

First Special Session Chapter 05

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AN ACT

Relating to the mental health land trust and the mental health land trust litigation, Weiss v. State, 4FA-82-2208 Civil, and amending and repealing other laws relating to mental health institutions, programs, and services that are affected by ch. 66, SLA 1991; and providing for an effective date.

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

(1) the United States Congress passed the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956), "[t]o confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibility for the hospitalization of committed mental health patients, and for other purposes;"

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

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

(4) the Alaska Mental Health Enabling Act grant was "confirmed and transferred to the State of Alaska upon its admission" to the Union under sec. 6(k) of the Alaska Statehood Act, P.L. 85-508, 72 Stat. 339 (1958);

(5) in *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981), the Alaska Supreme Court held that the Alaska State Legislature has plenary authority over all state land under art. VIII, sec. 2, of the Alaska Constitution, and that the legislature may remove from trust status any land obtained by the state in trust if the trust is compensated for the fair market value of that land;

(6) chapters 181 and 182, SLA 1978, removed from trust status all original mental health land obtained by the state under the Alaska Mental Health Enabling Act and redesignated it as general grant land, but the trust was not directly compensated for that land;

(7) in *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the Alaska Supreme Court held that the 1978 legislation removing mental health land from trust status and redesignating it as general grant land was a breach of the federally created trust because the trust was never directly compensated for that land, that it was not reasonable to infer that the legislature intended to compensate the mental health trust for all of the original mental health land, that the 1978 redesignation legislation therefore was invalid, and that the appropriate remedy was to return the original mental health land still in state ownership to trust status but, "[t]o the extent former mental health lands have been sold" between 1978 and the date of the court's decision, "the trust must be compensated for the fair market value of the land at the time of sale" with the state entitled to a set-off against that monetary liability for state mental health expenditures during the same period;

(8) since statehood, approximately 500,000 acres of original mental health land have been purchased by, conveyed to, or leased by third parties, have been the object of significant development expenditures by third parties, have been conveyed or tentatively approved for conveyance to municipalities, have been placed in legislatively designated areas such as parks, wildlife refuges, and state forests, and have been used by state agencies;

(9) the plaintiffs in the Weiss litigation have questioned the validity of those dispositions and uses of original mental health land and in 1990 filed *lis pendens* on all original mental health land;

(10) not validating those dispositions and uses of original mental health land and, as a result, not removing the legal basis for the *lis pendens* filed by the Weiss plaintiffs would be contrary to the requirement of art. VIII, sec. 2, of the Alaska Constitution that the legislature "provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people";

(11) the questions the Weiss plaintiffs have raised regarding the validity of those dispositions and uses and the lis pendens that they have filed have resulted in substantial criticism of and hostility directed against the mental health trust and the trust's beneficiaries;

(12) the original 1,000,000 acre mental health land grant has not generated in the past, and is not likely to generate in the future, sufficient income and proceeds to fully fund the state's mental health program, and the beneficiaries of the mental health trust have been, and will continue to be, dependent on unrestricted state revenue to fund much of the state's mental health program;

(13) because of the criticism and hostility directed against the mental health trust and the trust's beneficiaries, failure to resolve the Weiss litigation and validate the dispositions and uses of original mental health land and remove the legal basis for the lis pendens filed by the Weiss plaintiffs will make it increasingly difficult for the beneficiaries of the mental health trust and those concerned about the beneficiaries to obtain appropriations of unrestricted state revenue to fund the state's mental health program;

(14) it therefore is in the public interest and in the best interests of the mental health trust and the trust's beneficiaries to exercise the legislature's power under the Alaska Mental Health Enabling Act and art. VIII, sec. 2, of the Alaska Constitution to confirm and ratify the validity of the dispositions and uses of original mental health land and, by answering the questions regarding the validity of those dispositions and uses of original mental health land, remove the legal basis for the lis pendens filed by the Weiss plaintiffs;

(15) it is in the best interests of both the public and the beneficiaries of the mental health trust to resolve the Weiss litigation on terms that are fair to both the public and the beneficiaries of the mental health trust;

(16) such a resolution can be accomplished by exercising the legislature's power under the Alaska Mental Health Enabling Act and art. VIII, sec. 2, of the Alaska Constitution, through amending ch. 66, SLA 1991,

(A) to return certain original mental health land to trust status;

(B) to ratify and confirm the removal from trust status of certain original mental health land and the validity of dispositions and uses of that land, including but not necessarily limited to certain original mental health land

(i) that has been purchased by, conveyed to, or leased by third parties;

(ii) on which third parties have made significant development expenditures;

(iii) that has been conveyed to or tentatively approved for conveyance to municipalities;

(iv) that has been placed in legislatively designated areas like parks, wildlife refuges, and state forests; or

(v) that is used by state agencies;

(C) to make clear that the legislature intends to compensate the mental health trust for the original mental health land removed from trust status by this Act through a combination of replacement land and state money;

(D) to designate certain other state land as mental health land as partial compensation and in exchange for original mental health land not returned to trust status;

(E) to identify state mental health expenditures since 1978 to be set-off against state monetary liability to the trust for original mental health land not returned to trust status; and

(F) to satisfy additional state monetary liability to the trust for original mental health land not returned to trust status with state general funds and to provide that those funds will first be appropriated to fund the state's mental health program;

(17) since 1978, state mental health expenditures have totaled more than \$1,300,000,000;

(18) the sum of the value of the other state land designated as mental health trust land under this Act and the total of state mental health expenditures since 1978 exceeds the value of the original mental health land not returned to trust status under this Act;

(19) the management of land designated under this Act as mental health trust land will have significant administrative costs that will reduce the trust's net income and proceeds;

(20) the Department of Natural Resources has considerable expertise in managing state land, and it already has in place the facilities, personnel, and other necessary infrastructure for efficient, cost-effective land management of land designated as mental health trust land under this Act;

