes of this Act are

4 (1) to implement the intent of the Congress underlying sec. 201
5 of the Alaska Mental Health Enabling Act that mental health land be admin-
6 istered in a way that makes funds available for the support of Alaska's
7 mental health program;

8 (2) to the extent practicable, to eliminate the need for costly,
9 time-consuming and divisive litigation over the state's management of
10 mental health land;

11 (3) to ensure that the attention of the public and the govern-
12 ment is focused on mental health programs, as contemplated by the Congress,
13 and not on issues relating to the management of mental health land;

14 (4) to reconstitute a mental health land trust through identi-
15 fication of land in legislatively designated areas that is equal in value
16 to the land selected by and patented to the state under sec. 202 of the
17 Alaska Mental Health Enabling Act;

18 (5) to remove from trust status the land selected by and pat-
19 ented to the state under sec. 202 of the Alaska Mental Health Enabling Act
20 that is not in legislative designated areas, thereby freeing them for other
21 uses;

22 (6) to validate each deed, contract for sale, lease, easement,
23 right-of-way, permit, mineral lease disposal, reservation of land for
24 public use by statute, or land management actions, including use classifi-
25 cations under AS 38.05.300 and interagency land management assignments by
26 the Department of Natural Resources, that may have been called into ques-
27 tion by the Supreme Court's decision in State v. Weiss, 706 P.2d 681
28 (Alaska 1985), returning mental health land to trust status;

29 (7) to identify a portion of annual state general fund revenues

the mental health program of
Congress underlying sec. 202
mental health land be admin-
for the support of Alaska's

eliminate the need for costly,
the state's management of

of the public and the govern-
contemplated by the Congress,
of mental health land;
h land trust through identi-
areas that is equal in value
state under sec. 202 of the

the land selected by and pat-
kn Mental Health Enabling Act
hereby freeing them for other

t for sale, lease, easement,
l. reservation of land for
tions, including use classi-
and management assignments by
have been called into ques-
ite v. Weiss, 706 P.2d 681
trust status;
state general fund revenue.

equal in amount to the fair market rental value of mental health land, as
compensation to the trust for the continued use of the land in legisla-
tively designated areas for the legislatively designated purposes; and

(8) to create a board to assist and advise the legislative and
executive branches of government on matters relating to the mental health
program of Alaska.

Sec. 2. AS 37.14 is amended by adding a new section to read:

Sec. 37.14.011. MENTAL HEALTH TRUST INCOME ACCOUNT. (a) The
mental health trust income account is established as a separate ac-
count in the general fund.

(b) The amount determined under (c) of this section as the fair
market rental of the land constituting the mental health trust corpus
is the earnings of the trust and the commissioner of revenue shall
annually allocate that amount from the general fund of the state to
the mental health trust income account in the general fund of the
state.

(c) The fair market rental value of the land constituting the
mental health trust corpus is equal to eight percent of the fair
market value of the land. Following the initial determination of the
fair market value of the land selected by and patented to the state
under sec. 202 of the Alaska Mental Health Enabling Act, the com-
missioner of natural resources shall redetermine the fair market value
of the land constituting the mental health trust corpus at least every
five years, and provide the redetermined value to the commissioner of
revenue and the board established under AS 47.30.661.

Sec. 3. AS 37.14 is amended by adding a new section to read:

Sec. 37.14.021. UTILIZATION OF THE MENTAL HEALTH TRUST INCOME
ACCOUNT. Money in the mental health trust income account established
in AS 37.14.011(a) shall first be appropriated by the legislature to

Chapter 48

1 meet the necessary expenses of the mental health program of the state
2 In making annual appropriations from the mental health trust income
3 account, the legislature shall consider the recommendations of the
4 Alaska Mental Health Board established under AS 47.30.661, including
5 recommendations regarding capital improvements. After the necessary
6 expenses of the state's mental health program have been funded, the
7 legislature may make appropriations from the mental health trust
8 income account for other public purposes.

9 * Sec. 4. AS 38.05 is amended by adding a new section to article 11 to
10 read:

11 Sec. 38.05.800. RECONSTITUTION AND ADMINISTRATION OF MENTAL
12 HEALTH LAND TRUST. (a) The commissioner of natural resources, under
13 procedures approved by the interim mental health trust commission
14 shall determine the fair market value, as of the effective date of
15 this section, of all land selected by and patented to the state under
16 the Alaska Mental Health Enabling Act. The commissioner shall report
17 the determination of that value to the board established under AS 47.
18 30.661.

