

HOUSE BILL NO. 155

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE ORTIZ

Introduced: 3/6/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing a land exchange in which certain Alaska mental health trust land is**
2 **exchanged for certain national forest land and relating to the costs of the exchange; and**
3 **providing for an effective date."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 PURPOSE. In accordance with the Alaska Mental Health Trust Land Exchange Act of
8 2017, the purposes of this Act are to

9 (1) authorize the Department of Natural Resources, acting on behalf of the
10 Alaska Mental Health Trust Authority, to exchange mental health trust land managed by the
11 Department of Natural Resources for United States Forest Service land of equal value;

12 (2) aid the Alaska Mental Health Trust Authority in achieving its goals and
13 objectives, including increasing trust revenue;

14 (3) contribute to the economic health of communities in Southeast Alaska; and

(4) preserve land adjacent to the communities of Ketchikan, Petersburg, Wrangell, Sitka, Juneau, and Meyers Chuck.

* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

EXCHANGE OF MENTAL HEALTH TRUST LAND FOR FEDERAL LAND. (a) Notwithstanding AS 38.05.801, AS 38.50, or any other provision of law, and subject to the provisions of this Act, the Alaska Mental Health Trust Land Exchange Act of 2017, and any valid existing rights, reservations, rights-of-way, or other encumbrances in, to, or on land conveyed under this Act, the Department of Natural Resources shall convey all right, title, and interest of certain mental health trust land described in sec. 3(a) of this Act to the federal government in exchange for the conveyance of certain federal land described in sec. 3(b) of this Act.

(b) The Alaska Mental Health Trust Authority shall pay all costs of the exchange, including

(1) the costs incurred completing the land surveys, appraisals, and environmental reviews described in the Alaska Mental Health Trust Land Exchange Act of 2017; and

(2) upon request of the United States Secretary of Agriculture, the costs of federal agency staff, additional federal agency staff, or third-party contractors hired by the federal government to effect the exchange as described in the Alaska Mental Health Trust Land Exchange Act of 2017.

(c) All surveys required to complete the exchange shall be conducted in the manner described in the Alaska Mental Health Trust Land Exchange Act of 2017.

(d) In accordance with the Alaska Mental Health Trust Land Exchange Act of 2017, conveyance of both federal and mental health trust land under this Act is subject to

(1) reciprocal easements on existing roads as necessary to access the parcels that each party acquires in the exchange; the easements must also provide for public access; and

(2) conservation and research easements and related land use limitations described in the Alaska Mental Health Trust Land Exchange Act of 2017 that

(A) provide a buffer adjacent to the Ketchikan landfill;

1 (B) allow for the completion of United States Forest Service research
 2 on designated study plots; and

3 (C) protect certain karst areas of concern.

4 (e) The Department of Natural Resources may enter into a cost-share agreement to
 5 cover the cost of road maintenance with respect to any reciprocal road easements exchanged
 6 under (d)(1) of this section.

7 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 8 read:

9 LAND TO BE EXCHANGED. (a) Subject to the provisions of this Act, the following
 10 mental health trust land, as generally depicted on maps one through six and 10, comprising a
 11 total of approximately 18,278 acres, shall be exchanged for the federal land described in (b) of
 12 this section:

13 (1) land generally depicted as parcel K-1 on map 1, comprising approximately
 14 1,878 acres;

15 (2) land generally depicted as parcel K-2 on map 1, comprising approximately
 16 707 acres;

17 (3) land generally depicted as parcel K-3 on map 1, comprising approximately
 18 901 acres, including the depicted conservation easement area;

19 (4) land generally depicted as parcel K-4A on map 1, comprising
 20 approximately 3,180 acres;

21 (5) land generally depicted as parcel P-1A on map 2, comprising
 22 approximately 3,174 acres;

23 (6) land generally depicted as parcel P-1B on map 2, comprising
 24 approximately 144 acres;

25 (7) land generally depicted as parcel P-2B on map 2, comprising
 26 approximately 181 acres;

27 (8) land generally depicted as parcel P-3B on map 2, comprising
 28 approximately 92 acres;

29 (9) land generally depicted as parcel P-4 on map 2, comprising approximately
 30 280 acres;

31 (10) land generally depicted as parcel W-1 on map 3, comprising

1 approximately 204 acres;

2 (11) land generally depicted as parcel W-2 on map 3, comprising
3 approximately 104 acres;

4 (12) land generally depicted as parcel W-3 on map 3, comprising
5 approximately 63 acres;

6 (13) land generally depicted as parcel W-4 on map 3, comprising
7 approximately 700 acres;

8 (14) land generally depicted as parcel S-2 on map 4, comprising
9 approximately 284 acres;

10 (15) land generally depicted as parcel S-3 on map 4, comprising
11 approximately 109 acres;

12 (16) land generally depicted as parcel S-4 on map 4, comprising
13 approximately 26 acres;

14 (17) land generally depicted as parcel MC-1 on map 5, comprising
15 approximately 169 acres;

16 (18) land generally depicted as parcel J-1B on map 6, comprising
17 approximately 2,261 acres;

18 (19) land generally depicted as parcel J-1A on map 6, comprising
19 approximately 428 acres;

20 (20) land generally depicted as parcel NB-1 on map 10, comprising
21 approximately 3,176 acres; and

22 (21) land generally depicted as parcel NB-2 on map 10, comprising
23 approximately 217 acres.