(21) it therefore is in the best interest of the public and of the trust and its beneficiaries that the Department of Natural Resources manage the land designated as mental health trust land under this Act; and

(22) if, by December 15, 1994, a final determination has been made by the superior court that the state has satisfied its obligation to reconstitute the mental health trust under *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the superior court has entered a

final order dismissing *Weiss v. State*, 4FA-82-2208 Civil, and the time for appeals of that determination and that order has expired with no appeals having been taken, even though it is not legally required by the Alaska Mental Health Enabling Act or the Alaska Constitution, it is in the best interest of both the public and the beneficiaries of the mental health trust

(A) to have the provisions of ch. 66, SLA 1991, that establish the Alaska Mental Health Trust Authority become law;

(B) to amend the provisions of ch. 66, SLA 1991, that establish the mental health trust fund, to provide for preserving the corpus of the mental health trust, including an initial appropriation of \$200,000,000 to that fund, in perpetuity and to have the provisions, as amended, become law;

(C) to provide for the Alaska Mental Health Trust Authority to use the income from the mental health trust fund to assist it in fulfilling its purpose of ensuring an integrated comprehensive mental health program for the state; and

(D) to have the provisions of ch. 66, SLA 1991, that improve the state's mental health program become law.

(b) The purposes of this Act are

(1) to reconstitute the mental health trust with some original mental health land and some other state land;

(2) to ratify and confirm the removal from trust status of some original mental health land;

(3) to ratify and confirm the validity of the dispositions and uses of the original mental health land removed from trust status;

(4) to define state mental health expenditures since 1978 and provide for them to be considered as additional compensation for original mental health land removed from trust status;

(5) to satisfy any additional state monetary liability to the trust for original mental health land not returned to trust status with state general funds, to provide that those funds will first be appropriated to fund the state's mental health program, and to provide for the transfer of any unappropriated balance to the unrestricted general fund for appropriation for other public purposes as permitted by the Alaska Mental Health Enabling Act; and

(6) if, by December 15, 1994, a final determination has been made by the superior court that the state has satisfied its obligation to reconstitute the mental health trust under *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the superior court has entered a

final order dismissing Weiss v. State, 4FA-82-2208 Civil, and the time for appeals of that determination and that order has expired with no appeals having been taken,

(A) to have the provisions of ch. 66, SLA 1991, that establish the Alaska Mental Health Trust Authority become law;

(B) to amend the provisions of ch. 66, SLA 1991, that establish the mental health trust fund to provide for preserving the corpus of the mental health trust, including an initial appropriation of \$200,000,000, in perpetuity and to have the provisions, as amended, become law;

(C) to provide for the Alaska Mental Health Trust Authority to use the income from the mental health trust fund to assist it in fulfilling its purpose of ensuring an integrated comprehensive mental health program for the state; and

(D) to have the provisions of ch. 66, SLA 1991, that improve the state's mental health program become law.

* **Sec. 2.** [AS 29.65.060](#) is amended by adding a new subsection to read:

(h) To obtain replacement land for mental health land that was conveyed by the state to the municipality under former [AS 29.18.190](#) - 29.18.200, former [AS 29.18.201](#) - 29.18.202, or under this chapter, a municipality may reconvey to the state land that had been conveyed by the state to the municipality. When a municipality reconveys land to the state under this subsection, the municipality has the right to select an equal number of acres of replacement land. The municipality may exercise its right to select replacement land under this subsection only within two years of the date of the reconveyance of land to the state.

* **Sec. 3.** [AS 37.13.300](#) , added by sec. 9, ch. 66, SLA 1991, is amended to read:

Sec. 37.13.300. CORPORATION TO MANAGE CERTAIN ASSETS OF THE MENTAL HEALTH TRUST. (a) **The** [SUBJECT TO AGREEMENT WITH THE ALASKA MENTAL HEALTH TRUST AUTHORITY ([AS 47.30.011](#)) ENTERED INTO UNDER [AS 37.14.009](#) (a)(5), THE] corporation shall manage the **mental health trust fund** [CASH ASSETS OF THE CORPUS OF THE TRUST ESTABLISHED UNDER THE ALASKA MENTAL HEALTH ENABLING ACT OF 1956, P.L. 84- 830, 70 STAT. 709].

(b) The corporation shall

(1) hold and invest the **mental health trust fund** [CASH ASSETS OF THE CORPUS OF THE TRUST THAT ARE TRANSFERRED TO ITS CUSTODY] subject to [AS 37.13.120](#) ;

(2) at least quarterly, prepare, publish, and distribute to the Board of Trustees of the Alaska Mental Health Trust Authority a financial report showing investment revenue and expenditures, including the allocation of the cash assets of the **mental health trust fund** among investments;

(3) annually prepare, publish, and distribute to the Board of Trustees of the Alaska Mental Health Trust Authority financial statements prepared in accordance with generally accepted accounting principles consistently applied, and an audit report prepared by a certified public accountant; [AND]

(4) periodically advise the Board of Trustees of the Alaska Mental Health Trust Authority when revisions to long-range investment policy, including asset allocation changes, are contemplated, and provide an opportunity for consultation and comment on the changes before they are implemented; **and**

(5) transfer to the mental health trust income account the net income available for distribution attributable to the mental health trust fund at the end of each fiscal year.

(c) Net income from the **mental health trust fund** [CASH ASSETS OF THE CORPUS OF THE TRUST MANAGED UNDER THIS SECTION] may not be included in the computation of net income available for distribution under [AS 37.13.140](#) .