19 (b) The commissioner of natural resources, with the approval of
20 the interim mental health trust commission, shall identify land within
21 legislative designations that is equal in value to all land selected
22 by and patented to the state under sec. 202 of the Alaska Mental
23 Health Enabling Act that is not in legislative designations.

24 (c) All land selected by and patented to the state under the
25 Alaska Mental Health Enabling Act that is within legislative designa-
26 tions, together with all land identified by the commissioner under
27 (b) of this section, constitutes the corpus of the mental health land
28 trust.

29 (d) Upon reconstitution of the trust under this subsection, land

health program of the state.
mental health trust income
the recommendations of the
AS 47.30.661, including
ents. After the necessary
gram have been funded, the
the mental health trust

section to article 11 to

ADMINISTRATION OF MENTAL
natural resources, under
health trust commission,
of the effective date of
to the state under
commissioner shall report
established under AS 47.-

ces, with the approval of
shall identify land within
value to all land selected
of the Alaska Mental
designations.

to the state under the
within legislative desig-
by the commissioner under
the mental health land

er this subsection, land

selected by and patented to the state under sec. 202 of the Alaska
Mental Health Enabling Act that is not within legislative designations
is removed from trust status.

(e) The land within legislative designations that constitutes
the mental health land trust shall continue to be administered for the
legislatively designated purposes. The trust shall be compensated for
the continued use of the mental health trust land for the legisla-
tively designated purposes as provided in AS 37.14.011.

(f) Before the state may remove land that is part of the mental
health trust corpus from trust status, and in addition to any other
requirements of law, the commissioner of natural resources, consistent
with the state's trust responsibilities, shall identify replacement
land, equal in value at the time of replacement, within legislative
designations and incorporate them into the mental health trust corpus.
The commissioner of natural resources annually shall report any
actions under this subsection to the board established under AS 47.-
30.661.

* Sec. 5. AS 39.25.120(c)(9) is amended by adding a new subparagraph to

read:

Sec.

(L) Alaska Mental Health Board;

* Sec. 6. AS 47.30 is amended by adding new sections to read:

Sec. 47.30.661. ALASKA MENTAL HEALTH BOARD. The Alaska Mental
Health Board is established. For budgetary purposes, the board is
located within the Department of Health and Social Services. The
board is the state planning and coordinating agency for the purposes
of federal and state laws relating to the mental health program of the
state. The purpose of the board is to assist the state in ensuring an
integrated comprehensive mental health program.

Sec. 47.30.662. COMPOSITION. (a) The board consists of the

Chapter 48

1 commissioner of health and social services, or the commissioner's
2 designee, and not fewer than nine nor more than 12 other members,
3 appointed by the governor, with due regard for population and balanced
4 geographic representation of the state.

5 (b) At least one-third of the members shall be consumers of
6 mental health services, or parents or guardians of consumers.

7 (c) At least one-third of the members shall be either public or
8 private providers of mental health services.

9 (d) The remaining members shall be representatives of the public
10 at large.

11 Sec. 47.30.663. TERM OF OFFICE. (a) Board members serve
12 staggered terms of three years.

13 (b) A vacancy occurring in the membership of the board shall be
14 filled by appointment of the governor for the unexpired portion of the
15 vacated term.

16 (c) Members may be removed only for cause, including, but not
17 limited to, poor attendance or lack of contribution to the board's
18 work.

19 Sec. 47.30.664. OFFICERS AND STAFF. (a) The board, by a major-
20 ity of its membership, shall annually elect a chair and other officers
21 it considers necessary from among its membership.

22 (b) The board will have a paid staff provided by the Department
23 of Health and Social Services, including, but not limited to, an
24 executive director who shall be selected by the board from candidates
25 provided by the department. The executive director is in the partial-
26 ly exempt service and may hire additional employees in the classified
27 service of the state. The executive director and the staff of the
28 board shall be directly responsible to the board in the performance of
29 their duties.

ices, or the commissioner's
more than 12 other members,
for population and balanced

ers shall be consumers of
plans of consumers.

ers shall be either public or

representatives of the public

(a) Board members serve

ship of the board shall be
an unexpired portion of the

ause, including, but not
tribution to the board's

The board, by a major-
chair and other officers
ship.

rovided by the Department
but not limited to, an
the board from candidates

ector is in the partial-
sloves in the classified
r and the staff of the
rd in the performance of

Sec. 47.30.665. BYLAWS. The board, on approval of a majority of
its membership and consistent with state law, shall adopt and amend
bylaws governing its composition, proceedings, and other activities
consistent with state law and including, but not limited to, pro-
visions concerning a quorum to transact board business and other
aspects of procedure, frequency and location of meetings, and estab-
lishment, functions, and membership of committees.

