

Chapter 066

Chapter: CH066

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AN ACT

Establishing the Alaska Mental Health Trust Authority and defining its powers and duties; relating to the trust established by the Alaska Mental Health Enabling Act of 1956 and to an integrated comprehensive mental health program; abolishing the Interim Mental Health Trust Commission; relating to the Older Alaskans Commission and the Governor's Council for the Handicapped and Gifted, and services provided under the Uniform Alcoholism and Intoxication Treatment Act; amending the duties of the Alaska Permanent Fund Corporation and the membership and duties of the Advisory Board on Alcoholism and Drug Abuse and the Alaska Mental Health Board; amending the jurisdiction of courts; exempting trust property from municipal taxation; and providing for an effective date.

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

(1) in accordance with *State v. Weiss*, 706 P.2d 681 (Alaska 1985);

(2) in a manner that

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

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

(C) assures appropriate expenditures from the trust;

(D) establishes an independent trust authority; and

(E) is enforceable.

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

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

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

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

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

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

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

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

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

(5) money on deposit;

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

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

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

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

(1) grants;

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

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

(4) contracts for medical doctors and dentists;

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

(6) disposals under AS 38.05;

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

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

(9) disposals of obsolete property under AS 19.05.060;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) federal receipts;
- (2) University of Alaska receipts (AS 14.40.491);
- (3) individual, foundation, or corporation gifts, grants, or bequests that by their terms are restricted to a specific purpose;
- (4) receipts of the following funds:
 - (A) highway working capital fund (AS 44.68.210);
 - (B) correctional industries fund (AS 33.32.020);
 - (C) loan funds;
 - (D) international airport revenue fund (AS 37.15.430);
 - (E) funds managed by the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial Development and Export Authority (AS 44.88.020);
 - (F) fish and game fund (AS 16.05.100);
 - (G) school fund (AS 43.50.140);
 - (H) training and building fund (AS 23.20.130);
 - (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and former AS 39.37);
 - (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
 - (K) public school trust fund (AS 37.14.110);
 - (L) second injury fund (AS 23.30.040);
 - (M) fishermen's fund (AS 23.35.060);

(N) FICA administration fund (AS 39.30.050);

(O) mental health trust fund (AS 37.14.031).

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

(b) Except for appropriations to the permanent fund or for Alaska permanent fund dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, [AND] appropriations of money received from a nonstate source in trust for a specific purpose, including revenue of a public enterprise or public corporation of the state that issues revenue bonds, **appropriations from the mental health trust income account (AS 37.14.036), and appropriations made to the mental health trust fund (AS 37.14.031),** appropriations from the treasury made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more than five percent plus the change in population and inflation since the beginning of the preceding fiscal year. For purposes of applying this limit an appropriation is considered to be made in the fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in which the original appropriation is enacted. The determination of the change in population for purposes of this subsection shall be based on an annual estimate of population by the Department of Labor. The determination of the change in inflation for purposes of this subsection shall be based on the Consumer Price Index for all urban consumers for Anchorage prepared by the United States Bureau of Labor Statistics. The amount of money received by the state that is subject to the appropriation limit includes the balance in the general fund carried forward from the preceding fiscal year.

* **Sec. 7.** AS 37.13.030 is amended to read:

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

* **Sec. 8.** AS 37.13.040 is amended to read:

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

* **Sec. 9.** AS 37.13. is amended by adding a new section to read:

Sec. 37.13.300. CORPORATION TO MANAGE CERTAIN ASSETS OF THE MENTAL HEALTH TRUST. (a) 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 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 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 trust 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.

(c) Net income from the 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. 10.** AS 37.14 is amended by adding new sections to read:

Sec. 37.14.001. MENTAL HEALTH TRUST. In carrying out its trust obligations under the Mental Health Enabling Act of 1956, the state acts through the governor, the legislature, and the Alaska Mental Health Trust Authority (AS 47.30.011).

Sec. 37.14.003. RESPONSIBILITIES OF THE GOVERNOR. (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, by December 15 of each year, submit to the legislature a separate appropriation bill limited to appropriations from the mental health trust income account.