* **Sec. 4.** [AS 37.14.003](#) (a), added by sec. 10, ch. 66, SLA 1991, is amended to read:

(a) [IN REVIEWING APPROPRIATIONS FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT PROPOSED BY THE AUTHORITY, THE GOVERNOR SHALL CONSIDER THE NEEDS OF THE BENEFICIARIES OF THE TRUST WITHOUT REGARD TO OTHER POTENTIAL OBJECTS OF STATE EXPENDITURE.] The governor shall, **at the time the governor submits the proposed comprehensive operating and capital improvements program and financial plan under AS 37.07.060 (b)** [BY DECEMBER 15 OF EACH YEAR], submit to the legislature a separate appropriation bill limited to appropriations **for the state's integrated comprehensive** [FROM THE] mental health **program** [TRUST INCOME ACCOUNT].

* **Sec. 5.** [AS 37.14.003](#) (b), added by sec. 10, ch. 66, SLA 1991, is amended to read:

(b) If the appropriations in the bill submitted by the governor under (a) of this section differ from those proposed by the authority, the bill must **be accompanied by a report** [CONTAIN FINDINGS] explaining the reasons for the differences **between the proposed appropriations in the governor's bill and the authority's recommendations for expenditures from the general fund for the state's integrated comprehensive mental health program** [AND PROVIDING THE BASIS FOR DETERMINING THAT THE PROPOSED APPROPRIATIONS MEET THE NEEDS OF THE BENEFICIARIES OF THE TRUST. IF THE GOVERNOR PROPOSES TO INCREASE

THE AMOUNT OF MONEY TO BE TRANSFERRED FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT TO THE UNRESTRICTED GENERAL FUND OVER THE AUTHORITY'S RECOMMENDATION MADE UNDER [AS 47.30.046](#) (a)(3), THE BILL MUST CONTAIN FINDINGS SUPPORTING THE DETERMINATION THAT THE ADDITIONAL MONEY IS NOT REASONABLY NECESSARY TO MEET THE PROJECTED OPERATING AND CAPITAL EXPENSES OF THE INTEGRATED COMPREHENSIVE MENTAL HEALTH PROGRAM TO BE FINANCED FROM THE TRUST].

* **Sec. 6.** [AS 37.14.003](#) (c), added by sec. 10, ch. 66, SLA 1991, is repealed and reenacted to read:

(c) If the governor vetoes all or a part of an appropriation for the integrated comprehensive mental health program, the governor's veto message must explain the vetoes in light of the authority's recommendations for expenditures from the general fund for the state's integrated comprehensive mental health program.

* **Sec. 7.** [AS 37.14.005](#) , added by sec. 10, ch. 66, SLA 1991, is amended to read:

Sec. 37.14.005. RESPONSIBILITIES OF THE LEGISLATURE. (a) The legislature shall annually pass and transmit to the governor a bill making appropriations of money **for the state's integrated comprehensive** [FROM THE] mental health **program** [TRUST INCOME ACCOUNT NO LATER THAN THE 75TH DAY OF THE REGULAR SESSION].

(b) [BEFORE TAKING ACTION ON APPROPRIATIONS FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT PROPOSED BY THE GOVERNOR, THE LEGISLATURE SHALL CONSIDER THE NEEDS OF THE BENEFICIARIES OF THE TRUST WITHOUT REGARD TO OTHER POTENTIAL OBJECTS OF STATE EXPENDITURE.] The legislature shall make appropriations **for the state's integrated comprehensive** [FROM THE] mental health **program** [TRUST INCOME ACCOUNT] in a separate appropriation bill limited to appropriations **for the state's integrated comprehensive** [FROM THE] mental health **program** [TRUST INCOME ACCOUNT].

(c) If the appropriations in the bill passed by the legislature differ from those proposed by the authority, the bill must **be accompanied by a report** [CONTAIN FINDINGS] explaining the reasons for the differences **between the appropriations in the bill and the authority's recommendations for expenditures from the general fund for the state's integrated comprehensive mental health program** [AND PROVIDING THE BASIS FOR DETERMINING THAT THE APPROPRIATIONS MEET THE NEEDS OF THE BENEFICIARIES OF THE TRUST. IF THE LEGISLATURE INCREASES THE AMOUNT OF MONEY TO BE TRANSFERRED FROM THE TRUST TO THE GENERAL FUND OVER THE AUTHORITY'S RECOMMENDATION MADE UNDER [AS 47.30.046](#) (a)(3), THE BILL MUST CONTAIN FINDINGS SUPPORTING THE DETERMINATION THAT THE

ADDITIONAL MONEY IS NOT REASONABLY NECESSARY TO MEET THE PROJECTED OPERATING AND CAPITAL EXPENSES OF THE INTEGRATED COMPREHENSIVE MENTAL HEALTH PROGRAM TO BE FINANCED FROM THE TRUST].

* **Sec. 8.** [AS 37.14.007](#) (b), added by sec. 10, ch. 66, SLA 1991, is amended to read:

(b) In exercising the powers, duties, and responsibilities as trustee the authority is under a duty to the public and the trust beneficiaries to

(1) administer the trust **consistent with AS 37.14.009** [SOLELY] in the interest of the beneficiaries;

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

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

(4) exercise a high degree of care in administering the trust;

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

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

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

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

(9) separately account for trust property;

(10) ensure that trust property is designated as property of the trust;

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

(12) deal impartially with the different trust beneficiaries as provided in [AS 47.30.056](#) .