Sec. 47.30.666. POWERS, DUTIES, AND RESPONSIBILITIES OF THE
BOARD. The board shall

(1) measure the extent of the mental health need and, as
necessary, conduct independent studies, evaluate the statewide mental
health information system, and review the current mental health pro-
gram of the state;

(2) provide a public forum for discussion of issues regard-
ing current and potential services to persons served by the mental
health program of the state;

(3) determine the needs, including those currently unmet,
of the persons to be served by the mental health program of the state;

(4) review reports from the Department of Natural Resources
regarding the valuation of the mental health land trust and the status
of mental health trust land, from the Department of Revenue regarding
allocations to the mental health income account, and from other de-
partments regarding the current and projected revenue for the support
of the mental health program of the state;

(5) subject to disclosure restrictions imposed by state or
federal confidentiality or privacy laws, have access to information in
the possession of state agencies;

(6) in conjunction with the Department of Health and Social
Services, prepare and annually update a long-term comprehensive state

Chapter 48

1 mental health plan, to include the projected need and the services,
2 facilities, and resources for the mental health program of the state
3 to meet that need;

4 (7) in conjunction with the Department of Health and Social
5 Services, develop, prepare, adopt, and periodically review and revise
6 as necessary an annual state implementation plan to meet the needs of
7 persons served by the mental health program of the state;

8 (8) in conjunction with the Department of Health and Social
9 Services, and before developing the annual state implementation plan,
10 evaluate the effectiveness of the prior year's implementation plan and
11 evaluate program performance and recommend improvements, set priori-
12 ties, and establish criteria to utilize in funding allocations;

13 (9) report at least annually to the legislature, governor,
14 and commissioner of health and social services, and meet with appro-
15 priate legislative committees, concerning the board's activities,
16 including its evaluation of the effectiveness of the prior year's
17 implementation plan, and its recommendations to meet the necessary
18 operating and capital expenses of the mental health program of the
19 state;

20 (10) serve as an advocate before the executive and legisla-
21 tive branches of government and the public on behalf of those served
22 by the mental health program of the state;

23 (11) discourage duplication of services and promote effi-
24 cient and coordinated use of federal, state, and private resources in
25 the provision of mental health services; and

26 (12) review applicable statutes, regulations, and policies
27 and recommend appropriate changes.

28 Sec. 47.30.669. DEFINITION. In AS 47.30.661 - 47.30.669,
29 "board" means the Alaska Mental Health Board established in

AS 47.30.661.

* Sec. 7. Section 1(b), ch. 132, SLA 1986, is amended to read:

(b) The commission established under (a) of this section consists of three [FIVE] members, including the commissioner of natural resources, or the commissioner's designee [AND THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES, OR THEIR DESIGNEES], and two [THREE] members and two [THREE] alternates [APPOINTED BY THE GOVERNOR] as follows:

(1) a member and an alternate representing the plaintiffs who were [,] appointed by the governor from a list of three names submitted to the governor by the plaintiffs in Weiss v. State, 4 FA 82-2208 Civil;

(2) a member and an alternate representing the intervenors who were [,] appointed by the governor from a list of three names submitted to the governor by the intervenors in Weiss v. State, 4 FA 82-2208 Civil [,] AND

(3) A MEMBER AND AN ALTERNATE REPRESENTING THE GOVERNOR'S MENTAL HEALTH ADVISORY COUNCIL, APPOINTED BY THE GOVERNOR FROM A LIST OF THREE NAMES SUBMITTED TO THE GOVERNOR BY THE GOVERNOR'S MENTAL HEALTH ADVISORY COUNCIL).

