

HB

79

7-LS0502J✓
Chenoweth
4/16/91

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES BOYER, Gonzales, Moyer

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

5 (2) in a manner that

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

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

11 (C) assures appropriate expenditures from the trust;

12 (D) establishes an independent trust authority; and

13 (E) is enforceable.

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

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

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

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

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

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

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

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

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

8 (5) money on deposit;

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

11 (7) real property or an interest in real property that is exempt from taxation under
12 43 U.S.C. 1620(d), as amended.

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

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

16 (1) grants;

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

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

21 (4) contracts for medical doctors and dentists;

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

24 (6) disposals under AS 38.05;

25 (7) contracts for the preparation of ballots under AS 15.15.030;

26 (8) acquisitions or disposals of property and other contracts relating to airports
27 under AS 02.15.070, 02.15.090, and 02.15.091;

28 (9) disposals of obsolete property under AS 19.05.060;

29 (10) disposals of obsolete material or equipment under AS 35.20.060;

30 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
31 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;

1 (12) contracts of the Department of Fish and Game for flights that involve
2 specialized flying and piloting skills and are not point-to-point;

3 (13) purchases of income-producing assets for the state treasury or a public
4 corporation of the state;

5 (14) operation of the state boarding school established under AS 14.16, if the
6 State Board of Education or the commissioner of education adopts regulations for use by the state
7 boarding school in procurement and contracting;

8 (15) a contract that is a delegation, in whole or in part, of investment powers held
9 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
10 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
11 AS 39.35.080;

12 (16) a contract that is a delegation, in whole or in part, of investment powers of
13 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
14 under AS 37.13;

15 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
16 37.14.099;

17 (17) the purchase of books, book binding services, newspapers, periodicals,
18 audio-visual materials, network information services access, approval plans, professional
19 memberships, archival materials, objects of art, and items for museum or archival acquisition
20 having cultural, historical, or archaeological significance; in this paragraph

21 (A) "approval plans" means book selection services in which current book
22 titles meeting an agency's customized specifications are provided to the agency subject
23 to the right of the agency to return those books that do not meet with the agency's
24 approval;

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

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

30 (D) "network information services" means a group of resources from which
31 cataloging information, holdings records, inter-library loans, acquisitions information, and

1 other reference resources can be obtained;

2 (18) contracts for the purchase of standardized examinations for licensure under
3 AS 08;

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

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

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

9 (22) contracts for services that are entered into by the Alaska Mental Health
10 Trust Authority under AS 47.30.061.

11 * Sec. 5. AS 37.05.146 is amended to read:

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

16 (1) federal receipts;

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

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

20 (4) receipts of the following funds:

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

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

23 (C) loan funds;

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

25 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
26 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity
27 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),
28 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
29 Development and Export Authority (AS 44.88.020);

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

31 (G) school fund (AS 43.50.140);

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

2 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
3 former AS 39.37);

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

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

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

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

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

9 (5) mental health trust receipts (AS 37.14.001).

10 * Sec. 6. AS 37.05.540(b) is amended to read:

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

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

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

31 (1) the trust established under the Alaska Mental Health Enabling Act of 1956,

1 P.L. 84-830, 70 Stat. 709; and

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

3 (b) In its capacity as the trustee of the trust established by the enabling Act, the authority
4 may

5 (1) receive, manage, and invest money or other real, personal, or mixed property
6 for the purpose of the trust, its improvement, or the aid or advantage of its beneficiaries; and

7 (2) act as trustee on behalf of the trust for any of these purposes.

8 Sec. 37.14.006. TRUST MANAGEMENT. (a) The Alaska Mental Health Trust
9 Authority

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

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

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

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

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

27 (4) shall delegate management of trust land described in AS 37.14.013(a)(3) to
28 the Department of Natural Resources.

29 (b) The authority shall

30 (1) at the end of each fiscal year, calculate the amount that must be transferred
31 from the trust income account established in AS 37.14.021 to the mental health trust corpus in

1 order to offset the effect of inflation on the money in the trust corpus during that year, as
2 measured by the change in the calendar year average United States Consumer Price Index for all
3 urban consumers or, if that index does not exist, an equivalent index; and

4 (2) transfer from the trust income account to the mental health trust corpus 1/12th
5 of the amount determined under (1) of this subsection each month.

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

11 * Sec. 8. AS 37.14.011 is repealed and reenacted to read:

12 Sec. 37.14.011. MENTAL HEALTH TRUST CORPUS VALUE. The value as of
13 September 7, 1987, of all land granted under the enabling Act is \$

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

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

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

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

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

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

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

29 (b) The value of land granted to the state under the enabling Act and reconstituted as part
30 of the mental health trust corpus by (a) of this section is the amount determined under the
31 procedures approved by the Interim Mental Health Trust Commission established by sec. 1, ch.

1 132, SLA 1986, as set out in the commission's November 7, 1989, resolution.

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

4 (1) is a municipal land selection made under AS 29.65 or under former
5 AS 29.18.190 - 29.18.200 and on the effective date of this section, the land

6 (A) has been conveyed by patent to the selecting municipality;

7 (B) is an approved selection, as that term is defined by AS 29.65.130,
8 approved in writing by the director of lands, Department of Natural Resources; or

9 (C) has been selected by a municipality and the municipal selection has
10 been neither approved nor disapproved by the director of lands, Department of Natural
11 Resources; or

12 (2) has been encumbered before the effective date of this section when
13 specifically authorized by law or under terms and conditions established by law.

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

15 (a) For the land granted under the enabling Act that is not retained by the trust, the state shall
16 pay to the authority an amount calculated to fully pay, in equal annual installments, by July 1,
17 2021, the principal amount together with interest on the unpaid balance at 10.5 percent per
18 annum. The state shall make the payments due under this subsection on a monthly installment
19 payment schedule.

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

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

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

27 (2) the state and the authority shall recalculate the amounts due as equal annual
28 installments under (a) of this section, the recalculated payment to be effective as of the date of
29 the first installment payable to the trust under (a) of this section during the following fiscal year.

30 (d) The value of land granted to the state under the enabling Act and not retained by the
31 trust for which payment is due the trust under AS 37.14.013(a)(5) is the amount determined

1 under the procedures approved by the Interim Mental Health Trust Commission established by
2 sec. 1, ch. 132, SLA 1986, as set out in the commission's November 7, 1989, resolution.

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

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

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

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

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

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

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

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

27 (1) the governor;

28 (2) the commissioner of revenue;

29 (3) the president of the senate; and

30 (4) the speaker of the house of representatives.

31 (b) The notice shall be in writing and must include a statement of the remedies available

1 to the authority to secure enforcement of its claim for payment.

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

5 (d) If authorized by the board, the authority may apply to the superior court to require
6 payment. If the court determines that a payment due has not been made, the court shall issue
7 a judgment and order to the state, determining the amount of the payment that is due and
8 directing that payment be made. In a proceeding under this subsection, the court is limited to
9 a determination of whether a payment due the authority is due and unpaid and the amount that
10 is due and unpaid. The court shall include in the judgment the authority's full attorney fees. The
11 judgment bears interest at the rate of 10.5 percent per year. The clerk of the court shall provide
12 copies of a judgment and order entered under this subsection to the officials named in (a) of this
13 section.

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

18 * Sec. 10. AS 37.14.021 is repealed and reenacted to read:

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

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

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

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

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

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

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

30 (d) Expenditure of money from the mental health trust income account is subject to
31 AS 37.07 (Executive Budget Act). The legislature shall appropriate money in the account first

1 to meet the necessary expenses of the comprehensive program of services required by
2 AS 47.30.061. In making annual appropriations, the legislature shall consider the budget
3 prepared and submitted by the authority. If the legislature does not appropriate from the account
4 in the manner submitted by the authority, the legislature shall prepare a report showing how, in
5 the judgment of the legislature, the necessary expenses of the comprehensive program of services
6 required by AS 47.30.061 will be met.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 * Sec. 12. AS 38.05.800 is repealed and reenacted to read:

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

1 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. 13. 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. 14. 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. 15. 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 necessary expenses of the comprehensive service program for the
22 beneficiaries of the trust who are described in AS 47.30.061(c)(4) and the use of the money
23 in the mental health trust income account in a manner consistent with AS 47.30.061; in
24 making recommendations affecting the trust, members of the commission assume a duty of
25 loyalty to the trust equivalent to the responsibilities of a private trustee.

26 * Sec. 16. AS 44.29.020 is amended to read:

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

29 (1) maternal and child health services;

30 (2) preventive medical services;

31 (3) public health nursing services;

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

14 * Sec. 17. AS 44.29.022 is amended by adding a new subsection to read:

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

19 * Sec. 18. AS 44.29.024 is amended by adding a new subsection to read:

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

24 * Sec. 19. AS 44.29.100 is amended to read:

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

29 * Sec. 20. AS 44.29.110 is amended to read:

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

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

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

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

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

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

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

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

14 * Sec. 22. 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. 23. 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

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

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

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

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

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

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

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

* Sec. 24. AS 44.29.140 is amended by adding new subsections to read:

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

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

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

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

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

(c) The authority

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

4 (2) may sue and be sued;

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

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

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

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

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

19 (b) The board consists of nine members appointed by the governor. The members shall
20 be appointed

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

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

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

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

30 (C) one person selected by the Advisory Board on Alcoholism and Drug
31 Abuse (AS 44.29.110);

1 (D) one person selected by the Older Alaskans Commission
2 (AS 44.21.200); and

3 (E) one person selected by the authority.

4 (c) A member of the board may not

5 (1) be an officer or employee of the state; or

6 (2) within the preceding year or during the member's term of office have had an
7 interest in, served on the governing board of, or been employed by an organization that has an
8 interest in, a contract entered into by the authority.

9 (d) A quorum of the board is five members.

10 (e) Members of the board

11 (1) receive an honorarium of \$400 for each day or any part of a day spent at a
12 meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the
13 board; the honorarium under this paragraph shall be adjusted annually for the effect of inflation
14 as measured by the change in the calendar year average United States Consumer Price Index for
15 all urban consumers or, if that index no longer exists, an equivalent index; and

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

18 Sec. 47.30.021. TERM OF OFFICE, VACANCIES, AND REMOVAL. (a) Members
19 of the board serve staggered five-year terms. A member shall continue to serve until the
20 member's successor is appointed and confirmed.

21 (b) A vacancy occurring in the membership of the board of trustees of the authority shall
22 be filled within 60 days by appointment of the governor for the unexpired portion of the vacated
23 term.

24 (c) The governor may remove a member of the board only for cause, including
25 incompetence, neglect of duty, misconduct in office, poor attendance, or lack of contribution to
26 the board's work. A member being removed for cause shall be given a copy of the charges and
27 afforded an opportunity to publicly present a defense in person or by counsel upon not less than
28 10 days' written notice. If a member is removed for cause, the governor shall file with the
29 lieutenant governor a complete statement of all charges made against the member and the
30 governor's findings based on the charges, together with a complete record of the proceedings.
31 The removal of a member for cause constitutes a final administrative order. A member seeking

1 to appeal the governor's removal of a member for cause under this subsection shall file a notice
2 of appeal with the superior court under AS 44.62.560.

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

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

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

11 (1) hire additional employees;

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

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

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

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

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

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

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

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

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

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

31 (6) provisions that allow and encourage entities providing trust funded services

1 to integrate those services with other community human services funded by other sources;

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

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

4 (B) investigations;

5 (C) hearings; and

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

7 (8) procurement procedures.

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

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

10 (2) use the trust income to

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

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

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

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

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

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

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

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

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

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

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

1 and the trust beneficiaries to

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

3 (2) keep and render clear and accurate accounts with respect to the administration
4 of the trust;

5 (3) make public and available complete and accurate information as to the nature
6 and amount of the trust property;

7 (4) exercise an equal or higher degree of care in administering the trust than in
8 the management of the person's own personal business;

9 (5) take reasonable steps to take and keep control of the trust property;

10 (6) use care and skill to preserve the trust property;

11 (7) take reasonable steps to realize on claims that are held in the trust;

12 (8) defend against actions that may result in a loss to the trust estate, unless under
13 all the circumstances, considering the other duties owed to the trust, it is reasonable not to make
14 that defense;

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

16 (10) keep trust property separate from other property not subject to the trust so
17 far as it is reasonable to do so;

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

19 (12) use care in selecting the bank when making general deposits of trust money
20 in a bank, and properly identify the deposit as a deposit by the authority as trustee;

21 (13) use care and skill to make the trust property productive; however, nothing
22 in this paragraph shall prevent the authority from using trust property directly or indirectly, by
23 contractual stipulation or otherwise as a component of the state's mental health program;

24 (14) use the income of the trust to pay for the necessary expenses of the
25 comprehensive service program for the beneficiaries of the trust;

26 (15) deal impartially with the different trust beneficiaries under the priorities set
27 out in AS 47.30.061; and

28 (16) participate in the administration of the trust with the other members of the
29 board, and use care to prevent a co-trustee from committing a breach of trust or to compel a co-
30 trustee to redress a breach of trust.

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

1 of the trust and recognizes that, in exercising its powers, duties, and responsibilities, the board
2 is otherwise subject to the same fiduciary duties as a private trustee under private trust law
3 principles.

4 Sec. 47.30.046. AUTHORITY BUDGET SUBJECT TO EXECUTIVE BUDGET ACT.
5 Except as provided in AS 47.30.051, management of the mental health trust income account is
6 subject to AS 37.07 (Executive Budget Act).

7 Sec. 47.30.051. MANAGEMENT OF MENTAL HEALTH TRUST INCOME
8 ACCOUNT. The board shall

9 (1) report to the governor and the legislature a determination of the amount

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

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

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

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

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

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

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

25 Sec. 47.30.056. SUBMISSIONS REQUIRING USE OF TRUST MONEY. An agency
26 or entity proposing an expenditure of money by the trust must present its proposal to the
27 authority under regulations adopted under AS 47.30.031.

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

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

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

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

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

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

8 (c) The comprehensive program of services funded by the trust shall provide services
9 needed by

10 (1) the mentally ill;

11 (2) the mentally defective and retarded;

12 (3) chronic alcoholics suffering from psychoses; and

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

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

16 (1) schizophrenia;

17 (2) delusional (paranoid) disorder;

18 (3) mood disorders;

19 (4) anxiety disorders;

20 (5) somatoform disorders;

21 (6) organic mental disorders;

22 (7) personality disorders;

23 (8) dissociative disorders;

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

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

31 (e) In (c) of this section, "the mentally defective and retarded" includes persons with the

1 following neurologic or mental disorders:

2 (1) cerebral palsy;

3 (2) epilepsy;

4 (3) mental retardation;

5 (4) autistic disorder;

6 (5) severe organic brain impairment;

7 (6) significant developmental delay during early childhood indicating risk of
8 developing a disorder listed in this subsection;

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

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

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

14 (2) alcohol hallucinosis;

15 (3) alcohol amnestic disorder;

16 (4) dementia associated with alcoholism;

17 (5) alcohol-induced organic mental disorder;

18 (6) alcoholic depressive disorder;

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

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

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

26 (2) multi-infarct dementia;

27 (3) senile dementia;

28 (4) presenile dementia;

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

31 (h) Persons not included in (b) and (c) of this section may be provided services under

1 the comprehensive service program to be paid for from the trust provided the authority
2 determines that the provision of services is consistent with its obligation as trustee under (b) and
3 (c) of this section.

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

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

11 (1) emergency services on a 24-hour basis;

12 (2) screening examination and evaluation services required to complete the
13 involuntary commitment process under AS 47.30.700 - 47.30.815;

14 (3) inpatient care;

15 (4) crisis stabilization services, which may include:

16 (A) active community outreach;

17 (B) in-hospital contact;

18 (C) mobile crisis teams of mental health professionals;

19 (D) crisis beds to provide a short term residential program for persons
20 experiencing an acute episode of mental illness that requires temporary removal from a
21 home environment;

22 (5) treatment services, which may include

23 (A) diagnosis, testing, and evaluation of medical needs;

24 (B) medication monitoring;

25 (C) physical examinations;

26 (D) dispensing psychotropic and other medication;

27 (E) detoxification;

28 (F) individual or group therapy;

29 (G) aftercare;

30 (6) case management, which may include

31 (A) evaluation of needs;

- 1 (B) development of individualized treatment plans;
- 2 (C) enhancement of access to available resources and programs;
- 3 (D) development of interagency contacts and family involvement;
- 4 (E) advocacy;
- 5 (7) daily structure and support, which may include
- 6 (A) daily living skills training;
- 7 (B) socialization activities;
- 8 (C) recreation;
- 9 (D) transportation;
- 10 (E) day care services;
- 11 (F) client and care provider education and support services;
- 12 (8) residential services, which may include
- 13 (A) crisis or respite care;
- 14 (B) board and care;
- 15 (C) foster care, group homes, halfway houses, or supervised apartments;
- 16 (D) intermediate care facilities;
- 17 (E) long term care facilities;
- 18 (F) in-home care;
- 19 (9) vocational services, which may include
- 20 (A) prevocational services;
- 21 (B) work adjustment;
- 22 (C) supported work;
- 23 (D) sheltered work;
- 24 (E) training in which participants achieve useful work experience;
- 25 (10) outpatient screening, diagnosis, and treatment services, including individual,
- 26 family, and group psychotherapy, counseling, and referral; and
- 27 (11) administrative services, including appropriate operating expenses of state
- 28 agencies and other service providers.
- 29 (k) The authority shall adopt regulations regarding the services described in (j) of this
- 30 section to reflect advances in the appropriate professions serving the beneficiaries of the trust.
- 31 The authority shall review and revise the regulations as necessary. Regulations adopted under

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

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

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. 26. 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 comprehensive service program for the
12 beneficiaries of the mental health trust the services and facilities that are necessary for the care
13 and treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in
14 AS 47.30.061(f); in preparing the plan of services for persons identified in this paragraph, the
15 authority shall coordinate with the Advisory Board on Alcoholism and Drug Abuse;

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

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

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

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

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

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

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

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

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

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

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

12 (8) [(5) ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
 13 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH SERVICES;

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

16 (9) [(7)] encourage the full use of all existing public or private agencies, facilities,
 17 personnel, and funds to accomplish these objectives; and

18 (10) [(8)] prevent unnecessary duplication and fragmentation of services and
 19 expenditures.

20 * Sec. 28. AS 47.30 is amended by adding new sections to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

19 Sec. 47.30.525. DUTIES OF DIVISION OF MENTAL HEALTH AND
20 DEVELOPMENTAL DISABILITIES. The division of mental health and developmental
21 disabilities shall

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

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

26 (3) give technical assistance to entities that provide or propose to provide services
27 funded by the trust;

28 (4) develop and recommend to the authority regulations and standards for mental
29 health services, facilities, and providers;

30 (5) assist the authority by administering grant programs for the delivery of
31 services funded by the trust;

1 (6) at least biennially, obtain for the authority financial and performance audits
2 of each entity providing services funded by the mental health trust income account;

3 (7) operate mental health programs and facilities under guidelines established by
4 the Alaska Mental Health Trust Authority.

5 * Sec. 29. AS 47.30.540 is amended to read:

6 Sec. 47.30.540. ELIGIBLE LOCAL COMMUNITY ENTITIES. (a) A city or borough
7 government or other political subdivision of the state, a nonprofit corporation, or a combination
8 of these, is eligible to receive funds and administer local programs under AS 47.30.520 -
9 47.30.620. In order to ensure equitable access to funds and programs through the state, the
10 authority, in consultation with the department, shall determine appropriate geographical areas
11 to be served by local programs in consultation with representatives of the geographical areas in
12 question.

13 (b) An [THE] entity designated by the authority [DEPARTMENT IN THE LOCAL
14 AREA AS THE ORGANIZATIONAL UNIT] to receive money [FUNDS] under AS 47.30.520 -
15 47.30.620 [AND TO ADMINISTER THE PROGRAM] shall ensure a broad base of community
16 support as evidenced by a governing board reasonably representative of the professional, civic,
17 and citizen groups in the community and including persons with mental disorders or family
18 members of persons with mental disorders. No more than two members, or 40 percent of the
19 membership, whichever is greater, may be providers of services under the program. In order to
20 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

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

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

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

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

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

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

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

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

17 * Sec. 30. AS 47.30.545 is repealed and reenacted to read:

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

21 * Sec. 31. AS 47.30.547 is amended to read:

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

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

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

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

31 (4) promote client and family participation in formulating, delivering, and

1 evaluating treatment and rehabilitation;

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

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

6 * Sec. 32. AS 47.30.550 is amended to read:

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

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

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

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

29 * Sec. 33. AS 47.30.570 is amended to read:

30 Sec. 47.30.570. ELIGIBLE COSTS; MAINTENANCE OF LOCAL EFFORT. The
31 authority [DEPARTMENT] shall adopt regulations specifying the types of services and program

1 costs eligible for financial support payable by the authority [STATE PARTICIPATION].

2 These regulations must include

3 [(1) A PROVISION EXCLUDING CAPITAL EXPENDITURES AS ELIGIBLE
4 COSTS; AND

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

12 * Sec. 34. AS 47.30.590 is amended to read:

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

23 * Sec. 35. AS 47.30.610 is repealed and reenacted to read:

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

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

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

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

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

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

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

5 * Sec. 36. AS 47.30.660 is amended to read:

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

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

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

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

26 (3) administer AS 47.30.660 - 47.30.915;

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

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

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

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

7 (8) enter into contracts, which incorporate safeguards consistent with
8 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
9 state for the custody and care or treatment of patients previously committed from this state under
10 48 U.S.C. 46 et seq., and P.L. 84-830 [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat.
11 709;

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

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

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

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

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

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

25 (15) provide technical assistance and training to providers of mental health
26 services.

27 * Sec. 37. AS 47.30.662 is repealed and reenacted to read:

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

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

3 (c) The board members

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

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

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

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

15 * Sec. 38. AS 47.30.664(b) is amended to read:

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

25 * Sec. 39. AS 47.30.666 is repealed and reenacted to read:

26 Sec. 47.30.666. DUTIES OF THE BOARD. The board is the state planning and
27 coordinating body for the purpose of federal and state laws relating to mental health services for
28 persons with mental disorders identified in AS 47.30.061(b), (d), (g), and (h). On behalf of those
29 persons, the board shall

30 (1) prepare and maintain a comprehensive plan of treatment and rehabilitation
31 services;

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

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

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

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

10 (A) development of necessary services for diagnosis, treatment, and
11 rehabilitation;

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

14 (C) legal processes that affect screening, diagnosis, treatment, and
15 rehabilitation;

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

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

23 * Sec. 40. AS 47.30 is amended by adding a new section to read:

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

28 * Sec. 41. AS 47.30.910(d) is amended to read:

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

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

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

9 * Sec. 43. AS 47.30.910 is amended by adding a new subsection to read:

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

12 * Sec. 44. AS 47.30.915(12) is amended to read:

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

20 * Sec. 45. AS 47.37.040 is amended by adding a new paragraph to read:

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

23 * Sec. 46. AS 47.80.070(b) is amended to read:

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

31 * Sec. 47. AS 47.80.090 is amended to read:

1 Sec. 47.80.090. RESPONSIBILITIES. The council shall

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

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

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

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

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

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

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

25 (8) [SUBMIT] annually submit

26 (A) to the commissioner of health and social services, the commissioner
27 of education, and the commissioner of community and regional affairs a proposed
28 interdepartmental program budget for services to handicapped or gifted persons which
29 includes, insofar as possible, projected revenues and expenditures for programs
30 implemented by state agencies, local governmental agencies, and private organizations;
31 the interdepartmental program budget is an informational supplement to the regular annual

1 budgetary submissions of the departments to the Office of the Governor;

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

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

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

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

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

21 * Sec. 48. AS 47.80.110 is amended to read:

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

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

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

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

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

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

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

5 * Sec. 49. AS 47.30.530, 47.30.546, and 47.30.560; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and
6 secs. 7 - 10, ch. 48, SLA 1987 are repealed.

7 * Sec. 50. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT
8 DISTRIBUTION MECHANISM. Not later than January 1, 1993, the Board of Trustees of the Alaska
9 Mental Health Trust Authority, after consulting with organizations and persons affected by this section,
10 shall

11 (1) consistent with AS 47.30.061(i), added by sec. 25 of this Act, adopt regulations
12 regarding persons who are to receive services funded by money in the mental health trust income
13 account under AS 37.14.021, as amended by sec. 10 of this Act;

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

16 (3) consistent with AS 47.30.061(k), added by sec. 25 of this Act, adopt regulations
17 regarding the services and facilities upon which expenditures are to be made from money in the mental
18 health trust income account under AS 37.14.021, as amended by sec. 10 of this Act; the regulations may
19 permit the use of the mental health trust income account money for programs or services to which
20 beneficiaries of the trust established by the Alaska Mental Health Enabling Act of 1956 are otherwise
21 entitled without spending trust assets, but the use of the money is limited to the additional costs of
22 providing specific mental health services for beneficiaries of the trust; the money may be expended for
23 services that are provided to the public generally by the state, but the expenditure of the earnings is
24 limited to the additional costs of providing specific mental health services for beneficiaries of the trust;
25 and

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

30 * Sec. 51. TRANSITIONAL PROVISIONS: BUDGET DEVELOPMENT. Notwithstanding the
31 repeal of AS 47.30.530 by sec. 49 of this Act, until the Board of Trustees of the Alaska Mental Health

1 Trust Authority adopts regulations under sec. 50 of this Act, or until January 1, 1993, whichever is
2 earlier, the Department of Health and Social Services shall prepare and submit budgets and receive and
3 distribute state appropriations in accordance with AS 47.30.520 - 47.30.620.

4 * Sec. 52. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.
5 Notwithstanding AS 47.30.016, added by sec. 25 of this Act,

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

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

13 * Sec. 53. INITIAL VALUATION OF LEGISLATIVELY-DESIGNATED TRUST LAND.
14 Notwithstanding AS 37.14.017(b), added by sec. 9 of this Act, the value as of September 7, 1987, of
15 mental health trust land that is established as legislatively-designated land that is included in the trust
16 is the amount determined under the procedures approved by the Interim Mental Health Trust Commission
17 under its resolution dated November 7, 1989. The first redetermination of the value of the land under
18 AS 37.14.017(b), added by sec. 9 of this Act, shall be completed no later than July 1, 1992. In this
19 section, "legislatively-designated land" has the meaning given in AS 37.14.099, added by sec. 11 of this
20 Act.

21 * Sec. 54. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON
22 ALCOHOLISM AND DRUG ABUSE. Notwithstanding AS 44.29.110 and 44.29.115, as amended by
23 secs. 20 and 21 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who
24 are serving on the effective date of this section continue to serve their unexpired terms. Vacancies on
25 the advisory board occurring after the effective date of this section shall be filled by the governor under
26 the provisions of AS 44.29.115, as amended by sec. 21 of this Act.

27 * Sec. 55. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH
28 BOARD. Notwithstanding AS 47.30.662, as amended by sec. 37 of this Act, the members of the Alaska
29 Mental Health Board who are serving on the effective date of this section continue to serve their
30 unexpired terms. Vacancies on the board occurring after the effective date of this section, and new
31 positions created by this Act, shall be filled by the governor under the provisions of AS 47.30.66. as

1 amended by sec. 37 of this Act. When making appointments to new positions on the board, the governor
2 shall ensure that the initial terms of new members maintain the staggered term requirement of
3 AS 47.30.663.

4 * Sec. 56. TRANSITIONAL PROVISIONS: ENCUMBERED LAND. The commissioner of natural
5 resources shall, not later than six months after the effective date of this section or not later than March 1,
6 1992, whichever is earlier, prepare and transmit to the legislature a report providing a description of
7 former mental health trust land encumbered by the state on the effective date of this section under
8 AS 37.14.013(a)(1) and (c), added by sec. 9 of this Act.

9 * Sec. 57. The provisions of AS 37.14.019(d), as added by sec. 9 of this Act, have the effect of
10 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
11 actions.

12 * Sec. 58. Section 56 of this Act takes effect immediately under AS 01.10.070(c).

13 * Sec. 59. Except for sec. 56, this Act takes effect upon incorporation into a final settlement and
14 order approved by the superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil. The superior court
15 shall advise the lieutenant governor and the revisor of statutes when the final settlement and order of
16 Weiss v. State of Alaska has been approved.

7-LS0502P
Chenoweth
5/6/91

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BOYER, Gonzales, Moyer

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska Mental Health Trust Authority and defining its powers
2 and duties; relating to the administration of the trust established by the Alaska Mental
3 Health Enabling Act of 1956 and to appropriations made to it, and to an integrated
4 comprehensive mental health program for the people of the state; abolishing the Interim
5 Mental Health Trust Commission; relating to the Older Alaskans Commission and the
6 Governor's Council for the Handicapped and Gifted, and services provided under the
7 Uniform Alcoholism and Intoxication Treatment Act; amending the duties of the Alaska
8 Permanent Fund Corporation and the membership and duties of the Advisory Board on
9 Alcoholism and Drug Abuse and the Alaska Mental Health Board; exempting trust property
10 from municipal taxation; amending Alaska Rule of Civil Procedure 82; and providing for
11 an effective date."

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

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

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

7 (2) in a manner that

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

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

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

14 (D) establishes an independent trust authority.

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

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

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

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

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

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

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

31 (3) property used exclusively for nonprofit religious, charitable, cemetery,

1 hospital, or educational purposes;

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

6 (5) money on deposit;

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

9 (7) real property or an interest in real property that is exempt from taxation under
10 43 U.S.C. 1620(d), as amended.

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

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

14 (1) grants;

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

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

19 (4) contracts for medical doctors and dentists;

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

22 (6) disposals under AS 38.05;

23 (7) contracts for the preparation of ballots under AS 15.15.030;

24 (8) acquisitions or disposals of property and other contracts relating to airports
25 under AS 02.15.070, 02.15.090, and 02.15.091;

26 (9) disposals of obsolete property under AS 19.05.060;

27 (10) disposals of obsolete material or equipment under AS 35.20.060;

28 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
29 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;

30 (12) contracts of the Department of Fish and Game for flights that involve
31 specialized flying and piloting skills and are not point-to-point;

1 (13) purchases of income-producing assets for the state treasury or a public
2 corporation of the state;

3 (14) operation of the state boarding school established under AS 14.16, if the
4 State Board of Education or the commissioner of education adopts regulations for use by the state
5 boarding school in procurement and contracting;

6 (15) a contract that is a delegation, in whole or in part, of investment powers held
7 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
8 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
9 AS 39.35.080;

10 (16) a contract that is a delegation, in whole or in part, of investment powers of

11 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
12 under AS 37.13;

13 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
14 37.14.099;

15 (17) the purchase of books, book binding services, newspapers, periodicals,
16 audio-visual materials, network information services access, approval plans, professional
17 memberships, archival materials, objects of art, and items for museum or archival acquisition
18 having cultural, historical, or archaeological significance; in this paragraph

19 (A) "approval plans" means book selection services in which current book
20 titles meeting an agency's customized specifications are provided to the agency subject
21 to the right of the agency to return those books that do not meet with the agency's
22 approval;

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

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

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

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

1 AS 08;

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

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

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

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

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

10 (b) Except for appropriations to the permanent fund or for Alaska permanent fund
11 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,
12 appropriations required to pay the principal and interest on general obligation bonds, [AND]
13 appropriations of money received from a nonstate source in trust for a specific purpose, including
14 revenue of a public enterprise or public corporation of the state that issues revenue bonds, and
15 appropriations authorized by AS 37.14.031(a)(5) and (6), appropriations from the treasury
16 made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more
17 than five percent plus the change in population and inflation since the beginning of the preceding
18 fiscal year. For purposes of applying this limit an appropriation is considered to be made in the
19 fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in
20 which the original appropriation is enacted. The determination of the change in population for
21 purposes of this subsection shall be based on an annual estimate of population by the Department
22 of Labor. The determination of the change in inflation for purposes of this subsection shall be
23 based on the Consumer Price Index for all urban consumers for Anchorage prepared by the
24 United States Bureau of Labor Statistics. The amount of money received by the state that is
25 subject to the appropriation limit includes the balance in the general fund carried forward from
26 the preceding fiscal year.