(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 contain findings explaining the reasons for the differences 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.

(c) In reviewing the appropriations of money from the mental health trust income account for possible veto, the governor shall consider only the needs of the beneficiaries of the trust without regard to other potential objects of state expenditures. If the governor vetoes all or a part of an appropriation of money from the mental health trust income account, the governor's veto message must include the reasons the governor believes the remaining appropriations meet the needs of the beneficiaries of the trust.

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 from the mental health 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 from the mental health trust income account in a separate appropriation bill limited to appropriations from the mental health trust income account.

(c) If the appropriations in the bill passed by the legislature differ from those proposed by the authority, the bill must contain findings explaining the reasons for the differences 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. 37.14.007. AUTHORITY AS TRUSTEE. (a) The Alaska Mental Health Trust Authority, established by AS 47.30.011, is the trustee of the trust established under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.

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

(1) 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; and

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

(b) In exercising its power under (a)(2) or (3) of this section, the authority shall give public notice in the manner provided under AS 38.05.945(b) and (c), but is not otherwise bound by the provisions of AS 38.04 or AS 38.05.

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

Sec. 37.14.031. TRUST FUND ESTABLISHED. The mental health trust fund is established as a separate fund within the state treasury. The fund consists of the cash assets of the principal of the trust.

Sec. 37.14.036. TRUST INCOME ACCOUNT ESTABLISHED. (a) The mental health trust income account is established as a separate account 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;

(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.

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

(c) In each of the following state fiscal years, the commissioner of revenue shall allocate from the general fund of the state to the mental health trust income account in the general fund an amount equal to the percent of the unrestricted revenue of the state specified for that fiscal year:

FISCAL YEAR ENDING REVENUE	PERCENT OF UNRESTRICTED STATE REVENUE
June 30, 1992	six percent
June 30, 1993	six percent
June 30, 1994	five percent
June 30, 1995	five percent
June 30, 1996	four percent
June 30, 1997	four percent
June 30, 1998	three percent

June 30, 1999	three percent
June 30, 2000	two percent
June 30, 2001	two percent
June 30, 2002	one percent
June 30, 2003	one percent

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

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

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

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

* **Sec. 12.** AS 38.07.030(c) is amended to read:

(c) The cost of clearing land leased from the state, including but not limited to school [AND MENTAL HEALTH] land, shall be borne by the state. The lessee shall repay the cost over a 10-year period at five percent interest.

* **Sec. 13.** 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;

(L) State Medical Board;

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

(N) Advisory Board on Alcoholism and Drug Abuse;

* **Sec. 14.** AS 41.15 is amended by adding a new section to read:

Sec. 41.15.025. FIRE PROTECTION ON MENTAL HEALTH TRUST LAND.
Land that is in the mental health trust is, for the purpose of wild fire suppression, land owned by the state.

* **Sec. 15.** AS 44.21.230(a) 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; [AND]

(9) give assistance, on request, to the senior housing office in the Department of Community and Regional Affairs in administration of the senior housing loan program under AS 44.47.587 - 44.47.609 and in the performance of the office's other duties under AS 44.47.585; **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 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. 16.** AS 44.29.022 is amended by adding a new subsection to read:

(d) A regulation that establishes a fee for services under AS 44.29.020(a)(7) that are part of the integrated comprehensive mental health program under AS 47.30 may be adopted under this section after consultation with the Alaska Mental Health Trust Authority.

* **Sec. 17.** AS 44.29.024 is amended by adding a new subsection to read:

(c) A regulation that establishes a schedule of reasonable fees for services provided by a contractor or grantee that are part of the integrated comprehensive mental health program established under AS 47.30 may be adopted under this section after consultation with the Alaska Mental Health Trust Authority.

