

Second Special Session Chapter 01

Chapter: SSS 01

Source: SB 382

Action Date: September 28, 1994

Effective Date: See Chapter

94

## AN ACT

Relating to the mental health land trust, the mental health trust income account, and the mental health land trust litigation, *Weiss v. State*, 4FA-82-2208 Civil, and amending ch. 66, SLA 1991, and ch. 5, FSSLA 1994 relating to the trust, the account, and the litigation; and providing for an effective date.

---

\* **Section 1.** [AS 37.14.036](#) (a), as added by sec. 11, ch. 66, SLA 1991 and amended by sec. 15, ch. 5, FSSLA 1994, is further amended to read:

(a) The mental health trust **settlement** income account is established as a separate account of the Alaska Mental Health Trust Authority. The mental health trust **settlement** income account consists of

(1) fees, charges, income earned on assets, and other money received by the trust that is not attributable to the principal of the trust under [AS 37.14.031](#) (d); and

(2) money deposited in the account in accordance with appropriations or allocations made by law.

\* **Sec. 2.** Section 58, ch. 66, SLA 1991, as repealed and reenacted by sec. 37, ch. 5, FSSLA 1994, is amended to read:

Sec. 58. (a) This Act takes effect only if, not later than December 15, 1994,

(1) the superior court of the State of Alaska has made a [FINAL] determination that the state has satisfied its obligation to reconstitute the mental health trust under *State v. Weiss*, 706 P.2d 681 (Alaska 1985); **and**

(2) the superior court has entered **an** [A FINAL] order dismissing *Weiss v. State*, 4FA-82-2208 Civil []; AND

(3) THE TIME FOR APPEALS OF THAT DETERMINATION AND THAT ORDER HAS EXPIRED WITH NO APPEALS HAVING BEEN TAKEN OR ANY APPEALS TAKEN HAVE BEEN FINALLY RESOLVED AND THE ORDER DISMISSING WEISS V. STATE, 4FA-82-2208 CIVIL, HAS BEEN AFFIRMED ON APPEAL].

(b) The attorney general shall advise the lieutenant governor and the revisor of statutes whether the determination required by (a)(1) of this section has been made **and** [,] whether the [FINAL] order required by (a)(2) of this section has been entered [, AND WHETHER, AS REQUIRED BY (a)(3) OF THIS SECTION, THE TIME FOR APPEALS OF THAT DETERMINATION AND THAT ORDER HAS EXPIRED WITH NO APPEALS HAVING BEEN TAKEN AS OF THAT DATE OR ANY APPEALS TAKEN HAVE BEEN FINALLY RESOLVED AND THE ORDER DISMISSING WEISS V. STATE, 4FA-82-2208 CIVIL, HAS BEEN AFFIRMED ON APPEAL].

\* **Sec. 3.** (a) Section 39, ch. 5, FSSLA 1994, is amended to read:

Sec. 39. [AS 37.14.009](#) (b), **37.14.011(b), 37.14.011(c)** [37.14.011], 37.14.021, 37.14.036(c); [AS 38.05.800](#) ; [AS 47.30.031](#) (b)(2); secs. 1, 2, 4, and 5, ch. 132, SLA 1986; secs. 7 - 10, ch. 48, SLA 1987; and secs. 49, 50, 53 - 57, ch. 66, SLA 1991, are repealed.

(b) The amendment made by (a) of this section is intended to revive [AS 37.14.011](#) (a), establishing the mental health trust income account in the general fund. This subsection provides the expression of intent to revive required by [AS 01.10.100](#) (c).

\* **Sec. 4.** Section 40(a), ch. 5, FSSLA 1994, is amended to read:

(a) For the purpose of reconstituting the mental health trust established under the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956), as required by the Alaska Supreme Court's decision in **State v. Weiss** [WEISS V. STATE], 706 P.2d 681 (Alaska 1985), the following land is designated as mental health trust land:

(1) the original mental health land listed in "Original Mental Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," **as amended by the additions and deletions listed in the September 23, 1994, addendum to the April 28, 1994, list described in this paragraph, both of which are** located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska; and

(2) the state land listed in "Other State Land To Be Designated as Mental Health Trust Land, April 28, 1994," **as amended by the additions and deletions listed in the September 23, 1994, addendum to the April 28, 1994, list described in this paragraph, both of which are** located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska.