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

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

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

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

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

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

13 (b) The corporation shall

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

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

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

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

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

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

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

4 (1) the governor;

5 (2) the legislature;

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

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

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

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

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

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

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

30 (2) provide the report prepared under (1) of this subsection to the legislature, the
31 authority, and all entities providing services with money from the mental health trust income

1 account for further distribution by the entities to the beneficiaries of the trust and their
2 representatives; and

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

4 (e) In reviewing appropriations of money from the mental health trust income account
5 for possible veto, the governor shall act solely in the best interests of the beneficiaries of the trust
6 and without regard to other potential objects of state expenditures. If the governor vetoes all or
7 a portion of an appropriation by the legislature of money from the mental health trust income
8 account, the governor shall issue a report justifying the vetoes as being in the best interests of
9 the beneficiaries of the trust. The governor's report must state with particularity, with respect
10 to each item vetoed, the facts and circumstances relied upon by the governor in determining that
11 the best interests of the beneficiaries of the trust require a reduction or elimination of the
12 appropriation.

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

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

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

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

29 (2) if the committee acts to reduce mental health trust income account
30 expenditures from those proposed by the authority, the written findings must include, but are not
31 limited to, specific evidence that the budget recommendations of the authority proposed for

1 reduction are not needed, or that the authority has overstated the costs of providing the services;

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

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

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

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

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

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

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

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

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

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

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

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

20 (f) The legislature shall

21 (1) transmit copies of the report prepared under (e) of this section to the governor,
22 the Office of Management and Budget, the commissioner of health and social services, and all
23 other entities providing services with trust funds for further distribution by the entities to the
24 beneficiaries of the trust and their representatives; and

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

26 Sec. 37.14.007. AUTHORITY AS CO-TRUSTEE. The Alaska Mental Health Trust
27 Authority, established by AS 47.30.011, is a co-trustee

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

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

31 Sec. 37.14.009. TRUST MANAGEMENT. (a) The Alaska Mental Health Trust

1 Authority

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

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

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

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

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

21 (4) shall delegate management of trust land described in AS 37.14.031(a)(3) to
22 the Department of Natural Resources; and

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

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

30 (c) At least annually, the authority shall prepare, publish, and distribute to the legislature
31 and make available to the public a financial report indicating trust revenue and expenditures, and

1 including a statement of its method of allocating the assets of the trust among appropriate
2 investment vehicles. The asset allocation policy shall be designed to provide for prudent
3 diversification and to meet the investment objectives and needs of the authority.

4 * Sec. 10. AS 37.14.021 is repealed and reenacted to read:

5 Sec. 37.14.021. TRUST INCOME ACCOUNT. (a) The mental health trust income
6 account is established as an account separate from the trust corpus. The mental health trust
7 income account consists of money

8 (1) earned by the authority on its investment of the assets of the trust corpus
9 during the fiscal year; and

10 (2) transferred to the account by the board from any source.

11 (b) The authority may establish subaccounts within the mental health trust income
12 account.

13 (c) Expenditure of money from the mental health trust income account

14 (1) is subject to AS 37.07 (Executive Budget Act);

15 ~~(2) may only be made before July 1, 2007.~~

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

17 Sec. 37.14.031. TRUST CORPUS RECONSTITUTED. (a) On the effective date of this
18 section, 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 section, 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) land selected under (b) of this section;

27 (5) money paid by the state under AS 37.14.041; and

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

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

31 (1) shall select, from vacant, unappropriated, and unreserved land of the state, and

1 the state shall convey to the trust, an amount of land equal in value at the time of its selection
2 to \$200,000,000; and

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

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

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

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

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

16 (B) has been selected by a municipality and on the effective date of this
17 section the selection has been neither approved nor disapproved by the director of lands,
18 Department of Natural Resources, and the land selected is necessary to fulfill the
19 municipality's entitlement authorized by AS 29.65 or by former AS 29.18.190 - 29.18.200
20 after all land other than former mental health trust land selected by the municipality is
21 included in the entitlement;

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

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

28 (A) conveyed by deed;

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

30 (C) made subject to an easement, right-of-way, or permit;

31 (D) made subject to a mineral lease;

- 1 (E) made subject to a reservation for public use by statute;
- 2 (F) made subject to interagency land management assignments made by
- 3 the Department of Natural Resources; or
- 4 (G) encumbered before the effective date of this section by the
- 5 commissioner of natural resources by a land use authorization, lease, or conveyance when
- 6 specifically authorized by law or under terms and conditions established by law.

7 Sec. 37.14.041. RENT PAYABLE FOR LEGISLATIVELY-DESIGNATED LAND. (a)

8 On July 1 of each year, for trust land identified in AS 37.14.031(a)(3), the state shall pay rent

9 for that fiscal year to the authority as appropriated by the legislature to meet the obligation of

10 this section.

11 (b) Unless adjusted under (c) of this section or as required by law, the annual rent

12 payable for the land identified in this section is \$61,000,000.

13 (c) When a principal payment in addition to the required annual payment under (b) of

14 this section is appropriated by the legislature and made by the state, or when land is conveyed

15 by the state to the trust under AS 37.14.031(b)(2),

16 (1) the amount due the trust under (b) of this section shall be reduced by the

17 amount of the payment or the value of the land conveyed; and

18 (2) the state and the authority shall recalculate the rent, the recalculated rent to

19 be effective as of the next annual payment date under (a) of this section.

20 Sec. 37.14.051. ENFORCEMENT OF PAYMENTS DUE THE TRUST. (a) If the state

21 fails to make a payment required under AS 37.14.041, the chief executive officer of the authority

22 shall notify each of the following of the state's failure to make the payment:

- 23 (1) the governor;
- 24 (2) the commissioner of revenue;
- 25 (3) the president of the senate; and
- 26 (4) the speaker of the house of representatives.

27 (b) The notice shall be in writing and must include a statement of the remedies available

28 to the authority to secure enforcement of its claim for payment.

29 (c) If payment is not made within 15 days after giving notice under (a) of this section,

30 the chair of the board shall convene the board to determine whether the authority shall exercise

31 its rights under this section to collect the payment.

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

7 Sec. 37.14.061. 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;

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

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

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

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

26 ~~Consistent~~ Consistent with the best interests of the state,
 27 ~~in the selection of land under the Alaska Statehood Act after the effective~~
 28 date of this section and until January 3, 1994, it is the policy of the state to make available
 29 the maximum land area for the corpus of the trust established under the Alaska Mental
 30 Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, and reconstituted by AS 37.14.001;
 31 and

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

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

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

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

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

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

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

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

19 (A) Alaska Public Broadcasting Commission;

20 (B) Professional Teaching Practices Commission;

21 (C) Parole Board;

22 (D) Board of Nursing;

23 (E) Real Estate Commission;

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

25 (G) Alaska Historical Commission;

26 (H) Alaska State Council on the Arts;

27 (I) Alaska Police Standards Council;

28 (J) Older Alaskans Commission;

29 (K) Alaska Mental Health Board;

30 (L) State Medical Board;

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

1 (N) Advisory Board on Alcoholism and Drug Abuse:

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

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

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

8 (a) The commission shall

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

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

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

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

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

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

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

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

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

29 (10) provide recommendations to the Alaska Mental Health Trust Authority
30 concerning the integrated comprehensive mental health program for the people of the state
31 who are described in AS 47.30.056(b)(4) and the use of the money in the mental health trust

1 income account in a manner consistent with AS 47.30.056; in making recommendations
2 affecting the trust, members of the commission assume a duty of loyalty to the trust
3 equivalent to the responsibilities of a private trustee.

4 * Sec. 17. AS 44.29.022 is amended by adding a new subsection to read:

5 (d) A regulation that establishes a fee for services under AS 44.29.020(a)(7) that affect
6 the integrated comprehensive mental health program for the people of the state established under
7 AS 47.30.011 - 47.30.061 may not be adopted under this section unless it has been approved by
8 the Alaska Mental Health Trust Authority.

9 * Sec. 18. AS 44.29.024 is amended by adding a new subsection to read:

10 (c) A regulation that establishes a schedule of reasonable fees for services provided by
11 a contractor or grantee that affect the integrated comprehensive mental health program for the
12 people of the state established under AS 47.30.011 - 47.30.061 may not be adopted under this
13 section unless it has been approved by the Alaska Mental Health Trust Authority.

14 * Sec. 19. AS 44.29.100 is amended to read:

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

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

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

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

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

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

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

30 (3) four members who are chronic alcoholics with psychoses who are
31 recovering;

1 (4) three members who are substance abuse treatment professionals who
2 represent public and private providers of substance abuse prevention and treatment
3 services; and

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

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

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

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

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

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

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

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

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

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

26 (b) The board shall have a paid staff provided by the department, including an executive
27 director who shall be selected by the board. The executive director is in the partially exempt
28 service and shall be compensated at no less than range 21 of the pay plan for state employees
29 under AS 39.27.011(a). The executive director may hire additional employees in the classified
30 service of the state. The department shall provide for the assignment of personnel to the board
31 to ensure the board has the capacity to fulfill its responsibilities. The executive director of the

1 board shall be directly responsible to the board in the performance of the director's duty.

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

3 Sec. 44.29.140. DUTIES. The board shall

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

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

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

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

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

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

17 (F) [(6)] REVIEW OF APPLICATIONS AND SUBSEQUENT
18 RECOMMENDATIONS TO THE COMMISSIONER OF HEALTH AND SOCIAL
19 SERVICES ON USE OF FUNDS FOR GRANTS FOR LOCAL ALCOHOLISM OR
20 DRUG ABUSE PROJECTS AND PROGRAMS;

21 (7) evaluation of effectiveness of alcoholism and drug abuse programs in the
22 state;

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

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

31 (b) The board is the state planning and coordinating body for purposes of federal and

1 state laws relating to alcohol and drug abuse prevention and treatment services.

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

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

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

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

10 (c) The authority

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

14 (2) may sue and be sued;

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

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

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

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

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

29 (b) The board consists of

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

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

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

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

9 (i) one person selected by the Alaska Mental Health Board
10 (AS 47.30.661);

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

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

15 (iv) one person selected by the Older Alaskans Commission
16 (AS 44.21.200);

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

18 (vi) one person selected by the authority.

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

21 (1) be an officer or employee of the state; or

22 (2) within the preceding two years or during the member's term of office have
23 had an interest in, served on the governing board of, or been employed by an organization that
24 has an interest in, a contract entered into by the authority.

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

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

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

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

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

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

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

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

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

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

28 (1) hire additional employees;

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (B) investigations;

22 (C) hearings; and

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

24 (8) procurement procedures; and

25 (9) provisions that establish a process for planning the expenditures of money in
26 the mental health trust income account.

For a comprehensive delivery
system to be funded from

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

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

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

31 (3) adopt bylaws governing its meetings, selection of officers, proceedings, and

1 other aspects of board procedure;

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

4 (5) fulfill its obligations under AS 47.30.046.

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

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

10 (2) keep and render clear and accurate accounts with respect to the administration
11 of the trust;

12 (3) make public and available complete and accurate information as to the nature
13 and amount of the trust property;

14 (4) exercise an equal or higher degree of care in administering the trust than in
15 the management of the person's own personal business;

16 (5) take reasonable steps to take and keep control of the trust property;

17 (6) use care and skill to preserve the trust property;

18 (7) take reasonable steps to realize on claims that are held in the trust;

19 (8) defend against actions that may result in a loss to the trust estate, unless under
20 all the circumstances, considering the other duties owed to the trust, it is reasonable not to make
21 that defense;

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

23 (10) keep trust property separate from other property not subject to the trust so
24 far as it is reasonable to do so;

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

26 (12) use care in selecting the bank when making general deposits of trust money
27 in a bank, and properly identify the deposit as a deposit by the authority as trustee;

28 (13) use care and skill to make the trust property productive; however, nothing
29 in this paragraph shall prevent the authority from using trust property directly or indirectly, by
30 contractual stipulation or otherwise as a component of the state's mental health program;

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

1 out in AS 47.30.056; and

2 (15) participate in the administration of the trust with the other members of the
3 board, and use care to prevent a co-trustee from committing a breach of trust or to compel a co-
4 trustee to redress a breach of trust.

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

9 Sec. 47.30.046. MANAGEMENT OF MENTAL HEALTH TRUST INCOME
10 ACCOUNT. (a) The board shall annually, not later than September 15, submit to the governor
11 and the Alaska Legislative Council a budget for the next fiscal year. The budget must include
12 the authority's determination of the amount

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

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

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

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

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

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

27 (b) When the authority submits its proposed budget under (a) of this section, the authority
28 shall also provide to the legislative council, the governor, the Office of Management and Budget,
29 the commissioner of health and social services, and all entities providing services with money
30 in the mental health trust income account for further distribution by the entities to the
31 beneficiaries of the trust and their representatives, and shall make available to the public, upon

1 request, a written financial report of the authority. The report must describe at least the
2 following:

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

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

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

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

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

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

17 (7) projections of the resources required to provide the necessary services and
18 facilities; and

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

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

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

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

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

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

3 (1) the mentally ill;

4 (2) the mentally defective and retarded;

5 (3) chronic alcoholics suffering from psychoses; and

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

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

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

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

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

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

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

18 (1) schizophrenia;

19 (2) delusional (paranoid) disorder;

20 (3) mood disorders;

21 (4) anxiety disorders;

22 (5) somatoform disorders;

23 (6) organic mental disorders;

24 (7) personality disorders;

25 (8) dissociative disorders;

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

29 (10) persons who have been diagnosed by a licensed psychologist, psychiatrist,
30 or physician licensed to practice medicine in the state and, as a result of the diagnosis, have been
31 determined to have a childhood disorder manifested by behaviors or symptoms suggesting risk

1 of developing a mental disorder listed in this subsection.

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

4 (1) cerebral palsy;

5 (2) epilepsy;

6 (3) mental retardation;

7 (4) autistic disorder;

8 (5) severe organic brain impairment;

9 (6) significant developmental delay during early childhood indicating risk of
10 developing a disorder listed in this subsection;

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

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

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

16 (2) alcohol hallucinosis;

17 (3) alcohol amnesic disorder;

18 (4) dementia associated with alcoholism;

19 (5) alcohol-induced organic mental disorder;

20 (6) alcoholic depressive disorder;

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

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

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

28 (2) multi-infarct dementia;

29 (3) senile dementia;

30 (4) presenile dementia;

31 (5) other severe and persistent mental disorders manifested by behaviors and

1 symptoms similar to those manifested by persons with disorders listed in this subsection.

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

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

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

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

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

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

19 (C) inpatient care;

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

21 (i) active community outreach;

22 (ii) in-hospital contact;

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

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

27 (E) treatment services, which may include

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

29 (ii) medication monitoring;

30 (iii) physical examinations;

31 (iv) dispensing psychotropic and other medication;

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

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

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

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

8 (k) The authority may not enter into a contract for services unless the services to be
9 provided under the contract are consistent with the plan for the integrated comprehensive mental
10 health program for the people of the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (5) [(2)] improve the effectiveness of existing mental health services;

16 (6) [(3)] integrate state-operated and community mental health programs into a
17 unified mental health system;

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

22 (8) [(5) ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
23 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH SERVICES;

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

26 (9) [(7)] encourage the full use of all existing public or private agencies, facilities,
27 personnel, and funds to accomplish these objectives; and

28 (10) [(8)] prevent unnecessary duplication and fragmentation of services and
29 expenditures.

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

31 Sec. 47.30.523. COMMUNITY MENTAL HEALTH PROGRAM POLICY AND

1 PRINCIPLES. (a) It is the policy of the state that

2 (1) the community mental health program provide a comprehensive and integrated
3 system of community based facilities, supports, and mental health services including child and
4 adolescent screening and diagnosis, inpatient, outpatient, prevention, consultation, and education
5 services;

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

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

11 (b) Community mental health program service delivery principles include the principles
12 that persons

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

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

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

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

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

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

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

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

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

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

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

2 Sec. 47.30.540. ELIGIBLE LOCAL COMMUNITY ENTITIES. (a) A city or borough
3 government or other political subdivision of the state, a nonprofit corporation, or a combination
4 of these, is eligible to receive funds and administer local programs under AS 47.30.520 -
5 47.30.620. In order to ensure equitable access to funds and programs through the state, the
6 authority, in consultation with the department, shall determine appropriate geographical areas
7 to be served by local programs in consultation with representatives of the geographical areas in
8 question.

9 (b) An [THE] entity designated by the authority [DEPARTMENT IN THE LOCAL
10 AREA AS THE ORGANIZATIONAL UNIT] to receive money [FUNDS] under AS 47.30.520 -
11 47.30.620 [AND TO ADMINISTER THE PROGRAM] shall ensure a broad base of community
12 support as evidenced by a governing board reasonably representative of the professional, civic,
13 and citizen groups in the community and including persons with mental disorders or family
14 members of persons with mental disorders. No more than two members, or 40 percent of the
15 membership, whichever is greater, may be providers of services under the program. In order to
16 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

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

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

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

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

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

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

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

10 * Sec. 33. AS 47.30.545 is repealed and reenacted to read:

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

14 * Sec. 34. AS 47.30.547 is amended to read:

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

16 An entity that provides community mental health services shall

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

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

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

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

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

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

30 ~~* Sec. 35. AS 47.30.550 is amended to read:~~

31 ~~Sec. 47.30.550. COST SHARING FORMULA, LIMITATIONS. (a) In a district~~

1 designated by the department as a poverty area, the authority [DEPARTMENT] may pay
2 [FUND] not more than 90 percent of the eligible costs of the [COMMUNITY] mental health
3 services to be furnished by the entity designated to provide the services [UNDER AN
4 ENTITY'S APPROVED PLAN].

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

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

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

22 Sec. 36. AS 47.30.570 is amended to read:

23 Sec. 47.30.570. ELIGIBLE COSTS; MAINTENANCE OF LOCAL EFFORT. The
24 authority [DEPARTMENT] shall adopt regulations specifying the types of services and program
25 costs eligible for financial support payable by the authority [STATE PARTICIPATION].

26 These regulations must include:

27 [(1) A PROVISION EXCLUDING CAPITAL EXPENDITURES AS ELIGIBLE
28 COSTS; AND

29 (2)] a requirement that the [COMMUNITY ENTITY] contractor or applicant
30 agrees as a condition of contract approval that it will not supplant existing local financial
31 [FUND] support [OF COMMUNITY MENTAL HEALTH SERVICES] with money [FUNDS]

1 received under AS ~~47.30.520 - 47.30.620~~ and that it will continue local financial ~~[FUNDING]~~
2 support of the ~~[COMMUNITY MENTAL HEALTH]~~ services, in any year in which it contracts
3 with the authority ~~[DEPARTMENT]~~, at a level that is at least equal to the local financial
4 ~~[FUNDING]~~ support in the previous year.

5 * Sec. 37. AS 47.30.590 is amended to read:

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

16 * Sec. 38. AS 47.30.610 is repealed and reenacted to read:

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

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

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

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

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

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

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

29 * Sec. 39. AS 47.30.660 is amended to read:

30 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. (a) The department
31 shall

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

4 (A) be made in conjunction with the Alaska Mental Health Trust
5 Authority;

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

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

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

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

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

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

25 (3) administer AS 47.30.660 - 47.30.915;

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

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

31 (6) enter into arrangements with governmental agencies for the care or treatment

1 of persons with mental disorders [THE MENTALLY ILL] in facilities of the governmental
2 agencies in the state or in another state;

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

6 (8) enter into contracts, which incorporate safeguards consistent with
7 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
8 state for the custody and care or treatment of patients previously committed from this state under
9 48 U.S.C. 46 et seq., and P.L. 84-830 [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat.
10 709;

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

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

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

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

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

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

24 (15) provide technical assistance and training to providers of mental health
25 services.

26 * Sec. 40. AS 47.30.662 is repealed and reenacted to read:

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

31 (b) Not less than one-half of the members shall be persons with a mental disorder

1 identified in AS 47.30.056(c)(1) or members of their families.

2 (c) The board members

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

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

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

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

14 * Sec. 41. AS 47.30.664(b) is amended to read:

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

24 * Sec. 42. AS 47.30.666 is repealed and reenacted to read:

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

29 (1) prepare and maintain a comprehensive plan of treatment and rehabilitation
30 services;

31 (2) propose an annual implementation plan consistent with the comprehensive plan

1 and with due regard for the findings from evaluation of existing programs;

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

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

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

9 (A) development of necessary services for diagnosis, treatment, and
10 rehabilitation;

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

13 (C) legal processes that affect screening, diagnosis, treatment, and
14 rehabilitation;

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

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

23 * Sec. 43. AS 47.30 is amended by adding a new section to read:

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

28 * Sec. 44. AS 47.30.910(d) is amended to read:

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

1 * Sec. 45. AS 47.30.910(g) is amended to read:

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

9 * Sec. 46. AS 47.30.910 is amended by adding a new subsection to read:

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

12 * Sec. 47. AS 47.30.915 is amended by adding a new paragraph to read:

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

14 * Sec. 48. AS 47.37.040 is amended by adding a new paragraph to read:

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

17 * Sec. 49. AS 47.37 is amended by adding a new section to read:

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

22 * Sec. 50. AS 47.80.070(b) is amended to read:

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

30 * Sec. 51. AS 47.80.090 is amended by adding a new paragraph to read:

31 (13) recommend to the Alaska Mental Health Trust Authority concerning the

1 integrated comprehensive mental health program for the people of the state who are described
2 in AS 47.30.056(b)(2) and the use of the money in the mental health trust income account in a
3 manner consistent with regulations adopted under AS 47.30.031; in making recommendations
4 affecting the trust, members of the council assume a duty of loyalty to the trust equivalent to that
5 of a private trustee.

6 * Sec. 52. AS 47.80.110 is amended to read:

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

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

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

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

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

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

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

21 * Sec. 53. AS 47.30.546 and 47.30.560; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and secs. 7 - 10,
22 ch. 48, SLA 1987 are repealed.

23 * Sec. 54. AS 37.14.011(b) and (c) are repealed.

24 * Sec. 55. ROYALTY FROM KUPARUK OIL FIELD. (a) In addition to amounts to be deposited
25 into the mental health trust income account under AS 37.14.021(a), as amended by sec. 10 of this Act,
26 except as provided in (b) of this section, the state may annually appropriate from the general fund the
27 amount received by the state under AS 38.05 as royalty from oil leases within the following parcels:

28 (1) Township 14 North, Range 8 East, Umiat Meridian

29 Section 19

30 Sections 30 - 31

31 (2) Township 14 North, Range 9 East, Umiat Meridian

- 1 Sections 24 - 25
- 2 Section 36
- 3 (3) Township 13 North, Range 8 East, Umiat Meridian
- 4 Sections 1 - 3
- 5 Sections 10 - 15
- 6 Sections 19 - 36
- 7 (4) Township 13 North, Range 9 East, Umiat Meridian
- 8 Sections 1 - 12
- 9 Sections 15 - 22
- 10 Sections 25 - 36
- 11 (5) Township 12 North, Range 8 East, Umiat Meridian
- 12 (6) Township 12 North, Range 9 East, Umiat Meridian
- 13 (7) Township 12 North, Range 10 East, Umiat Meridian
- 14 Sections 1 - 12
- 15 Sections 14 - 23
- 16 Sections 25 - 36
- 17 (8) Township 12 North, Range 11 East, Umiat Meridian
- 18 Sections 5 - 8
- 19 Section 31
- 20 (9) Township 11 North, Range 7 East, Umiat Meridian
- 21 Sections 24 - 26
- 22 Sections 34 - 36
- 23 (10) Township 11 North, Range 8 East, Umiat Meridian
- 24 (11) Township 11 North, Range 9 East, Umiat Meridian
- 25 (12) Township 11 North, Range 10 East, Umiat Meridian
- 26 (13) Township 11 North, Range 11 East, Umiat Meridian
- 27 Sections 5 - 8
- 28 Sections 16 - 22
- 29 Sections 27 - 33
- 30 (14) Township 10 North, Range 7 East, Umiat Meridian
- 31 Sections 1 - 4

- 1 Sections 9 - 16
- 2 Sections 21 - 28
- 3 Sections 33 - 36
- 4 (15) Township 10 North, Range 8 East, Umiat Meridian
- 5 (16) Township 10 North, Range 9 East, Umiat Meridian
- 6 (17) Township 10 North, Range 10 East, Umiat Meridian
- 7 (18) Township 10 North, Range 11 East, Umiat Meridian
- 8 Sections 5- 8
- 9 Sections 17 - 20
- 10 Sections 29 - 32
- 11 (19) Township 9 North, Range 9 East
- 12 Sections 1 - 24
- 13 (20) Township 9 North, Range 10 East
- 14 Sections 1 - 24
- 15 Sections 27 - 34
- 16 (21) Township 9 North, Range 11 East
- 17 Sections 5 - 8
- 18 Sections 17 - 20.
- 19 (b) The authorization to appropriate made by (a) of this section does not include the
- 20 authorization to appropriate to the mental health trust income account the money from mineral lease
- 21 rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments, and bonuses received
- 22 by the state that is subject to placement in the Alaska permanent fund under art. IX, sec. 15, Constitution
- 23 of the State of Alaska, and under AS 37.13.010.
- 24 (c) The authorization made by this section is partial compensation to the trust for land granted
- 25 to the trust under the Alaska Mental Health Enabling Act of 1956 and not thereafter retained in trust
- 26 status.
- 27 * Sec. 56. PROCEEDS OF RENTAL VALUE OF LAND DURING FISCAL YEAR 1992
- 28 AUTHORIZED FOR ALLOCATION TO THE MENTAL HEALTH TRUST INCOME ACCOUNT.
- 29 After June 30, 1991, and until June 30, 1992, the rental value of land constituting the mental health trust
- 30 corpus is equal to six percent of the unrestricted general fund revenue of the state for the fiscal year.
- 31 The commissioner of revenue shall allocate that amount from the general fund to the mental health trust

1 income account established by AS 37.14.021(a), as amended by sec of this Act.

2 * Sec. 57. REDEMPTION OF LEGISLATIVELY-DESIGNATED LAND. (a) The state shall
3 redeem trust land identified in AS 37.14.031(a)(3) by exchanging land under AS 37.14.061 or by paying
4 to the authority the value of the land at the time of the land's redemption. Unless there is a dispute as
5 to the value of the land proposed for redemption, the authority is required to accept the state payment
6 tendered for the land and release claims the trust may have on the land.

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

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

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

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

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

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

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

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

25 * Sec. 58. LAND SELECTION. After the effective date of this section and until January 3, 1994,
26 the board of trustees of the Alaska Mental Health Trust Authority may nominate federal land it
27 determines may be valuable to the trust for selection under the Alaska Statehood Ac: (P.L. 85-508, 72
28 Stat. 339), as amended, and request the commissioner of natural resources to select the land for the state
29 through the federal land selection process.

30 * Sec. 59. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT
31 DISTRIBUTION MECHANISM. Not later than January 1, 1993, the Board of Trustees of the Alaska

1 Mental Health Trust Authority, after consulting with organizations and persons affected by this section,
2 shall

3 (1) consistent with AS 47.30.056(h), added by sec. 27 of this Act, adopt regulations
4 regarding persons who are to receive services funded by money in the mental health trust income
5 account under AS 37.14.021, as amended by sec. 10 of this Act;

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

8 (3) consistent with AS 47.30.056(j), added by sec. 27 of this Act, adopt regulations
9 regarding the services and facilities upon which expenditures are to be made from money in the mental
10 health trust income account under AS 37.14.021, as amended by sec. 10 of this Act; the regulations may
11 permit the use of the mental health trust income account money for programs or services to which
12 beneficiaries of the trust established by the Alaska Mental Health Enabling Act of 1956 are otherwise
13 entitled without spending trust assets, but the use of the money is limited to the additional costs of
14 providing specific mental health services for beneficiaries of the trust; the money may be expended for
15 services that are provided to the public generally by the state, but the expenditure of the earnings is
16 limited to the additional costs of providing specific mental health services for beneficiaries of the trust;
17 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. 60. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.
23 Notwithstanding AS 47.30.016, added by sec. 27 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. 27 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. 61.** TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON
2 ALCOHOLISM AND DRUG ABUSE. Notwithstanding AS 44.29.110 and 44.29.115, as amended by
3 secs. 20 and 21 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who
4 are serving on the effective date of this section continue to serve their unexpired terms. Vacancies on
5 the advisory board occurring after the effective date of this section shall be filled by the governor under
6 the provisions of AS 44.29.115, as amended by sec. 21 of this Act.

7 * **Sec. 62.** TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH
8 BOARD. Notwithstanding AS 47.30.662, as amended by sec. 40 of this Act, the members of the Alaska
9 Mental Health Board who are serving on the effective date of this section continue to serve their
10 unexpired terms. Vacancies on the board occurring after the effective date of this section, and new
11 positions created by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as
12 amended by sec. 40 of this Act. When making appointments to new positions on the board, the governor
13 shall ensure that the initial terms of new members maintain the staggered term requirement of
14 AS 47.30.663.

15 * **Sec. 63.** TRANSITIONAL PROVISIONS: ENCUMBERED LAND. The commissioner of natural
16 resources shall, not later than six months after the effective date of this section or not later than March 1,
17 1992, whichever is earlier, prepare and transmit to the legislature a report providing a description of
18 former mental health trust land encumbered by the state on the effective date of this section under
19 AS 37.14.031(a)(1), added by sec. 11 of this Act.

20 * **Sec. 64.** The provisions of AS 37.14.051(d), as added by sec. 11 of this Act, have the effect of
21 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
22 actions.