* **Sec. 9.** [AS 37.14.009](#) (a), added by sec. 10, ch. 66, SLA 1991, is amended to read:

(a) The Alaska Mental Health Trust Authority

(1) has a fiduciary obligation to ensure that the assets of the trust are managed consistent with the requirements of the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956);

(2) shall [MANAGE THE ASSETS OF THE TRUST IN A FIDUCIARY MANNER TO FULFILL THE PURPOSES OF THE TRUST;

(2) MAY, CONSISTENT WITH (1) OF THIS SUBSECTION AND [AS 47.30.036](#) (1), SELL, LEASE, EXCHANGE, OR OTHERWISE DISPOSE OF LAND IN THE TRUST;

(3) MAY, CONSISTENT WITH (1) OF THIS SUBSECTION, USE LAND THAT IS AN ASSET OF THE TRUST DIRECTLY FOR THE INTEGRATED COMPREHENSIVE MENTAL HEALTH PROGRAM;

(4) MAY] contract with the Department of Natural Resources to manage the land assets of the trust; the contract must provide for the recording of at least one conveyance to the authority by quitclaim deed of mental health trust land in each recording district in the state in which mental health trust land is located; a conveyance to the authority is exempt from the platting and surveying requirements of [AS 38.04.045](#) (b) and municipal ordinances adopted under AS 29.40; when the Department of Natural Resources manages land assets of the trust under a contract entered into under this paragraph, the department shall

(A) manage in conformity with [AS 38.05.801](#) ;

(B) consult with the authority before adopting regulations under [AS 38.05.801](#) (c);

(C) provide notice to, and consult with, the authority regarding all proposed actions subject to public notice under [AS 38.05.945](#) before giving that public notice;

(D) annually provide the authority with a report including

(i) a description of all land management activities undertaken under this section during the prior year;

(ii) an accounting of all income and proceeds generated from mental health trust land;

(iii) an explanation of the manner in which the income and proceeds were allocated between the mental health trust fund and the mental health trust income account; and

(E) obtain the approval of the authority before exchanging mental health trust land under AS 38.05.801 (b)(2); and

(3) [(5)] shall contract with the Alaska Permanent Fund Corporation for management of the **mental health trust fund** [TRUST'S CASH ASSETS, UNLESS THE AUTHORITY FINDS THAT THE BEST INTERESTS OF TRUST BENEFICIARIES WOULD BE SERVED BY CONTRACTING WITH ANOTHER ENTITY].

* **Sec. 10.** [AS 37.14](#) is amended by adding a new section to read:

Sec. 37.14.013. MENTAL HEALTH TRUST INCOME AND PROCEEDS ACCOUNT. (a) The mental health trust income and proceeds account is established as a separate account in the general fund.

(b) The mental health trust income and proceeds account consists of

(1) the net income and net proceeds received by the state from the use, sale, or other disposal of the state land designated as mental health trust land; and

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

* **Sec. 11.** [AS 37.14](#) is amended by adding a new section to read:

Sec. 37.14.023. UTILIZATION OF THE MENTAL HEALTH TRUST INCOME AND PROCEEDS ACCOUNT. (a) Money in the mental health trust income and proceeds account established in [AS 37.14.013](#) (a) shall first be appropriated by the legislature to pay the necessary expenses of the mental health program of the state. In making annual appropriations from the mental health trust income and proceeds account, the legislature shall consider the recommendations of the Alaska Mental Health Board established under [AS 47.30.661](#) .

(b) After appropriations have been made to pay the necessary expenses of the mental health program of the state, the legislature may authorize the transfer of the unobligated and unappropriated fiscal year-end balance in the mental health trust income and proceeds account as of June 30 to the unrestricted portion of the general fund for use for other public purposes.

* **Sec. 12.** [AS 37.14.031](#) , added by sec. 11, ch. 66, SLA 1991, is amended to read:

Sec. 37.14.031. TRUST FUND ESTABLISHED. **(a)** The mental health trust fund is established as a separate fund **of the Alaska Mental Health Trust Authority** [WITHIN THE STATE TREASURY].

(b) The fund consists of the cash assets of the principal of the trust, **and includes**

(1) money appropriated to the fund;

(2) the proceeds of sale or other disposals of mental health trust land, and the fees, charges, income earned, royalty proceeds, and other money received from the management of mental health trust land attributable to principal; and

(3) gifts, bequests, and contributions from other sources.

* **Sec. 13.** [AS 37.14.031](#) , added by sec. 11, ch. 66, SLA 1991, is amended by adding new subsections to read:

(c) The net income of the fund shall be determined by the Alaska Permanent Fund Corporation in the same manner the corporation determines the net income of the Alaska permanent fund under [AS 37.13.140](#) .

(d) The provisions of [AS 13.38](#) apply to determine amounts attributable to the principal under (b)(2) of this section.

* **Sec. 14.** [AS 37.14](#) is amended by adding new sections to read:

Sec. 37.14.033. MANAGEMENT OF TRUST FUND. The mental health trust fund shall be managed by the Alaska Permanent Fund Corporation under [AS 37.13.300](#) .

Sec. 37.14.035. TRUST FUND UTILIZATION. (a) The cash principal of the mental health trust fund shall be retained perpetually in the fund for investment by the Alaska Permanent Fund Corporation, as specified in [AS 37.13.300](#) .

(b) The net income of the fund shall be transferred by the corporation to the mental health trust income account at the end of each fiscal year.

(c) The net income of the fund may only be utilized by the Alaska Mental Health Trust Authority for the purposes listed in [AS 37.14.041](#) .

* **Sec. 15.** [AS 37.14.036](#) (a), added by sec. 11, ch. 66, SLA 1991, is amended to read:

(a) The mental health trust income account is established as a separate account **of the Alaska Mental Health Trust Authority** [WITHIN THE GENERAL FUND OF THE STATE]. The mental health trust 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 [;

(3) THE AMOUNTS ALLOCATED TO IT UNDER (c) OF THIS SECTION].

* **Sec. 16.** [AS 37.14](#) is amended by adding new sections to read:

Sec. 37.14.039. TRUST INCOME ACCOUNT ADMINISTRATION. (a) The mental health trust income account shall be administered by the Alaska Mental Health Trust Authority.