\* **Sec. 5.** Section 40(b), ch. 5, FSSLA 1994, is amended to read:

(b) All land designated as mental health trust land under this section remains subject to all encumbrances or interests of record, noted on records maintained by the Department of Natural Resources, or otherwise existing on the **date that the land is designated as mental health trust land** [EFFECTIVE DATE OF THIS SECTION].

\* **Sec. 6.** Section 41(a), ch. 5, FSSLA 1994, is amended to read:

(a) Except for the land described in sec. 40 of this Act,

(1) the conversion to general grant land by sec. 3(a), ch. 181, SLA 1978, and sec. 1(a), ch. 182, SLA 1978, of all land obtained by the state under the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956), and not listed in "Original Mental Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," **as amended by the additions and deletions listed in the September 23, 1994, addendum to the April 28, 1994, list described in this paragraph, both of which are** located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska, is confirmed and ratified; and

(2) land patented to or approved for patent to the state under the Alaska Mental Health Enabling Act after July 1, 1978, and not listed in "Original Mental Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," **as amended by the additions and deletions listed in the September 23, 1994, addendum to the April 28, 1994, list described in this paragraph, both of which are** located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska, is redesignated as general grant land if it was not converted to general grant land by sec. 3(a), ch. 181, SLA 1978, and sec. 1(a), ch. 182, SLA 1978.

\* **Sec. 7.** Section 41(b), ch. 5, FSSLA 1994, is amended to read:

(b) The land affected by this section includes the land listed in "Original Mental Health Land Not To Be Returned to Mental Health Trust Status, April 28, 1994," **as amended by the additions and deletions listed in the September 23, 1994, addendum to "Original Mental Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," all of which are** located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska.

\* **Sec. 8.** Section 48, ch. 5, FSSLA 1994, is amended to read:

Sec. 48. If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 37 of this Act, are not met on or before December 15, 1994, [OR ON A DATE DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS ACT,] then ch. 66, SLA 1991, is repealed and secs. 3 - 9, 12 -16, 19 - 21, 23 - 30, 33 - 36, 43, and 46 of this Act do not take effect.

\* **Sec. 9.** Section 49, ch. 5, FSSLA 1994, is amended to read:

Sec. 49. If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 37 of this Act, are met on or before December 15, 1994, [OR ON A DATE DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS ACT,] then [AS 37.14.013](#) , added by sec. 10 of this Act, [AS 37.14.023](#) , added by sec. 11 of this Act, [AS 47.30.546](#) , and sec. 44 of this Act are repealed.

\* **Sec. 10.** Section 50, ch. 5, FSSLA 1994, is amended to read:

Sec. 50. Subject to sec. 48 of this Act, secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43, and 46 of this Act take effect December 16, 1994 [, OR ON A DATE DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS ACT].

\* **Sec. 11.** Section 51, ch. 5, FSSLA 1994, is amended to read:

Sec. 51. Sections 48 and 49 of this Act take effect December 16, 1994 [, OR ON A DATE DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS ACT].

\* **Sec. 12.** [AS 37.14.011](#) (a) is repealed on the date that the director of the office of management and budget, Office of the Governor, certifies to the revisor of statutes that the mental health trust income account ([AS 37.14.011](#) ) is no longer needed to finance appropriations enacted by law.

\* **Sec. 13.** Section 47, ch. 5, FSSLA 1994 is repealed.

\* **Sec. 14.** (a) The benefits conferred on the beneficiaries of the mental health trust under ch. 66, SLA 1991, chs. 5 and 6, FSSLA 1994, a bill passed by the Second Special Session of the Alaska State Legislature that amends ch. 6, FSSLA 1994 and becomes law, and this Act, are intended as part of a comprehensive settlement of the mental health trust land litigation, *Weiss v. State*, 4FA-82-2208 Civil, and related cases.

(b) Sections 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43, and 46, ch. 5, FSSLA 1994 and ch. 66, SLA 1991, as amended by ch. 5, FSSLA 1994 and this Act, are repealed on the date that an order of dismissal entered by the superior court of *Weiss v. State*, 4FA-82-2208 Civil, is reversed on appeal including a petition for certiorari to the United States Supreme Court. The attorney general shall certify that date to the lieutenant governor and the revisor of statutes.