* **Sec. 18.** AS 44.29.100 is amended to read:

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

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

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

* **Sec. 20.** AS 44.29.115 is amended to read:

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

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

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

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

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

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

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

* **Sec. 21.** AS 44.29.120 is amended to read:

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

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

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

* **Sec. 22.** AS 44.29.130 is amended to read:

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

* **Sec. 23.** AS 44.29 is amended by adding a new section to read:

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

(b) The board shall have a paid staff provided by the department, including an executive director who shall be selected by the board. The executive director is in the partially exempt service and may hire additional employees in the classified service of the state. The department shall provide for the assignment of personnel to the board to ensure the board has the capacity to fulfill its responsibilities. The executive director of the board shall be directly responsible to the board in the performance of the director's duty.

* **Sec. 24.** AS 44.29.140 is amended to read:

Sec. 44.29.140. DUTIES. The board shall

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

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

(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) provide to the Alaska Mental Health Trust Authority for its review and consideration recommendations concerning the integrated comprehensive

mental health program for the people who are described in AS 47.30.056(b)(3), and concerning the use of money in the mental health trust income account in a manner consistent with regulations adopted under AS 47.30.031.

* **Sec. 25.** 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, drug, and other substance abuse prevention and treatment services.

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

* **Sec. 26.** 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 within the Department of Revenue.

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

(c) The authority

(1) shall 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.

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

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

(b) The board consists of seven members appointed by the governor. 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 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.

(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 contract for services.

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

(e) A member of the board is entitled to

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

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

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

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

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

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

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

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

(1) hire additional employees;

(2) appoint hearing officers to perform the responsibilities set out in AS 47.30.031(b)(5); and

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

(c) The chief executive officer is directly responsible to the board.

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

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

- (1) the requirements of AS 47.30.056(h) and (j);
- (2) provisions governing the administration and management of the mental health trust;
- (3) 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 redress;
- (4) provisions that allow and encourage entities providing trust funded services to integrate those services with other community human services funded by other sources;
- (5) 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;
- (6) provisions that establish a process for long-range planning for expenditures from the mental health trust income account; and
- (7) criteria for determining the nature and extent of necessary services and related expenses to be funded by the trust.

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

- (1) preserve and protect the trust corpus;
- (2) coordinate with other state agencies involved with programs affecting persons in need of mental health services;
- (3) review and consider the recommendations submitted under AS 44.21.230(a)(10), AS 44.29.140(2), AS 47.30.666(6), and AS 47.80.090(13);
- (4) adopt bylaws governing its meetings, selection of officers, proceedings, and other aspects of board procedure;
- (5) make an annual written report of its activities to the legislature, governor, and the public; and
- (6) fulfill its obligations under AS 47.30.046.

Sec. 47.30.041. BOARD ADVISORS. The commissioners of health and social services, natural resources, and revenue, or their respective designees, are advisors to the board.

Sec. 47.30.046. BUDGET RECOMMENDATIONS; REPORTS. (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; 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.

(b) When the authority submits its proposed budget under (a) of this section, the authority shall also provide a report to the Legislative Budget and Audit Committee, the governor, the Office of Management and Budget, the commissioner of health and social services, and all entities providing services with money in the mental health trust income account, and shall make it available to the public. The report must describe at least the following:

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

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

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

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

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

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

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

(8) reviews of the status of the integrated comprehensive mental health program, including evaluation of program goals, objectives, targets and timelines, and overall effectiveness.

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

Sec. 47.30.056. USE OF MONEY IN THE MENTAL HEALTH TRUST INCOME ACCOUNT. (a) If appropriated by law, the money in the mental health trust income account established in AS 37.14.036 shall be used 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 corpus of the trust.

(b) Expenditures under (a)(1) of this section shall provide for a reasonable level of necessary services to

(1) the mentally ill;

(2) the mentally defective and retarded;

(3) chronic alcoholics suffering from psychoses;

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

(5) other persons needing mental health services, as the legislature may determine.