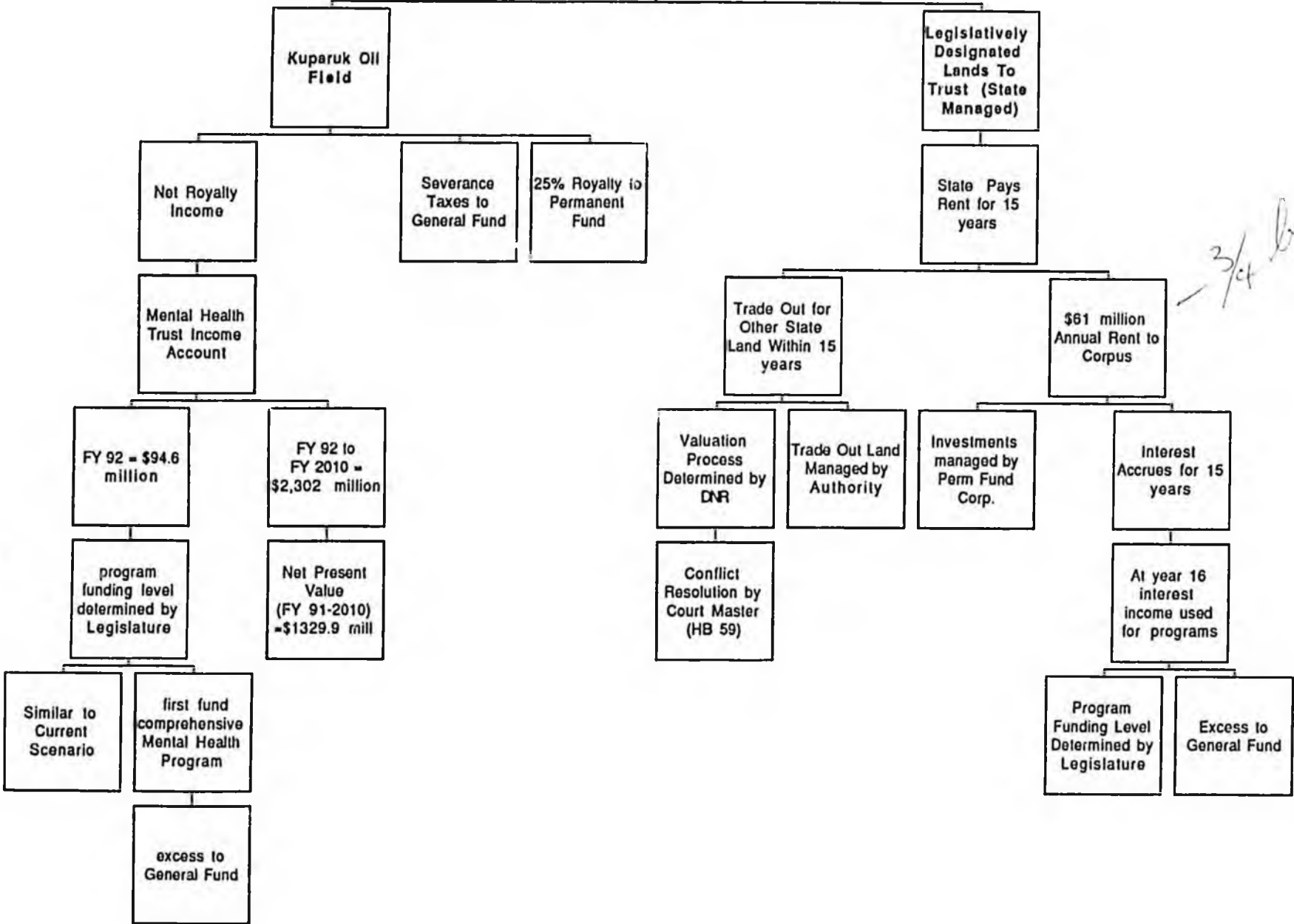
23 * **Sec. 65.** Section 63 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 66.** Section 54 of this Act takes effect July 1, 1991.

25 * **Sec. 67.** Section 57 of this Act is repealed June 30, 2007.

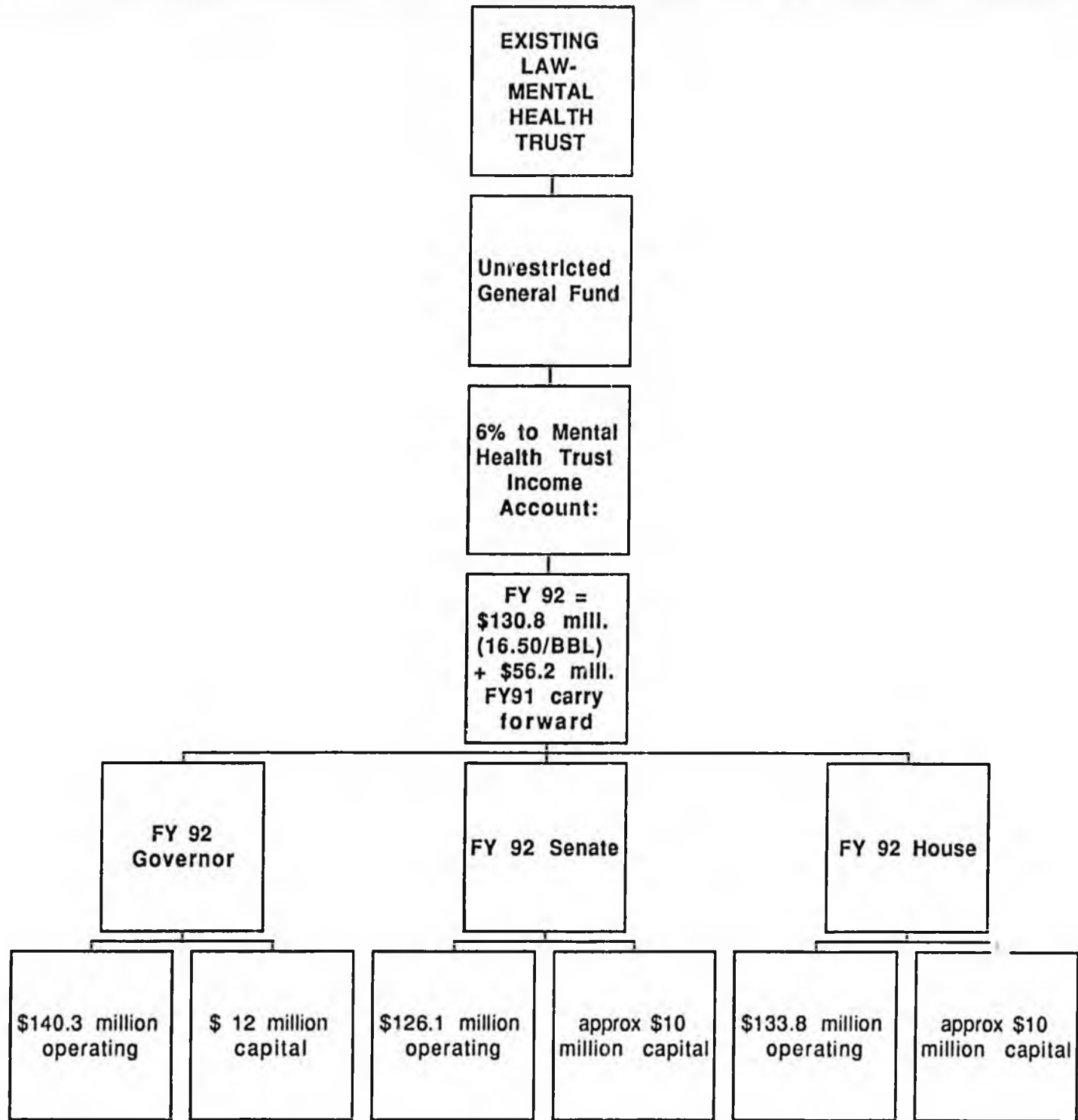
26 * **Sec. 68.** Except for secs. 54 and 63, this Act takes effect upon incorporation into a final settlement
27 and order approved by the superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil. The superior
28 court shall advise the lieutenant governor and the revisor of statutes when the final settlement and order
29 of Weiss v. State of Alaska has been approved.

Kuparuk Royalty Scenario
CSSSHB79
(5/6 DRAFT)



3/4 billion

DRAFT



5/11 10:41A

MENTAL HEALTH TRUST LANDS-Legislatively Designated Lands Rental

FY	PRINCIPAL	PAYMENTS	9% EARNINGS (Perm Fund Corp)	TOTAL
1992	0.0	61,000.0	5,490.0	66,490.0
1993	66,490.0	61,000.0	11,474.1	138,964.1
1994	138,964.1	61,000.0	17,996.8	217,960.9
1995	217,960.9	61,000.0	25,106.5	304,067.3
1996	304,067.3	61,000.0	32,856.1	397,923.4
1997	397,923.4	61,000.0	41,303.1	500,226.5
1998	500,226.5	61,000.0	50,510.4	611,736.9
1999	611,736.9	61,000.0	60,546.3	733,283.2
2000	733,283.2	61,000.0	71,485.5	865,768.7
2001	865,768.7	61,000.0	83,409.2	1,010,177.9
2002	1,010,177.9	61,000.0	96,406.0	1,167,583.9
2003	1,167,583.9	61,000.0	110,572.6	1,339,156.5
2004	1,339,156.5	61,000.0	126,014.1	1,526,170.5
2005	1,526,170.5	61,000.0	142,845.3	1,730,015.9
2006	1,730,015.9	61,000.0	161,191.4	1,952,207.3

Present Value @ 7%
707,569.8

ALASKA DEPARTMENT OF REVENUE
 OIL & GAS AUDIT DIVISION
 DIRECTOR'S OFFICE
 560 W. 7TH AVE., SUITE 560
 ANCHORAGE, AK 99501

PROJECTED KUPARUK GENERAL AND PERMANENT FUND ROYALTIES
 (MILLIONS \$)

	SCENARIO B				SCENARIO C			
	Kuparuk Royalties Gen Fund	Perm Fund	Total	Cumulative Royalties	Kuparuk Royalties Gen Fund	Perm Fund	Total	Cumulative Royalties
1991	135.6	45.2	180.8	180.8	147.4	49.1	196.5	196.5
1992	94.6	31.5	126.1	306.9	132.5	44.2	176.7	373.2
1993	118.9	39.6	158.5	465.5	160.8	53.6	214.4	587.6
1994	133.3	44.4	177.7	643.2	184.0	61.3	245.3	832.9
1995	145.1	48.4	193.5	836.7	204.3	68.1	272.4	1105.3
1996	147.3	49.1	196.4	1033.1	210.3	70.1	280.4	1385.7
1997	155.3	51.8	207.1	1240.1	211.0	70.3	281.3	1667.1
1998	149.2	49.7	198.9	1439.1	205.6	68.5	274.1	1941.2
1999	138.2	46.1	184.3	1623.3	192.2	64.1	256.3	2197.5
2000	129.5	43.2	172.7	1796.0	182.4	60.8	243.2	2440.7
2001	123.4	41.1	164.5	1960.5	175.9	58.6	234.5	2675.2
2002	120.3	40.1	160.4	2120.9	173.3	57.8	231.1	2906.3
2003	116.3	38.8	155.1	2276.0	164.2	54.7	218.9	3125.2
2004	113.5	37.8	151.3	2427.3	162.0	54.0	216.0	3341.2
2005	111.5	37.2	148.7	2576.0	160.7	53.6	214.3	3555.5
2006	108.4	36.1	144.5	2720.5	158.1	52.7	210.8	3766.3
2007	103.1	34.4	137.5	2858.0	151.9	50.6	202.5	3968.8
2008	100.6	33.5	134.1	2992.1	150.0	50.0	200.0	4168.8
2009	97.9	32.6	130.5	3122.7	147.6	49.2	196.8	4365.6
2010	95.6	31.9	127.5	3250.1	145.9	48.6	194.5	4560.1
TOTAL	2437.6	812.5	3250.1		3420.1	1140.0	4560.1	
NPV 7%	1329.9	443.3	1773.2		1833.5	611.2	2444.7	
NPV 10%	1077.1	359.0	1436.1		1474.4	491.5	1965.9	

192-2010 → NPV 7% 12874 429.1 1716.5 1814.5 6098 2419.3

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
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Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

May 3, 1991

SUBJECT: Mental health trust lands measure and
companion appropriation

TO: Representative Cliff Davidson, Chair
House Resources Committee
and
Representative Mark Boyer

FROM: Jack Chenoweth
Legislative Counsel

Enclosed are a measure revising the draft CS SSHB 79 (Resources) and a companion appropriation.

I

Let me review my instructions and note their placement in the main measure.

1. I was asked to transfer the Kuparuk royalty, net of the permanent fund deposit requirements, into the mental health trust income account. Bill sec. 52, drafted as an uncodified section because of the deteriorating life of that field, accomplishes that request. The bill section is expressed in terms of "the state may annually appropriate," which I assume will not be satisfactory to beneficiaries' representatives. Someone may want to check the legal description.

2. I was directed to assure that the former mental health trust lands that are, on the effective date of the Act, unencumbered are to remain in the trust. AS 37.14.031(a)(1), brought forward from the previous draft, is responsive on this point. On this subject, see also bill section 61, brought forward from the previous draft.

3. The instructions directed restoration of legislatively-designated land to the trust. Again, AS 37.14.031(a)(3), brought forward from the previous draft, is responsive. The instructions also called for state payment of \$61 million dollars of annual rent for deposit, in this instance, to the trust corpus. Proposed AS 37.14.041 sets the

Representative Cliff Davidson
Representative Mark Boyer
May 3, 1991
Page 2

amount of rent. The amount expressed is made subject to reduction in line with the expected redemption of legislatively-designated land under bill section 54.

4. I was asked to set a July 1, 2007, date (16 year delay) as the first date on which income accruing in the state mental health trust account may be used to provide support for the various programs that the trust is intended to support. The benchmark date appears in AS 37.14.021(d).

5. The legislatively-designated land trade-out provision appears in bill section 54. It is repealed June 30, 2006, or about 15 years out. The valuation provision first developed, as I recall, for HB 59 is brought into this section of the bill, per your request.

6. The material in bill sections 12 and 55 is intended to respond on the point of state land selections under the Statehood Act and their relationship to the ability of the trust to take land in exchange.

7. Per instruction --

Former bill section 5 of the last draft is deleted as the mental health trust income account is understood to be part of the state general fund;

AS 37.13.300, added by bill sec. 8 of this draft, transfers investment responsibility for money in the trust corpus to the Permanent Fund Corporation;

AS 37.14.031(b), part of bill section 11, incorporates the substance of an amendment offered by an attorney for the Haines Borough, modified by the language of the so-called "Usibelli amendment," part of AS 37.14.031(b)(4)(G) of that same bill section;

Bill section 8 of the last previous version--the stated value provision--is deleted. Indeed, throughout the revision, the stated value provisions are removed.

II

The appropriation is self-evident. It has, in essence, three elements:

-- a \$61,000,000 appropriation for rent of legislatively-designated land, to be placed in the trust corpus;

-- an appropriation of an unknown amount of the net royalty from Kuparuk, to be deposited in the trust income account;

wrong
direction

Representative Cliff Davidson
Representative Mark Boyer
May 3, 1991
Page 3

-- appropriations of unknown amounts representing the FY 91 and FY 92 payments due under AS 37.14.011(b) and (c), the provision authorizing payment of 6% of unrestricted state net revenue.

JBC:pl
91-331.plm

Enclosure

- ① royalty vs land / future unit SAK
- ② rental to program or corpus
- ③ 1st priority

HOUSE BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Introduced:
Referred:

A BILL
FOR AN ACT ENTITLED

1 "An Act making appropriations to the corpus of the trust established by the Alaska
2 Mental Health Enabling Act of 1956 and to the mental health trust income account; and
3 providing for an effective date."

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

5 * Section 1. The sum of \$61,000,000 is appropriated from the general fund to the corpus of the trust
6 established under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, and
7 reconstituted under AS 37.14.031 as rent due and payable for the fiscal year ending June 30, 1992, under
8 AS 37.14.041.

9 * Sec. 2. The amount authorized to be appropriated by sec. 52 of an Act entitled "An Act establishing
10 the Alaska Mental Health Trust Authority and defining its powers and duties; relating to the
11 administration of the trust established by the Alaska Mental Health Enabling Act of 1956 and to
12 appropriations made to it, and to a comprehensive service program for the beneficiaries of the trust;
13 abolishing the Interim Mental Health Trust Commission; relating to the Older Alaskans Commission and
14 the Governor's Council for the Handicapped and Gifted; amending the duties of the Alaska Permanent

1 Fund Corporation and the membership and duties of the Advisory Board on Alcoholism and Drug Abuse
2 and the Alaska Mental Health Board; exempting trust property from municipal taxation; amending
3 Alaska Rule of Civil Procedure 82; and providing for an effective date.", and representing the net
4 royalty, less the amount subject to deposit in the Alaska permanent fund, due the state during the fiscal
5 year ending June 30, 1992, from the Kuparuk Oil Field is appropriated from the general fund to the
6 mental health trust income account established by AS 37.14.021(a).

7 * Sec. 3. An amount equal to the amount determined under AS 37.14.011(c) as the rental value of
8 land constituting the mental health trust corpus on the effective date of this Act is appropriated for the
9 fiscal year ending June 30, 1991, from the general fund to the mental health trust income account
10 established by AS 37.14.021(a).

11 * Sec. 4. An amount determined under sec. 53 of an Act entitled "An Act establishing the Alaska
12 Mental Health Trust Authority and defining its powers and duties; relating to the administration of the
13 trust established by the Alaska Mental Health Enabling Act of 1956 and to appropriations made to it,
14 and to a comprehensive service program for the beneficiaries of the trust; abolishing the Interim Mental
15 Health Trust Commission; relating to the Older Alaskans Commission and the Governor's Council for
16 the Handicapped and Gifted; amending the duties of the Alaska Permanent Fund Corporation and the
17 membership and duties of the Advisory Board on Alcoholism and Drug Abuse and the Alaska Mental
18 Health Board; exempting trust property from municipal taxation; amending Alaska Rule of Civil
19 Procedure 82; and providing for an effective date.", is appropriated from the general fund to the mental
20 health trust income account established by AS 37.14.021(a).

21 * Sec. 5. Section 1 of this Act takes effect on the effective date of AS 37.14.041, added by sec. 11
22 of the Act entitled "An Act establishing the Alaska Mental Health Trust Authority and defining its
23 powers and duties; relating to the administration of the trust established by the Alaska Mental Health
24 Enabling Act of 1956 and to appropriations made to it, and to a comprehensive service program for the
25 beneficiaries of the trust; abolishing the Interim Mental Health Trust Commission; relating to the Older
26 Alaskans Commission and the Governor's Council for the Handicapped and Gifted; amending the duties
27 of the Alaska Permanent Fund Corporation and the membership and duties of the Advisory Board on
28 Alcoholism and Drug Abuse and the Alaska Mental Health Board; exempting trust property from
29 municipal taxation; amending Alaska Rule of Civil Procedure 82; and providing for an effective date.",
30 authorizing the payment of annual rent by the state to the corpus of the trust established under the
31 Alaska Mental Health Enabling Act of 1956 for legislatively-designated land.

1 * Sec. 6. Section 2 of this Act takes effect on the effective date of sec. 52 of an Act entitled "An Act
2 establishing the Alaska Mental Health Trust Authority and defining its powers and duties; relating to the
3 administration of the trust established by the Alaska Mental Health Enabling Act of 1956 and to
4 appropriations made to it, and to a comprehensive service program for the beneficiaries of the trust;
5 abolishing the Interim Mental Health Trust Commission; relating to the Older Alaskans Commission and
6 the Governor's Council for the Handicapped and Gifted; amending the duties of the Alaska Permanent
7 Fund Corporation and the membership and duties of the Advisory Board on Alcoholism and Drug Abuse
8 and the Alaska Mental Health Board; exempting trust property from municipal taxation; amending
9 Alaska Rule of Civil Procedure 82; and providing for an effective date.", authorizing payment to the
10 mental health trust income account of the amount paid to the state under AS 38.05 as royalty from oil
11 leases less amounts subject to placement in the Alaska permanent fund.

12 * Sec. 7. Section 3 of this Act takes effect on the effective date of sec. 61 of an Act entitled "An Act
13 establishing the Alaska Mental Health Trust Authority and defining its powers and duties; relating to the
14 administration of the trust established by the Alaska Mental Health Enabling Act of 1956 and to
15 appropriations made to it, and to a comprehensive service program for the beneficiaries of the trust;
16 abolishing the Interim Mental Health Trust Commission; relating to the Older Alaskans Commission and
17 the Governor's Council for the Handicapped and Gifted; amending the duties of the Alaska Permanent
18 Fund Corporation and the membership and duties of the Advisory Board on Alcoholism and Drug Abuse
19 and the Alaska Mental Health Board; exempting trust property from municipal taxation; amending
20 Alaska Rule of Civil Procedure 82; and providing for an effective date.", repealing AS 37.14.011(c).

21 * Sec. 8. Section 4 of this Act takes effect on the effective date of sec. 53 of an Act entitled "An Act
22 establishing the Alaska Mental Health Trust Authority and defining its powers and duties; relating to the
23 administration of the trust established by the Alaska Mental Health Enabling Act of 1956 and to
24 appropriations made to it, and to a comprehensive service program for the beneficiaries of the trust;
25 abolishing the Interim Mental Health Trust Commission; relating to the Older Alaskans Commission and
26 the Governor's Council for the Handicapped and Gifted; amending the duties of the Alaska Permanent
27 Fund Corporation and the membership and duties of the Advisory Board on Alcoholism and Drug Abuse
28 and the Alaska Mental Health Board; exempting trust property from municipal taxation; amending
29 Alaska Rule of Civil Procedure 82; and providing for an effective date.", providing for allocation of the
30 proceeds of the rental value of land during state fiscal year 1992 to the mental health trust income
31 account established by AS 37.14.021(a).

7-LS0502M
Chenoweth
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CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsors): REPRESENTATIVES BOYER, Gonzales, Moyer

A BILL

FOR AN ACT ENTITLED

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

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

12 * Section 1. PURPOSE. (a) It is the purpose of this Act to implement the state's obligation as the

1 trustee of the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat.
 2 709, by providing a comprehensive service program for the beneficiaries of the trust and by resolving
 3 the serious and significant legal questions attending the status of that trust

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

6 (2) in a manner that

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

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

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

13 (D) establishes an independent trust authority.

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

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

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

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

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

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

- 1 (2) household furniture and personal effects of members of a household;
- 2 (3) property used exclusively for nonprofit religious, charitable, cemetery,
- 3 hospital, or educational purposes;
- 4 (4) property of a nonbusiness organization composed entirely of persons with 90
- 5 days or more of active service in the armed forces of the United States whose conditions of
- 6 service and separation were other than dishonorable, or the property of an auxiliary of that
- 7 organization;
- 8 (5) money on deposit;
- 9 (6) the real property of certain residents of the state to the extent and subject to
- 10 the conditions provided in (e) of this section;
- 11 (7) real property or an interest in real property that is exempt from taxation under
- 12 43 U.S.C. 1620(d), as amended.

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

14 (b) This chapter applies to every expenditure of state money by the state, acting through

15 an agency, under a contract, except that this chapter does not apply to

- 16 (1) grants;
- 17 (2) contracts for professional witnesses to provide for professional services or
- 18 testimony relating to existing or probable lawsuits in which the state is or may become a party;
- 19 (3) contracts of the University of Alaska where the work is to be performed
- 20 substantially by students enrolled in the university;
- 21 (4) contracts for medical doctors and dentists;
- 22 (5) acquisitions or disposals of real property or interest in real property, except
- 23 as provided in AS 36.30.080;
- 24 (6) disposals under AS 38.05;
- 25 (7) contracts for the preparation of ballots under AS 15.15.030;
- 26 (8) acquisitions or disposals of property and other contracts relating to airports
- 27 under AS 02.15.070, 02.15.090, and 02.15.091;
- 28 (9) disposals of obsolete property under AS 19.05.060;
- 29 (10) disposals of obsolete material or equipment under AS 35.20.060;
- 30 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
- 31 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;

1 (12) contracts of the Department of Fish and Game for flights that involve
2 specialized flying and piloting skills and are not point-to-point;

3 (13) purchases of income-producing assets for the state treasury or a public
4 corporation of the state;

5 (14) operation of the state boarding school established under AS 14.16, if the
6 State Board of Education or the commissioner of education adopts regulations for use by the state
7 boarding school in procurement and contracting;

8 (15) a contract that is a delegation, in whole or in part, of investment powers held
9 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
10 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
11 AS 39.35.080;

12 (16) a contract that is a delegation, in whole or in part, of investment powers of
13 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
14 under AS 37.13;

15 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
16 37.14.099;

17 (17) the purchase of books, book binding services, newspapers, periodicals,
18 audio-visual materials, network information services access, approval plans, professional
19 memberships, archival materials, objects of art, and items for museum or archival acquisition
20 having cultural, historical, or archaeological significance; in this paragraph

21 (A) "approval plans" means book selection services in which current book
22 titles meeting an agency's customized specifications are provided to the agency subject
23 to the right of the agency to return those books that do not meet with the agency's
24 approval;

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

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

30 (D) "network information services" means a group of resources from which
31 cataloging information, holdings records, inter-library loans, acquisitions information, and

1 other reference resources can be obtained;

2 (18) contracts for the purchase of standardized examinations for licensure under
3 AS 08;

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

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

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

9 (22) contracts for services that are entered into by the Alaska Mental Health
10 Trust Authority under AS 47.30.061.

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

12 (b) Except for appropriations to the permanent fund or for Alaska permanent fund
13 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,
14 appropriations required to pay the principal and interest on general obligation bonds, [AND]
15 appropriations of money received from a nonstate source in trust for a specific purpose, including
16 revenue of a public enterprise or public corporation of the state that issues revenue bonds, and
17 appropriations authorized by AS 37.14.031(a)(4) and (5), appropriations from the treasury
18 made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more
19 than five percent plus the change in population and inflation since the beginning of the preceding
20 fiscal year. For purposes of applying this limit an appropriation is considered to be made in the
21 fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in
22 which the original appropriation is enacted. The determination of the change in population for
23 purposes of this subsection shall be based on an annual estimate of population by the Department
24 of Labor. The determination of the change in inflation for purposes of this subsection shall be
25 based on the Consumer Price Index for all urban consumers for Anchorage prepared by the
26 United States Bureau of Labor Statistics. The amount of money received by the state that is
27 subject to the appropriation limit includes the balance in the general fund carried forward from
28 the preceding fiscal year.

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

30 Sec. 37.13.030. PURPOSE. It is the purpose of AS 37.13.010 - 37.13.210 [THIS
31 CHAPTER] to provide a mechanism for the management and investment of those permanent fund

1 assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the
2 findings in AS 37.13.020.

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

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

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

10 Sec. 37.13.300. CORPORATION TO MANAGE CERTAIN ASSETS OF THE MENTAL
11 HEALTH TRUST. (a) The corporation shall manage the cash assets of the corpus of the trust
12 established under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.

13 (b) The corporation shall

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

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

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

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

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

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

Under otherwise determined by the AMHTA under AS 37.14.066(1)(5)

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

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

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

6 (b) In its capacity as the trustee of the trust established by the enabling Act, the authority
7 may

8 (1) except as provided by AS 37.13.300, receive, manage, and invest money or
9 other real, personal, or mixed property for the purpose of the trust, its improvement, or the aid
10 or advantage of its beneficiaries; and

11 (2) act as trustee on behalf of the trust for any of these purposes.

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

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

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

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

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

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

1 trust directly for a comprehensive service program for the trust beneficiaries; and

2 (4) shall delegate management of trust land described in AS 37.14.031(a)(3) to
3 the Department of Natural Resources.

4 (b) The authority shall

5 (1) at the end of each fiscal year, calculate the amount that must be transferred
6 from the trust income account established in AS 37.14.021 to the mental health trust corpus in
7 order to offset the effect of inflation on the money in the trust corpus during that year, as
8 measured by the change in the calendar year average United States Consumer Price Index for all
9 urban consumers or, if that index does not exist, an equivalent index; and

10 (2) transfer from the trust income account to the mental health trust corpus 1/12th
11 of the amount determined under (1) of this subsection each month.

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

17 * Sec. 10. AS 37.14.021 is repealed and reenacted to read:

18 Sec. 37.14.021. TRUST INCOME ACCOUNT. (a) The mental health trust income
19 account is established as an account separate from the trust corpus. The mental health trust
20 income account consists of money

21 (1) earned by the authority on its investment of the assets of the trust corpus
22 during the fiscal year; and

23 (2) transferred to the account by the board from any source.

24 (b) The authority may establish subaccounts within the mental health trust income
25 account.

26 (c) Expenditure of money from the mental health trust income account

27 (1) is subject to AS 37.07 (Executive Budget Act);

28 (2) may not be made before July 1, 2007.

29 (d) Beginning July 1, 2007, the legislature shall appropriate money in the mental health
30 trust income account first to meet the necessary expenses of the comprehensive program of
31 services required by AS 47.30.061. In making annual appropriations, the legislature shall

1 consider the budget prepared and submitted by the authority. If the legislature does not
2 appropriate from the account in the manner submitted by the authority, the legislature shall
3 prepare a report showing how, in the judgment of the legislature, the necessary expenses of the
4 comprehensive program of services required by AS 47.30.061 will be met.

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

6 Sec. 37.14.031. TRUST CORPUS RECONSTITUTED. (a) On the effective date of this
7 section, the mental health trust corpus is reconstituted to include

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

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

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

15 *mental* (4) money paid by the state under AS 37.14.041; and

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

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

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

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

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

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

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

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

7 (A) conveyed by deed;

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

9 (C) made subject to an easement, right-of-way, or permit;

10 (D) made subject to a mineral lease;

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

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

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

17 Sec. 37.14.041. RENT PAYABLE FOR LEGISLATIVELY-DESIGNATED LAND. (a)

18 On July 1 of each year, for trust land identified in AS 37.14.031(a)(3), the state shall pay rent
19 for that fiscal year to the authority.

20 (b) Unless adjusted as required by law, the annual rent payable for the land identified in
21 this section is \$61,000,000.

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

25 (1) the governor;

26 (2) the commissioner of revenue;

27 (3) the president of the senate; and

28 (4) the speaker of the house of representatives.

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

31 (c) If payment is not made within 15 days after giving notice under (a) of this section.

1 the chair of the board shall convene the board to determine whether the authority shall exercise
2 its rights under this section to collect the payment.

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

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

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

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

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

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

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

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

24 (3) "enabling Act" means the Alaska Mental Health Enabling Act of 1956, P.L.
25 84-830, 70 Stat. 709;

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

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

- 1 (i) book 2073, pages 388 - 416, Anchorage Recording Office;
- 2 (ii) book 62, pages 394 - 399, Cordova Recording Office;
- 3 (iii) book 677, pages 62 - 100, Fairbanks Recording Office;
- 4 (iv) book 19, pages 926 - 954, Haines Recording Office
- 5 (v) book 201, pages 488 - 491, Homer Recording Office;
- 6 (vi) book 335, pages 748 - 765, Juneau Recording Office;
- 7 (vii) book 371, pages 117 - 158, Kenai Recording Office;
- 8 (viii) book 181, pages 728 - 757, Ketchikan Recording Office;
- 9 (ix) book 102, pages 869 - 872, Kodiak Recording Office;
- 10 (x) book 25, pages 195 - 198, McKinley Recording Office;
- 11 (xi) book 46, pages 001 - 023, Nenana Recording Office;
- 12 (xii) book 16, pages 393 - 397, Nulato Recording Office;
- 13 (xiii) book 629, pages 869 - 916, Palmer Recording Office;
- 14 (xiv) book 35, pages 518 - 534, Petersburg Recording Office;
- 15 (xv) book 31, pages 621 - 626, Seldovia Recording Office;
- 16 (xvi) book 90, pages 524 - 538, Sitka Recording Office;
- 17 (xvii) book 6, pages 286 - 294, Skagway Recording Office;
- 18 (xviii) book 131, pages 585 - 590, Talkeetna Recording Office;
- 19 (xix) book 18, pages 643 - 650, Wrangell Recording Office; and

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

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

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

(b) Consistent with the best interests of the state,

(1) in the selection of land under the Alaska Statehood Act after the effective
 date of this section and until January 3, 1994, it is the policy of the state to make available
 the maximum land area for the corpus of the trust established under the Alaska Mental

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Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, and reconstituted by AS 37.14.001;
and

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

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

Sec. 38.05.800. ADMINISTRATION OF CERTAIN LAND WITHIN THE MENTAL HEALTH TRUST. The department shall manage land identified in AS 37.14.031(a)(3) on behalf of the Alaska Mental Health Trust Authority 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 management authority of the state includes

- (1) the right to issue permits, rights-of-ways, mining leases, oil and gas leases, coal leases, and timber contracts;
- (2) the right to take other actions that do not constitute a conveyance in fee simple; and
- (3) the right to receive the income from the land managed.