\* **Sec. 15.** (a) If ch. 66, SLA 1991 and secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43, and 46, ch. 5, FSSLA 1994 are repealed under sec. 14 of this Act, provisions of the Alaska Statutes that were

(1) enacted by ch. 66, SLA 1991 and those sections of ch. 5, FSSLA 1994 are repealed;

(2) amended by ch. 66, SLA 1991 and those sections of ch. 5, FSSLA 1994 are amended to read as they did on the day before the effective date of the amendments made by the repealed laws; however, unless inconsistent with this Act, amendments to those provisions that were made after the enactment of ch. 66, SLA 1991 and before the effective date of this section are not affected by this Act; and

(3) repealed by ch. 66, SLA 1991 and those sections of ch. 5, FSSLA 1994 are revived to read as they did on the day before the effective date of the repeal; however, a provision that was repealed by ch. 66, SLA 1991 and has been repealed by other legislation enacted after ch. 66, SLA 1991 and before the effective date of this section or that was repealed by ch. 5, FSSLA 1994 and has been repealed by other legislation enacted after ch. 5, FSSLA 1994 and before the effective date of this section is not revived.

(b) [AS 37.14.013](#) and 37.14.023, enacted by secs. 10 and 11, ch. 5, FSSLA 1994, and repealed by sec. 49, ch. 5, FSSLA 1994, are revived.

(c) The effective date of a repeal, amendment, or revival described in (a) and (b) of this section is the date that the attorney general certifies to the lieutenant governor and the revisor of statutes under sec. 14(b) of this Act.

(d) The provisions of (a)(3) and (b) of this section provide the expression of intent to revive required by [AS 01.10.100](#) (c).

\* **Sec. 16.** If ch. 66, SLA 1991 and secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43, and 46, ch. 5, FSSLA 1994 are repealed under sec. 14 of this Act, all grants made and contracts entered into by the Alaska Mental Health Trust Authority before the effective date of the repeal are ratified and responsibility for the administration of all grants and contracts of the authority is transferred to the Department of Health and Social Services.

\* **Sec. 17.** In ch. 66, SLA 1991 and ch. 5, FSSLA 1994, the revisor of statutes shall change references to the "mental health trust income account," as established by [AS 37.14.036](#) , to the "mental health trust settlement income account."

\* **Sec. 18.** Section 3 of this Act is retroactive to June 24, 1994.

\* **Sec. 19.** Sections 1 and 17 of this Act take effect December 16, 1994.

\* **Sec. 20.** Except as provided in sec. 19 of this Act, this Act takes effect immediately under [AS 01.10.070](#) (c).

Second Special Session Chapter 02

Chapter: SSS 02

Source: SB 383

Action Date: September 28, 1994

Effective Date: See Chapter

94

**AN ACT**

Making and amending appropriations relating to the mental health trust fund, the mental health trust income account, and the mental health trust settlement income account; and providing for an effective date.

---

\* **Section 1.** Section 1(a), ch. 6, FSSLA 1994, is amended to read:

(a) The sum of \$200,000,000 is appropriated to the mental health trust fund ([AS 37.14.031](#)), added by sec. 11, ch. 66, SLA 1991, from the following sources, in the amounts listed, to capitalize the mental health trust fund:

	SOURCE	APPROPRIATION
<b><u>(1)</u></b>	Mental health trust income account ( <a href="#">AS 37.14.011</a> ) [BALANCE ON JUNE 30, 1995]	\$ 33,000,000
<b><u>(2)</u></b>	Department of Natural Resources - mental health trust income in the general fund	11,700,000
<b><u>(3)</u></b>	Proceeds from sale of Department of Natural Resources land sale contract portfolio	25,000,000
<b><u>(4)</u></b>	Budget reserve fund (art. IX, sec. 17(c), Constitution of the State of Alaska)	130,300,000

\* **Sec. 2.** Section 1(b), ch. 6, FSSLA 1994 is amended to read:

(b) The appropriations made by (a), **(f), and (g)** of this section are contingent upon

(1) the enactment into law of a bill passed by the Eighteenth Alaska State Legislature that amends ch. 66, SLA 1991, and contains other provisions relating to the mental health land trust and mental health land trust litigation (*Weiss v. State*, 4FA-82-2208 Civil); and

(2) not later than December 15, 1994,

(A) the superior court of the State of Alaska having made a [FINAL] determination that the state has satisfied its obligation to reconstitute the mental health trust under *State v. Weiss*, 706 P.2d 681 (Alaska 1985); **and**