(b) If the authority determines that there is a surplus of money in the account above the amount sufficient to meet current and projected cash expenditure needs of the authority, the surplus shall be invested by the authority as provided in [AS 37.10.071](#) for the making of investments by the fiduciary of a state fund. Income earned on investments made under this subsection may be retained by the authority and expended under [AS 37.14.041](#) .

Sec. 37.14.041. USE OF TRUST INCOME ACCOUNT. (a) Money in the mental health trust income account may only be used for the following purposes:

(1) the awarding of grants and contracts in fulfillment of the authority's purpose to ensure an integrated comprehensive mental health program for the state;

(2) obtaining private and federal grants for a purpose described in (1) of this subsection;

(3) soliciting gifts, bequests, and contributions for a purpose described in (1) of this subsection;

(4) reimbursement to

(A) the Alaska Permanent Fund Corporation for the costs of managing the principal of the mental health trust fund; and

(B) the Department of Natural Resources for the cost of managing mental health trust land;

(5) offsetting the effect of inflation on the value of the principal of the mental health trust fund; and

(6) subject to [AS 37.07](#) (Executive Budget Act), meeting the necessary administrative expenses of the authority that are required for it to properly discharge its responsibilities.

(b) If money in the mental health trust income account is not needed to meet the necessary expenses of the state's integrated comprehensive mental health program, the authority shall transfer the money to the unrestricted general fund for expenditure through legislative appropriation for other public purposes.

Sec. 37.14.045. LIMITATION ON GRANTS AND CONTRACTS PAID FOR FROM MENTAL HEALTH TRUST INCOME ACCOUNT. (a) The authority may award grants and contracts that are paid for from money in the mental health trust income account only in furtherance of its purpose to ensure an integrated comprehensive mental health program.

(b) In awarding grants and contracts that are paid for from money in the mental health trust income account, the authority shall consider proposals only from applicants submitting a detailed proposal in the form prescribed by the authority.

(c) The authority may not award a grant or contract that is to be paid for from money in the mental health trust income account unless the authority makes written findings explaining that

(1) the grant or contract awarded will further the authority's purpose to ensure an integrated comprehensive mental health program;

(2) the applicant has submitted an adequate plan for project implementation, including both financial feasibility and project effectiveness;

(3) the applicant has demonstrated that sufficient expertise is available to accomplish the objectives of the proposed program or project; and

(4) the applicant has identified operating, maintenance, and other costs associated with the project, including those ancillary to the project, and future obligations associated with the project.

(d) The authority may establish other requirements for the award of grants and contracts under this section to ensure an integrated comprehensive mental health program.

(e) The authority shall award grants and contracts that are paid for from money in the mental health trust income account in amounts that

(1) are appropriate to the conditions of the applicant and the proposed program or project; and

(2) will make the most effective use of the funds in the mental health trust income account that are available for expenditure.

* **Sec. 17.** [AS 38.05](#) is amended by adding a new section to read:

Sec. 38.05.801. MANAGEMENT OF MENTAL HEALTH TRUST LAND. (a) Mental health trust land shall be managed consistent with the trust principles imposed on the state by the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956).

(b) Subject to (a) of this section, the department

(1) shall manage mental health trust land under those provisions of law applicable to other state land;

(2) may exchange other state land for mental health trust land under the procedures set out in AS 38.50; and

(3) may correct errors or omissions in the legal descriptions of mental health trust land.

(c) The commissioner shall adopt regulations under [AS 44.62](#) (Administrative Procedure Act) to implement this section. The regulations adopted under this subsection must, at a minimum, address

(1) maintenance of the trust land base;

(2) management for the benefit of the trust;

(3) management for long-term sustained yield of products from the land;
and

(4) management for multiple use of trust land.

* **Sec. 18.** [AS 39.25.120](#) (c) is amended by adding a new paragraph to read:

(23) employees of the unit established under [AS 44.37.050](#) .

* **Sec. 19.** [AS 44.21.230](#) (a), as amended by sec. 15, ch. 66, SLA 1991, is amended to read:

(a) The commission shall

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

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

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

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

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

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

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

(8) administer, with the approval of the commissioner of administration, state programs as provided under AS 47.65;

(9) give assistance, on request, to the senior housing office in the Alaska Housing Finance Corporation in administration of the senior housing loan program under [AS 18.56.710](#) - 18.56.799 and in the performance of the office's other duties under [AS 18.56.700](#) ; and

(10) provide to the Alaska Mental Health Trust Authority, for its review and consideration, recommendations concerning the integrated comprehensive mental health program for persons who are described in **(d) of this section** [[AS 47.30.056](#) (b)(4)] and the use of the money in the mental health trust income account in a manner consistent with regulations adopted under [AS 47.30.031](#) .

* **Sec. 20.** [AS 44.21.230](#) is amended by adding a new subsection to read:

(d) When the commission formulates a comprehensive statewide plan under (a) of this section, it shall include within the plan specific reference to the concerns and needs of older Alaskans who have a disorder described in [AS 47.30.056](#) (b)(4).

* **Sec. 21.** [AS 44.29.140](#) (c), as added by sec. 25, ch. 66, SLA 1991, is amended to read:

(c) The board shall prepare and maintain a comprehensive plan of services

(1) for the prevention and treatment of alcohol, drug, and other substance abuse; **and**

(2) for persons described in [AS 47.30.056](#) (b)(3).

* **Sec. 22.** [AS 44.37](#) is amended by adding a new section to read:

Sec. 44.37.050. DUTIES OF DEPARTMENT WITH RESPECT TO MANAGEMENT OF MENTAL HEALTH TRUST LAND. To carry out its duties under [AS 38.05.801](#) , the Department of Natural Resources shall establish a separate unit with responsibility for management of the mental health trust land.