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

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

- (A) Alaska Public Broadcasting Commission;
- (B) Professional Teaching Practices Commission;
- (C) Parole Board;
- (D) Board of Nursing;
- (E) Real Estate Commission;
- (F) Alaska Royalty Oil and Gas Development Advisory Board;
- (G) Alaska Historical Commission;
- (H) Alaska State Council on the Arts;
- (I) Alaska Police Standards Council;
- (J) Older Alaskans Commission;
- (K) Alaska Mental Health Board;

- 1 (L) State Medical Board;
- 2 (M) Governor's Council for the Handicapped and Gifted;
- 3 (N) Advisory Board on Alcoholism and Drug Abuse;

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

5 Sec. 41.15.025. FIRE PROTECTION ON MENTAL HEALTH TRUST LAND. Land

6 that is included in the corpus of the trust established by the Alaska Mental Health Enabling Act

7 of 1956 is, for the purpose of wild fire suppression, land owned by the state, and the state

8 remains responsible for providing and paying for suppression of wild fires on that land.

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

10 (a) The commission shall

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

12 needs of older Alaskans and, with reference to the plan adopted, prepare and submit to the

13 governor and legislature an annual analysis and evaluation of the services that are provided to

14 older Alaskans;

15 (2) make recommendations directly to the governor and legislature with respect

16 to legislation, regulations, and appropriations for programs or services that benefit older Alaskans;

17 (3) encourage and aid the development of municipal commissions serving older

18 Alaskans and community-oriented programs and services for the benefit of older Alaskans;

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

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

21 (6) request and receive reports and audits from state agencies and local institutions

22 concerned with the conditions and needs of older Alaskans;

23 (7) administer, with the approval of the commissioner of administration, federal

24 programs as provided under 42 U.S.C. 3001 - 3045i (Older Americans Act), as amended;

25 (8) administer, with the approval of the commissioner of administration, state

26 programs as provided under AS 47.65; [AND]

27 (9) give assistance, on request, to the senior housing office in the Department of

28 Community and Regional Affairs in administration of the senior housing loan program under

29 AS 44.47.587 - 44.47.609 and in the performance of the office's other duties under

30 AS 44.47.585; and

31 (10) provide recommendations to the Alaska Mental Health Trust Authority

1 concerning the necessary expenses of the comprehensive service program for the
 2 beneficiaries of the trust who are described in AS 47.30.061(c)(4) and the use of the money
 3 in the mental health trust income account in a manner consistent with AS 47.30.061; in
 4 making recommendations affecting the trust, members of the commission assume a duty of
 5 loyalty to the trust equivalent to the responsibilities of a private trustee.

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

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

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

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

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

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

31 (c) A regulation that establishes a schedule of reasonable fees for services provided by

1 a contractor or grantee that affect the comprehensive service program for beneficiaries of the trust
2 established under the Alaska Mental Health Enabling Act of 1956 may not be adopted under this
3 section unless it has been approved by the Alaska Mental Health Trust Authority.

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

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

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

10 Sec. 44.29.110. COMPOSITION. The board consists of 10 [12] members appointed by
11 the governor.

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

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

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

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

19 (3) four members who are chronic alcoholics with psychoses who are
20 recovering; and

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

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

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

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

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

1 under AS 39.27.011(a). The executive director may hire additional employees in the classified
2 service of the state. The department shall provide for the assignment of personnel to the board
3 to ensure the board has the capacity to fulfill its responsibilities. The executive director of the
4 board shall be directly responsible to the board in the performance of the director's duty.

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

6 Sec. 44.29.140. DUTIES. The board shall

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

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

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

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

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

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

20 (F) [(6)] REVIEW OF APPLICATIONS AND SUBSEQUENT
21 RECOMMENDATIONS TO THE COMMISSIONER OF HEALTH AND SOCIAL
22 SERVICES ON USE OF FUNDS FOR GRANTS FOR LOCAL ALCOHOLISM OR
23 DRUG ABUSE PROJECTS AND PROGRAMS;

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

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

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

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

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

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

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

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

11 (c) The authority

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

15 (2) may sue and be sued;

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

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

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

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

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

30 (b) The board consists of nine members appointed by the governor. The members shall
31 be appointed

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

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

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

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

10 (C) one person selected by the Advisory Board on Alcoholism and Drug
11 Abuse (AS 44.29.110);

12 (D) one person selected by the Older Alaskans Commission
13 (AS 44.21.200); and

14 (E) one person selected by the authority.

15 (c) A member of the board may not

16 (1) be an officer or employee of the state; or

17 (2) within the preceding year or during the member's term of office have had an
18 interest in, served on the governing board of, or been employed by an organization that has an
19 interest in, a contract entered into by the authority.

20 (d) A quorum of the board is five members.

21 (e) Members of the board

22 (1) receive an honorarium of \$400 for each day or any part of a day spent at a
23 meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the
24 board; the honorarium under this paragraph shall be adjusted annually for the effect of inflation
25 as measured by the change in the calendar year average United States Consumer Price Index for
26 all urban consumers or, if that index no longer exists, an equivalent index; and

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

29 Sec. 47.30.021. TERM OF OFFICE, VACANCIES, AND REMOVAL. (a) Members
30 of the board serve staggered five-year terms. A member shall continue to serve until the
31 member's successor is appointed and confirmed.

1 (b) A vacancy occurring in the membership of the board of trustees of the authority shall
2 be filled within 60 days by appointment of the governor for the unexpired portion of the vacated
3 term.

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

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

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

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

22 (1) hire additional employees;

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) investigations;

(C) hearings; and

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

(8) procurement procedures.

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

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

(2) use the trust income to

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

(B) meet the annual administrative expenses of the authority;

(3) determine and budget for the necessary expenses of the comprehensive service program for the beneficiaries of the trust by producing and annually updating a long range comprehensive trust program plan including

(A) forecasts of the number of persons needing services;

(B) projections of the resources required to provide the necessary services and facilities;

(C) reviews of the status of the comprehensive service program for the

1 beneficiaries of the trust and evaluations of its effectiveness; and

2 (D) program goals, objectives, targets, and time lines;

3 (4) coordinate with other state agencies involved with programs affecting persons
4 in need of mental health services;

5 (5) adopt bylaws governing its meetings, selection of officers, proceedings, and
6 other aspects of board procedure; and

7 (6) make an annual written report of its activities to the legislature, governor, and
8 the public.

9 Sec. 47.30.041. INDIVIDUAL RESPONSIBILITIES OF TRUSTEES. (a) By accepting
10 appointment to the board a person accepts the position as co-trustee of the trust and recognizes
11 that, in exercising its powers, duties, and responsibilities, the board is under a duty to the public
12 and the trust beneficiaries to

13 (1) administer the trust solely in the interests of the beneficiaries;

14 (2) keep and render clear and accurate accounts with respect to the administration
15 of the trust;

16 (3) make public and available complete and accurate information as to the nature
17 and amount of the trust property;

18 (4) exercise an equal or higher degree of care in administering the trust than in
19 the management of the person's own personal business;

20 (5) take reasonable steps to take and keep control of the trust property;

21 (6) use care and skill to preserve the trust property;

22 (7) take reasonable steps to realize on claims that are held in the trust;

23 (8) defend against actions that may result in a loss to the trust estate, unless under
24 all the circumstances, considering the other duties owed to the trust, it is reasonable not to make
25 that defense;

26 (9) keep trust property separate from the person's own property;

27 (10) keep trust property separate from other property not subject to the trust so
28 far as it is reasonable to do so;

29 (11) see that trust property is designated as property of the trust;

30 (12) use care in selecting the bank when making general deposits of trust money
31 in a bank, and properly identify the deposit as a deposit by the authority as trustee;

1 (13) use care and skill to make the trust property productive; however, nothing
2 in this paragraph shall prevent the authority from using trust property directly or indirectly, by
3 contractual stipulation or otherwise as a component of the state's mental health program;

4 (14) use the income of the trust to pay for the necessary expenses of the
5 comprehensive service program for the beneficiaries of the trust;

6 (15) deal impartially with the different trust beneficiaries under the priorities set
7 out in AS 47.30.061; and

8 (16) participate in the administration of the trust with the other members of the
9 board, and use care to prevent a co-trustee from committing a breach of trust or to compel a co-
10 trustee to redress a breach of trust.

11 (b) By accepting appointment to the board, a person accepts the position as co-trustee
12 of the trust and recognizes that, in exercising its powers, duties, and responsibilities, the board
13 is otherwise subject to the same fiduciary duties as a private trustee under private trust law
14 principles.

15 Sec. 47.30.046. AUTHORITY BUDGET SUBJECT TO EXECUTIVE BUDGET ACT.
16 Except as provided in AS 47.30.051, management of the mental health trust income account is
17 subject to AS 37.07 (Executive Budget Act).

18 Sec. 47.30.051. MANAGEMENT OF MENTAL HEALTH TRUST INCOME
19 ACCOUNT. The board shall

20 (1) report to the governor and the legislature a determination of the amount

21 (A) to be expended from the mental health trust income account to

22 (i) meet the administrative expenses of the authority;

23 (ii) offset the effect of inflation on the value of the trust corpus as
24 required under AS 37.14.006(b); and

25 (iii) meet the necessary operating and capital expenses of the
26 comprehensive service program for the beneficiaries of the trust;

27 (B) needed from the general fund, if any, that is required during the next
28 fiscal year to meet the necessary operating and capital expenses of the comprehensive
29 service program for the beneficiaries of the trust; and

30 (C) estimated to be surplus, if any, in the mental health trust income
31 account for transfer into the general fund on September 15; and

1 (2) annually, not later than September 15, transfer the surplus, if any, in the
 2 mental health trust income account that is not reasonably or foreseeably needed to meet the
 3 necessary operating and capital expenses of the comprehensive service program for the
 4 beneficiaries of the trust into the general fund to be used for other public purposes.

5 Sec. 47.30.056. SUBMISSIONS REQUIRING USE OF TRUST MONEY. An agency
 6 or entity proposing an expenditure of money by the trust must present its proposal to the
 7 authority under regulations adopted under AS 47.30.031.

8 Sec. 47.30.061. USE OF MONEY IN THE MENTAL HEALTH TRUST INCOME
 9 ACCOUNT. (a) The authority shall use money in the mental health trust income account
 10 established in AS 37.14.021 to

- 11 (1) provide a comprehensive program of services as required by this section; and
- 12 (2) meet the authority's annual administrative expenses.

13 (b) In making expenditures under (a)(1) of this section, the authority shall guarantee a
 14 priority in service delivery to persons identified in this section who, as a result of a disorder
 15 identified in this section,

- 16 (1) may require or are at risk of hospitalization; or
- 17 (2) experience such major impairment of self-care, self-direction, or social and
 18 economic functioning that they require continuing or intensive services.

19 (c) The comprehensive program of services funded by the trust shall provide services
 20 needed by

- 21 (1) the mentally ill;
- 22 (2) the mentally defective and retarded;
- 23 (3) chronic alcoholics suffering from psychoses; and
- 24 (4) senile people who as a result of their senility suffer major mental illness.

25 (d) In (c) of this section, "the mentally ill" includes persons with the following mental
 26 disorders:

- 27 (1) schizophrenia;
- 28 (2) delusional (paranoid) disorder;
- 29 (3) mood disorders;
- 30 (4) anxiety disorders;
- 31 (5) somatoform disorders;

1 (6) organic mental disorders;
2 (7) personality disorders;
3 (8) dissociative disorders;
4 (9) other psychotic or severe and persistent mental disorders manifested by
5 behavioral changes and symptoms of comparable severity to those manifested by persons with
6 mental disorders listed in this subsection; and

7 (10) persons who have been diagnosed by a licensed psychologist, psychiatrist,
8 or physician licensed to practice medicine in the state and, as a result of the diagnosis, have been
9 determined to have a childhood disorder manifested by behaviors or symptoms suggesting risk
10 of developing a mental disorder listed in this subsection.

11 (e) In (c) of this section, "the mentally defective and retarded" includes persons with the
12 following neurologic or mental disorders:

13 (1) cerebral palsy;
14 (2) epilepsy;
15 (3) mental retardation;
16 (4) autistic disorder;
17 (5) severe organic brain impairment;
18 (6) significant developmental delay during early childhood indicating risk of
19 developing a disorder listed in this subsection;
20 (7) other severe and persistent mental disorders manifested by behaviors and
21 symptoms similar to those manifested by persons with disorders listed in this subsection.

22 (f) In (c) of this section, "chronic alcoholics suffering from psychoses" includes persons
23 with the following disorders:

24 (1) alcohol withdrawal delirium (delirium tremens);
25 (2) alcohol hallucinosis;
26 (3) alcohol amnestic disorder;
27 (4) dementia associated with alcoholism;
28 (5) alcohol-induced organic mental disorder;
29 (6) alcoholic depressive disorder;
30 (7) other severe and persistent disorders associated with a history of prolonged
31 or excessive drinking or episodes of drinking out of control and manifested by behavioral

1 changes and symptoms similar to those manifested by persons with disorders listed in this
2 subsection.

3 (g) In (c) of this section, "senile people who as a result of their senility suffer major
4 mental illness" includes persons with the following mental disorders:

5 (1) primary degenerative dementia of the Alzheimer type;

6 (2) multi-infarct dementia;

7 (3) senile dementia;

8 (4) presenile dementia;

9 (5) other severe and persistent mental disorders manifested by behaviors and
10 symptoms similar to those manifested by persons with disorders listed in this subsection.

11 (h) Persons not included in (b) and (c) of this section may be provided services under
12 the comprehensive service program to be paid for from the trust provided the authority
13 determines that the provision of services is consistent with its obligation as trustee under (b) and
14 (c) of this section.

15 (i) The authority shall adopt regulations defining the disorders identified in this section
16 to reflect revisions in the diagnostic nomenclature of the health professions serving the
17 beneficiaries of the trust. The authority shall review and revise the regulations as necessary.
18 Regulations adopted under this subsection must be in the long term best interest of the trust and
19 of persons with disorders equivalent to those identified in (b) and (c) of this section.

20 (j) In this section, "a comprehensive service program" includes, at a minimum, each of
21 the following services for the beneficiaries of the trust as appropriate:

22 (1) emergency services on a 24-hour basis;

23 (2) screening examination and evaluation services required to complete the
24 involuntary commitment process under AS 47.30.700 - 47.30.815;

25 (3) inpatient care;

26 (4) crisis stabilization services, which may include:

27 (A) active community outreach;

28 (B) in-hospital contact;

29 (C) mobile crisis teams of mental health professionals;

30 (D) crisis beds to provide a short term residential program for persons
31 experiencing an acute episode of mental illness that requires temporary removal from a

- 1 home environment;
- 2 (5) treatment services, which may include
- 3 (A) diagnosis, testing, and evaluation of medical needs;
- 4 (B) medication monitoring;
- 5 (C) physical examinations;
- 6 (D) dispensing psychotropic and other medication;
- 7 (E) detoxification;
- 8 (F) individual or group therapy;
- 9 (G) aftercare;
- 10 (6) case management, which may include
- 11 (A) evaluation of needs;
- 12 (B) development of individualized treatment plans;
- 13 (C) enhancement of access to available resources and programs;
- 14 (D) development of interagency contacts and family involvement;
- 15 (E) advocacy;
- 16 (7) daily structure and support, which may include
- 17 (A) daily living skills training;
- 18 (B) socialization activities;
- 19 (C) recreation;
- 20 (D) transportation;
- 21 (E) day care services;
- 22 (F) client and care provider education and support services;
- 23 (8) residential services, which may include
- 24 (A) crisis or respite care;
- 25 (B) board and care;
- 26 (C) foster care, group homes, halfway houses, or supervised apartments;
- 27 (D) intermediate care facilities;
- 28 (E) long term care facilities;
- 29 (F) in-home care;
- 30 (9) vocational services, which may include
- 31 (A) prevocational services;

- 1 (B) work adjustment;
2 (C) supported work;
3 (D) sheltered work;
4 (E) training in which participants achieve useful work experience;
5 (10) outpatient screening, diagnosis, and treatment services, including individual,
6 family, and group psychotherapy, counseling, and referral; and
7 (11) administrative services, including appropriate operating expenses of state
8 agencies and other service providers.

9 (k) The authority shall adopt regulations regarding the services described in (j) of this
10 section to reflect advances in the appropriate professions serving the beneficiaries of the trust.
11 The authority shall review and revise the regulations as necessary. Regulations adopted under
12 this subsection must be in the long term best interest of the mental health trust.

13 Sec. 47.30.066. DEFINITIONS. In AS 47.30.011 - 47.30.066,

14 (1) "authority" means the Alaska Mental Health Trust Authority established by
15 AS 47.30.011;

16 (2) "board" means the board of trustees of the authority;

17 (3) "trust" means the trust established by the Alaska Mental Health Enabling Act
18 of 1956, P.L.84-830, 70 Stat.709.

19 * Sec. 27. AS 47.30 is amended by adding a new section to read:

20 Sec. 47.30.472. POWERS AND DUTIES OF ALASKA MENTAL HEALTH TRUST
21 AUTHORITY. The Alaska Mental Health Trust Authority established by AS 47.30.011

22 (1) shall include within the plan for the comprehensive service program for the
23 beneficiaries of the mental health trust the services and facilities that are necessary for the care
24 and treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in
25 AS 47.30.061(f); in preparing the plan of services for persons identified in this paragraph, the
26 authority shall coordinate with the Advisory Board on Alcoholism and Drug Abuse;

27 (2) shall use money in the mental health trust income account established under
28 AS 37.14.021 to provide the necessary services identified in (1) of this section and in accordance
29 with AS 47.30.061;

30 (3) may accept and deposit in accounts established for that purpose, grants from
31 the federal government or gifts or contributions from other sources to assist in implementing this

1 section.

2 * Sec. 28. AS 47.30.520 is amended to read:

3 Sec. 47.30.520. LEGISLATIVE PURPOSE. It is the purpose of the [LEGISLATURE
4 IN ENACTING THE] Community Mental Health Services Act to

5 (1) [TO] provide a range of community based inpatient, outpatient, and
6 support services for persons with mental disorders;

7 (2) [OR EMOTIONAL DISTURBANCES AND TO] assist [LOCAL]
8 communities in planning, organizing, and financing community mental health services through
9 locally developed, administered, and controlled community mental health programs;

10 (3) [. IT IS FURTHER INTENDED TO] better develop and use [UTILIZE
11 EXISTING] resources at both state and local levels;

12 (4) [IN ORDER TO (1)] develop and implement plans for comprehensive
13 [INITIATING MAXIMUM] mental health services based on demonstrated need on a regional
14 basis [FOR SERVICES IN EACH GEOGRAPHICAL PLANNING AREA, AS WELL AS
15 REGIONALIZED COMPREHENSIVE MENTAL HEALTH SERVICES];

16 (5) [(2)] improve the effectiveness of existing mental health services;

17 (6) [(3)] integrate state-operated and community mental health programs into a
18 unified mental health system;

19 (7) ensure that consumers, families, and representatives of [(4) PROVIDE A
20 MEANS FOR PARTICIPATION BY LOCAL] communities within mental health planning
21 regions can participate in determining [THE DETERMINATION OF] the need for and the
22 allocation of mental health resources;

23 (8) [(5) ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
24 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH SERVICES;

25 (6)] provide a means of allocating monev available for state mental health
26 services [FUNDS] according to community needs;

27 (9) [(7)] encourage the full use of all existing public or private agencies, facilities,
28 personnel, and funds to accomplish these objectives; and

29 (10) [(8)] prevent unnecessary duplication and fragmentation of services and
30 expenditures.

31 * Sec. 29. AS 47.30 is amended by adding new sections to read:

1 Sec. 47.30.523. COMMUNITY MENTAL HEALTH PROGRAM POLICY AND
2 PRINCIPLES. (a) It is the policy of the state that

3 (1) the community mental health program provide a comprehensive and integrated
4 system of community based facilities, supports, and mental health services including child and
5 adolescent screening and diagnosis, inpatient, outpatient, prevention, consultation, and education
6 services;

7 (2) persons most in need of community mental health services be afforded an
8 enforceable priority for receiving appropriate services;

9 (3) the community mental health program be coordinated, to the maximum extent
10 possible, with the programs established under AS 47.37, AS 47.65, AS 47.80, and other programs
11 affecting the well being of persons in need of mental health services.

12 (b) Community mental health program service delivery principles include the principles
13 that persons

14 (1) have ready and prompt access to necessary screening, diagnosis, and treatment;

15 (2) receiving community mental health services be informed of their rights,
16 including their rights to confidentiality and to treatment with dignity;

17 (3) be provided community mental health services by staff and programs that
18 reflect the culture, linguistic, and other social characteristics of their community and that
19 incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and
20 treatment needs;

21 (4) in need of community mental health services, and their families, be
22 encouraged to participate in formulating, delivering, and evaluating treatment and rehabilitation;

23 (5) in need of community mental health services be provided treatment and
24 rehabilitation services designed to minimize institutionalization and maximize individual potential;

25 (6) be treated in the least restrictive alternative environment consistent with their
26 treatment needs, enabling the person to live as normally as possible;

27 (7) be provided necessary treatment as close to the person's home as possible;

28 (8) be informed of and allowed to participate in planning their own treatment as
29 much as possible.

30 Sec. 47.30.525. DUTIES OF DIVISION OF MENTAL HEALTH AND
31 DEVELOPMENTAL DISABILITIES. The division of mental health and developmental

1 disabilities shall

2 (1) assist the authority in planning, coordinating, and implementing the mental
3 health program;

4 (2) advise and support the advisory bodies established in AS 47.30.661 and
5 AS 47.80.030 in fulfilling their planning responsibilities related to the mental health program;

6 (3) give technical assistance to entities that provide or propose to provide services
7 funded by the trust;

8 (4) develop and recommend to the authority regulations and standards for mental
9 health services, facilities, and providers;

10 (5) assist the authority by administering grant programs for the delivery of
11 services funded by the trust;

12 (6) at least biennially, obtain for the authority financial and performance audits
13 of each entity providing services funded by the mental health trust income account;

14 (7) operate mental health programs and facilities under guidelines established by
15 the Alaska Mental Health Trust Authority.

16 * Sec. 30. AS 47.30.540 is amended to read:

17 Sec. 47.30.540. ELIGIBLE LOCAL COMMUNITY ENTITIES. (a) A city or borough
18 government or other political subdivision of the state, a nonprofit corporation, or a combination
19 of these, is eligible to receive funds and administer local programs under AS 47.30.520 -
20 47.30.620. In order to ensure equitable access to funds and programs through the state, the
21 authority, in consultation with the department, shall determine appropriate geographical areas
22 to be served by local programs in consultation with representatives of the geographical areas in
23 question.

24 (b) An [THE] entity designated by the authority [DEPARTMENT IN THE LOCAL
25 AREA AS THE ORGANIZATIONAL UNIT] to receive money [FUNDS] under AS 47.30.520 -
26 47.30.620 [AND TO ADMINISTER THE PROGRAM] shall ensure a broad base of community
27 support as evidenced by a governing board reasonably representative of the professional, civic,
28 and citizen groups in the community and including persons with mental disorders or family
29 members of persons with mental disorders. No more than two members, or 40 percent of the
30 membership, whichever is greater, may be providers of services under the program. In order to
31 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

1 (1) give priority to mental health programs and services consistent with the
2 priorities set out in AS 47.30.061 and that provide the [HAVE A] maximum services for the
3 least expenditure of money from the mental health trust income account and from other
4 state funds, including consideration of money from other sources [EFFECT ON OTHER TAX
5 FUNDED PROGRAMS];

6 (2) furnish services through a qualified staff meeting reasonable standards of
7 experience and training;

8 (3) conform to a state cost accounting system showing the true cost of services
9 rendered, collect fees for services according to a schedule based on an analysis of reasonable
10 ability to pay, and provide that a person may not be refused services because of inability to pay
11 for those services;

12 (4) maintain adequate clinical and administrative records and furnish periodic
13 reports to the division [DEPARTMENT];

14 (5) furnish the authority and the division [DEPARTMENT] an annual report of
15 the preceding fiscal year, including an evaluation of the effectiveness of the previous year's
16 programs and their costs; and

17 (6) furnish the authority and the division, in accordance with the regulations
18 of the authority, [DEPARTMENT EACH YEAR A] satisfactory needs assessments for the
19 population and area it serves and an annual update of a long-range planning and budget
20 statement that describes program goals for the coming year, the steps and resources necessary
21 to implement the goals, the projected means by which these resources will be secured, and the
22 procedures necessary to evaluate the program; and

23 (7) cooperate with the division to obtain audits required under
24 AS 47.30.525(6).

25 (c) Members of local governing boards may be reimbursed for necessary travel expenses
26 incurred in the organization and operation of local programs as may be determined by the
27 authority [DEPARTMENT].

28 * Sec. 31. AS 47.30.545 is repealed and reenacted to read:

29 Sec. 47.30.545. POPULATIONS TO BE SERVED. The entities designated by the
30 authority to receive money under AS 47.30.540(b) shall provide one or more of the services that
31 are set out in AS 47.30.061(j) to persons identified in AS 47.30.061.

1 * Sec. 32. AS 47.30.547 is amended to read:

2 Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES.

3 An entity that provides community mental health services shall

4 (1) make services available at times and locations that enable residents of the
5 entity's service area to obtain services readily;

6 (2) ensure each client's right to confidentiality and treatment with dignity;

7 (3) establish staffing patterns of qualified and trained personnel that reflect the
8 cultural, linguistic, and other social characteristics of the community and that incorporate
9 multidisciplinary professional staff to meet client functional levels and diagnostic and treatment
10 needs;

11 (4) promote client and family participation in formulating, delivering, and
12 evaluating treatment and rehabilitation;

13 (5) design screening, diagnosis, treatment, and rehabilitation services to
14 maximize individual potential and to minimize institutionalization; and

15 (6) provide services in the least restrictive setting, enabling the person
16 receiving the services to live as normally as possible.

17 * Sec. 33. AS 47.30.550 is amended to read:

18 Sec. 47.30.550. COST SHARING FORMULA; LIMITATIONS. (a) In a district
19 designated by the department as a poverty area, the authority [DEPARTMENT] may pay
20 [FUND] not more than 90 percent of the eligible costs of the [COMMUNITY] mental health
21 services to be furnished by the entity designated to provide the services [UNDER AN
22 ENTITY'S APPROVED PLAN].

23 (b) In a district that has not been designated by the department as a poverty area, the
24 authority [DEPARTMENT] may pay [FUND] not more than 75 percent of the eligible costs of
25 the community mental health services to be furnished by the entity designated to provide the
26 services [UNDER AN ENTITY'S APPROVED PLAN].

27 (c) Notwithstanding (a) and (b) of this section, if the authority [DEPARTMENT]
28 determines that sufficient money [FUNDS] from other sources is [ARE] unavailable, then the
29 authority [DEPARTMENT] shall pay [FUND] the percent of the eligible costs that is necessary
30 in order to ensure that services for persons eligible for services under AS 47.30.520 - 47.30.620
31 [CHRONICALLY MENTALLY ILL ADULTS AND SEVERELY MENTALLY ILL

1 CHILDREN, AND OTHER COMMUNITY MENTAL HEALTH SERVICES] to be furnished
 2 by the entity designated to provide the services [UNDER AN ENTITY'S APPROVED PLAN]
 3 are made available [BY THE ENTITY. FUNDING UNDER THIS SUBSECTION IS SUBJECT
 4 TO THE AVAILABILITY OF LEGISLATIVE APPROPRIATIONS FOR THE PURPOSE].

5 (d) Income earned by an entity for services provided [THROUGH A COMMUNITY
 6 MENTAL HEALTH PROJECT FUNDED] under AS 47.30.520 - 47.30.620 must [SHALL] be
 7 used, as approved by the authority [DEPARTMENT], to augment or enhance the [ENTITY'S
 8 MENTAL HEALTH] services provided by the entity.

9 * Sec. 34. AS 47.30.570 is amended to read:

10 Sec. 47.30.570. ELIGIBLE COSTS; MAINTENANCE OF LOCAL EFFORT. The
 11 authority [DEPARTMENT] shall adopt regulations specifying the types of services and program
 12 costs eligible for financial support payable by the authority [STATE PARTICIPATION].
 13 These regulations must include

14 [(1) A PROVISION EXCLUDING CAPITAL EXPENDITURES AS ELIGIBLE
 15 COSTS; AND

16 (2)] a requirement that the [COMMUNITY ENTITY] contractor or applicant
 17 agrees as a condition of contract approval that it will not supplant existing local financial
 18 [FUND] support [OF COMMUNITY MENTAL HEALTH SERVICES] with money [FUNDS]
 19 received under AS 47.30.520 - 47.30.620 and that it will continue local financial [FUNDING]
 20 support of the [COMMUNITY MENTAL HEALTH] services, in any year in which it contracts
 21 with the authority [DEPARTMENT], at a level that is at least equal to the local financial
 22 [FUNDING] support in the previous year.

23 * Sec. 35. AS 47.30.590 is amended to read:

24 Sec. 47.30.590. PATIENT RIGHTS AND THE CONFIDENTIAL NATURE OF
 25 RECORDS AND INFORMATION. The authority [DEPARTMENT] shall adopt regulations to
 26 assure patient rights and to safeguard the confidential nature of records and information about
 27 the recipients of services provided under this chapter [AS 47.30.520 - 47.30.620]. The
 28 regulations must require that [LOCAL COMMUNITY] entities identified in AS 47.30.540(b)
 29 develop and include in any plan submitted for approval adequate provisions for safeguarding
 30 confidential information. The [DEPARTMENT'S] regulations must provide for disclosure of
 31 confidential information to parents or guardians, to mental health professionals providing

1 services to a recipient, and to other appropriate service agencies when it is in the defined best
2 interests of the patient.

3 * Sec. 36. AS 47.30.610 is repealed and reenacted to read:

4 Sec. 47.30.610. DEFINITIONS. In AS 47.30.520 - 47.30.610,

5 (1) "authority" means the Alaska Mental Health Trust Authority established in
6 AS 47.30.011;

7 (2) "department" means the Department of Health and Social Services;

8 (3) "division" means the division of mental health and developmental disabilities
9 in the Department of Health and Social Services;

10 (4) "persons with mental disorders" means persons with disorders currently
11 included within nationally accepted diagnostic systems of the mental health professions;

12 (5) "poverty area" means an election district in which 15 percent or more of the
13 population, based upon the most recent census data, falls under 125 percent of the Office of
14 Economic Opportunity poverty guidelines;

15 (6) "trust" has the meaning given in AS 47.30.066.

16 * Sec. 37. AS 47.30.660 is amended to read:

17 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. (a) The department
18 shall assist the Alaska Mental Health Trust Authority in the fulfillment of its duties. The
19 department shall coordinate with federal, state, regional, local, and private entities involved
20 in delivery of mental health services. The department shall implement a comprehensive and
21 integrated system of care that meets the service needs of the beneficiaries of the trust
22 established under the Alaska Mental Health Enabling Act of 1956, as determined by the
23 Alaska Mental Health Trust Authority and the goals and objectives of the plan approved
24 by the authority.