(c) The integrated comprehensive mental health program for which expenditures are made under this section

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

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

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

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

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

(1) schizophrenia;

(2) delusional (paranoid) disorder;

(3) mood disorders;

(4) anxiety disorders;

(5) somatoform disorders;

(6) organic mental disorders;

(7) personality disorders;

(8) dissociative disorders;

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

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

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

- (1) cerebral palsy;
- (2) epilepsy;
- (3) mental retardation;
- (4) autistic disorder;
- (5) severe organic brain impairment;

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

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

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

- (1) alcohol withdrawal delirium (delirium tremens);
- (2) alcohol hallucinosis;
- (3) alcohol amnestic disorder;
- (4) dementia associated with alcoholism;
- (5) alcohol-induced organic mental disorder;
- (6) alcoholic depressive disorder;

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

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

- (1) primary degenerative dementia of the Alzheimer type;
- (2) multi-infarct dementia;

(3) senile dementia;

(4) presenile dementia;

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

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

(i) In this section, "an integrated comprehensive mental health program"

(1) means public health programs and services that, on the effective date of this Act, are separately recognizable and administered, without regard to the administrative unit directly responsible for the delivery of the service; among the services included are services for the mentally ill, community mental health services, services for the developmentally disabled, alcoholism services, and services for children, youth, adults, and seniors with mental disorders;

(2) includes, at a minimum, each of the following services as appropriate:

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

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

(C) inpatient care;

(D) crisis stabilization services, which may include:

(i) active community outreach;

(ii) in-hospital contact;

(iii) mobile crisis teams of mental health professionals;

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

(E) treatment services, which may include

- (i) diagnosis, testing, and evaluation of medical needs;
- (ii) medication monitoring;
- (iii) physical examinations;
- (iv) dispensing psychotropic and other medication;
- (v) detoxification;
- (vi) individual or group therapy;
- (vii) aftercare;

(F) case management, which may include

- (i) evaluation of needs;
- (ii) development of individualized treatment plans;
- (iii) enhancement of access to available resources and programs;
- (iv) development of interagency contacts and family involvement;
- (v) advocacy;

(G) daily structure and support, which may include

- (i) daily living skills training;
- (ii) socialization activities;
- (iii) recreation;
- (iv) transportation;
- (v) day care services;
- (vi) client and care provider education and support services;

(H) residential services, which may include

- (i) crisis or respite care;
- (ii) board and care;

apartments;

- (iii) foster care, group homes, halfway houses, or supervised

- (iv) intermediate care facilities;

- (v) long-term care facilities;

- (vi) in-home care;

(I) vocational services, which may include

- (i) prevocational services;

- (ii) work adjustment;

- (iii) supported work;

- (iv) sheltered work;

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

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

(K) prevention and education services, including consultation with organizations, providers, and the public; and

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

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

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

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

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

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

* **Sec. 27.** AS 47.30.470 is amended by adding new paragraphs to read:

(8) prepare that part of the plan for the integrated comprehensive mental health program under AS 47.30.056 that relates to the services and facilities that are necessary for the care and treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in AS 47.30.056(b)(3) and (f); in preparing the plan of services for persons identified in this paragraph, the department shall coordinate with the Alaska Mental Health Trust Authority and the Advisory Board on Alcoholism and Drug Abuse;

(9) use money appropriated from the mental health trust income account established under AS 37.14.036 to provide the necessary services identified in (8) of this section and in accordance with AS 47.30.056.

* **Sec. 28.** AS 47.30.520 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

* **Sec. 29.** AS 47.30 is amended by adding a new section to read:

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

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

(2) persons most in need of community mental health services receive appropriate services as provided under AS 47.30.056;

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

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

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

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

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

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

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

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

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

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

* **Sec. 30.** AS 47.30.530 is amended by adding a new subsection to read:

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

* **Sec. 31.** AS 47.30.540(b) is amended to read:

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

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

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

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

(4) maintain adequate clinical and administrative records and furnish periodic reports to the department;

(5) furnish the **authority and the** department an annual report of the preceding fiscal year, including an evaluation of the effectiveness of the previous year's programs and their costs; and

(6) furnish the **authority and the** department [EACH YEAR A] satisfactory **needs assessments for the population and area it serves and an** annual update of a long-range planning and budget statement that describes program goals for the coming year, the steps and resources necessary to implement the goals, the projected means by which these resources will be secured, and the procedures necessary to evaluate the program.