* **Sec. 23.** [AS 47.30.011](#) (c), added by sec. 26, ch. 66, SLA 1991, is amended to read:

(c) The authority

(1) shall, **as provided in [AS 37.14.009](#)**, administer the trust established under the Alaska Mental Health Enabling Act of 1956;

(2) may sue and be sued;

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

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

(5) shall exercise the powers granted to it under [AS 37.14.041](#) , subject to the limitations imposed by [AS 37.14.045](#) .

* **Sec. 24.** [AS 47.30.016](#) (b), added by sec. 26, ch. 66, SLA 1991, is amended to read:

(b) The board consists of seven members appointed by the governor **and confirmed by the legislature**. The members appointed under this subsection shall be appointed

(1) based upon their ability in financial management and investment, in land management, or in services for the beneficiaries of the trust;

(2) after the governor has considered a list of persons prepared by a panel of six persons who are beneficiaries, or who are the guardians, family members, or representatives of beneficiaries; the panel shall consist of

(A) one person selected by the Alaska Mental Health Board ([AS 47.30.661](#));

(B) one person selected by the Governor's Council **on Disabilities and Special Education** [FOR THE HANDICAPPED AND GIFTED ([AS 47.80.030](#))];

(C) one person selected by the Advisory Board on Alcoholism and Drug Abuse ([AS 44.29.110](#));

(D) one person selected by the Older Alaskans Commission ([AS 44.21.200](#));

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

(F) one person selected by the authority.

* **Sec. 25.** [AS 47.30.016](#) (c), added by sec. 26, ch. 66, SLA 1991, is amended to read:

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

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

(2) within the preceding two years or during the member's term of office have an interest in, served on the governing board of, or been employed by an organization that has received, during that same period, money from the mental health trust income account under a **grant or** contract for services.

* **Sec. 26.** [AS 47.30.036](#) (1), added by sec. 26, ch. 66, SLA 1991, is amended to read:

(1) preserve and protect the trust corpus **under AS 37.14.009**;

* **Sec. 27.** [AS 47.30.046](#) (a), added by sec. 26, ch. 66, SLA 1991, is amended to read:

(a) The board shall annually, not later than September 15, submit to the governor and the Legislative Budget and Audit Committee a budget for the next fiscal year and a proposed plan of implementation based on the integrated comprehensive mental health program plan prepared under [AS 47.30.660](#) (a)(1). The budget must include the authority's determination of the amount

(1) [RECOMMENDED FOR EXPENDITURE FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT DURING THE NEXT FISCAL YEAR TO

(A) MEET THE ADMINISTRATIVE EXPENSES OF THE AUTHORITY;

(B) OFFSET THE EFFECT OF INFLATION ON THE VALUE OF THE TRUST CORPUS; AND

(C) MEET THE NECESSARY OPERATING AND CAPITAL EXPENSES OF THE INTEGRATED COMPREHENSIVE MENTAL HEALTH PROGRAM;

(2)] recommended for expenditure from the general fund [, IF ANY,] during the next fiscal year to meet the [NECESSARY] operating and capital expenses of the integrated comprehensive mental health program;

(2) [AND (3)] in the mental health trust income account, if any, that is not reasonably necessary to meet the projected operating and capital expenses of the integrated comprehensive mental health program that may be transferred into the general fund; **and**

(3) of the expenditures the authority intends to make under AS 37.14.041 and 37.14.045, including the specific purposes and amounts of any grants or contracts as part of the state's integrated comprehensive mental health program.

* **Sec. 28.** [AS 47.30.056](#) (a), added by sec. 26, ch. 66, SLA 1991, is amended to read:

(a) **The** [IF APPROPRIATED BY LAW, THE] money in the mental health trust income account established in [AS 37.14.036](#) shall be used **as provided in AS 37.14.041 , including** to

(1) provide an integrated comprehensive mental health program as required by this section;

(2) meet the authority's annual administrative expenses; and

(3) offset the effect of inflation on the **mental health trust fund** [CORPUS OF THE TRUST].

* **Sec. 29.** [AS 47.30.470](#) (9), added by sec. 27, ch. 66, SLA 1991, is amended to read:

(9) use money **awarded to the department by grant or contract** [APPROPRIATED] from the mental health trust income account established under [AS 37.14.036](#) **and appropriated from the general fund** to provide the necessary services identified in (8) of this section and in accordance with [AS 47.30.056](#) .

* **Sec. 30.** [AS 47.30.520](#) , as amended by sec. 28, ch. 66, SLA 1991, is amended to read:

Sec. 47.30.520. LEGISLATIVE PURPOSE. It is the purpose of the Community Mental Health Services Act to

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

(2) assist communities in planning, organizing, and financing community mental health services through locally developed, administered, and controlled community mental health programs;

(3) better develop and use resources at both state and local levels;

(4) develop and implement plans for comprehensive mental health services based on demonstrated need on a regional basis;

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

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

(7) ensure that consumers, families, and representatives of communities within mental health planning regions can participate in **planning for**, determining the need for, and **allocating** [THE ALLOCATION OF] mental health resources;

(8) provide a means of allocating money available for state mental health services according to community needs;

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

(10) prevent unnecessary duplication and fragmentation of services and expenditures.