25 (b) The department, in fulfilling its duties under this section and through its division
26 of mental health and developmental disabilities, [IS THE MENTAL HEALTH AUTHORITY
27 OF THE STATE AND] shall

28 (1) administer a comprehensive program of services for persons with mental
29 disorders [FOR THE PREVENTION OF MENTAL ILLNESS AND THE CARE AND
30 TREATMENT OF THE MENTALLY ILL, INCLUDING INPATIENT AND OUTPATIENT
31 CARE AND TREATMENT AND THE PROCUREMENT OF SERVICES OF SPECIALISTS

1 OR OTHER PERSONS ON A CONTRACTUAL OR OTHER BASIS];

2 (2) take the actions and undertake the obligations that are necessary to participate
3 in federal grants-in-aid programs and accept federal or other financial aid from whatever sources
4 for the study, examination, care, and treatment of persons with mental disorders [THE
5 MENTALLY ILL];

6 (3) administer AS 47.30.660 - 47.30.915;

7 (4) designate, operate, and maintain treatment facilities equipped and qualified to
8 provide inpatient and outpatient care and treatment for persons with mental disorders [THE
9 MENTALLY ILL];

10 (5) provide for the placement of [MENTALLY ILL] patients with mental
11 disorders in designated treatment facilities;

12 (6) enter into arrangements with governmental agencies for the care or treatment
13 of persons with mental disorders [THE MENTALLY ILL] in facilities of the governmental
14 agencies in the state or in another state;

15 (7) enter into contracts with treatment facilities for the custody and care or
16 treatment of persons with mental disorders [THE MENTALLY ILL]; contracts under this
17 paragraph are governed by AS 36.30 (State Procurement Code);

18 (8) enter into contracts, which incorporate safeguards consistent with
19 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
20 state for the custody and care or treatment of patients previously committed from this state under
21 48 U.S.C. 46 et seq., and P.L. 84-830 [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat.
22 709;

23 (9) prescribe the form of applications, records, reports, requests for release, and
24 consents to medical or psychological treatment required by AS 47.30.660 - 47.30.915;

25 (10) require reports from the head of a treatment facility concerning the care of
26 patients;

27 (11) visit each treatment facility at least annually to review methods of care or
28 treatment for patients;

29 (12) investigate complaints made by a patient or an interested party on behalf of
30 a patient;

31 (13) delegate upon mutual agreement to another officer or agency of it, or a

1 political subdivision of the state, or a treatment facility designated, any of the duties and powers
2 imposed upon it by AS 47.30.660 - 47.30.915; [AND]

3 (14) propose to the Alaska Mental Health Trust Authority [ADOPT]
4 regulations to implement the provisions of AS 47.30.660 - 47.30.915; and

5 (15) provide technical assistance and training to providers of mental health
6 services.

7 * Sec. 38. AS 47.30.662 is repealed and reenacted to read:

8 Sec. 47.30.662. COMPOSITION. (a) The board consists of not fewer than 18 nor more
9 than 24 members appointed by the governor, with due regard for the demographics of the state
10 and balanced geographic representation of the state. The membership and committees of the
11 board shall fulfill the requirements of P.L. 99-660, as amended.

12 (b) Not less than one-half of the members shall be persons with a mental disorder
13 identified in AS 47.30.061(c)(1) or members of their families.

14 (c) The board members

15 (1) shall include the director of the division of mental health and developmental
16 disabilities in the department; and

17 (2) may include representatives of the principal state agencies with respect to
18 education, vocational rehabilitation, criminal justice, housing, social services, medical assistance,
19 substance abuse, and aging.

20 (d) Board members appointed under (c) of this section may not vote on matters before
21 the board.

22 (e) The board members shall include at least two licensed mental health professionals
23 who represent public and private providers of mental health services and at least one member
24 who is admitted to practice law in the state. Members appointed under this subsection may also
25 be family members identified under (b) of this section.

26 * Sec. 39. AS 47.30.664(b) is amended to read:

27 (b) The board shall have a paid staff provided by the department, including, but not
28 limited to, an executive director who shall be selected by the board [FROM CANDIDATES
29 PROVIDED BY THE DEPARTMENT]. The executive director is in the partially exempt service
30 and shall be compensated at no less than range 21 of the pay plan for state employees under
31 AS 39.27.011(a). The executive director may hire additional employees in the classified service

1 of the state. The department shall provide for the assignment of personnel to the board to
2 ensure the board has the capacity to fulfill its responsibilities. The executive director (AND
3 THE STAFF) of the board shall be directly responsible to the board in the performance of the
4 director's [THEIR] duties.

5 * Sec. 40. AS 47.30.666 is repealed and reenacted to read:

6 Sec. 47.30.666. DUTIES OF THE BOARD. The board is the state planning and
7 coordinating body for the purpose of federal and state laws relating to mental health services for
8 persons with mental disorders identified in AS 47.30.061(b), (d), (g), and (h). On behalf of those
9 persons, the board shall

10 (1) prepare and maintain a comprehensive plan of treatment and rehabilitation
11 services;

12 (2) propose an annual implementation plan consistent with the comprehensive plan
13 and with due regard for the findings from evaluation of existing programs;

14 (3) provide a public forum for the discussion of issues related to the mental health
15 services for which the board has planning and coordinating responsibility;

16 (4) advocate the needs of persons with mental disorders before executive agencies
17 and the legislature and the public;

18 (5) advise the legislature, the governor, the Alaska Mental Health Trust Authority,
19 and other state agencies in matters affecting persons with mental disorders, including, but not
20 limited to,

21 (A) development of necessary services for diagnosis, treatment, and
22 rehabilitation;

23 (B) evaluation of the effectiveness of programs in the state for diagnosis,
24 treatment, and rehabilitation;

25 (C) legal processes that affect screening, diagnosis, treatment, and
26 rehabilitation;

27 (6) make recommendations to the Alaska Mental Health Trust Authority
28 concerning the mental health program of the state and the use of money in the mental health trust
29 income account in a manner consistent with AS 47.30.061; in making recommendations affecting
30 the mental health trust, the members of the board assume a duty of loyalty to the mental health
31 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. 41. 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 (e) 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. 42. 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. 43. 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. 44. 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. 45. AS 47.30.915(12) is amended to read:

24 (12) "mental illness" means a disorder identified in AS 47.30.061(c)(1), (3), and
25 (4) and includes an organic, mental, or emotional impairment that has substantial adverse effects
26 on an individual's ability to exercise conscious control of the individual's actions or ability to
27 perceive reality or to reason or understand; [MENTAL RETARDATION, EPILEPSY, DRUG
28 ADDICTION, AND ALCOHOLISM DO NOT PER SE CONSTITUTE MENTAL ILLNESS,
29 ALTHOUGH PERSONS SUFFERING FROM THESE CONDITIONS MAY ALSO BE
30 SUFFERING FROM MENTAL ILLNESS;]

31 * Sec. 46. AS 47.37.040 is amended by adding a new paragraph to read:

1 (20) conduct program planning activities approved by the Advisory Board on
2 Alcoholism and Drug Abuse.

3 * Sec. 47. AS 47.80.070(b) is amended to read:

4 (b) The council shall have a paid staff provided by the department, including an
5 executive director selected by the council. The executive director is in the partially exempt
6 service and shall be compensated at no less than range 21 of the pay plan for state
7 employees under AS 39.27.011(a). The executive director may hire additional employees
8 in the classified service of the state. The department shall provide for the assignment of
9 personnel to the council to ensure that the council has the capacity to fulfill its responsibilities.
10 The personnel shall be directly responsible to the council for performance of their duties.

11 * Sec. 48. AS 47.80.090 is amended to read:

12 Sec. 47.80.090. RESPONSIBILITIES. The council shall

13 (1) serve as a forum by which issues and benefits regarding current and potential
14 services to handicapped and gifted persons may be discussed by consumer, public, private,
15 professional, and lay interests;

16 (2) advocate the needs of handicapped and gifted persons before the executive and
17 legislative branches of the state government and before the public;

18 (3) advise the executive and legislative branches of the state government and the
19 private sector on programs and policies pertaining to current and potential services to
20 handicapped or gifted persons and their families;

21 (4) submit periodic reports to the commissioner of health and social services, the
22 commissioner of education, and to other appropriate departments, on the effects of current federal
23 and state programs regarding services to handicapped or gifted persons; these reports shall
24 include program performance reports to the governor, the federal government, and to state
25 agencies as required by P.L. 91-517, P.L. 94-103, or P.L. 94-142, as amended;

26 (5) in conjunction with the Departments of Health and Social Services and
27 Education, develop, prepare, adopt, periodically review, and revise as necessary an annual state
28 plan prescribing programs which meet the needs of persons with developmental disabilities as
29 required under P.L. 91-517 or P.L. 94-103, as amended;

30 (6) review and comment to commissioners of state departments on all state plans
31 and proposed regulations relating to programs for persons with handicaps before the adoption of

1 a plan of regulation; for this purpose, the appropriate departments shall submit the plans and
2 proposed regulations to the council;

3 (7) recommend the priorities and specifications for the use of funds received by
4 the state under P.L. 91-517, P.L. 94-103, and P.L. 94-142, as amended;

5 (8) [SUBMIT] annually submit

6 (A) to the commissioner of health and social services, the commissioner
7 of education, and the commissioner of community and regional affairs a proposed
8 interdepartmental program budget for services to handicapped or gifted persons which
9 includes, insofar as possible, projected revenues and expenditures for programs
10 implemented by state agencies, local governmental agencies, and private organizations;
11 the interdepartmental program budget is an informational supplement to the regular annual
12 budgetary submissions of the departments to the Office of the Governor;

13 (B) recommendations to the Alaska Mental Health Trust Authority
14 concerning the program of services for the beneficiaries identified in
15 AS 47.30.061(c)(2) of the trust established by the Alaska Mental Health Enabling Act
16 of 1956 and use of the money in the mental health trust income account in a manner
17 consistent with AS 47.30.061; in making recommendations affecting the trust,
18 members of the council assume a duty of loyalty to the trust equivalent to that of a
19 private trustee;

20 (9) provide information and guidance for the development of appropriate special
21 educational programs and services for exceptional children as defined in AS 14.30.350;

22 (10) monitor and evaluate budgets or other implementation plans and programs
23 for handicapped and gifted persons to assure nonduplication of services and encourage efficient
24 and coordinated use of federal, state, and private resources in the provision of services; members
25 of the council, with the approval of the council, have access to information in the possession of
26 state agencies subject to disclosure restrictions imposed by state or federal confidentiality or
27 privacy laws;

28 (11) perform other duties required under P.L. 91-517, P.L. 94-103, P.L. 94-142,
29 as amended, or AS 14.30.231, and as the governor may assign; and

30 (12) govern the special education service agency, and may hire personnel
31 necessary to operate the agency.

1 * Sec. 49. AS 47.80.110 is amended to read:

2 Sec. 47.80.110. PROGRAM PRINCIPLES. The system of services and facilities required
3 under AS 47.80.100 shall accord with the principles [PRINCIPLE] that service providers shall

4 (1) make services available at times and locations that enable residents of the
5 provider's service area to obtain services readily;

6 (2) ensure each client's right to confidentiality and treatment with dignity;

7 (3) establish staffing patterns that reflect the cultural, linguistic, and other
8 social characteristics of the community and that incorporate multidisciplinary professional
9 staff to meet client functional levels and diagnostic and treatment needs;

10 (4) promote client and family participation in formulating, delivering, and
11 evaluating treatment and rehabilitation;

12 (5) design treatment [, SERVICES,] and habilitation [SHALL BE DESIGNED]
13 to maximize individual potential and [,] minimize institutionalization; [,] and

14 (6) provide services [SHALL BE PROVIDED] in the least restrictive setting,
15 enabling a person to live as normally as possible within the limitations of the handicap.

16 * Sec. 50. AS 47.30.530, 47.30.546, and 47.30.560; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and
17 secs. 7 - 10, ch. 48, SLA 1987 are repealed.

18 * Sec. 51. AS 37.14.011(b) and (c) are repealed.

19 * Sec. 52. ROYALTY FROM KUPARUK OIL FIELD. (a) In addition to amounts to be deposited
20 into the mental health trust income account under AS 37.14.021(a), as amended by sec. 10 of this Act,
21 except as provided in (b) of this section, the state may annually appropriate from the general fund the
22 amount received by the state under AS 38.05 as royalty from oil leases within the following parcels:

23 (1) Township 14 North, Range 8 East, Umiat Meridian

24 Section 19

25 Sections 30 - 31

26 (2) Township 14 North, Range 9 East, Umiat Meridian

27 Sections 24 - 25

28 Section 36

29 (3) Township 13 North, Range 8 East, Umiat Meridian

30 Sections 1 - 3

31 Sections 10 - 15

- 1 Sections 19 - 36
- 2 (4) Township 13 North, Range 9 East, Umiat Meridian
- 3 Sections 1 - 12
- 4 Sections 15 - 22
- 5 Sections 25 - 36
- 6 (5) Township 12 North, Range 8 East, Umiat Meridian
- 7 (6) Township 12 North, Range 9 East, Umiat Meridian
- 8 (7) Township 12 North, Range 10 East, Umiat Meridian
- 9 Sections 1 - 12
- 10 Sections 14 - 23
- 11 Sections 25 - 36
- 12 (8) Township 12 North, Range 11 East, Umiat Meridian
- 13 Sections 5 - 8
- 14 Section 31
- 15 (9) Township 11 North, Range 7 East, Umiat Meridian
- 16 Sections 24 - 26
- 17 Sections 34 - 36
- 18 (10) Township 11 North, Range 8 East, Umiat Meridian
- 19 (11) Township 11 North, Range 9 East, Umiat Meridian
- 20 (12) Township 11 North, Range 10 East, Umiat Meridian
- 21 (13) Township 11 North, Range 11 East, Umiat Meridian
- 22 Sections 5 - 8
- 23 Sections 16 - 22
- 24 Sections 27 - 33
- 25 (14) Township 10 North, Range 7 East, Umiat Meridian
- 26 Sections 1 - 4
- 27 Sections 9 - 16
- 28 Sections 21 - 28
- 29 Sections 33 - 36
- 30 (15) Township 10 North, Range 8 East, Umiat Meridian
- 31 (16) Township 10 North, Range 9 East, Umiat Meridian

- 1 (17) Township 10 North, Range 10 East, Umiat Meridian
- 2 (18) Township 10 North, Range 11 East, Umiat Meridian
- 3 Sections 5- 8
- 4 Sections 17 - 20
- 5 Sections 29 - 32
- 6 (19) Township 9 North, Range 9 East
- 7 Sections 1 - 24
- 8 (20) Township 9 North, Range 10 East
- 9 Sections 1 - 24
- 10 Sections 27 - 34
- 11 (21) Township 9 North, Range 11 East
- 12 Sections 5 - 8
- 13 Sections 17 - 20.

14 (b) The authorization to appropriate made by (a) of this section does not include the
 15 authorization to appropriate to the mental health trust income account the money from mineral lease
 16 rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments, and bonuses received
 17 by the state that is subject to placement in the Alaska permanent fund under art. IX, sec. 15, Constitution
 18 of the State of Alaska, and under AS 37.13.010.

19 (c) The authorization made by this section is partial compensation to the trust for land granted
 20 to the trust under the Alaska Mental Health Enabling Act of 1956 and not thereafter retained in trust
 21 status.

22 * Sec. 53. PROCEEDS OF RENTAL VALUE OF LAND DURING FISCAL YEAR 1992
 23 AUTHORIZED FOR ALLOCATION TO THE MENTAL HEALTH TRUST INCOME ACCOUNT.
 24 After June 30, 1991, and until June 30, 1992, the rental value of land constituting the mental health trust
 25 corpus is equal to six percent of the unrestricted general fund revenue of the state for the fiscal year.
 26 The commissioner of revenue shall allocate that amount from the general fund to the mental health trust
 27 income account established by AS 37.14.021(a), as amended by sec. 10 of this Act.

28 * Sec. 54. REDEMPTION OF LEGISLATIVELY-DESIGNATED LAND. (a) The state shall
 29 redeem trust land identified in AS 37.14.031(a)(3) by exchanging land under AS 37.14.061 or,
 30 notwithstanding the requirement of an agreement under AS 37.14.061, by paying to the authority the
 31 value of the land at the time of the land's redemption. Unless there is a dispute as to the value of the

In this provision

exchange

1 land proposed for redemption, the authority is required to accept the state payment tendered for the land
2 and release claims the trust may have on the land.

3 (b) Land that is redeemed by the state under this subsection may not thereafter be treated as trust
4 land identified in AS 37.14.031(a)(3). When the state pays for redemption of legislatively-designated
5 land under this section, the amount due the state under AS 37.14.041 shall be reduced by the amount
6 of the payment for the land conveyed, the adjustment to be effective as of the date of the next rent
7 payment to the trust due under AS 37.14.041.

8 (c) Notwithstanding any other provision of law, unless the authority and the commissioner of
9 natural resources agree on the land's value, the Alaska Supreme Court has original jurisdiction to hear
10 and establish the value of land redeemed under (a) of this section. The court

11 (1) shall determine the value of the land;

12 (2) may refer the proceedings for the valuation of the land to a special master; if
13 appointed, the special master

14 (A) may exercise the powers authorized by Rule 53(b) of the Alaska Rules of
15 Civil Procedure;

16 (B) shall proceed substantially in the manner required by Rule 53(c) and 53(d)
17 of the Alaska Rules of Civil Procedure;

18 (C) is entitled to the compensation payable to a special master under Rule 53(a)
19 of the Alaska Rules of Civil Procedure; and

20 (D) shall make a recommended decision to the court.

21 * Sec. 55. LAND SELECTION. After the effective date of this section and until January 3, 1994,
22 the board of trustees of the Alaska Mental Health Trust Authority may nominate federal land it
23 determines may be valuable to the trust for selection under the Alaska Statehood Act (P.L. 85-508, 72
24 Stat. 339), as amended, and request the commissioner of natural resources to select the land for the state
25 through the federal land selection process.

26 * Sec. 56. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT
27 DISTRIBUTION MECHANISM. Not later than January 1, 1993, the Board of Trustees of the Alaska
28 Mental Health Trust Authority, after consulting with organizations and persons affected by this section,
29 shall

30 (1) consistent with AS 47.30.061(i), added by sec. 26 of this Act, adopt regulations
31 regarding persons who are to receive services funded by money in the mental health trust income

1 account under AS 37.14.021, as amended by sec. 10 of this Act:

2 (2) publish its finding and estimates regarding the number of persons in need under the
3 regulations adopted under (1) of this section;

4 (3) consistent with AS 47.30.061(k), added by sec. 26 of this Act, adopt regulations
5 regarding the services and facilities upon which expenditures are to be made from money in the mental
6 health trust income account under AS 37.14.021, as amended by sec. 10 of this Act; the regulations may
7 permit the use of the mental health trust income account money for programs or services to which
8 beneficiaries of the trust established by the Alaska Mental Health Enabling Act of 1956 are otherwise
9 entitled without spending trust assets, but the use of the money is limited to the additional costs of
10 providing specific mental health services for beneficiaries of the trust; the money may be expended for
11 services that are provided to the public generally by the state, but the expenditure of the earnings is
12 limited to the additional costs of providing specific mental health services for beneficiaries of the trust;
13 and

14 (4) publish its findings and projections regarding the necessary expenditure of money
15 from the mental health trust income account for the services and facilities identified under (3) of this
16 section; the projections may be based on a formula that considers distribution, demographics, and level
17 of functioning of the persons to be served and the cost of service delivery on a regional basis.

18 * Sec. 57. TRANSITIONAL PROVISIONS: BUDGET DEVELOPMENT. Notwithstanding the
19 repeal of AS 47.30.530 by sec. 50 of this Act, until the Board of Trustees of the Alaska Mental Health
20 Trust Authority adopts regulations under sec. 56 of this Act, or until January 1, 1993, whichever is
21 earlier, the Department of Health and Social Services shall prepare and submit budgets and receive and
22 distribute state appropriations in accordance with AS 47.30.520 - 47.30.620.

23 * Sec. 58. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.
24 Notwithstanding AS 47.30.016, added by sec. 26 of this Act,

25 (1) the initial appointments to the Board of Trustees of the Alaska Mental Health Trust
26 Authority shall be made by the governor from a list of candidates submitted to the governor by the
27 Alaska Mental Health Board;

28 (2) the initial appointees shall be appointed to initial terms as follows: two shall be
29 appointed for terms of one year, two shall be appointed for terms of two years, two shall be appointed
30 for terms of three years, two shall be appointed for terms of four years, and one shall be appointed for
31 a term of five years.

1 * Sec. 59. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON
2 ALCOHOLISM AND DRUG ABUSE. Notwithstanding AS 44.29.110 and 44.29.115, as amended by
3 secs. 21 and 22 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who
4 are serving on the effective date of this section continue to serve their unexpired terms. Vacancies on
5 the advisory board occurring after the effective date of this section shall be filled by the governor under
6 the provisions of AS 44.29.115, as amended by sec. 22 of this Act.

7 * Sec. 60. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH
8 BOARD. Notwithstanding AS 47.30.662, as amended by sec. 38 of this Act, the members of the Alaska
9 Mental Health Board who are serving on the effective date of this section continue to serve their
10 unexpired terms. Vacancies on the board occurring after the effective date of this section, and new
11 positions created by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as
12 amended by sec. 38 of this Act. When making appointments to new positions on the board, the governor
13 shall ensure that the initial terms of new members maintain the staggered term requirement of
14 AS 47.30.663.

15 * Sec. 61. TRANSITIONAL PROVISIONS: ENCUMBERED LAND. The commissioner of natural
16 resources shall, not later than six months after the effective date of this section or not later than March 1,
17 1992, whichever is earlier, prepare and transmit to the legislature a report providing a description of
18 former mental health trust land encumbered by the state on the effective date of this section under
19 AS 37.14.031(a)(1), added by sec. 10 of this Act.

20 * Sec. 62. The provisions of AS 37.14.051(d), as added by sec. 11 of this Act, have the effect of
21 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
22 actions.

23 * Sec. 63. Section 61 of this Act takes effect immediately under AS 01.10.070(c).

24 * Sec. 64. Section 51 of this Act takes effect July 1, 1991.

25 * Sec. 65. Section 54 of this Act is repealed June 30, 2006.

26 * Sec. 66. Except for secs. 51 and 61, this Act takes effect upon incorporation into a final settlement
27 and order approved by the superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil. The superior
28 court shall advise the lieutenant governor and the revisor of statutes when the final settlement and order
29 of Weiss v. State of Alaska has been approved.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

COPY

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MEMORANDUM

April 15, 1991

SUBJECT: Amendment G.1 to SSHB 79
TO: Representative Mark Boyer
FROM: Jack Chenoweth
Legislative Counsel

All the changes you requested at Saturday's afternoon meeting are combined and set out in this one amendment. The headnotes within the amendment designated "I" to "VIII" are intended to set off the several specific drafting requests.

Item "I" moves material within bill section 4 so that trust corpus land becomes taxable to the extent of private leasehold, contract, or other taxable interests on the same basis as other state land.

Per your instruction, the material in item "II" recasts the provision to follow AS 14.40.250, relating to management of the University trust.

The material in part III recasts the inflation-proofing requirement along the lines set by the permanent fund provision (AS 37.13.145) and directs monthly transfer payments to achieve the inflation-proofing objective.

Item "IV" serves only to flag the matter of the statement of value. (You do need to insert a value. If you choose to make no statement of value by deleting this provision altogether, then some other sections of this bill that are drafted with reference to an expressed value will need to be altered.)

The material in item "V" recasts the municipal land/encumbered land selection amendment offered by the Municipal League and others in line with the committee's instructions and inserts the commissioner-shall-prepare-a list-of-encumbered-lands requirement. I understand this to be a "stand-alone" section: it is to take effect irrespective of the rest of the bill and is not therefore dependent on the general effective date provision of the last bill section. Consequently, if you agree that this

Representative Mark Boyer

April 15, 1991

Page 2

amendment should be part of the bill, the provision would have to be given an immediate effective date and, more importantly, there are a number of references to "effective date of this Act" that would have to be revised as well. These are drafting concerns that probably need not trouble the committee.

Part VI materials are intended to respond to Jay Hogan's concerns about the current single annual payment requirement. The language is recast in terms of equal annual installments, with monthly installment payments contemplated.

The material in part VII is intended to clarify that the provisions of the Executive Budget Act apply to expenditures from the trust income account. It is crafted in partial recognition of the similar attempt made in ch. 48, SLA 1987, that was cited as a possible model.

The material in item "VIII" removes the legislative confirmation requirement.

JC:pl

91-256.plm

A M E N D M E N T

OFFERED IN THE HOUSE
TO: SSHB 79

BY REPRESENTATIVE BOYER

I

Page 3, line 5, after "state,":

Delete "or"

Page 3, line 5, after "property,"

Insert "or land that is incorporated in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709"

Page 3, lines 18 - 20:

Delete ";

(8) or land that is incorporated in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709"

II

Page 7, line 12:

Delete "has full powers over the corpus and income of the trust"

Insert "may

(1) receive, manage, and invest money or other real, personal, or mixed property for the purpose of the trust, its improvement, or the aid or advantage of its beneficiaries; and

(2) act as trustee on behalf of the trust for any of these purposes."

III

Page 8, lines 4 - 8:

Delete all material and insert:

"(b) The authority shall

(1) at the end of each fiscal year, calculate and report the amount that must be transferred from the trust income account established in AS 37.14.021 to the mental health trust corpus in order to offset the effect of inflation on the money in the trust corpus during that year, as measured by the change in the calendar year average United States Consumer Price Index for all urban consumers or, if that index does not exist, an equivalent index; and

(2) transfer from the trust income account to the mental health trust corpus 1/12th of the amount determined under (1) of this subsection each month."

IV

Page 8, line 16:

Delete "\$2,243,000,000"

Insert "\$_____"

V

Page 9, following line 4:

Insert a new subsection to read:

"(c) For purposes of (a)(1) of this section, land granted under the enabling Act is encumbered land not to be included in the trust if the land

(1) is a municipal land selection made under AS 29.65 or under former AS 29.18.190 - 29.18.200 and on the effective date of this Act, the land

(A) has been conveyed by patent to the selecting municipality;

(B) is an approved selection, as that term is defined by AS 29.65.130, approved in writing by the director of lands, Department of Natural Resources; or

(C) has been selected by a municipality and the municipal selection has been neither approved nor disapproved by the director of lands, Department of Natural Resources; or

(2) has been encumbered before the effective date of this Act when specifically authorized by law or under terms and conditions established by law."

Page 45, following line 5:

Insert a new bill section to read:

"* Sec. 57. TRANSITIONAL PROVISIONS: ENCUMBERED LAND. The commissioner of natural

resources shall, not later than six months after the effective date of this Act or not later than March 1, 1992, whichever is earlier, prepare and transmit to the legislature a report providing a description of former mental health trust land encumbered by the state on the effective date of this Act under AS 37.14.013(a)(1) and (c), added by sec. 10 of this Act."

Renumber the following bill sections accordingly.

VI

Page 9, line 6:

Delete "On July 1 of each year, for"

Insert "For"

Page 9, line 9, after "per annum.":

Insert "The state shall make the payments due under this subsection on a monthly installment payment schedule."

Page 9, line 13:

Delete "the required annual payment"

Insert "a payment required"

Page 9, line 18:

Delete "annual payment"

Insert "amounts due as equal annual installments under (a) of this section"

Page 9, line 19:

Delete "next annual payment date"

Insert "date of the first installment payable to the trust"

Page 9, line 19, after "section":

Insert "during the next following fiscal year"

VII

Page 12, lines 2 - 5, after (c)":

Delete "Money in the mental health trust income account established in (a) of this section shall first be expended by the authority to meet the necessary expenses of the comprehensive service program under AS 47.30.061.

(d)"

Page 12, line 6, after "account.":

Insert a new subsection to read:

"(d) Expenditure of money from the mental health trust income account is subject to AS 37.07 (Executive Budget Act). The legislature shall appropriate money in the account first to meet the necessary expenses of the comprehensive program of services required by AS 47.30.061. In making annual appropriations, the legislature shall consider the budget prepared and submitted by the authority. If the legislature does not appropriate from the account in the manner submitted by the authority, the legislature shall prepare a report showing how, in the judgment of the legislature, the necessary expenses of the comprehensive program of services required by AS 47.30.061 will be met."

Page 24, lines 24 - 29:

Delete all material.

VIII

Page 19, lines 20 - 21:

Delete "and subject to legislative confirmation"

House Resources Subcommittee
Additional amendments to SS HB 79
April 15, 1991

Page 2, beginning on line 26:

Delete Section 3

Page 11, lines 8-22:

Delete portion allowing Authority to execute against state assets for failure to satisfy a judgement and order.

Page 24, lines 5-7:

Delete: "annually, not later than August 1,"
Insert reference to the Authority's budget being subject to the Executive Budget Act

Page 32, line 8:

Delete "as directed by"
Insert "under the guidelines established by"

* Marked up copy

7-LS0502\G

~~SSHB~~ Reflects proposed
changes in CSSS HB 79 (Res)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES BOYER, Gonzales, Moyer

Introduced: 4/8/91

Referred: Resources, Health, Education & Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska Mental Health Trust Authority and defining its powers
2 and duties; relating to the administration of the trust established by the Alaska Mental
3 Health Enabling Act of 1956 and to appropriations made to it, and to a comprehensive
4 service program for the beneficiaries of the trust; abolishing the Interim Mental Health
5 Trust Commission; relating to the Older Alaskans Commission and the Governor's Council
6 for the Handicapped and Gifted; amending the membership and duties of the Advisory
7 Board on Alcoholism and Drug Abuse and the Alaska Mental Health Board; exempting
8 trust property from municipal taxation; amending Alaska Rule of Civil Procedure 82; and
9 providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. PURPOSE. (a) It is the purpose of this Act to implement the state's obligation as the
12 trustee of the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat.

1 709, by providing a comprehensive service program for the beneficiaries of the trust and by resolving
2 the serious and significant legal questions attending the status of that trust

3 (1) in accordance with the holding in the decision *State v. Weiss*, 706 P.2d 681 (Alaska
4 1985), and the principles that guided the development and enactment of ch. 48, SLA 1987;

5 (2) in a manner that

6 (A) provides fair compensation to the trust as agreed upon by the parties to the
7 litigation, subject to approval by the court as fair and equitable to the beneficiaries of the trust;

8 (B) provides adequate assurances that the trust will be administered properly and
9 in a way that determines and meets the necessary expenses of a comprehensive service program
10 for the beneficiaries of the trust;

11 (C) assures appropriate expenditures from the trust;

12 (D) establishes an independent trust authority; and

13 (E) is enforceable.

14 (b) It is the further purpose of this Act that the trust serve, at a minimum, the mentally ill, the
15 mentally defective and retarded, chronic alcoholics suffering from psychoses, and senile people who as
16 a result of their senility suffer major mental illness. In using money from the trust, the needs of persons
17 most impaired cannot be sacrificed to provide services to the less impaired. The trust must provide
18 necessary services to persons most impaired as a first priority and to persons less impaired as a second
19 priority.

20 * Sec. 2. AS 09.25.050(a) is amended to read:

21 (a) The uninterrupted adverse notorious possession of real property under color and claim
22 of title for seven years or more is conclusively presumed to give title to the property except as
23 against the state or the United States. For the purpose of this section, land that is included
24 in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956,
25 P.L. 84-830, 70 Stat. 709, is land owned by the state.