* Sec. 8. Section 1(c), ch. 132, SLA 1986, is amended to read:

(c) The members of the commission shall elect a presiding officer. A majority of the commission constitutes a quorum. The affirmative vote of two [THREE] members is required to take official action. A vacancy does not impair the power of the remaining members to exercise the powers of the commission.

* Sec. 9. Section 2, ch. 132, SLA 1986, is repealed and reenacted to read:

Sec. 2. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RE-

ted need and the services,
ealth program of the state

ment of Health and Social
odically review and revise
plan to meet the needs of
of the state;

ment of Health and Social
state implementation plan,
s implementation plan and
improvements, set priori-
nding allocations;

he legislature, governor,
es, and meet with appro-
the board's activities,
ess of the prior year's
s to meet the necessary
al health program of the

he executive and legisla-
r behalf of those served

ervices and promote effi-
and private resources in

ulations, and policies

47.30.661 - 47.30.669.

Board established in

Chapter 48

1 SOURCES AND THE COMMISSION. (a) The commission shall review proce-
2 dures proposed by the commissioner of natural resources to determine
3 the fair market value, as of the effective date of AS 38.05.800, of
4 all land selected by and patented to the state under sec. 202 of the
5 Alaska Mental Health Enabling Act, and review the final determination
6 of the fair market value determined under those procedures.

7 (b) The commission shall review the identification by the com-
8 missioner of natural resources under AS 38.05.800 of land within
9 legislative designations that is equal in value to all land selected
10 by and patented to the state under sec. 202 of the Alaska Mental
11 Health Enabling Act that is not in legislative designations.

12 (c) In the exercise of the commission's responsibilities under
13 this section, the commission and its staff may review the records of
14 the Department of Natural Resources that are made confidential by law
15 or regulation. An individual who acquires information made confiden-
16 tial by law or regulation in the performance of functions authorized
17 by this Act and discloses it without proper authority violates AS 11.-
18 56.860.

19 (d) The commissioner of natural resources is responsible for the
20 management of the mental health land of the state as a public trust
21 under P.L. 84-830, 70 Stat. 709. Except as provided in (e) of this
22 section, the commissioner of natural resources may not sell, lease, or
23 exchange mental health trust land of the state or an interest in the
24 mental health trust land of the state without the prior approval of
25 the commission. In reviewing a proposal for the sale, lease, or ex-
26 change of mental health trust land from the commissioner of natural
27 resources, the commission may approve the proposal of the commissioner
28 on its determination that the proposal is consistent with the terms of
29 the trust established by the Alaska Mental Health Enabling Act.

(e) The commissioner of natural resources may transfer trust land to the federal government under AS 38.05.035(b)(9) without approval of the commission. The commissioner of natural resources shall advise the commission of an intention to transfer trust land to the federal government and, after the transfer, shall make every effort to acquire replacement land to fulfill the state's remaining entitlement based on a prioritization, approved by the commission, of existing valid mental health selections.

* Sec. 10. Section 6, ch. 132, SLA 1986, is repealed and reenacted to read:

Sec. 6. This Act is repealed on the certification of the commissioner of natural resources that the mental health land trust has been reconstituted under AS 38.05.800 to

(1) the Alaska Mental Health Board established under AS 47.30.661;

(2) the lieutenant governor; and

(3) the revisor of statutes.

* Sec. 11. TRANSITIONAL PROVISIONS. Beginning with fiscal year 1989 and continuing until the commissioner of natural resources certifies to the commissioner of revenue that the mental health land trust has been reconstituted under AS 38.05.800, as enacted in sec. 4 of this Act, the commissioner of revenue shall annually allocate from the general fund of the state to the mental health trust income account in the general fund an amount equal to five percent of the unrestricted revenue of the state for the fiscal year.

* Sec. 12. Notwithstanding AS 47.30.663(a), as added by sec. 6 of this Act, of the initial appointees to the Alaska Mental Health Board appointed under AS 47.30.662, as added by sec. 6 of this Act, one-third shall serve for one year terms, one-third shall serve for two year terms, and one-third



Source

CSSB 8 (F1)

Relating
providing

BE IT ENAC

Appr
Actua

Chapter 48

1 for three year terms.

2 * Sec. 13. AS 27.14.010, 37.14.020, 37.14.030, 37.14.040, 37.14.050,
3 AS 47.30.605; and sec. 3, ch. 132, SLA 1986, are repealed.