* **Sec. 32.** AS 47.30.545 is repealed and reenacted to read:

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

* **Sec. 33.** AS 47.30.547 is amended to read

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

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

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

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

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

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

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

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

Sec. 47.30.590. PATIENT RIGHTS AND THE CONFIDENTIAL NATURE OF RECORDS AND INFORMATION. The department shall adopt regulations to assure patient rights and to safeguard the confidential nature of records and information about

the recipients of services provided under **this chapter** [AS 47.30.520 - 47.30.620]. The regulations must require that [LOCAL COMMUNITY] entities **identified in AS 47.30.540(b)** develop and include in any plan submitted for approval adequate provisions for safeguarding confidential information. The [DEPARTMENT'S] regulations must provide for disclosure of confidential information **to parents or guardians**, to mental health professionals providing services to a recipient, and to other appropriate service agencies when it is in the defined best interests of the patient.

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

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

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

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

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

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

* **Sec. 36.** AS 47.30.660 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; 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; and

(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 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, [IS THE MENTAL HEALTH AUTHORITY OF THE STATE AND] 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** [THE MENTALLY ILL], 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** [THE MENTALLY ILL];

(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** [THE MENTALLY ILL];

(5) provide for the placement of [MENTALLY ILL] 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** [THE MENTALLY ILL] 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** [THE MENTALLY ILL]; 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** [P.L. 830, 84TH CONGRESS, 2ND SESSION], 70 Stat. 709;

(9) prescribe the form of applications, records, reports, requests 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; [AND]

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

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

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

Sec. 47.30.662. COMPOSITION. (a) The board consists of not fewer than 18 nor more than 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.

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

(c) The board members

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

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

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

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

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

(b) The board shall have a paid staff provided by the department, including, but not limited to, an executive director who shall be selected by the board [FROM CANDIDATES PROVIDED BY THE DEPARTMENT]. The executive director is in the partially exempt service and may hire additional employees in the classified service of the state. **The department shall provide for the assignment of personnel to the board to ensure the board has the capacity to fulfill its responsibilities.** The executive director [AND THE STAFF] of the board shall be directly responsible to the board in the performance of **the director's** [THEIR] duties.

* **Sec. 39.** AS 47.30.666 is repealed and reenacted 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. 40.** AS 47.30 is amended by adding a new section to read:

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

* **Sec. 41.** AS 47.30.910(d) is 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 **mental health trust income account established in AS 37.14.036** [GENERAL FUND].

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

(g) The commissioner of administration shall separately account for medical care and treatment fees collected under this section. [THAT THE DEPARTMENT DEPOSITS IN THE GENERAL FUND. THE ANNUAL ESTIMATED BALANCE IN THE ACCOUNT MAY BE USED BY THE LEGISLATURE TO MAKE APPROPRIATIONS TO THE DEPARTMENT TO CARRY OUT THE PURPOSES OF THIS SECTION].

* **Sec. 43.** AS 47.30.915 is amended by adding a new paragraph to read:

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

* **Sec. 44.** AS 47.37.040(10) is repealed and reenacted to read:

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

* **Sec. 45.** AS 47.37 is amended by adding a new section to read:

Sec. 47.37.125. PAYMENT FOR SERVICES. Subject to appropriation by the legislature, money in the mental health trust income account established in AS 37.14.036 may be used to support a service provided under the authority given in this chapter.

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

(b) **The council shall have a paid staff provided by the department, including an executive director selected by the council. The executive director is in the partially exempt service and may hire additional employees in the classified service of the state.** The department shall provide for the assignment of personnel to the council to ensure that the council has the capacity to fulfill its responsibilities. The personnel shall be directly responsible to the council for performance of their duties.

* **Sec. 47.** AS 47.80.090 is amended by adding a new paragraph to read:

(13) provide to the Alaska Mental Health Trust Authority for its review and consideration recommendations concerning the integrated comprehensive mental health program for the people of the state who are described in AS 47.30.056(b)(2) 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. 48.** AS 47.80.110 is amended to read:

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

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

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

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

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

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

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

* **Sec. 49.** AS 37.14.011, 37.14.021, AS 38.05.800, AS 47.30.546, secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and secs. 7 - 10, ch. 48, SLA 1987 are repealed.