* **Sec. 31.** [AS 47.30.530](#) (a) is amended to read:

(a) The department shall administer the provisions of [AS 47.30.520](#) - 47.30.620 and shall

(1) define and develop standards for various levels and qualities of mental health care;

(2) provide fiscal and professional technical assistance in planning, organizing, developing, implementing, and administering local mental health services;

(3) develop budgets and receive and distribute state appropriations and funds in accordance with the provisions of [AS 47.30.520](#) - 47.30.620;

(4) establish standards of education and experience for professional, technical, and administrative personnel employed in community mental health services;

(5) assist the community in establishing the organization and operation of community mental health services;

(6) develop a standardized system for measuring and reporting to the department the types, quantities, and quality of services; and develop a cost accounting system that will demonstrate the cost of various levels and qualities of care;

(7) provide each local community planning and services delivery entity with statistics, reports, and other data relevant to development of indices indicating the need for mental health services, or relevant to evaluating the effectiveness of existing services;

(8) review each local community plan and require each plan to include

(A) an affirmative showing that the most effective and economic use will be made of all available public and private resources in the community including careful consideration of the most effective and economic alternative forms and patterns of services;

(B) a five-year projection of needs, services, and resources; and

(C) adequate provisions for review and evaluation of services provided in the local community;

(9) adopt regulations and establish priorities, after consultation with local communities affected and in conjunction with **the Alaska Mental Health Board** [A STATE MENTAL HEALTH ADVISORY COUNCIL], that are necessary to carry out the purposes of [AS 47.30.520](#) - 47.30.620.

* **Sec. 32.** [AS 47.30.550](#) is amended by adding a new subsection to read:

(e) In (a) and (b) of this section, "poverty area" means a census district in which at least 15 percent of the population, based upon the most recent census date, falls under 125 percent of the United States Department of Health and Human Services' Poverty Income Guidelines for Alaska, as reported in the Federal Register.

* **Sec. 33.** [AS 47.30.660](#) , as amended by sec. 36, ch. 66, SLA 1991, and by sec. 2, ch. 109, SLA 1992, is amended to read:

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

(1) prepare, and periodically revise and amend, a plan for an integrated comprehensive mental health program, **as that term is defined by [AS 47.30.056 \(i\)](#)**; the preparation of the plan and any revision or amendment of it shall

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

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

(2) in planning expenditures from the mental health trust income account, conform to the regulations adopted by the Alaska Mental Health Trust Authority under [AS 47.30.031](#) (b)(6); and

(3) implement an integrated comprehensive system of care that, **within the limits of money appropriated for that purpose and using grants and contracts that are to be paid for from the mental health trust income account**, meets the service needs of the beneficiaries of the trust established under the Alaska Mental Health Enabling Act of 1956, as determined by the plan.

(b) The department, in fulfilling its duties under this section and through its division of mental health and developmental disabilities, shall

(1) administer a comprehensive program of services for persons with mental disorders, for the prevention of mental illness, and for the care and treatment of persons with mental disorders, including inpatient and outpatient care and treatment and the procurement of services of specialists or other persons on a contractual or other basis;

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

(3) administer [AS 47.30.660](#) - 47.30.915;

(4) designate, operate, and maintain treatment facilities equipped and qualified to provide inpatient and outpatient care and treatment for persons with mental disorders;

(5) provide for the placement of patients with mental disorders in designated treatment facilities;

(6) enter into arrangements with governmental agencies for the care or treatment of persons with mental disorders in facilities of the governmental agencies in the state or in another state;

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

(8) enter into contracts, which incorporate safeguards consistent with [AS 47.30.660](#) - 47.30.915 and the preservation of the civil rights of the patients with another

state for the custody and care or treatment of patients previously committed from this state under 48 U.S.C. 46 et seq., and P.L. 84-830, 70 Stat. 709;

(9) prescribe the form of applications, records, reports, request for release, and consents to medical or psychological treatment required by [AS 47.30.660](#) - 47.30.915;

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

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

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

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

(14) after consultation with the Alaska Mental Health Trust Authority, adopt regulations to implement the provisions of [AS 47.30.660](#) - 47.30.915;

(15) provide technical assistance and training to providers of mental health services; and

(16) set standards under which each designated treatment facility shall provide programs to meet patients' medical, psychological, social, vocational, educational, and recreational needs.

* **Sec. 34.** [AS 47.30.662](#) (a), as repealed and reenacted by sec. 37, ch. 66, SLA 1991, is amended to read:

(a) The board consists of not fewer than **12** [18] nor more than **16** [24] members appointed by the governor, with due regard for the demographics of the state and balanced geographic representation of the state. The membership and committees of the board shall fulfill the requirements of P.L. 99-660, as amended.

* **Sec. 35.** [AS 47.30.666](#) , as repealed and reenacted by sec. 39, ch. 66, SLA 1991, is amended to read:

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

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

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

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

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

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

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

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

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

(6) provide to the Alaska Mental Health Trust Authority for its review and consideration recommendations concerning the integrated comprehensive mental health program for those persons who are described in [AS 47.30.056](#) (b)(1) [AND (4)] and the use of money in the mental health trust income account in a manner consistent with regulations adopted under [AS 47.30.031](#) ; and

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

* **Sec. 36.** [AS 47.30.910](#) (d), as amended by sec. 41, ch. 66, SLA 1991, is further amended to read:

(d) All money paid by the patient or on the patient's behalf to the department under this section shall be deposited in the **general fund** [MENTAL HEALTH TRUST INCOME ACCOUNT ESTABLISHED IN [AS 37.14.036](#)].

* **Sec. 37.** Section 58, ch. 66, SLA 1991, is repealed and reenacted 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);

(2) the superior court has entered 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, 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. 38.** Chapter 66, SLA 1991, is amended by adding a new section to read:

Sec. 59. If, under sec. 58 of this Act, this Act takes effect, it takes effect December 16, 1994.

* **Sec. 39.** [AS 37.14.009](#) (b), 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.

* **Sec. 40.** MENTAL HEALTH TRUST RECONSTITUTED. (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 *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," 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," located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska.

(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 effective date of this section.

(c) To the extent the state's liability to the mental health trust for the fair market value of the land described in sec. 41 of this Act is not satisfied by the set-off for state mental health expenditures authorized by the Alaska Supreme Court in *State v. Weiss*, 706 P.2d 681 (Alaska 1985), the state land described in (a)(2) of this section, the other compensation made by this Act, and appropriations from the general fund for the state's integrated comprehensive mental health program compensate the trust

(1) first, for land conveyed or made subject to a contract for conveyance by the Department of Natural Resources to third parties that are not state agencies or political subdivisions of the state;

(2) second, for land conveyed by the Department of Natural Resources to municipalities; and

(3) third, for the other land described in sec. 41 of this Act.