26 * Sec. 3. AS 09.50.270 is amended to read:

27 Sec. 09.50.270. PAYMENT OF JUDGMENT AGAINST THE STATE. Except as
28 provided in AS 37.14.019, [NO] attachment or execution may not [SHALL] issue against the
29 state. When a final judgment is rendered against the state in an action, the clerk of the court
30 shall immediately transmit a certified copy of the judgment to the Department of Administration
31 which shall either approve payment of the judgment against the state if a sufficient appropriation

1 exists for payment, or audit the amount and transmit a copy to the legislature with the
2 recommendation that an appropriation be made for its payment.]

3 * Sec. 4. AS 29.45.030(a) is amended to read:

4 (a) The following property is exempt from general taxation:

5 (1) municipal, state, [or] federally owned property, ^{ⓐ Insert Amendment I} except that a private leasehold,
6 contract, or other interest in the property is taxable to the extent of the interest;

7 (2) household furniture and personal effects of members of a household;

8 (3) property used exclusively for nonprofit religious, charitable, cemetery,
9 hospital, or educational purposes;

10 (4) property of a nonbusiness organization composed entirely of persons with 90
11 days or more of active service in the armed forces of the United States whose conditions of
12 service and separation were other than dishonorable, or the property of an auxiliary of that
13 organization;

14 (5) money on deposit;

15 (6) the real property of certain residents of the state to the extent and subject to
16 the conditions provided in (e) of this section;

17 (7) real property or an interest in real property that is exempt from taxation under
18 43 U.S.C. 1620(d), as amended;]

19 (8) land that is incorporated in the corpus of the trust established by the
20 Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.]

21 * Sec. 5. AS 36.30.850(b) is amended to read:

22 (b) This chapter applies to every expenditure of state money by the state, acting through
23 an agency, under a contract, except that this chapter does not apply to

24 (1) grants;

25 (2) contracts for professional witnesses to provide for professional services or
26 testimony relating to existing or probable lawsuits in which the state is or may become a party;

27 (3) contracts of the University of Alaska where the work is to be performed
28 substantially by students enrolled in the university;

29 (4) contracts for medical doctors and dentists;

30 (5) acquisitions or disposals of real property or interest in real property, except
31 as provided in AS 36.30.080;

- 1 (6) disposals under AS 38.05;
- 2 (7) contracts for the preparation of ballots under AS 15.15.030;
- 3 (8) acquisitions or disposals of property and other contracts relating to airports
4 under AS 02.15.070, 02.15.090, and 02.15.091;
- 5 (9) disposals of obsolete property under AS 19.05.060;
- 6 (10) disposals of obsolete material or equipment under AS 35.20.060;
- 7 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
8 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- 9 (12) contracts of the Department of Fish and Game for flights that involve
10 specialized flying and piloting skills and are not point-to-point;
- 11 (13) purchases of income-producing assets for the state treasury or a public
12 corporation of the state;
- 13 (14) operation of the state boarding school established under AS 14.16, if the
14 State Board of Education or the commissioner of education adopts regulations for use by the state
15 boarding school in procurement and contracting;
- 16 (15) a contract that is a delegation, in whole or in part, of investment powers held
17 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
18 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
19 AS 39.35.080;
- 20 (16) a contract that is a delegation, in whole or in part, of investment powers of
21 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
22 under AS 37.13;
- 23 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
24 37.14.099;
- 25 (17) the purchase of books, book binding services, newspapers, periodicals,
26 audio-visual materials, network information services access, approval plans, professional
27 memberships, archival materials, objects of art, and items for museum or archival acquisition
28 having cultural, historical, or archaeological significance; in this paragraph
- 29 (A) "approval plans" means book selection services in which current book
30 titles meeting an agency's customized specifications are provided to the agency subject
31 to the right of the agency to return those books that do not meet with the agency's

1 approval;

2 (B) "archival materials" means the noncurrent records of an agency that are
3 preserved after appraisal because of their value;

4 (C) "audio-visual materials" means nonbook prerecorded materials,
5 including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact
6 discs, laser discs, and items that require the use of equipment to render them usable;

7 (D) "network information services" means a group of resources from which
8 cataloging information, holdings records, inter-library loans, acquisitions information, and
9 other reference resources can be obtained;

10 (18) contracts for the purchase of standardized examinations for licensure under
11 AS 08;

12 (19) contracts for home health care and adult residential and foster care services
13 provided under regulations adopted by the Department of Health and Social Services;

14 (20) contracts for supplies or services for research projects funded by money
15 received from the federal government or private grants; [OR]

16 (21) guest speakers or performers for an educational or cultural activity; or

17 (22) contracts for services that are entered into by the Alaska Mental Health
18 Trust Authority under AS 47.30.061.

19 * Sec. 6. AS 37.05.146 is amended to read:

20 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
21 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other
22 state money received by a state agency in connection with the performance of its functions; all
23 program receipts except the following are general fund program receipts:

24 (1) federal receipts;

25 (2) University of Alaska receipts (AS 14.40.491);

26 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
27 terms are restricted to a specific purpose;

28 (4) receipts of the following funds:

29 (A) highway working capital fund (AS 44.68.210);

30 (B) correctional industries fund (AS 33.32.020);

31 (C) loan funds;

- 1 (D) international airport revenue fund (AS 37.15.430);
- 2 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
- 3 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity
- 4 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),
- 5 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
- 6 Development and Export Authority (AS 44.88.020);
- 7 (F) fish and game fund (AS 16.05.100);
- 8 (G) school fund (AS 43.50.140);
- 9 (H) training and building fund (AS 23.20.130);
- 10 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
- 11 former AS 39.37);
- 12 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
- 13 (K) public school trust fund (AS 37.14.110);
- 14 (L) second injury fund (AS 23.30.040);
- 15 (M) fishermen's fund (AS 23.35.060);
- 16 (N) FICA administration fund (AS 39.30.050);
- 17 (5) mental health trust receipts (AS 37.14.001).

18 * Sec. 7. AS 37.05.540(b) is amended to read:

19 (b) Except for appropriations to the permanent fund or for Alaska permanent fund

20 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,

21 appropriations required to pay the principal and interest on general obligation bonds, [AND]

22 appropriations of money received from a nonstate source in trust for a specific purpose, including

23 revenue of a public enterprise or public corporation of the state that issues revenue bonds, and

24 appropriations made under AS 37.14.013(a)(5) and 37.14.017, appropriations from the treasury

25 made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more

26 than five percent plus the change in population and inflation since the beginning of the preceding

27 fiscal year. For purposes of applying this limit an appropriation is considered to be made in the

28 fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in

29 which the original appropriation is enacted. The determination of the change in population for

30 purposes of this subsection shall be based on an annual estimate of population by the Department

31 of Labor. The determination of the change in inflation for purposes of this subsection shall be

1 based on the Consumer Price Index for all urban consumers for Anchorage prepared by the
2 United States Bureau of Labor Statistics. The amount of money received by the state that is
3 subject to the appropriation limit includes the balance in the general fund carried forward from
4 the preceding fiscal year.

5 * Sec. 8. AS 37.14 is amended by adding new sections to read:

6 Sec. 37.14.001. TRUSTEE. (a) The Alaska Mental Health Trust Authority, established
7 by AS 47.30.011, is the trustee of

8 (1) the trust established under the Alaska Mental Health Enabling Act of 1956,
9 P.L. 84-830, 70 Stat. 709; and

10 (2) the mental health trust income account established under AS 37.14.021.

11 (b) In its capacity as the trustee of the trust established by the enabling Act, the authority

12 has full powers over the corpus and income of the trust. Insert Amendment II

13 Sec. 37.14.006. TRUST MANAGEMENT. (a) The Alaska Mental Health Trust
14 Authority

15 (1) shall manage the assets of the trust according to the prudent-person rule; the
16 prudent-person rule as applied to investments of the authority means that in making investments
17 the board shall exercise the judgment and care under the circumstances then prevailing that an
18 institutional investor of ordinary prudence, discretion, and intelligence exercises in the
19 management of large investments entrusted to it not for speculation but for the permanent
20 disposition of funds, considering probable safety of capital as well as probable income; an
21 evaluation to determine whether the board has exercised the requisite judgment and care in its
22 management of the investments of the trust must be

23 (A) based on the facts and circumstances prevailing at the time the asset
24 was incorporated into the trust; and

25 (B) made on an asset-by-asset basis taking into account the entire
26 investment portfolio of the trust;

27 (2) may, notwithstanding (1) of this subsection, retain assets of the trust that have
28 been incorporated into the trust with the trust's establishment until the board determines that it
29 is in the best interests of the trust to exchange or otherwise dispose of those assets;

30 (3) may, notwithstanding (1) of this subsection, use land that is an asset of the
31 trust directly for a comprehensive service program for the trust beneficiaries; and

1 (4) shall delegate management of trust land described in AS 37.14.013(a)(3) to
2 the Department of Natural Resources unless the enforcement provisions of AS 37.14.019 require
3 direct active management by the authority.

4 (b) At the end of each fiscal year, the authority shall transfer from the trust income
5 account established in AS 37.14.021 to the mental health trust corpus an amount sufficient to
6 offset the effect of inflation on the value of the money in the trust corpus during that year, as
7 measured by the change in the calendar year average United States Consumer Price Index for all
8 urban consumers or, if that index no longer exists, an equivalent index.] Insert Am. III

9 (c) At least annually, the authority shall prepare, publish, and distribute to the legislature
10 and make available to the public a financial report indicating trust revenue and expenditures, and
11 including a statement of its method of allocating the assets of the trust among appropriate
12 investment vehicles. The asset allocation policy shall be designed to provide for prudent
13 diversification and to meet the investment objectives and needs of the authority.

14 * Sec. 9. AS 37.14.011 is repealed and reenacted to read:

15 Sec. 37.14.011. MENTAL HEALTH TRUST CORPUS VALUE. The value as of
16 September 7, 1987, of all land granted under the enabling Act is \$2,243,000,000.] Insert Am IV

17 * Sec. 10. AS 37.14 is amended by adding new sections to read:

18 Sec. 37.14.013. TRUST CORPUS RECONSTITUTED. (a) On the effective date of this
19 Act, the mental health trust corpus is reconstituted to include

20 (1) land granted to the state under the enabling Act and not transferred or
21 encumbered by the state;

22 (2) land granted to the state under the enabling Act that, on the effective date of
23 this Act, is subject to a land use permit issued by the Department of Natural Resources under
24 AS 38.05;

25 (3) land granted to the state under the enabling Act and subsequently established
26 as legislatively-designated land;

27 (4) money appropriated by the legislature on or before the effective date of this
28 Act and paid by the state to the trust in partial satisfaction of the value of land granted under the
29 enabling Act and not retained by the trust; and

30 (5) money owed by the state to pay for the value of land granted under the
31 enabling Act and not retained by the trust.

1 (b) The value of land granted to the state under the enabling Act and reconstituted as part
2 of the mental health trust corpus by (a) of this section is the amount determined under the
3 procedures approved by the Interim Mental Health Trust Commission established by sec. 1, ch.
4 132, SLA 1986, as set out in the commission's November 7, 1989, resolution. Insert Amendment V

5 Sec. 37.14.015. PAYMENT BY STATE FOR LAND NOT RETAINED IN THE TRUST.

6 (a) ^{for} [On July 1 of each year.] for the land granted under the enabling Act that is not retained by
7 the trust, the state shall pay to the authority an amount calculated to fully pay, in equal annual
8 installments, by July 1, 2021, the principal amount together with interest on the unpaid balance
9 at 10.5 percent [per annum.] Insert Amendment VI

10 (b) The state and the authority may agree on land, and the value of it, that may be
11 conveyed by the state to the authority in partial satisfaction of the amount due the trust under
12 AS 37.14.013(a)(5). Insert: a payment required

13 (c) When a principal payment in addition to [the required annual payment] under (a) of
14 this section is made by the state or when land is conveyed by the state to the trust under (b) of
15 this section,

16 (1) the amount due the trust under AS 37.14.013(a)(5) shall be reduced by the
17 amount of the payment or the value of the land conveyed; and Insert Amendment VII

18 (2) the state and the authority shall recalculate the [annual payment,] the
19 recalculated payment to be effective as of the ^{Insert Am. VI} [next annual payment date] under (a) of this section ^{Insert Am. II}

20 (d) The value of land granted to the state under the enabling Act and not retained by the
21 trust for which payment is due the trust under AS 37.14.013(a)(5) is the amount determined
22 under the procedures approved by the Interim Mental Health Trust Commission established by
23 sec. 1, ch. 132, SLA 1986, as set out in the commission's November 7, 1989, resolution.

24 Sec. 37.14.017. RENT PAYABLE FOR LEGISLATIVELY-DESIGNATED LAND. (a)
25 On July 1 of each year, for trust land identified in AS 37.14.013(a)(3) the state shall pay rent for
26 that fiscal year to the authority.

27 (b) The annual rent payable for the land identified in (a) of this section is equal to eight
28 percent of the value of the land. At least every five years the value of the land shall be
29 redetermined as follows:

30 (1) the state assessor in the Department of Community and Regional Affairs shall
31 assign the land identified in (a) of this section to geographic areas; in making the assignment,

1 the assessor shall assign trust land outside a municipality to the nearest municipality;

2 (2) the number of acres of land identified in (a) of this section in each geographic
3 area to which the land is assigned by the state assessor shall be divided by the total number of
4 acres identified in AS 37.14.013(a)(3) to determine the weighting factor;

5 (3) the weighting factor for each area shall be multiplied by the average
6 percentage change in land values in the geographic area since the last valuation, as determined
7 by the Department of Community and Regional Affairs under the full value determination
8 procedure specified in AS 14.17.140, to determine the weighted value change for that area;

9 (4) all of the weighted value changes shall be added together to determine the
10 revaluation factor, expressed as a decimal; and

11 (5) one plus the revaluation factor shall be multiplied by the previous total value
12 of the land identified in AS 37.14.013(a)(3) to arrive at the redetermined value of the land
13 identified in AS 37.14.013(a)(3).

14 Sec. 37.14.019. ENFORCEMENT OF PAYMENTS DUE THE TRUST. (a) If the state
15 fails to make a payment required under AS 37.14.015 or 37.14.017, the chief executive officer
16 of the authority shall notify each of the following of the state's failure to make the payment:

17 (1) the governor;

18 (2) the commissioner of revenue;

19 (3) the president of the senate; and

20 (4) the speaker of the house of representatives.

21 (b) The notice shall be in writing and must include a statement of the remedies available
22 to the authority to secure enforcement of its claim for payment.

23 (c) If payment is not made within 15 days after giving notice under (a) of this section,
24 the chair of the board shall convene the board to determine whether the authority shall exercise
25 its rights under this section to collect the payment.

26 (d) If authorized by the board, the authority may apply to the superior court to require
27 payment. If the court determines that a payment due has not been made, the court shall issue
28 a judgment and order to the state, determining the amount of the payment that is due and
29 directing that payment be made. In a proceeding under this subsection, the court is limited to
30 a determination of whether a payment due the authority is due and unpaid and the amount that
31 is due and unpaid. The court shall include in the judgment the authority's full attorney fees. The

1 judgment bears interest at the rate of 10.5 percent per year. The clerk of the court shall provide
2 copies of a judgment and order entered under this subsection to the officials named in (a) of this
3 section.

4 (e) If a judgment and order is issued under (d) of this section while the legislature is in
5 session, the state shall make the payment required by the order within 30 days of the date of the
6 order. If the judgment and order is issued while the legislature is not in session, the state shall
7 make the payment required by the order within 60 days of the date of the order.

8 (f) If, at the end of the period allowed under (e) of this section, the state has failed to
9 satisfy a judgment and order issued under (d) of this section, and if the action is authorized by
10 the board, the authority may apply for and obtain from the court a writ of attachment or writ of
11 execution against the state in the amount due under the judgment and order. The authority

12 (1) shall first attempt to satisfy a writ of execution or attachment out of the bank
13 or other financial accounts of the state;

14 (2) shall, if the judgment and order is not fully satisfied on return of a writ under
15 (1) of this subsection, execute against unencumbered real property of the state;

16 (3) shall, if the judgment and order is not fully satisfied on return of writs under
17 (1) and (2) of this subsection, petition the court to issue an order providing that the authority
18 shall manage the land identified in AS 37.14.013(a)(3) to fulfill the purposes of the trust without
19 regard to its legislatively-designated purpose and receive the income from that land;

20 (4) may, if the judgment and order is not fully satisfied after exhausting the
21 remedies under (1) - (3) of this subsection, foreclose on any security that the authority may have
22 or use another remedy that may be available to the authority.

23 * Sec. 11. AS 37.14.021 is repealed and reenacted to read:

24 Sec. 37.14.021. TRUST INCOME ACCOUNT. (a) The mental health trust income
25 account is established as an account separate from the trust corpus.

26 (b) The mental health trust income account consists of money

27 (1) earned by the authority on its investment of the assets of the trust corpus
28 during the fiscal year;

29 (2) received from the state during the fiscal year as interest on the amount paid
30 by the state under AS 37.14.015;

31 (3) received from the state during the fiscal year under AS 37.14.017; and

1 (4) transferred to the account by the board from any source.

2 (c) ~~Money~~ in the mental health trust income account established in (a) of this section
3 shall first be expended by the authority to meet the necessary expenses of the comprehensive
4 service program under AS 47.30.061.

5 (d) The authority may establish subaccounts within the mental health trust income
6 account. *Insert Am VII*

7 * Sec. 12. AS 37.14 is amended by adding new sections to read:

8 Sec. 37.14.026. TRUST LAND CONVEYANCES. (a) The authority may convey trust
9 land to the state or to a person in exchange for land or money.

10 (b) Before the authority conveys land that is part of the trust, and in addition to any other
11 requirements of law, the authority shall negotiate with the conveyee to establish

12 (1) the value of the land to be conveyed and the value of replacement land, if any,
13 to be incorporated into the trust; if the conveyee proposes to exchange trust land for other land,
14 the conveyee shall make available to the trust replacement land that is of at least equal value and
15 with at least equal income production potential at the time of its transfer or conveyance to the
16 trust; or

17 (2) the amount of compensation due the trust for the land conveyed based on the
18 value of that land at the time of its transfer or conveyance from the trust.

19 Sec. 37.14.099. DEFINITIONS. In AS 37.14.001 - 37.14.099,

20 (1) "authority" means the Alaska Mental Health Trust Authority established under
21 AS 47.30.011;

22 (2) "board" means the board of trustees of the authority;

23 (3) "enabling Act" means the Alaska Mental Health Enabling Act of 1956, P.L.
24 84-830, 70 Stat. 709;

25 (4) "land granted under the enabling Act" means

26 (A) that land identified by the Department of Natural Resources to be
27 valued by the commissioner of natural resources under procedures approved by the
28 Interim Mental Health Trust Commission more specifically described in documents
29 labeled "Exhibit A" and attached to each of the re-notices of lis pendens that were
30 recorded in September 1990 at

31 (i) book 2073, pages 388 - 416, Anchorage Recording Office;

- 1 (ii) book 62, pages 394 - 399, Cordova Recording Office;
2 (iii) book 677, pages 62 - 100, Fairbanks Recording Office;
3 (iv) book 19, pages 926 - 954, Haines Recording Office
4 (v) book 201, pages 488 - 491, Homer Recording Office;
5 (vi) book 335, pages 748 - 765, Juneau Recording Office;
6 (vii) book 371, pages 117 - 158, Kenai Recording Office;
7 (viii) book 181, pages 728 - 757, Ketchikan Recording Office;
8 (ix) book 102, pages 869 - 872, Kodiak Recording Office;
9 (x) book 25, pages 195 - 198, McKinley Recording Office;
10 (xi) book 46, pages 001 - 023, Nenana Recording Office;
11 (xii) book 16, pages 393 - 397, Nulato Recording Office;
12 (xiii) book 629, pages 869 - 916, Palmer Recording Office;
13 (xiv) book 35, pages 518 - 534, Petersburg Recording Office;
14 (xv) book 31, pages 621 - 626, Seldovia Recording Office;
15 (xvi) book 90, pages 524 - 538, Sitka Recording Office;
16 (xvii) book 6, pages 286 - 294, Skagway Recording Office;
17 (xviii) book 131, pages 585 - 590, Talkeetna Recording Office;
18 (xix) book 18, pages 643 - 650, Wrangell Recording Office; and

19 (B) all land approved for conveyance and patented under sec. 202 of the
20 enabling Act after September 7, 1987;

21 (5) "legislatively-designated land" means land granted under the enabling Act and
22 subsequently designated by law as a state park, state forest, state game refuge, state wildlife
23 refuge, state game sanctuary, state recreational area, state recreational river, state wilderness park,
24 state marine park, state special management area, state public use area, critical habitat area, bald
25 eagle preserve, bison range, or moose range.

26 * Sec. 13. AS 38.05.800 is repealed and reenacted to read:

27 Sec. 38.05.800. ADMINISTRATION OF CERTAIN LAND WITHIN THE MENTAL
28 HEALTH TRUST. Unless management is transferred to the Alaska Mental Health Trust
29 Authority under AS 37.14.019(f)(3), the department shall manage land identified in
30 AS 37.14.013(a)(3) on behalf of the Alaska Mental Health Trust Authority and under the
31 provisions of AS 37.14.017 for the land's legislatively-designated purpose. The state shall

1 continue to manage the land and its resources in accordance with state law and policy. The
2 management authority of the state includes

3 (1) the right to issue permits, rights-of-ways, mining leases, oil and gas leases,
4 coal leases, and timber contracts;

5 (2) the right to take other actions that do not constitute a conveyance in fee
6 simple; and

7 (3) the right to receive the income from the land managed.

8 * Sec. 14. AS 39.25.120(c)(9) is amended to read:

9 (9) the principal executive officer of the following boards, councils, or
10 commissions:

11 (A) Alaska Public Broadcasting Commission;

12 (B) Professional Teaching Practices Commission;

13 (C) Parole Board;

14 (D) Board of Nursing;

15 (E) Real Estate Commission;

16 (F) Alaska Royalty Oil and Gas Development Advisory Board;

17 (G) Alaska Historical Commission;

18 (H) Alaska State Council on the Arts;

19 (I) Alaska Police Standards Council;

20 (J) Older Alaskans Commission;

21 (K) Alaska Mental Health Board;

22 (L) State Medical Board;

23 (M) Governor's Council for the Handicapped and Gifted;

24 (N) Advisory Board on Alcoholism and Drug Abuse;

25 * Sec. 15. AS 41.15 is amended by adding a new section to read:

26 Sec. 41.15.025. FIRE PROTECTION ON MENTAL HEALTH TRUST LAND. Land
27 that is included in the corpus of the trust established by the Alaska Mental Health Enabling Act
28 of 1956 is, for the purpose of wild fire suppression, land owned by the state, and the state
29 remains responsible for providing and paying for suppression of wild fires on that land.

30 * Sec. 16. AS 44.21.230(a) is amended to read:

31 (a) The commission shall

1 (1) formulate a comprehensive statewide plan that identifies the concerns and
2 needs of older Alaskans and, with reference to the plan adopted, prepare and submit to the
3 governor and legislature an annual analysis and evaluation of the services that are provided to
4 older Alaskans;

5 (2) make recommendations directly to the governor and legislature with respect
6 to legislation, regulations, and appropriations for programs or services that benefit older Alaskans;

7 (3) encourage and aid the development of municipal commissions serving older
8 Alaskans and community-oriented programs and services for the benefit of older Alaskans;

9 (4) employ an executive director who serves at the pleasure of the commission;

10 (5) help older Alaskans lead dignified, independent, and useful lives;

11 (6) request and receive reports and audits from state agencies and local institutions
12 concerned with the conditions and needs of older Alaskans;

13 (7) administer, with the approval of the commissioner of administration, federal
14 programs as provided under 42 U.S.C. 3001 - 3045i (Older Americans Act), as amended;

15 (8) administer, with the approval of the commissioner of administration, state
16 programs as provided under AS 47.65; [AND]

17 (9) give assistance, on request, to the senior housing office in the Department of
18 Community and Regional Affairs in administration of the senior housing loan program under
19 AS 44.47.587 - 44.47.609 and in the performance of the office's other duties under
20 AS 44.47.585; and

21 (10) provide recommendations to the Alaska Mental Health Trust Authority
22 concerning the necessary expenses of the comprehensive service program for the
23 beneficiaries of the trust who are described in AS 47.30.061(c)(4) and the use of the money
24 in the mental health trust income account in a manner consistent with AS 47.30.061; in
25 making recommendations affecting the trust, members of the commission assume a duty of
26 loyalty to the trust equivalent to the responsibilities of a private trustee.

27 * Sec. 17. AS 44.29.020 is amended to read:

28 Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social
29 Services shall administer the state programs of public health and social services, including:

30 (1) maternal and child health services;

31 (2) preventive medical services;

- 1 (3) public health nursing services;
- 2 (4) nutrition services;
- 3 (5) health education;
- 4 (6) laboratories;
- 5 (7) mental health in a manner consistent with the comprehensive service
- 6 program plan adopted by the Alaska Mental Health Trust Authority [TREATMENT AND
- 7 DIAGNOSIS];
- 8 (8) management of state institutions, except for adult penal institutions;
- 9 (9) medical facilities;
- 10 (10) adult public assistance;
- 11 (11) aid to families with dependent children;
- 12 (12) child welfare services;
- 13 (13) general relief; and
- 14 (14) licensing and supervision of child care facilities.

15 * Sec. 18. AS 44.29.022 is amended by adding a new subsection to read:

16 (d) A regulation that establishes a fee for services under AS 44.29.020(a)(7) that affect
17 the comprehensive service program for beneficiaries of the trust established under the Alaska
18 Mental Health Enabling Act of 1956 may not be adopted under this section unless it has been
19 approved by the Alaska Mental Health Trust Authority.

20 * Sec. 19. AS 44.29.024 is amended by adding a new subsection to read:

21 (c) A regulation that establishes a schedule of reasonable fees for services provided by
22 a contractor or grantee that affect the comprehensive service program for beneficiaries of the trust
23 established under the Alaska Mental Health Enabling Act of 1956 may not be adopted under this
24 section unless it has been approved by the Alaska Mental Health Trust Authority.

25 * Sec. 20. AS 44.29.100 is amended to read:

26 Sec. 44.29.100. ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE. There
27 is established in the Department of Health and Social Services an advisory board on alcoholism
28 and drug abuse. [THE BOARD SHALL FUNCTION AS A STANDING COMMITTEE OF THE
29 STATEWIDE HEALTH COORDINATING COUNCIL ESTABLISHED UNDER AS 18.07.011.]

30 * Sec. 21. AS 44.29.110 is amended to read:

31 Sec. 44.29.110. COMPOSITION. The board consists of 10 [12] members appointed by

1 the governor.

2 * Sec. 22. AS 44.29.115 is amended to read:

3 Sec. 44.29.115. QUALIFICATIONS OF BOARD MEMBERS. The governor shall
4 appoint the 10 [12] members so that the board consists of:

5 (1) one member [TWO MEMBERS] who is [ARE] licensed to practice medicine
6 in the state [, ONE OF WHOM IS CERTIFIED IN PSYCHIATRY BY THE AMERICAN
7 BOARD OF PSYCHIATRY AND NEUROLOGY];

8 (2) one member who is admitted to practice law in the state [ALASKA];

9 (3) four members who are chronic alcoholics with psychoses who are
10 recovering; and

11 (4) four [EIGHT] members who have shown an interest in the problems of
12 alcoholism or drug abuse and who have knowledge of the social problems associated with
13 alcoholism or drug abuse [; AND

14 (4) ONE MEMBER WHO IS A REPRESENTATIVE OF THE LIQUOR INDUSTRY].

15 * Sec. 23. AS 44.29 is amended by adding a new section to read:

16 Sec. 44.29.135. OFFICERS AND STAFF. (a) The board, by a majority of its
17 membership, shall annually elect a chair and other officers it considers necessary from among
18 its membership.

19 (b) The board shall have a paid staff provided by the department, including an executive
20 director who shall be selected by the board. The executive director is in the partially exempt
21 service and shall be compensated at no less than range 21 of the pay plan for state employees
22 under AS 39.27.011(a). The executive director may hire additional employees in the classified
23 service of the state. The department shall provide for the assignment of personnel to the board
24 to ensure the board has the capacity to fulfill its responsibilities. The executive director of the
25 board shall be directly responsible to the board in the performance of the director's duty.

26 * Sec. 24. AS 44.29.140 is amended to read:

27 Sec. 44.29.140. DUTIES. The board shall

28 (1) act in an advisory capacity to the legislature, the governor, and state
29 agencies [COMMISSIONER OF HEALTH AND SOCIAL SERVICES] in the following matters:

30 (A) [(1)] special problems affecting mental health that alcoholism or drug
31 abuse may present;

1 **(B)** [(2)] educational research and public informational activities
2 [CONDUCTED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES
3 AND OTHERS] in respect to the problems presented by alcoholism or drug abuse;

4 **(C)** [(3)] social problems that affect rehabilitation of alcoholics and drug
5 abusers;

6 **(D)** [(4)] legal processes that affect the treatment and rehabilitation of
7 alcoholics and drug abusers;

8 **(E)** [(5)] development of programs of prevention, treatment, and
9 rehabilitation for alcoholics and drug abusers; **and**

10 **(F)** [(6)] REVIEW OF APPLICATIONS AND SUBSEQUENT
11 RECOMMENDATIONS TO THE COMMISSIONER OF HEALTH AND SOCIAL
12 SERVICE; ON USE OF FUNDS FOR GRANTS FOR LOCAL ALCOHOLISM OR
13 DRUG ABUSE PROJECTS AND PROGRAMS;

14 (7)] evaluation of effectiveness of alcoholism and drug abuse programs in the
15 state;

16 **(2) make recommendations to the Alaska Mental Health Trust Authority**
17 **concerning the use of money in the mental health trust income account for the benefit of**
18 **chronic alcoholics suffering from psychosis; in making recommendations affecting the**
19 **mental health trust, the members of the board assume a duty of loyalty to the mental health**
20 **trust equivalent to the responsibilities of a private trustee.**

21 * Sec. 25. AS 44.29.140 is amended by adding new subsections to read:

22 (b) The board is the state planning and coordinating body for purposes of federal and
23 state laws relating to alcohol and drug abuse prevention and treatment services.

24 (c) The board shall prepare and maintain a comprehensive plan of services for the
25 prevention and treatment of alcohol and drug abuse.

26 * Sec. 26. AS 47.30 is amended by adding new sections to read:

27 Sec. 47.30.011. ALASKA MENTAL HEALTH TRUST AUTHORITY. (a) The Alaska
28 Mental Health Trust Authority is established as a public corporation of the state that has a legal
29 existence independent of and separate from the state.

30 (b) The purpose of the authority is to ensure an integrated comprehensive mental health
31 program for the people of the state.

1 (c) The authority

2 (1) serves under AS 37.14.001 - 37.14.099 as the trustee of the trust established
3 under the Alaska Mental Health Enabling Act of 1956, and of the mental health trust income
4 account established under AS 37.14.021;

5 (2) may sue and be sued;

6 (3) may retain the services of independent counsel when, in the judgment of the
7 authority's board of trustees, independent counsel is needed;

8 (4) shall insure or indemnify and protect the board, a member of the board, or an
9 agent or employee of the authority against financial loss and expense, including reasonable legal
10 fees and costs, arising out of a claim, demand, suit, or judgment by reason of alleged negligence,
11 alleged violation of civil rights, or alleged wrongful act resulting in death or bodily injury to a
12 person or accidental damage to or destruction of property if the board member, agent, or
13 employee, at the time of the occurrence, was acting under the direction of the authority within
14 the course or scope of the duties of the board member, agent, or employee; and

15 (5) is exempt from AS 36.30 (State Procurement Code).