(B) the superior court having entered **an** [A FINAL] order dismissing *Weiss v. State*, 4FA-82-2208 Civil [; AND

(C) THE TIME FOR APPEALS OF THAT DETERMINATION AND THAT ORDER HAVING EXPIRED WITH NO APPEALS HAVING BEEN TAKEN AS OF THAT DATE OR ANY APPEALS TAKEN HAVING BEEN FINALLY RESOLVED AND THE ORDER DISMISSING *WEISS V. STATE*, 4FA-82-2208 CIVIL, HAVING BEEN AFFIRMED ON APPEAL].

\* **Sec. 3.** Section 1(e), ch. 6, FSSLA 1994 is amended to read:

(e) The appropriations made by (a), **(f), and (g)** of this section are for the capitalization of funds and do not lapse.

\* **Sec. 4.** Section 1, ch. 6, FSSLA 1994 is amended by adding new subsections to read:

(f) If the money available for appropriation from a funding source identified in (a)(1), (3), or (4) of this section is less than the amount appropriated by any of those paragraphs, then the amount necessary to cover the shortfall is appropriated from the unappropriated balance of mental health trust income deposited in the general fund.

(g) If the money available for appropriation from a funding source identified in (a)(2), (a)(3), (a)(4), or (f) of this section is less than the amount necessary to entirely fund any of the appropriations made by (a)(2), (a)(3), (a)(4), or (f) of this section, then an amount equal to the shortfall, remaining after the appropriation under (f) of this section is made, is appropriated from the unappropriated money in the mental health trust income account ([AS 37.14.011](#)).

\* **Sec. 5.** If the amount in the mental health trust income account ([AS 37.14.011](#)) is insufficient to fund appropriations from that account passed by the Eighteenth Alaska Legislature or a previous legislature, and enacted into law, the amount necessary to fund

those appropriations is appropriated from the general fund to the mental health trust income account ([AS 37.14.011](#) ).

\* **Sec. 6.** (a) On the date that [AS 37.14.011](#) (a) is repealed, the balance of the mental health trust income account ([AS 37.14.011](#) ) is transferred to the general fund.

(b) The unexpended, unobligated, and unencumbered balances of appropriations from the mental health trust income account ([AS 37.14.011](#) ) that lapse after the repeal of [AS 37.14.011](#) (a) lapse into the general fund.

\* **Sec. 7.** Expenditures, made in accordance with law, from the mental health trust income account ([AS 37.14.011](#) ) on or after June 24, 1994, and before the effective date of this section, are ratified.

\* **Sec. 8.** (a) The sum of \$200,000,000 and an amount equivalent to the amount deposited in the mental health trust fund ([AS 37.14.031](#) ) that is attributable to inflation proofing \$200,000,000 of the principal of that fund, determined as of the date of the repeal of [AS 37.14.031](#) , is appropriated from that fund to the general fund.

(b) The unexpended and unobligated balance remaining in the mental health trust fund ([AS 37.14.031](#) ) after the appropriation made by (a) of this section is appropriated to the mental health trust income and proceeds account ([AS 37.14.013](#) ).

\* **Sec. 9.** The unexpended and unobligated balance in the mental health trust settlement income account ([AS 37.14.036](#) ) on the date of the repeal of [AS 37.14.036](#) is appropriated to the mental health trust income and proceeds account ([AS 37.14.013](#) ).

\* **Sec. 10.** Sections 8 and 9 of this Act take effect only if a dismissal of Weiss v. State, 4FA-82-2208 Civil, by the superior court is reversed on appeal, including a petition for certiorari to the United States Supreme Court.

\* **Sec. 11.** Section 1(c), ch. 6, FSSLA 1994, is repealed.

\* **Sec. 12.** Sections 1 - 7 and 11 of this Act are retroactive to June 24, 1994.

\* **Sec. 13.** If they take effect under sec. 10 of this Act, secs. 8 and 9 of this Act take effect on the date that an order of dismissal entered by the superior court of Weiss v. State, 4FA-82- 2208 Civil, is reversed on appeal, including a petition for certiorari to the United States Supreme Court. The attorney general shall certify that date to the lieutenant governor and the revisor of statutes.

\* **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect immediately under [AS 01.10.070](#) (c).