*** Sec. 41. CONFIRMATION AND RATIFICATION OF CONVERSION OF CERTAIN ORIGINAL MENTAL HEALTH LAND TO GENERAL GRANT LAND, CONTINGENT CONVERSION OF CERTAIN ORIGINAL MENTAL HEALTH LAND TO GENERAL GRANT LAND, AND CONFIRMATION AND RATIFICATION OF ACTIONS TAKEN WITH RESPECT TO CONVERTED LAND.**

(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," 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," 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.

(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," located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska.

(c) All dispositions and uses of the land identified under (a) of this section, including without limitation the creation by the state or the transfer by the state of an interest in the land or the designation of the land as part of a state park, state forest, state game refuge, state wildlife refuge, state game sanctuary, state recreational area, state recreational river, state wilderness park, state marine park, state special management area, state public use area, critical habitat area, bald eagle preserve, bison range, or moose range are confirmed and ratified.

*** Sec. 42. STATE MENTAL HEALTH EXPENDITURES TO BE SET-OFF AGAINST STATE MONETARY LIABILITY FOR ORIGINAL MENTAL HEALTH LAND NOT RETURNED TO TRUST STATUS.** To the extent the state is liable to the mental health trust for the fair market value of any original mental health land not returned to trust status under sec. 40(a)(1) of this Act, after taking into account the fair market value of the state land designated as mental health trust land under sec. 40(a)(2) of this Act, the set-off against that liability for state mental health expenditures since 1978 to which the state is entitled under *State v. Weiss*, 706 P.2d 681 (Alaska 1985), totals \$1,320,000,000.

*** Sec. 43. TRANSITIONAL PROVISIONS; DEVELOPMENT OF MENTAL HEALTH TRUST INCOME ACCOUNT MECHANISM.** Not later than January 1, 1996, the Board of Trustees of the Alaska Mental Health Trust Authority, after consulting with organizations and persons affected by this Act, shall

(1) consistent with [AS 47.30.056](#) (h), added by sec. 26, ch. 66, SLA 1991, adopt regulations regarding persons who are to receive services funded by money in the mental health trust income account under [AS 37.14.036](#), as added by sec. 11, ch. 66, SLA 1991, and amended by secs. 15 and 39 of this Act;

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

(3) consistent with [AS 47.30.056](#) (j), added by sec. 26, ch. 66, SLA 1991, adopt regulations regarding the services and facilities upon which expenditures are to be made from money in the mental health trust income account under [AS 37.14.036](#), added by sec. 11, ch. 66, SLA 1991, and amended by secs. 15 and 39 of this Act; and

(4) publish its findings and projections regarding the necessary expenditure of money from the mental health trust income account under [AS 37.14.036](#), as added by sec. 11, ch. 66, SLA 1991, and amended by secs. 15 and 39 of this Act.

*** Sec. 44. ADDITIONAL COMPENSATION TO MENTAL HEALTH TRUST.** (a) To the extent the state has any additional monetary liability to the mental health trust for original mental health land not returned to trust status under sec. 40(a)(1) of this Act after taking into account the fair market value of the other state land under sec. 40(a)(2) of this Act and the set-off for state mental health expenditures under sec. 42 of this Act, the commissioner of revenue shall allocate sufficient unrestricted state general funds to the mental health trust income and proceeds account ([AS 37.14.013](#)), established by sec. 10

of this Act, to satisfy that liability. The money so allocated is additional compensation to the mental health trust for the original mental health land not returned to trust status under sec. 40(a)(1) of this Act. An allocation under this subsection may not exceed \$100,000,000 during any one state fiscal year.

(b) After appropriations from the mental health trust income and proceeds account have been made to pay for the state's mental health program, the legislature may

(1) transfer to the general fund an amount equal to the remaining unrestricted state general funds allocated by the commissioner of revenue to the mental health trust income and proceeds account under (a) of this section; and

(2) appropriate any part or all of the amount transferred under (1) of this subsection for other public purposes.

* **Sec. 45.** REPLACEMENT LAND OF MUNICIPALITIES. A municipality may obtain replacement land under [AS 29.65.060](#) (h), added by sec. 2 of this Act, for land that had been conveyed by the state to the municipality only if the land is on the list of "Original Mental Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," or on the list of "Other State Land To Be Designated as Mental Health Trust Land, April 28, 1994," both of which are located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska.

* **Sec. 46.** TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH BOARD. Notwithstanding [AS 47.30.662](#) , as amended by sec. 37, ch. 66, SLA 1991, and sec. 34 of this Act, the members of the Alaska Mental Health Board who are serving on the effective date of this section continue to serve their unexpired terms. Vacancies on the board occurring after the effective date of this section, and new positions created by this section, shall be filled by the governor under the provisions of [AS 47.30.662](#) , as amended by sec. 37, ch. 66, SLA 1991, and sec. 34 of this Act. When making appointments to new positions on the board, the governor shall ensure that the initial terms of new members maintain the staggered term requirement of [AS 47.30.663](#) .

* **Sec. 47.** If, on or before November 30, 1994, the governor determines that it is in the best interest of the beneficiaries of the mental health trust and the state that the December 15, 1994, deadline be extended, the governor at that time may extend the December 15, 1994, deadline for not more than 45 days.

* **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. 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. 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. 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. 52.** Sections 1, 2, 10, 11, 17, 18, 22, 31, 32, 37 - 42, 44, 45, and 47 of this Act take effect immediately under [AS 01.10.070](#) (c).