*** Sec. 50. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT DISTRIBUTION MECHANISM.** Not later than January 1, 1993, 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 of this Act, 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 of this Act;

(2) publish its finding 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 of this Act, 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, as added by sec. 11 of this Act;

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

*** Sec. 51. INITIAL APPOINTMENT OF MEMBERS TO THE BOARD OF TRUSTEES.** Notwithstanding AS 47.30.016 and 47.30.021, added by sec. 26 of this Act,

(1) the initial appointments of the members of the Board of Trustees of the Alaska Mental Health Trust Authority added by sec. 26 of this Act, shall be made by the governor after considering a list of candidates submitted to the governor by the Alaska Mental Health Board;

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

*** Sec. 52. TRANSITIONAL PROVISIONS: MEMBERS OF ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE.** Notwithstanding AS 44.29.110 and 44.29.115, as amended by secs. 19 and 20 of this Act, the members of the Advisory Board on Alcoholism and Drug Abuse who are serving on the effective date of this Act continue to serve their unexpired terms. Vacancies on the advisory board occurring after the effective date of this Act shall be filled by the governor under the provisions of AS 44.29.115, as amended by sec. 20 of this Act.

*** Sec. 53. TRANSITIONAL PROVISIONS: MEMBERS OF THE ALASKA MENTAL HEALTH BOARD.** Notwithstanding AS 47.30.662, as amended by sec. 37 of this Act,

the members of the Alaska Mental Health Board who are serving on the effective date of this Act continue to serve their unexpired terms. Vacancies on the board occurring after the effective date of this Act, and new positions created by this Act, shall be filled by the governor under the provisions of AS 47.30.662, as amended by sec. 37 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. 54. TRUST CORPUS RECONSTITUTED.** 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), and after public notice as provided under AS 38.05.945(b) and (c), the commissioner of natural resources shall convey to the mental health trust authority established under AS 47.30.011, the following land in trust:

(1) land granted to the state under the Alaska Mental Health Enabling Act and not conveyed or encumbered by the state on or before the effective date of this Act;

(2) land granted to the state under the Alaska Mental Health Enabling Act that is, on the effective date of this Act, subject only to oil and gas leases, coal leases, or timber contracts;

(3) land granted to the state under the Alaska Mental Health Enabling Act that has been selected, on or before the effective date of this Act, by a municipality under AS 29.65 or under former AS 29.18.190 - 29.18.200 and which on the effective date of this Act has been neither approved nor disapproved by the director of the division of lands, Department of Natural Resources;

(4) land granted to the state under the Alaska Mental Health Enabling Act, that is, on the effective date of this Act, subject to a land use permit or a right-of-way issued by the Department of Natural Resources under AS 38.05;

(5) land granted to the state under the Alaska Mental Health Enabling Act and included, on the effective date of this Act, in the Haines State Forest Resource Management Area (AS 41.15.300) and the Tanana Valley State Forest (AS 41.17.400);

(6) other land granted to the state under the Alaska Mental Health Enabling Act that is acceptable to the plaintiffs in *Weiss v. State*, 4FA-82-2208 Civil, and that has not, at the time of acceptance by the plaintiffs, been designated by law as a state park, state forest, state game refuge, state wildlife refuge, state game sanctuary, state recreational area, state recreational river, state wilderness park, state marine park, state special management area, state public use area, critical habitat area, bald eagle preserve, bison range, or moose range; and

(7) additional land to be conveyed to the authority under sec. 55 of this Act.

*** Sec. 55. COMPENSATION TO TRUST FOR ORIGINAL MENTAL HEALTH LAND NOT RETURNED TO TRUST CORPUS.** (a) The commissioner of natural resources

shall convey to the Alaska Mental Health Trust Authority established under AS 47.30.011, added by sec. 26 of this Act, state land in trust in exchange for the original mental health land and interests therein not returned to the corpus under sec. 54(1) - (6) of this Act.