16 (d) The provisions of AS 44.62.330 - 44.62.630 do not apply to the Alaska Mental Health
17 Trust Authority.

18 Sec. 47.30.016. MEMBERSHIP OF THE BOARD. (a) The authority shall be governed
19 by its board of trustees.

20 (b) The board consists of nine members appointed by the governor ~~and subject to~~
21 legislative confirmation.] The members shall be appointed

22 (1) based upon their recognized expertise or experience in financial management
23 and investment, in land management, or in services for the beneficiaries of the trust;

24 (2) from a list of persons prepared by a panel of five persons who are
25 beneficiaries, or who are the guardians, family members, or representatives of beneficiaries; the
26 panel consists of

27 (A) one person selected by the Alaska Mental Health Board
28 (AS 47.30.661);

29 (B) one person selected by the Governor's Council for the Handicapped
30 and Gifted (AS 47.80.030);

31 (C) one person selected by the Advisory Board on Alcoholism and Drug

1 Abuse (AS 44.29.110);

2 (D) one person selected by the Older Alaskans Commission
3 (AS 44.21.200); and

4 (E) one person selected by the authority.

5 (c) A member of the board may not

6 (1) be an officer or employee of the state; or

7 (2) within the preceding year or during the member's term of office have had an
8 interest in, served on the governing board of, or been employed by an organization that has an
9 interest in, a contract entered into by the authority.

10 (d) A quorum of the board is five members.

11 (e) Members of the board

12 (1) receive an honorarium of \$400 for each day or any part of a day spent at a
13 meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the
14 board; the honorarium under this paragraph shall be adjusted annually for the effect of inflation
15 as measured by the change in the calendar year average United States Consumer Price Index for
16 all urban consumers or, if that index no longer exists, an equivalent index; and

17 (2) are entitled to per diem and travel expenses authorized for boards and
18 commissions under AS 39.20.180.

19 Sec. 47.30.021. TERM OF OFFICE, VACANCIES, AND REMOVAL. (a) Members
20 of the board serve staggered five-year terms. A member shall continue to serve until the
21 member's successor is appointed and confirmed.

22 (b) A vacancy occurring in the membership of the board of trustees of the authority shall
23 be filled within 60 days by appointment of the governor for the unexpired portion of the vacated
24 term.

25 (c) The governor may remove a member of the board only for cause, including
26 incompetence, neglect of duty, misconduct in office, poor attendance, or lack of contribution to
27 the board's work. A member being removed for cause shall be given a copy of the charges and
28 afforded an opportunity to publicly present a defense in person or by counsel upon not less than
29 10 days' written notice. If a member is removed for cause, the governor shall file with the
30 lieutenant governor a complete statement of all charges made against the member and the
31 governor's findings based on the charges, together with a complete record of the proceedings.

1 The removal of a member for cause constitutes a final administrative order. A member seeking
2 to appeal the governor's removal of a member for cause under this subsection shall file a notice
3 of appeal with the superior court under AS 44.62.560.

4 (d) Except for a trustee who has served two consecutive five-year terms, a member of
5 the board may be reappointed. A member of the board who has served two consecutive five-year
6 terms is not eligible for reappointment to the board until one year has intervened.

7 **Sec. 47.30.026. OFFICERS AND STAFF.** (a) The board shall annually elect a chair
8 and other officers it considers necessary from among its membership.

9 (b) The board shall employ a chief executive officer who shall be selected by the board.
10 The chief executive officer shall be compensated at no less than range 26 of the pay plan for
11 state employees under AS 39.27.011(a). The chief executive officer may

12 (1) hire additional employees;

13 (2) appoint hearing officers to perform the responsibilities set out in
14 AS 47.30.031(b)(7); and

15 (3) contract for the services of consultants and others.

16 (c) The chief executive officer is directly responsible to the board for the performance
17 of the director's duties.

18 **Sec. 47.30.031. REGULATIONS.** (a) The board shall adopt regulations under the
19 Administrative Procedure Act (AS 44.62) consistent with state law and the fiduciary
20 responsibilities imposed by law on members of boards of directors of corporations having trust
21 responsibilities.

22 (b) The regulations shall address, but are not limited to,

23 (1) the requirements of AS 47.30.061(i) and (k);

24 (2) provisions governing the administration and management of the mental health
25 trust corpus and mental health trust income account under AS 37.14.001 - 37.14.099;

26 (3) provisions concerning the equitable distribution of the earnings of the trust;

27 (4) procedures by which an aggrieved person or group who believe they have not
28 received services that should be provided from the trust may apply to the authority for the
29 provision of the service from trust funds;

30 (5) procedures by which income earned through the provision of trust funded
31 services by any entity can be used to augment or enhance the entity's services;

1 (6) provisions that allow and encourage entities providing trust funded services
2 to integrate those services with other community human services funded by other sources;

3 (7) administrative adjudication procedures, including but not limited to

4 (A) the acceptance of applications under (4) of this subsection;

5 (B) investigations;

6 (C) hearings; and

7 (D) the issuance of administrative orders, as necessary; and

8 (8) procurement procedures.

9 Sec. 47.30.036. DUTIES OF THE BOARD. The board shall

10 (1) preserve and protect the trust corpus in perpetuity;

11 (2) use the trust income to

12 (A) defray the necessary operating and capital expenses of the trust
13 program under AS 47.30.061(a)(1); and

14 (B) meet the annual administrative expenses of the authority;

15 (3) determine and budget for the necessary expenses of the comprehensive service
16 program for the beneficiaries of the trust by producing and annually updating a long range
17 comprehensive trust program plan including

18 (A) forecasts of the number of persons needing services;

19 (B) projections of the resources required to provide the necessary services
20 and facilities;

21 (C) reviews of the status of the comprehensive service program for the
22 beneficiaries of the trust and evaluations of its effectiveness; and

23 (D) program goals, objectives, targets, and time lines;

24 (4) coordinate with other state agencies involved with programs affecting persons
25 in need of mental health services;

26 (5) adopt bylaws governing its meetings, selection of officers, proceedings, and
27 other aspects of board procedure; and

28 (6) make an annual written report of its activities to the legislature, governor, and
29 the public.

30 Sec. 47.30.041. INDIVIDUAL RESPONSIBILITIES OF TRUSTEES. (a) By accepting
31 appointment to the board a person accepts the position as co-trustee of the trust and recognizes

1 that, in exercising its powers, duties, and responsibilities, the board is under a duty to the public
2 and the trust beneficiaries to

3 (1) administer the trust solely in the interests of the beneficiaries;

4 (2) keep and render clear and accurate accounts with respect to the administration
5 of the trust;

6 (3) make public and available complete and accurate information as to the nature
7 and amount of the trust property;

8 (4) exercise an equal or higher degree of care in administering the trust than in
9 the management of the person's own personal business;

10 (5) take reasonable steps to take and keep control of the trust property;

11 (6) use care and skill to preserve the trust property;

12 (7) take reasonable steps to realize on claims that are held in the trust;

13 (8) defend against actions that may result in a loss to the trust estate, unless under
14 all the circumstances, considering the other duties owed to the trust, it is reasonable not to make
15 that defense;

16 (9) keep trust property separate from the person's own property;

17 (10) keep trust property separate from other property not subject to the trust so
18 far as it is reasonable to do so;

19 (11) see that trust property is designated as property of the trust;

20 (12) use care in selecting the bank when making general deposits of trust money
21 in a bank, and properly identify the deposit as a deposit by the authority as trustee;

22 (13) use care and skill to make the trust property productive; however, nothing
23 in this paragraph shall prevent the authority from using trust property directly or indirectly, by
24 contractual stipulation or otherwise as a component of the state's mental health program;

25 (14) use the income of the trust to pay for the necessary expenses of the
26 comprehensive service program for the beneficiaries of the trust;

27 (15) deal impartially with the different trust beneficiaries under the priorities set
28 out in AS 47.30.061; and

29 (16) participate in the administration of the trust with the other members of the
30 board, and use care to prevent a co-trustee from committing a breach of trust or to compel a co-
31 trustee to redress a breach of trust.

1 (b) By accepting appointment to the board, a person accepts the position as co-trustee
2 of the trust and recognizes that, in exercising its powers, duties, and responsibilities, the board
3 is otherwise subject to the same fiduciary duties as a private trustee under private trust law
4 principles.

5 Sec. 47.30.046. MANAGEMENT OF MENTAL HEALTH TRUST INCOME
6 ACCOUNT. The board shall insert reference to Authority's budget

7 (1) being subject to Exec. Funded Act
8 a determination of the amount

9 (A) to be expended from the mental health trust income account to

10 (i) meet the administrative expenses of the authority;

11 (ii) offset the effect of inflation on the value of the trust corpus as
12 required under AS 37.14.006(b); and

13 (iii) meet the necessary operating and capital expenses of the
14 comprehensive service program for the beneficiaries of the trust;

15 (B) needed from the general fund, if any, that is required during the next
16 fiscal year to meet the necessary operating and capital expenses of the comprehensive
17 service program for the beneficiaries of the trust; and

18 (C) estimated to be surplus, if any, in the mental health trust income
19 account for transfer into the general fund on September 15; and

20 (2) annually, not later than September 15, transfer the surplus, if any, in the
21 mental health trust income account that is not reasonably or foreseeably needed to meet the
22 necessary operating and capital expenses of the comprehensive service program for the
23 beneficiaries of the trust into the general fund to be used for other public purposes.

24 Sec. 47.30.051. AUTHORITY ADMINISTRATIVE BUDGET. (a) By December 15
25 of each year, the authority shall prepare and submit to the legislature for its approval a proposed
26 budget to meet the authority's administrative expenses for the next fiscal year.

27 (b) The authority may not spend money for administrative expenses except as approved
28 by the legislature unless the expenditure has been approved by the court as necessary to fulfill
29 the purposes of the trust and the duties of the trustees.]

30 Sec. 47.30.056. SUBMISSIONS REQUIRING USE OF TRUST MONEY. An agency
31 or entity proposing an expenditure of money by the trust must present its proposal to the

1 authority under regulations adopted under AS 47.30.031.

2 Sec. 47.30.061. USE OF MONEY IN THE MENTAL HEALTH TRUST INCOME
3 ACCOUNT. (a) The authority shall use money in the mental health trust income
4 established in AS 37.14.021 to

5 (1) provide a comprehensive program of services as required by this section; and

6 (2) meet the authority's annual administrative expenses.

7 (b) In making expenditures under (a)(1) of this section, the authority shall guarantee a
8 priority in service delivery to persons identified in this section who, as a result of a disorder
9 identified in this section,

10 (1) may require or are at risk of hospitalization; or

11 (2) experience such major impairment of self-care, self-direction, or social and
12 economic functioning that they require continuing or intensive services.

13 (c) The comprehensive program of services funded by the trust shall provide services
14 needed by

15 (1) the mentally ill;

16 (2) the mentally defective and retarded;

17 (3) chronic alcoholics suffering from psychoses; and

18 (4) senile people who as a result of their senility suffer major mental illness.

19 (d) In (c) of this section, "the mentally ill" includes persons with the following mental
20 disorders:

21 (1) schizophrenia;

22 (2) delusional (paranoid) disorder;

23 (3) mood disorders;

24 (4) anxiety disorders;

25 (5) somatoform disorders;

26 (6) organic mental disorders;

27 (7) personality disorders;

28 (8) dissociative disorders;

29 (9) other psychotic or severe and persistent mental disorders manifested by
30 behavioral changes and symptoms of comparable severity to those manifested by persons with
31 mental disorders listed in this subsection; and

1 (10) persons who have been diagnosed by a licensed psychologist, psychiatrist,
2 or physician licensed to practice medicine in the state and, as a result of the diagnosis, have been
3 determined to have a childhood disorder manifested by behaviors or symptoms suggesting risk
4 of developing a mental disorder listed in this subsection.

5 (e) In (c) of this section, "the mentally defective and retarded" includes persons with the
6 following neurologic or mental disorders:

- 7 (1) cerebral palsy;
- 8 (2) epilepsy;
- 9 (3) mental retardation;
- 10 (4) autistic disorder;
- 11 (5) severe organic brain impairment;
- 12 (6) significant developmental delay during early childhood indicating risk of
13 developing a disorder listed in this subsection;
- 14 (7) other severe and persistent mental disorders manifested by behaviors and
15 symptoms similar to those manifested by persons with disorders listed in this subsection.

16 (f) In (c) of this section, "chronic alcoholics suffering from psychoses" includes persons
17 with the following disorders:

- 18 (1) alcohol withdrawal delirium (delirium tremens);
- 19 (2) alcohol hallucinosis;
- 20 (3) alcohol amnestic disorder;
- 21 (4) dementia associated with alcoholism;
- 22 (5) alcohol-induced organic mental disorder;
- 23 (6) alcoholic depressive disorder;
- 24 (7) other severe and persistent disorders associated with a history of prolonged
25 or excessive drinking or episodes of drinking out of control and manifested by behavioral
26 changes and symptoms similar to those manifested by persons with disorders listed in this
27 subsection.

28 (g) In (c) of this section, "senile people who as a result of their senility suffer major
29 mental illness" includes persons with the following mental disorders:

- 30 (1) primary degenerative dementia of the Alzheimer type;
- 31 (2) multi-infarct dementia;

1 (3) senile dementia;
2 (4) presenile dementia;
3 (5) other severe and persistent mental disorders manifested by behaviors and
4 symptoms similar to those manifested by persons with disorders listed in this subsection.

5 (h) Persons not included in (b) and (c) of this section may be provided services under
6 the comprehensive service program to be paid for from the trust provided the authority
7 determines that the provision of services is consistent with its obligation as trustee under (b) and
8 (c) of this section.

9 (i) The authority shall adopt regulations defining the disorders identified in this section
10 to reflect revisions in the diagnostic nomenclature of the health professions serving the
11 beneficiaries of the trust. The authority shall review and revise the regulations as necessary.
12 Regulations adopted under this subsection must be in the long term best interest of the trust and
13 of persons with disorders equivalent to those identified in (b) and (c) of this section.

14 (j) In this section, "a comprehensive service program" includes, at a minimum, each of
15 the following services for the beneficiaries of the trust as appropriate:

16 (1) emergency services on a 24-hour basis;

17 (2) screening examination and evaluation services required to complete the
18 involuntary commitment process under AS 47.30.700 - 47.30.815;

19 (3) inpatient care;

20 (4) crisis stabilization services, which may include:

21 (A) active community outreach;

22 (B) in-hospital contact;

23 (C) mobile crisis teams of mental health professionals;

24 (D) crisis beds to provide a short term residential program for persons
25 experiencing an acute episode of mental illness that requires temporary removal from a
26 home environment;

27 (5) treatment services, which may include

28 (A) diagnosis, testing, and evaluation of medical needs;

29 (B) medication monitoring;

30 (C) physical examinations;

31 (D) dispensing psychotropic and other medication;

- 1 (E) detoxification;
- 2 (F) individual or group therapy;
- 3 (G) aftercare;
- 4 (6) case management, which may include
- 5 (A) evaluation of needs;
- 6 (B) development of individualized treatment plans;
- 7 (C) enhancement of access to available resources and programs;
- 8 (D) development of interagency contacts and family involvement;
- 9 (E) advocacy;
- 10 (7) daily structure and support, which may include
- 11 (A) daily living skills training;
- 12 (B) socialization activities;
- 13 (C) recreation;
- 14 (D) transportation;
- 15 (E) day care services;
- 16 (F) client and care provider education and support services;
- 17 (8) residential services, which may include
- 18 (A) crisis or respite care;
- 19 (B) board and care;
- 20 (C) foster care, group homes, halfway houses, or supervised apartments;
- 21 (D) intermediate care facilities;
- 22 (E) long term care facilities;
- 23 (F) in-home care;
- 24 (9) vocational services, which may include
- 25 (A) prevocational services;
- 26 (B) work adjustment;
- 27 (C) supported work;
- 28 (D) sheltered work;
- 29 (E) training in which participants achieve useful work experience;
- 30 (10) outpatient screening, diagnosis, and treatment services, including individual,
- 31 family, and group psychotherapy, counseling, and referral; and

1 (11) administrative services, including appropriate operating expenses of state
2 agencies and other service providers.

3 (k) The authority shall adopt regulations regarding the services described in (j) of this
4 section to reflect advances in the appropriate professions serving the beneficiaries of the trust.
5 The authority shall review and revise the regulations as necessary. Regulations adopted under
6 this subsection must be in the long term best interest of the mental health trust.

7 Sec. 47.30.066. DEFINITIONS. In AS 47.30.011 - 47.30.066,

8 (1) "authority" means the Alaska Mental Health Trust Authority established by
9 AS 47.30.011;

10 (2) "board" means the board of trustees of the authority;

11 (3) "trust" means the trust established by the Alaska Mental Health Enabling Act
12 of 1956, P.L.84-830, 70 Stat.709.

13 * Sec. 27. AS 47.30 is amended by adding a new section to read:

14 Sec. 47.30.472. POWERS AND DUTIES OF ALASKA MENTAL HEALTH TRUST
15 AUTHORITY. The Alaska Mental Health Trust Authority established by AS 47.30.011

16 (1) shall include within the plan for the comprehensive service program for the
17 beneficiaries of the mental health trust the services and facilities that are necessary for the care
18 and treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in
19 AS 47.30.061(f); in preparing the plan of services for persons identified in this paragraph, the
20 authority shall coordinate with the Advisory Board on Alcoholism and Drug Abuse;

21 (2) shall use money in the mental health trust income account established under
22 AS 37.14.021 to provide the necessary services identified in (1) of this section and in accordance
23 with AS 47.30.061;

24 (3) may accept and deposit in accounts established for that purpose, grants from
25 the federal government or gifts or contributions from other sources to assist in implementing this
26 section.

27 * Sec. 28. AS 47.30.520 is amended to read:

28 Sec. 47.30.520. LEGISLATIVE PURPOSE. It is the purpose of the [LEGISLATURE
29 IN ENACTING THE] Community Mental Health Services Act to

30 (1) [TO] provide a range of community based inpatient, outpatient, and
31 support services for persons with mental disorders;

1 (2) [OR EMOTIONAL DISTURBANCES AND TO] assist [LOCAL]
2 communities in planning, organizing, and financing community mental health services through
3 locally developed, administered, and controlled community mental health programs;

4 (3) [. IT IS FURTHER INTENDED TO] better develop and use [UTILIZE
5 EXISTING] resources at both state and local levels;

6 (4) [IN ORDER TO (1)] develop and implement plans for comprehensive
7 [INITIATING MAXIMUM] mental health services based on demonstrated need on a regional
8 basis [FOR SERVICES IN EACH GEOGRAPHICAL PLANNING AREA, AS WELL AS
9 REGIONALIZED COMPREHENSIVE MENTAL HEALTH SERVICES];

10 (5) [(2)] improve the effectiveness of existing mental health services;

11 (6) [(3)] integrate state-operated and community mental health programs into a
12 unified mental health system;

13 (7) ensure that consumers, families, and representatives of [(4)] PROVIDE A
14 MEANS FOR PARTICIPATION BY LOCAL] communities within mental health planning
15 regions can participate in determining [THE DETERMINATION OF] the need for and the
16 allocation of mental health resources;

17 (8) [(5)] ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
18 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH SERVICES;

19 (6)] provide a means of allocating money available for state mental health
20 services [FUNDS] according to community needs;

21 (9) [(7)] encourage the full use of all existing public or private agencies, facilities,
22 personnel, and funds to accomplish these objectives; and

23 (10) [(8)] prevent unnecessary duplication and fragmentation of services and
24 expenditures.

25 * Sec. 29. AS 47.30 is amended by adding new sections to read:

26 Sec. 47.30.523. COMMUNITY MENTAL HEALTH PROGRAM POLICY AND
27 PRINCIPLES. (a) It is the policy of the state that

28 (1) the community mental health program provide a comprehensive and integrated
29 system of community based facilities, supports, and mental health services including child and
30 adolescent screening and diagnosis, inpatient, outpatient, prevention, consultation, and education
31 services;

1 (2) persons most in need of community mental health services be afforded an
2 enforceable priority for receiving appropriate services;

3 (3) the community mental health program be coordinated, to the maximum extent
4 possible, with the programs established under AS 47.37, AS 47.65, AS 47.80, and other programs
5 affecting the well being of persons in need of mental health services.

6 (b) Community mental health program service delivery principles include the principles
7 that persons

8 (1) have ready and prompt access to necessary screening, diagnosis, and treatment;

9 (2) receiving community mental health services be informed of their rights,
10 including their rights to confidentiality and to treatment with dignity;

11 (3) be provided community mental health services by staff and programs that
12 reflect the culture, linguistic, and other social characteristics of their community and that
13 incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and
14 treatment needs;

15 (4) in need of community mental health services, and their families, be
16 encouraged to participate in formulating, delivering, and evaluating treatment and rehabilitation;

17 (5) in need of community mental health services be provided treatment and
18 rehabilitation services designed to minimize institutionalization and maximize individual potential;

19 (6) be treated in the least restrictive alternative environment consistent with their
20 treatment needs, enabling the person to live as normally as possible;

21 (7) be provided necessary treatment as close to the person's home as possible;

22 (8) be informed of and allowed to participate in planning their own treatment as
23 much as possible.

24 Sec. 47.30.525. DUTIES OF DIVISION OF MENTAL HEALTH AND
25 DEVELOPMENTAL DISABILITIES. The division of mental health and developmental
26 disabilities shall

27 (1) assist the authority in planning, coordinating, and implementing the mental
28 health program;

29 (2) advise and support the advisory bodies established in AS 47.30.601 and
30 AS 47.80.030 in fulfilling their planning responsibilities related to the mental health program;

31 (3) give technical assistance to entities that provide or propose to provide services

1 funded by the trust;

2 (4) develop and recommend to the authority regulations and standards for mental
3 health services, facilities, and providers;

4 (5) assist the authority by administering grant programs for the delivery of
5 services funded by the trust;

6 (6) at least biennially, obtain for the authority financial and performance audits
7 of each entity providing services funded by the mental health trust income account;

8 (7) operate mental health programs and facilities ^[as directed by] the Alaska Mental
9 Health Trust Authority.

Insert: under guidelines
established by

10 * Sec. 30. AS 47.30.540 is amended to read:

11 Sec. 47.30.540. ELIGIBLE LOCAL COMMUNITY ENTITIES. (a) A city or borough
12 government or other political subdivision of the state, a nonprofit corporation, or a combination
13 of these, is eligible to receive funds and administer local programs under AS 47.30.520 -
14 47.30.620. In order to ensure equitable access to funds and programs through the state, the
15 authority [DEPARTMENT] shall determine appropriate geographical areas to be served by local
16 programs in consultation with representatives of the geographical areas in question.

17 (b) An [THE] entity designated by the authority [DEPARTMENT IN THE LOCAL
18 AREA AS THE ORGANIZATIONAL UNIT] to receive money [FUNDS] under AS 47.30.520 -
19 47.30.620 [AND TO ADMINISTER THE PROGRAM] shall ensure a broad base of community
20 support as evidenced by a governing board reasonably representative of the professional, civic,
21 and citizen groups in the community and including persons with mental disorders or family
22 members of persons with mental disorders. No more than two members, or 40 percent of the
23 membership, whichever is greater, may be providers of services under the program. In order to
24 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

25 (1) give priority to mental health programs and services consistent with the
26 priorities set out in AS 47.30.061 and that provide the [HAVE A] maximum services for the
27 least expenditure of money from the mental health trust income account and from other
28 state funds, including consideration of money from other sources [EFFECT ON OTHER TAX
29 FUNDED PROGRAMS];

30 (2) furnish services through a qualified staff meeting reasonable standards of
31 experience and training;

1 (3) conform to a state cost accounting system showing the true cost of services
2 rendered, collect fees for services according to a schedule based on an analysis of reasonable
3 ability to pay, and provide that a person may not be refused services because of inability to pay
4 for those services;

5 (4) maintain adequate clinical and administrative records and furnish periodic
6 reports to the division [DEPARTMENT];

7 (5) furnish the authority and the division [DEPARTMENT] an annual report of
8 the preceding fiscal year, including an evaluation of the effectiveness of the previous year's
9 programs and their costs; and

10 (6) furnish the authority and the division, in accordance with the regulations
11 of the authority, [DEPARTMENT EACH YEAR A] satisfactory needs assessments for the
12 population and area it serves and an annual update of a long-range planning and budget
13 statement that describes program goals for the coming year, the steps and resources necessary
14 to implement the goals, the projected means by which these resources will be secured, and the
15 procedures necessary to evaluate the program; and

16 (7) cooperate with the division to obtain audits required under
17 AS 47.30.525(6).

18 (c) Members of local governing boards may be reimbursed for necessary travel expenses
19 incurred in the organization and operation of local programs as may be determined by the
20 authority [DEPARTMENT].

21 * Sec. 31. AS 47.30.545 is repealed and reenacted to read:

22 Sec. 47.30.545. POPULATIONS TO BE SERVED. The entities designated by the
23 authority to receive money under AS 47.30.540(b) shall provide one or more of the services that
24 are set out in AS 47.30.061(j) to persons identified in AS 47.30.061.

25 * Sec. 32. AS 47.30.547 is amended to read:

26 Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES.
27 An entity that provides community mental health services shall

28 (1) make services available at times and locations that enable residents of the
29 entity's service area to obtain services readily;

30 (2) ensure each client's right to confidentiality and treatment with dignity;

31 (3) establish staffing patterns of qualified and trained personnel that reflect the

1 cultural, linguistic, and other social characteristics of the community and that incorporate
2 multidisciplinary professional staff to meet client functional levels and diagnostic and treatment
3 needs;

4 (4) promote client and family participation in formulating, delivering, and
5 evaluating treatment and rehabilitation;

6 (5) design screening, diagnosis, treatment, and rehabilitation services to
7 maximize individual potential and to minimize institutionalization; and

8 (6) provide services in the least restrictive setting, enabling the person
9 receiving the services to live as normally as possible.

10 * Sec. 33. AS 47.30.550 is amended to read:

11 Sec. 47.30.550. COST SHARING FORMULA; LIMITATIONS. (a) In a district
12 designated by the department as a poverty area, the authority [DEPARTMENT] may pay
13 [FUND] not more than 90 percent of the eligible costs of the [COMMUNITY] mental health
14 services to be furnished by the entity designated to provide the services [UNDER AN
15 ENTITY'S APPROVED PLAN].

16 (b) In a district that has not been designated by the department as a poverty area, the
17 authority [DEPARTMENT] may pay [FUND] not more than 75 percent of the eligible costs of
18 the community mental health services to be furnished by the entity designated to provide the
19 services [UNDER AN ENTITY'S APPROVED PLAN].

20 (c) Notwithstanding (a) and (b) of this section, if the authority [DEPARTMENT]
21 determines that sufficient money [FUNDS] from other sources is [ARE] unavailable, then the
22 authority [DEPARTMENT] shall pay [FUND] the percent of the eligible costs that is necessary
23 in order to ensure that services for persons eligible for services under AS 47.30.520 - 47.30.620
24 [CHRONICALLY MENTALLY ILL ADULTS AND SEVERELY MENTALLY ILL
25 CHILDREN, AND OTHER COMMUNITY MENTAL HEALTH SERVICES] to be furnished
26 by the entity designated to provide the services [UNDER AN ENTITY'S APPROVED PLAN]
27 are made available [BY THE ENTITY. FUNDING UNDER THIS SUBSECTION IS SUBJECT
28 TO THE AVAILABILITY OF LEGISLATIVE APPROPRIATIONS FOR THE PURPOSE].

29 (d) Income earned by an entity for services provided [THROUGH A COMMUNITY
30 MENTAL HEALTH PROJECT FUNDED] under AS 47.30.520 - 47.30.620 must [SHALL] be
31 used, as approved by the authority [DEPARTMENT], to augment or enhance the [ENTITY'S

1 MENTAL HEALTH] services provided by the entity.

2 * Sec. 34. AS 47.30.570 is amended to read:

3 Sec. 47.30.570. ELIGIBLE COSTS; MAINTENANCE OF LOCAL EFFORT. The
4 authority [DEPARTMENT] shall adopt regulations specifying the types of services and program
5 costs eligible for financial support payable by the authority [STATE PARTICIPATION].

6 These regulations must include

7 [(1) A PROVISION EXCLUDING CAPITAL EXPENDITURES AS ELIGIBLE
8 COSTS; AND

9 (2)] a requirement that the [COMMUNITY ENTITY] contractor or applicant
10 agrees as a condition of contract approval that it will not supplant existing local financial
11 [FUND] support [OF COMMUNITY MENTAL HEALTH SERVICES] with money [FUNDS]
12 received under AS 47.30.520 - 47.30.620 and that it will continue local financial [FUNDING]
13 support of the [COMMUNITY MENTAL HEALTH] services, in any year in which it contracts
14 with the authority [DEPARTMENT], at a level that is at least equal to the local financial
15 [FUNDING] support in the previous year.

16 * Sec. 35. AS 47.30.590 is amended to read:

17 Sec. 47.30.590. PATIENT RIGHTS AND THE CONFIDENTIAL NATURE OF
18 RECORDS AND INFORMATION. The authority [DEPARTMENT] shall adopt regulations to
19 assure patient rights and to safeguard the confidential nature of records and information about
20 the recipients of services provided under this chapter [AS 47.30.520 - 47.30.620]. The
21 regulations must require that [LOCAL COMMUNITY] entities identified in AS 47.30.540(b)
22 develop and include in any plan submitted for approval adequate provisions for safeguarding
23 confidential information. The [DEPARTMENT'S] regulations must provide for disclosure of
24 confidential information to parents or guardians, to mental health professionals providing
25 services to a recipient, and to other appropriate service agencies when it is in the defined best
26 interests of the patient.

27 * Sec. 36. AS 47.30.610 is repealed and reenacted to read:

28 Sec. 47.30.610. DEFINITIONS. In AS 47.30.520 - 47.30.610,

29 (1) "authority" means the Alaska Mental Health Trust Authority established in
30 AS 47.30.011;

31 (2) "department" means the Department of Health and Social Services;

1 (3) "division" means the division of mental health and developmental disabilities
2 in the Department of Health and Social Services;

3 (4) "persons with mental disorders" means persons with disorders currently
4 included within nationally accepted diagnostic systems of the mental health professions;

5 (5) "poverty area" means an election district in which 15 percent or more of the
6 population, based upon the most recent census data, falls under 125 percent of the Office of
7 Economic Opportunity poverty guidelines;

8 (6) "trust" has the meaning given in AS 47.30.066.

9 * Sec. 37. AS 47.30.660 is amended to read:

10 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. (a) The department
11 shall assist the Alaska Mental Health Trust Authority in the fulfillment of its duties. The
12 department shall coordinate with federal, state, regional, local, and private entities involved
13 in delivery of mental health services. The department shall implement a comprehensive and
14 integrated system of care that meets the service needs of the beneficiaries of the trust
15 established under the Alaska Mental Health Enabling Act of 1956, as determined by the
16 Alaska Mental Health Trust Authority and the goals and objectives of the plan approved
17 by the authority.