4 * Sec. 14. Sections 7 - 10 of this Act take effect July 1, 1987.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

tion of particular reports, items, persons, or enterprises. (§ 5 ch 18 SLA 1980)

Sec. 37.13.205. Regulations. The board may adopt regulations under the Administrative Procedure Act (AS 44.62) to interpret and implement this chapter. (§ 12 ch 81 SLA 1982)

Sec. 37.13.210. Definitions. In this chapter

(1) "board" means the Board of Trustees of the Alaska Permanent Fund Corporation;

(2) "corporation" means the Alaska Permanent Fund Corporation. (§ 5 ch 18 SLA 1980)

Chapter 14. Trust Funds.

Article

1. Mental Health Trust Income Account (§§ 37.14.010 — 37.14.050)
2. Public School Trust Fund (§§ 37.14.110 — 37.14.170)
3. Alaska Children's Trust Fund (§§ 37.14.200 — 37.14.270)

Revisor's notes. — Section 4, ch. 182, SLA 1978 purported to add an article 2, entitled "University Fund," to this chapter. Section 27 of ch. 182 made that article effective on the date that the Board of Regents voted to approve the matters under

consideration as provided in § 24 of the act. However, the Board of Regents disapproved all matters on August 17, 1978; consequently, that article 2 was ineffective.

Article 1. Mental Health Trust Income Account.

Section

11. Mental health trust income account
21. Utilization of the mental health trust income account

Cross references. — For legislative findings and purpose of the Act that enacted AS 37.14.011 and 37.14.021 and re-

pealed the former provisions of this article, see § 1, ch. 48, SLA 1987 in the Temporary and Special Acts.

Sec. 37.14.010. Mental health fund established. [Repealed, § 13 ch 48 SLA 1987.]

Sec. 37.14.011. Mental health trust income account. (a) The mental health trust income account is established as a separate account in the general fund.

(b) The amount determined under (c) of this section as the fair market rental of the land constituting the mental health trust corpus

is the earnings of the trust and the commissioner of revenue shall annually allocate that amount from the general fund to the mental health trust income account.

(c) The fair market rental value of the land constituting the mental health trust corpus is equal to eight percent of the fair market value of the land. Following the initial determination of the fair market value of the land selected by and patented to the state under sec. 202 of the Alaska Mental Health Enabling Act, the commissioner of natural resources shall redetermine the fair market value of the land constituting the mental health trust corpus at least every five years and provide the redetermined value to the commissioner of revenue and the board established under AS 47.30.661. (§ 2 ch 48 SLA 1987)

Cross references. — For mental health land trust, see AS 38.05.800; for a transitional provision and duties of the commissioner of revenue until the mental health land trust has been reconstituted under AS 38.05.800, see § 11, ch. 48, SLA 1987 in the Temporary and Special Acts.

Sec. 37.14.020. Mental Health Fund Advisory Board created. [Repealed, § 13 ch 48 SLA 1987.]

Sec. 37.14.021. Utilization of the mental health trust income account. Money in the mental health trust income account established in AS 37.14.011(a) shall first be appropriated by the legislature to meet the necessary expenses of the mental health program of the state. In making annual appropriations from the mental health trust income account, the legislature shall consider the recommendations of the Alaska Mental Health Board established under AS 47.30.661, including recommendations regarding capital improvements. After the necessary expenses of the state's mental health program have been funded, the legislature may make appropriations from the mental health trust income account for other public purposes. (§ 3 ch 48 SLA 1987)

Secs. 37.14.030 — 37.14.050. Powers and duties of board; fund utilization; contributions. [Repealed, § 13 ch 48 SLA 1987.]

Article 2. Public School Trust Fund.

Section	Section
110. Public school trust fund established	150. Contributions
120. Public School Fund Advisory Board created	160. Duties of the commissioner of revenue
130. Powers and duties of board	170. Investments
140. Utilization of income	

Sec. 37.
is established trust fund

(b) The trust fund consists of

(1) the balance and

(2) sums

(c) The trust fund in the manner that and that the principal capital shall be (§ 4 ch 18

Effect of amendment trust fund "fund the pu

Sec. 37.

(a) There Fund Adv three member

(b) The from the tion but a law for ot

Sec. 37.
in AS 37

(1) to h. sary;

(2) to F income o.

(3) [Repealed] § 33 ch 1

Effect of amendment (3), which re

Title 37
Public Finance