(b) The commissioner may not convey under this section land in legislatively-designated areas unless specifically authorized by law. In this subsection, "legislatively-designated areas" means land designated by law as a state park, state forest, state game refuge, state wildlife refuge, state game sanctuary, state recreational area, state recreational river, state wilderness park, state marine park, state special management area, state public use area, critical habitat area, bald eagle preserve, bison range, or moose range.

(c) Exchanges under this section shall be based on equal fair market value.

(d) Exchanges under this section shall involve, as nearly as practicable, land of comparable character. In determining whether land proposed for exchange is of comparable character, the factors to be considered are:

- (1) terrain;
- (2) use;
- (3) location;
- (4) development potential;
- (5) income potential;
- (6) accessibility; and
- (7) other physical characteristics.

(e) Additional factors that shall be considered in determining whether land proposed for exchange under this section should be conveyed by the commissioner of natural resources in trust to the authority are:

- (1) ensuring an appropriate diversity in the character of land in the trust corpus and in state ownership;
- (2) additional development and income generating potential as a result of trust ownership;
- (3) the public interest in retaining specific land in state ownership;
- (4) public benefits resulting from the exchange;

(5) benefits to the trust resulting from the exchange; and

(6) efficiency of land management resulting from the exchange.

(f) Exchanges under this section shall be negotiated by the plaintiffs in Weiss v. State of Alaska, 4FA-82-2208 Civil, and the commissioner of natural resources.

(g) The provisions of AS 38.50 do not apply to exchanges under this section.

(h) If agreement cannot be reached between the plaintiffs in Weiss v. State of Alaska, 4FA-82- 2208 Civil, and the commissioner of natural resources under (f) of this section as to appropriate lands to be conveyed to the trust as compensation or as to the value of the original lands taken or of replacement lands, the Alaska Supreme Court shall resolve the disagreements using the criteria set out in this section. The Alaska Supreme Court may order the commissioner of natural resources to convey appropriate state land to the trust without further legislative authorization.

*** Sec. 56. SECURITY FOR COMPENSATION TO TRUST.** (a) To secure the reconstitution of the trust as provided in secs. 54 and 55 of this Act, the land listed in "Lands Hypothecated to the Mental Health Trust, May 1991" located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska, is hypothecated to the mental health trust.

(b) Title to the land specified in (a) of this section remains with the state, and so long as no default exists under secs. 54 and 55 of this Act, and AS 37.14.036(c), added by sec. 11 of this Act, any income from that land shall be deposited in the general fund and considered unrestricted general funds of the state.

(c) As the reconstitution of the trust provided under secs. 54 and 55 of this Act is accomplished, and upon request, the hypothecated land shall be released on a pro rata basis, provided, however, the remaining hypothecated land shall at all times be sufficient to provide security for the remaining exchanges to be accomplished under sec. 55 of this Act.

(d) Upon default, or if the trust is not reconstituted by December 1, 1994, the foreclosure of the hypothecated lands, including the parcels to be foreclosed and manner of foreclosure, shall be determined by the court under sec. 57 of this Act.

*** Sec 57. JURISDICTION ASSIGNED TO THE ALASKA SUPREME COURT.** (a) Notwithstanding any other provision of law, the Alaska Supreme Court has original and exclusive jurisdiction to hear and determine any dispute arising under secs. 54 - 56 of this Act.

(b) If for any reason the Alaska Supreme Court determines that the jurisdiction conferred under this Act is invalid, the superior court shall have jurisdiction over proceedings described in (a) of this section.

(c) The Alaska Supreme Court or the Superior Court may refer the proceedings under this section to a special master.

* **Sec. 58.** This Act takes effect upon entry of a final order dismissing Weiss v. State of Alaska, 4FA- 82-2208 Civil, and the expiration of any time for appeal. The superior court shall advise the lieutenant governor and the revisor of statutes when the final settlement and order of Weiss v. State of Alaska has been approved.