18 (b) The department, in fulfilling its duties under this section and through its division
19 of mental health and developmental disabilities, [IS THE MENTAL HEALTH AUTHORITY
20 OF THE STATE AND] shall

21 (1) administer a comprehensive program of services for persons with mental
22 disorders [FOR THE PREVENTION OF MENTAL ILLNESS AND THE CARE AND
23 TREATMENT OF THE MENTALLY ILL, INCLUDING INPATIENT AND OUTPATIENT
24 CARE AND TREATMENT AND THE PROCUREMENT OF SERVICES OF SPECIALISTS
25 OR OTHER PERSONS ON A CONTRACTUAL OR OTHER BASIS];

26 (2) take the actions and undertake the obligations that are necessary to participate
27 in federal grants-in-aid programs and accept federal or other financial aid from whatever sources
28 for the study, examination, care, and treatment of persons with mental disorders [THE
29 MENTALLY ILL];

30 (3) administer AS 47.30.660 - 47.30.915;

31 (4) designate, operate, and maintain treatment facilities equipped and qualified to

1 provide inpatient and outpatient care and treatment for persons with mental disorders [THE
2 MENTALLY ILL];

3 (5) provide for the placement of [MENTALLY ILL] patients with mental
4 disorders in designated treatment facilities;

5 (6) enter into arrangements with governmental agencies for the care or treatment
6 of persons with mental disorders [THE MENTALLY ILL] in facilities of the governmental
7 agencies in the state or in another state;

8 (7) enter into contracts with treatment facilities for the custody and care or
9 treatment of persons with mental disorders [THE MENTALLY ILL]; contracts under this
10 paragraph are governed by AS 36.30 (State Procurement Code);

11 (8) enter into contracts, which incorporate safeguards consistent with
12 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
13 state for the custody and care or treatment of patients previously committed from this state under
14 48 U.S.C. 46 et seq., and P.L. 84-830 [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat.
15 709;

16 (9) prescribe the form of applications, records, reports, requests for release, and
17 consents to medical or psychological treatment required by AS 47.30.660 - 47.30.915;

18 (10) require reports from the head of a treatment facility concerning the care of
19 patients;

20 (11) visit each treatment facility at least annually to review methods of care or
21 treatment for patients;

22 (12) investigate complaints made by a patient or an interested party on behalf of
23 a patient;

24 (13) delegate upon mutual agreement to another officer or agency of it, or a
25 political subdivision of the state, or a treatment facility designated, any of the duties and powers
26 imposed upon it by AS 47.30.660 - 47.30.915; [AND]

27 (14) propose to the Alaska Mental Health Trust Authority [ADOPT]
28 regulations to implement the provisions of AS 47.30.660 - 47.30.915; and

29 (15) provide technical assistance and training to providers of mental health
30 services.

31 * Sec. 38. AS 47.30.662 is repealed and reenacted to read:

1 Sec. 47.30.662. COMPOSITION. (a) The board consists of not fewer than 18 nor more
2 than 24 members appointed by the governor, with due regard for the demographics of the state
3 and balanced geographic representation of the state. The membership and committees of the
4 board shall fulfill the requirements of P.L. 99-660, as amended.

5 (b) Not less than one-half of the members shall be persons with a mental disorder
6 identified in AS 47.30.061(c)(1) or members of their families.

7 (c) The board members

8 (1) shall include the director of the division of mental health and developmental
9 disabilities in the department; and

10 (2) may include representatives of the principal state agencies with respect to
11 education, vocational rehabilitation, criminal justice, housing, social services, medical assistance,
12 substance abuse, and aging.

13 (d) Board members appointed under (c) of this section may not vote on matters before
14 the board.

15 (e) The board members shall include at least two licensed mental health professionals
16 who represent public and private providers of mental health services and at least one member
17 who is admitted to practice law in the state. Members appointed under this subsection may also
18 be family members identified under (b) of this section.

19 * Sec. 39. AS 47.30.664(b) is amended to read:

20 (b) The board shall have a paid staff provided by the department, including, but not
21 limited to, an executive director who shall be selected by the board [FROM CANDIDATES
22 PROVIDED BY THE DEPARTMENT]. The executive director is in the partially exempt service
23 and shall be compensated at no less than range 21 of the pay plan for state employees under
24 AS 39.27.011(a). The executive director may hire additional employees in the classified service
25 of the state. The department shall provide for the assignment of personnel to the board to
26 ensure the board has the capacity to fulfill its responsibilities. The executive director [AND
27 THE STAFF] of the board shall be directly responsible to the board in the performance of the
28 director's [THEIR] duties.

29 * Sec. 40. AS 47.30.666 is repealed and reenacted to read:

30 Sec. 47.30.666. DUTIES OF THE BOARD. The board is the state planning and
31 coordinating body for the purpose of federal and state laws relating to mental health services for

1 persons with mental disorders identified in AS 47.30.061(b), (d), (g), and (h). On behalf of those
2 persons, the board shall

3 (1) prepare and maintain a comprehensive plan of treatment and rehabilitation
4 services;

5 (2) propose an annual implementation plan consistent with the comprehensive plan
6 and with due regard for the findings from evaluation of existing programs;

7 (3) provide a public forum for the discussion of issues related to the mental health
8 services for which the board has planning and coordinating responsibility;

9 (4) advocate the needs of persons with mental disorders before executive agencies
10 and the legislature and the public;

11 (5) advise the legislature, the governor, the Alaska Mental Health Trust Authority,
12 and other state agencies in matters affecting persons with mental disorders, including, but not
13 limited to,

14 (A) development of necessary services for diagnosis, treatment, and
15 rehabilitation;

16 (B) evaluation of the effectiveness of programs in the state for diagnosis,
17 treatment, and rehabilitation;

18 (C) legal processes that affect screening, diagnosis, treatment, and
19 rehabilitation;

20 (6) make recommendations to the Alaska Mental Health Trust Authority
21 concerning the mental health program of the state and the use of money in the mental health trust
22 income account in a manner consistent with AS 47.30.061; in making recommendations affecting
23 the mental health trust, the members of the board assume a duty of loyalty to the mental health
24 trust equivalent to that of a private trustee; and

25 (7) submit periodic reports regarding its planning, evaluation, advocacy, and other
26 activities.

27 * Sec. 41. AS 47.30 is amended by adding a new section to read:

28 Sec. 47.30.667. COMPENSATION, PER DIEM, AND EXPENSES. The board members
29 appointed under AS 47.30.662(b) and (e) are not entitled to a salary, but are entitled to per diem.
30 reimbursement for travel, and other expenses authorized by law for boards and commissions
31 under AS 39.20.180.

1 * Sec. 42. AS 47.30.910(d) is amended to read:

2 (d) All money paid by the patient or on the patient's behalf to the department under this
3 section shall be deposited in the mental health trust income account established in
4 AS 37.14.021 [GENERAL FUND].

5 * Sec. 43. AS 47.30.910(g) is amended to read:

6 (g) The Alaska Mental Health Trust Authority [COMMISSIONER OF
7 ADMINISTRATION] shall separately account for medical care and treatment fees collected under
8 this section. Notwithstanding AS 37.10.050, the authority shall deposit the fees collected in
9 the mental health trust income account [THAT THE DEPARTMENT DEPOSITS IN THE
10 GENERAL FUND. THE ANNUAL ESTIMATED BALANCE IN THE ACCOUNT MAY BE
11 USED BY THE LEGISLATURE TO MAKE APPROPRIATIONS TO THE DEPARTMENT
12 TO CARRY OUT THE PURPOSES OF THIS SECTION].

13 * Sec. 44. AS 47.30.910 is amended by adding a new subsection to read:

14 (h) The Alaska Mental Health Trust Authority shall adopt regulations establishing
15 procedures to be used under this section.

16 * Sec. 45. AS 47.30.915(12) is amended to read:

17 (12) "mental illness" means a disorder identified in AS 47.30.061(c)(1), (3), and
18 (4) and includes an organic, mental, or emotional impairment that has substantial adverse effects
19 on an individual's ability to exercise conscious control of the individual's actions or ability to
20 perceive reality or to reason or understand; [MENTAL RETARDATION, EPILEPSY, DRUG
21 ADDICTION, AND ALCOHOLISM DO NOT PER SE CONSTITUTE MENTAL ILLNESS,
22 ALTHOUGH PERSONS SUFFERING FROM THESE CONDITIONS MAY ALSO BE
23 SUFFERING FROM MENTAL ILLNESS;]

24 * Sec. 46. AS 47.37.040 is amended by adding a new paragraph to read:

25 (20) conduct program planning activities approved by the Advisory Board on
26 Alcoholism and Drug Abuse.

27 * Sec. 47. AS 47.80.070(b) is amended to read:

28 (b) The council shall have a paid staff provided by the department, including an
29 executive director selected by the council. The executive director is in the partially exempt
30 service and shall be compensated at no less than range 21 of the pay plan for state
31 employees under AS 39.27.011(a). The executive director may hire additional employees

1 in the classified service of the state. The department shall provide for the assignment of
2 personnel to the council to ensure that the council has the capacity to fulfill its responsibilities.
3 The personnel shall be directly responsible to the council for performance of their duties.

4 * Sec. 48. AS 47.80.090 is amended to read:

5 Sec. 47.80.090. RESPONSIBILITIES. The council shall

6 (1) serve as a forum by which issues and benefits regarding current and potential
7 services to handicapped and gifted persons may be discussed by consumer, public, private,
8 professional, and lay interests;

9 (2) advocate the needs of handicapped and gifted persons before the executive and
10 legislative branches of the state government and before the public;

11 (3) advise the executive and legislative branches of the state government and the
12 private sector on programs and policies pertaining to current and potential services to
13 handicapped or gifted persons and their families;

14 (4) submit periodic reports to the commissioner of health and social services, the
15 commissioner of education, and to other appropriate departments, on the effects of current federal
16 and state programs regarding services to handicapped or gifted persons; these reports shall
17 include program performance reports to the governor, the federal government, and to state
18 agencies as required by P.L. 91-517, P.L. 94-103, or P.L. 94-142, as amended;

19 (5) in conjunction with the Departments of Health and Social Services and
20 Education, develop, prepare, adopt, periodically review, and revise as necessary an annual state
21 plan prescribing programs which meet the needs of persons with developmental disabilities as
22 required under P.L. 91-517 or P.L. 94-103, as amended;

23 (6) review and comment to commissioners of state departments on all state plans
24 and proposed regulations relating to programs for persons with handicaps before the adoption of
25 a plan or regulation; for this purpose, the appropriate departments shall submit the plans and
26 proposed regulations to the council;

27 (7) recommend the priorities and specifications for the use of funds received by
28 the state under P.L. 91-517, P.L. 94-103, and P.L. 94-142, as amended;

29 (8) [SUBMIT] annually submit

30 (A) to the commissioner of health and social services, the commissioner
31 of education, and the commissioner of community and regional affairs a proposed

1 interdepartmental program budget for services to handicapped or gifted persons which
2 includes, insofar as possible, projected revenues and expenditures for programs
3 implemented by state agencies, local governmental agencies, and private organizations;
4 the interdepartmental program budget is an informational supplement to the regular annual
5 budgetary submissions of the departments to the Office of the Governor;

6 (B) recommendations to the Alaska Mental Health Trust Authority
7 concerning the program of services for the beneficiaries identified in
8 AS 47.30.061(c)(2) of the trust established by the Alaska Mental Health Enabling Act
9 of 1956 and use of the money in the mental health trust income account in a manner
10 consistent with AS 47.30.061; in making recommendations affecting the trust,
11 members of the council assume a duty of loyalty to the trust equivalent to that of a
12 private trustee;

13 (9) provide information and guidance for the development of appropriate special
14 educational programs and services for exceptional children as defined in AS 14.30.350;

15 (10) monitor and evaluate budgets or other implementation plans and programs
16 for handicapped and gifted persons to assure nonduplication of services and encourage efficient
17 and coordinated use of federal, state, and private resources in the provision of services; members
18 of the council, with the approval of the council, have access to information in the possession of
19 state agencies subject to disclosure restrictions imposed by state or federal confidentiality or
20 privacy laws;

21 (11) perform other duties required under P.L. 91-517, P.L. 94-103, P.L. 94-142,
22 as amended, or AS 14.30.231, and as the governor may assign; and

23 (12) govern the special education service agency, and may hire personnel
24 necessary to operate the agency.

25 * Sec. 49. AS 47.80.110 is amended to read:

26 Sec. 47.80.110. PROGRAM PRINCIPLES. The system of services and facilities required
27 under AS 47.80.100 shall accord with the principles [PRINCIPLE] that service providers shall

28 (1) make services available at times and locations that enable residents of the
29 provider's service area to obtain services readily;

30 (2) ensure each client's right to confidentiality and treatment with dignity;

31 (3) establish staffing patterns that reflect the cultural, linguistic, and other

1 social characteristics of the community and that incorporate multidisciplinary professional
2 staff to meet client functional levels and diagnostic and treatment needs;

3 (4) promote client and family participation in formulating, delivering, and
4 evaluating treatment and rehabilitation;

5 (5) design treatment [, SERVICES,] and habilitation [SHALL BE DESIGNED]
6 to maximize individual potential and [,] minimize institutionalization; [,] and

7 (6) provide services [SHALL BE PROVIDED] in the least restrictive setting,
8 enabling a person to live as normally as possible within the limitations of the handicap.

9 * Sec. 50. AS 47.30.530, 47.30.546, and 47.30.560; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and
10 secs. 7 - 10, ch. 48, SLA 1987 are repealed.

11 * Sec. 51. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT
12 DISTRIBUTION MECHANISM. Not later than January 1, 1993, the Board of Trustees of the Alaska
13 Mental Health Trust Authority, after consulting with organizations and persons affected by this Act, shall

14 (1) consistent with AS 47.30.061(i), added by sec. 26 of this Act, adopt regulations
15 regarding persons who are to receive services funded by money in the mental health trust income
16 account under AS 37.14.021, as amended by sec. 11 of this Act;

17 (2) publish its finding and estimates regarding the number of persons in need under the
18 regulations adopted under (1) of this section;

19 (3) consistent with AS 47.30.061(k), added by sec. 26 of this Act, adopt regulations
20 regarding the services and facilities upon which expenditures are to be made from money in the mental
21 health trust income account under AS 37.14.021, as amended by sec. 11 of this Act; the regulations may
22 permit the use of the mental health trust income account money for programs or services to which
23 beneficiaries of the trust established by the Alaska Mental Health Enabling Act of 1956 are otherwise
24 entitled without spending trust assets, but the use of the money is limited to the additional costs of
25 providing specific mental health services for beneficiaries of the trust; the money may be expended for
26 services that are provided to the public generally by the state, but the expenditure of the earnings is
27 limited to the additional costs of providing specific mental health services for beneficiaries of the trust;
28 and

29 (4) publish its findings and projections regarding the necessary expenditure of money
30 from the mental health trust income account for the services and facilities identified under (3) of this
31 section; the projections may be based on a formula that considers distribution, demographics, and level

1 of functioning of the persons to be served and the cost of service delivery on a regional basis.

2 * Sec. 52. TRANSITIONAL PROVISIONS: BUDGET DEVELOPMENT. Notwithstanding the
3 repeal of AS 47.30.530 by sec. 50 of this Act, until the Board of Trustees of the Alaska Mental Health
4 Trust Authority adopts regulations under sec. 51 of this Act, or until January 1, 1993, whichever is
5 earlier, the Department of Health and Social Services shall prepare and submit budgets and receive and
6 distribute state appropriations in accordance with AS 47.30.520 - 47.30.620.

7 * Sec. 53. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.
8 Notwithstanding AS 47.30.016, added by sec. 26 of this Act,

9 (1) the initial appointments to the Board of Trustees of the Alaska Mental Health Trust
10 Authority shall be made by the governor from a list of candidates submitted to the governor by the
11 Alaska Mental Health Board;

12 (2) the initial appointees shall be appointed to initial terms as follows: two shall be
13 appointed for terms of one year, two shall be appointed for terms of two years, two shall be appointed
14 for terms of three years, two shall be appointed for terms of four years, and one shall be appointed for
15 a term of five years.

16 * Sec. 54. INITIAL VALUATION OF LEGISLATIVELY-DESIGNATED TRUST LAND.
17 Notwithstanding AS 37.14.017(b), added by sec. 10 of this Act, the value as of September 7, 1987, of
18 mental health trust land that is established as legislatively-designated land that is included in the trust
19 is the amount determined under the procedures approved by the Interim Mental Health Trust Commission
20 under its resolution dated November 7, 1989. The first redetermination of the value of the land under
21 AS 37.14.017(b), added by sec. 10 of this Act, shall be completed no later than July 1, 1992. In this
22 section, "legislatively-designated land" has the meaning given in AS 37.14.099, added by sec. 12 of this
23 Act.

24 * Sec. 55. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON
25 ALCOHOLISM AND DRUG ABUSE. Notwithstanding AS 44.29.110 and 44.29.115, as amended by
26 secs. 21 and 22 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who
27 are serving on the effective date of this Act continue to serve their unexpired terms. Vacancies on the
28 advisory board occurring after the effective date of this Act shall be filled by the governor under the
29 provisions of AS 44.29.115, as amended by sec. 22 of this Act.

30 * Sec. 56. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH
31 BOARD. Notwithstanding AS 47.30.662, as amended by sec. 38 of this Act, the members of the Alaska

1 Mental Health Board who are serving on the effective date of this Act continue to serve their unexpired
2 terms. Vacancies on the board occurring after the effective date of this Act, and new positions created
3 by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as amended by sec. 38
4 of this Act. When making appointments to new positions on the board, the governor shall ensure that
5 the initial terms of new members maintain the staggered term requirement of AS 47.30.663. Insert
Amendment I

6 * Sec. 57. The provisions of AS 37.14.019(d), as added by sec. 10 of this Act, have the effect of
7 amending Alaska Rule of Civil Procedure 82 by requiring the court to award full attorney fees in certain
8 actions.

9 * Sec. 58. This Act takes effect upon incorporation into a final settlement and order approved by the
10 superior court in Weiss v. State of Alaska, 4FA-82-2208 Civil. The superior court shall advise the
11 lieutenant governor and the revisor of statutes when the final settlement and order of Weiss v. State of
12 Alaska has been approved.

MENTAL HEALTH TRUST RECONSTITUTION OPTIONS

1. Fundamental Principles.

- (a) The compensation package must be known and acceptable.
- (b) The compensation must in fact be paid, or payment must be guaranteed (enforceable).

2. Enforceability Options

(a). Transfer of Assets. To the extent assets are transferred to the trust, payment has been made and no enforceability issues exist with respect to the portion of the trust reconstitution being paid with such assets. The following compensation elements follow this approach:

- (i) Transfer of unencumbered land to the trust authority.
- (ii) Transfer of Legislatively Designated Areas to the trust authority.
- (iii) Transfer of selected encumbered land to the trust authority, such as selected land subject to rights-of-ways, municipal selections, leases, coal leases, etc.
- (iv) Transfer of other Assets to the trust authority, such as Kuparak.

The following discussion applies to the portion of the compensation package which is not "paid" for right away, either in money or other property, and which, therefore, requires adequate guarantees of payment.

(b) Execution on State Assets. To the extent that assets are not transferred to the trust authority to satisfy the requirements of the compensation package the state would be making a promise to pay. If a party has a judgment against a private party, the judgment creditor could execute on the judgment debtor's assets. This involves a process server or state trooper taking money from bank accounts, selling real property to pay of the debt, or seizing other assets to "satisfy the judgment." The Sponsor Substitutes for HB 79 & SB 65 provided for this approach to be applied in the event the state did not make required payments to the trust with special provisions regarding extra notice to allow the state to make good on its obligation to pay and specifying the order in which assets were to be executed upon. The Attorney General's Office has indicated this is unconstitutional under Article IX, Sec. 13.. To the extent that it may be

unconstitutional it is not only unacceptable to the Administration but is unacceptable to the plaintiffs.

It has been suggested in connection with HB 59 that under AS 09.55.360 for condemned land, the condemnee may execute to receive payment. An uncritical analysis of this suggestion would allow for the insertion of the condemnation approach taken in HB 59 with respect to the encumbered land. Unfortunately AS 09.55.360 does not refer to Article IX, Sec. 13, and provides that if the judgment is returned unsatisfied that the land must be returned. In the context of the mental health trust, this means that the trust's claims to the land would not be released until payment had been made. It is believed that a final release of claims to trust lands is sought by the legislature. To the extent it may be possible to settle for less the partial release approach discussed next could be used.

At this juncture it would appear that the execution on state assets approach is not viable.

(c) Partial Releases. Another way to provide enforceability is for the trust to release claims on encumbered lands as the state pays for it. Under the compensation approach of the Sponsor Substitutes this would mean that for every dollar of principle reduction, the state could choose an equal value of encumbered land to be released. This is a quite common practice in the commercial world. It is acknowledged that this would not release all the trust's claims on all encumbered land immediately. On the other hand, the state would be allowed to choose the land to release, and with as little as a \$100 million down payment the Plaintiffs believe that the State could achieve the release of lands for which there is a true need for release. Such lands would include development projects being held up, pending property sales, and the like. The partial release option is not optimal from the Plaintiffs' perspective either. However, it is an approach that should be considered by both sides if nothing else will work.

(d) Other Security. Another technique used in the commercial environment is for the debtor to grant the creditor a security interest in property of sufficient value to pay off the debt if the debt is not paid. In a land transaction, a seller normally would prefer a mortgage (a deed of trust is most commonly used in Alaska) on the property being sold. If that were to happen here, it would essentially mean the partial release approach discussed above. Another approach often used is to use other property as security. Thus, it might be possible to issue a deed of trust on the land under which the Kuparak oil field lies.

There are a number of issues surrounding this potential approach. The first is whether the state may issue a deed of trust on property. Unfortunately, the current Attorney General's Office's mode of not assisting the settlement process probably means we will not be able to receive a timely answer to this problem. We are therefore taking an independent look at this.

Initial advice is that there very well may be a constitutional problem with this approach.

The second issue is the adequacy of the security. Normally, a bank would want to have significantly more security for a loan than the amount of the loan. In the case of Kuparak, there is the additional problem that the revenues follow a declining curve, while the current Sponsor Substitutes approach provide for a level payment schedule. One way to handle this would be for the payment schedule to match the Kuparak revenue stream.

3. Stated Objectives of Various Legislators and the Administration. There have been a number of not entirely consistent objectives stated by various legislators and the administration. A summary of the ones that are currently in our memory banks follows:

(a) Make Payment Obligations Doable (Duncan). The Sponsor Substitutes approach was specifically developed to come up with a compensation package that the state could live up to. In the Sen. HESS Committee Substitute for SB 65, the compensation package consists of

- (i) return to the trust 218,000 acres of unencumbered land with a value of about \$106 million;
- (ii) 8% annual rent on the legislative designated of the legislatively designated land valued at \$760 million (\$61 million) revalued every five years according to a formula tied to land values;
- (iii) \$200 million of replacement land selections; and
- (iv) level debt payments for the balance of the amount owed in the amount of \$1,100 million. These level debt payments would be about _____ annually.

(b) Eliminate Rental Payment of Legislative Designated Lands/Trade out Legislative Designated Lands (Carney). Representative Carney, and others, have expressed a strong desire to trade out the legislatively designated land upon which the state has to pay rent to eliminate the rental obligation. The plaintiffs have indicated their willingness to consider such an approach, but that the value of the land has to be comparable and that the land has to be as susceptible for producing revenue. The Director of the Division of Land and Water Management of the Department of Natural Resources has indicated he does not believe there is a sufficient inventory of suitable land, while the Commissioner says it can be found.

There is also the issue of such things as the State selling all the timber or minerals on some legislatively designated land, taking all the money, and then wanting to trade that land on an equal value basis. With the current formulation of the Sponsor Substitutes the plaintiffs were willing to take this risk under

the theory the state was paying for the right to use this land and the risk if the trust ever had to take management of the land back was at an acceptable level. This issue must be looked at again in the context of trading land out of the legislatively designated areas.

Perhaps more of a problem is that the primary proponent of this approach also wants to accommodate the administration's refusal to accept the valuation and it is very difficult to see how the trade out process could work without valuation because the value is needed to determine the value of the land to be subtracted from the 8% rental obligation.

(c) Release the Trust's Claims to Encumbered Land. It has been recognized from the beginning that the state's primary interest in settling the lawsuit is to clear up the title to the one million acres that has now been tied up by the plaintiffs.

(d) Take the Offset. The Administration and Sen. Sturgeslewski have indicated they believe the offset allowed in the Supreme Court decision should be taken. The problem with this approach is that it ignores the other side of the equation, such as the state's obligation to reimburse the trust for the failure to earn income as required, and the improper transfer of trust funds from the mental health trust income account the last few fiscal years. Moreover, the plaintiffs have repeatedly informed the legislature and the administration that since the effect of the offset is to diminish the corpus of the trust, the plaintiffs will attempt to regain title.

(e) Eliminate any Reference to Value and Particularly Not Endorse the Approved Interim Mental Health Trust Commission Procedures. The Administration has stated it will not accept the \$2,243 million valuation arrived at under the process specified in statute. On one hand it states that the value is too high, and on the other hand says that it doesn't want these valuation procedures to be used on it with respect to future land trades. There is an inherent inconsistency with these two statements because to the extent that the procedures are not valid, DNR should prevail in subsequent arguments about its validity. The real problem is that the procedures and the value arrived at is valid and the Administration is simply unwilling to pay what the land is worth.

Various legislators faced with the dispute over valuation have also expressed concern with the valuation. With the changes in the legislation giving the legislature control over expenditures from the trust account, the concern over the compensation package being too large should be substantially lessened.

The reality is, however, that the Plaintiffs have a very good idea of the value of the land, will not sell them for significantly less than the \$2,243 million arrived at under the statutorily arrived at approved procedures. There seems little doubt that the Administration will not now agree to any compensa-

tion package that the plaintiffs would be willing to accept. However, there is still a real question of whether the governor will veto the legislation, and if so, the legislature still has the override option whether it chooses to exercise it or not.

4. Compensation Approach Packages.

(a) Litigation. If no settlement is reached, the compensation package will be determined by litigation. While one can never predict the outcome of litigation with certainty, it appears very likely that legislatively designated lands in the trust will have to be stripped of their legislative designation and managed to generate income for the trust. This would appear to be in line with the current administration's goals. Under private trust law principles adopted by the Alaska Supreme Court and followed in many other states, it appears municipal selections, approved lands and patented lands would be returned to the trust except in the narrowest of circumstances.¹ With respect to other third parties, the outcome would appear to depend on their status as having purchased the land for value without "notice" of the breach of trust. Since the trust status of the land was a matter of the public land records, and the breach of trust was a matter of law, there is a strong argument that no third parties qualify as "bona fide purchasers" entitled to keep their interests free of the trust's claims. Even if not, under private trust law principles, each third party would have to establish their status as a bona fide purchaser.

The stated concerns about the time it will take to "clear title" does not seem to recognize the substantial probability that the litigation will take however long it takes and will end up with cleared titled being held by the trust.

(b) SB65 Approach. The CS SS SB65 (HESS) reconstitution approach has been outlined above. The missing element now is the enforceability of the payment obligation piece. The deed of trust, if permissible, or the partial release approach could be used. The trade out for legislatively designated lands could be incorporated into it, and there is already a mechanism for reducing the payment obligation even more than the required \$200 million in land selections. Expanded selection rights, or a definition of vacant, unappropriated and unreserved land would be a beneficial addition to this bill.

(c) Special House Subcommittee Approach. The Special House Subcommittee on the Mental Health Trust has been interested in exploring the viability of using Kuparak to pay for the encumbered land and trading out the legislatively designated lands. Unless the Attorney General's Office indicates that an assignment of royalties would be permissible and not a violation of the

1. Indeed some municipalities might be liable to the trust for "participation" in the breach of trust.

dedicated fund prohibition, that approach is not an option. Previously, the Attorney General's Office indicated a conveyance of the land containing the Kuparak field would be permissible.¹ The inclusion of the West Sak field has also been a question. The plaintiffs have indicated deleting the West Sak field forces the trust to take the risk associated with ownership of the Kuparak field, but eliminates the upside potential. The plaintiffs also point out that with the new formulation regarding administration of the trust fund and control being given back to the legislature (subject to fiduciary duties) the legislature should have more comfort that any surplus will be returned to the general fund. Finally, at a certain point, reservations of interests begins to make the transaction look like a dedicated fund.

Another way to approach the Kuparak issue (or other assets), is for it to be used as collateral for payment of the debt schedule. If this approach were to be used, the debt schedule would have to be adjusted so that the Kuparak field would fully secure the outstanding debt at all times. Initial advice, however, is that there are constitutional problems with this approach.

Similarly, there are constitutional problems with assigning royalties because it would be a dedicated fund.

The constitutional problems may leave only two choices: conveyance of assets or partial releases (or a combination).

The foregoing is something of a list of options and suggestions and the following will discuss how the options and suggestions might be fashioned into different packages.

(d) Legislative Designation Trade-Outs. The important issue in any kind of mandatory trade-out option from the trust's perspective is that suitable land be traded into the trust. This means equal value and at least as good income production potential as the land traded out. The key to accomplishing this would be making as much land available as possible for trade. The inventory and types of land in the state inventory should be carefully reviewed to ensure the best possible selection pool.

From the State's perspective, it would appear that it would want the legal right to trade out the legislatively designated lands (option). The trust should also probably be given a reciprocal option. To the extent that there is mandate to trade out all of the land, the Trust should be allowed to select the replacement land and a process established to determine the respective exchange values.

As land is traded out, the rent should be reduced by the

1. The administration has certainly not agreed to it substantively.

amount of the rent represented by such land removed from the trust.

It does not appear that invocation of original Supreme Court jurisdiction is warranted for the value determinations. The appointment of a special master may make a lot of sense.

(e) Other Encumbered Land. There may very well be a good deal of valuable trust land that would be considered encumbered under the Sponsor Substitutes, but which could be taken by the trust subject to the third parties' interests. The following categories could be considered:

- (i) Rights of Way. Parcels of lands with an encumbrance of one or more rights-of-way could be considered for retention by the trust. There may be some minor valuation issues, but they could be resolved.
- (ii) Leases. Parcels subject to lease could also be considered, but there would be a significant valuation issue as most of the leases are for below market value.
- (iii) Municipal Selections. Municipal "entitlements" were a significant, if not primary, impetus for the 1978 purported abolishment of the trust which has resulted in the current situation. There is no legal reason why some of these lands could not be returned to the trust. A basis for return could be an equal percentage for each affected municipality. Or it could be based upon the status of such lands as selected, approved, or conveyed. The latter criteria would treat different municipalities differently depending solely upon the happenstance of DNR action on selections. In any case, it would appear that those lands which have either been disposed of by municipalities or committed to some specific use, particularly if improvements exist, would not be returned to the trust.
- (iv) Coal Leases. While the royalty rate for coal leases has been a subject of contention, the total value attributed to coal under the Interim Mental Health Trust Commission's procedures is \$3.2 million. Since the trust would only be charged a percentage of this value for coal lands subject to coal lease, the 5% royalty might very well yield an acceptable return on the "cost" and therefore be acceptable in these limited circumstances.
- (v) Oil & Gas Leases. There would appear to be absolutely no reason not to return to the trust lands that are subject to oil and gas leases.

(vi) Mining Leases. Unfortunately, the state lease rate on minerals is so low (3% of net income) and the problems of making sure even this meager royalty is properly accounted for are so great, the transfer of lands subject to mining claims or leases would appear to involve significant difficulties.

5. Overview. All of these compensation elements, to the extent constitutional and enforceable, can be chosen to arrive at different mixes. The challenge is to find a "mix" that is acceptable to both sides. In terms of drafting it seems that decisions need to be made before drafting may proceed.