24 (b) Subject to the provisions of this Act, the mental health trust land described in (a)
25 of this section shall be exchanged, in the manner provided in secs. 4 and 5 of this Act, for the
26 following United States Forest Service land, comprising a total of approximately 20,580
27 acres, as generally depicted on maps seven through nine:

28 (1) land generally depicted as the "Naukati Phase 1" parcel on map 8,
29 comprising approximately 2,400 acres;

30 (2) land generally depicted as the "West Naukati" parcel on map 8, comprising
31 approximately 4,182 acres;

(3) land generally depicted as the "North Naukati" parcel on map 8, comprising approximately 1,311 acres;

(4) land generally depicted as the "East Naukati/2016 Naukati addition" parcel on map 8, comprising approximately 1,067 acres;

(5) land generally depicted as the "Central Naukati" parcel on map 8, comprising approximately 1,858 acres;

(6) land generally depicted as the "Hollis" parcel on map 9, comprising approximately 1,538 acres; and

(7) land generally depicted as the "Shelter Cove Area" parcel on map 7, comprising approximately 8,224 acres.

(c) The Department of Natural Resources may, by mutual agreement with the United States Secretary of Agriculture, correct minor errors in any map, acreage estimate, or description of land subject to exchange under this section.

(d) If there is a conflict between a map, acreage estimate, or description of land subject to exchange under this section, the map shall be given effect unless the Department of Natural Resources and the United States Secretary of Agriculture mutually agree otherwise.

(e) In this section, "map" means the applicable map

(1) prepared by the Alaska Region of the United States Forest Service entitled "Alaska Mental Health Trust Act of 2016" and

(A) numbered 1, 2, 3, 4, 5, 6, 7, or 9 and dated September 19, 2016;

(B) numbered 8 and dated November 28, 2016; or

(2) numbered 10.

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LAND EXCHANGE PHASES. (a) Subject to the time limitations of the Alaska Mental Health Trust Land Exchange Act of 2017, the land described in sec. 3(a) and (b) of this Act shall be exchanged in two phases, as described in this section.

(b) Subject to sec. 5 of this Act, if the United States Secretary of Agriculture has conveyed the parcel of federal land described in sec. 3(b)(1) of this Act to the Alaska Mental Health Trust Authority, the Department of Natural Resources shall convey the parcels of trust land described in sec. 3(a)(1) and (2) of this Act to the federal government.

(c) Land conveyed under (b) of this section shall be appraised before the land described in (e) of this section.

(d) Notwithstanding sec. 5 of this Act, any cash equalization payment due under sec. 5 of this Act shall be

(1) deferred until the completion of land conveyances under (e) of this section; and

(2) debited or credited, as appropriate, to any final land or cash equalization that may be required under sec. 5 of this Act from either party upon completion of the conveyances under (e) of this section.

(e) Subject to sec. 5 of this Act, if the United States Secretary of Agriculture has conveyed the parcels of federal land described in sec. 3(b)(2) - (7) of this Act to the Alaska Mental Health Trust Authority, the Department of Natural Resources shall convey the parcels of trust land described in sec. 3(a)(3) - (21) of this Act to the federal government.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

EQUAL VALUE OF LAND AND OTHER CONSIDERATION EXCHANGED. (a) The value of the mental health trust land and other consideration exchanged for federal land and other consideration under this Act shall be equalized under this section when the Department of Natural Resources completes the land exchange described in sec. 4(e) of this Act.

(b) If the final appraised value of all of the federal land described in sec. 3(b) of this Act exceeds the final appraised value of all of the mental health trust land described in sec. 3(a) of this Act, the Department of Natural Resources may, in consultation with the United States Secretary of Agriculture,

(1) consent to the removal of one or more parcels of federal land described in sec. 3(b) of this Act from the exchange, beginning in the reverse order that the parcels are listed under that subsection until, to the maximum extent practicable, approximate equal value is achieved in the exchange; and

(2) equalize any remaining difference in value by
 (A) removing a portion of a parcel of the federal land described in sec. 3(b) of this Act from the exchange;

1 (B) making a cash payment to the federal government that is equal to
2 the difference in value; or

3 (C) using both methods described in (A) and (B) of this paragraph.

4 (c) If the final appraised value of all of the mental health trust land described in sec.
5 3(a) of this Act exceeds the final appraised value of all of the federal land described in sec.
6 3(b) of this Act, the Department of Natural Resources may, in consultation with the United
7 States Secretary of Agriculture,

8 (1) remove one or more parcels of mental health trust land described in sec.
9 3(a) of this Act from the exchange, beginning in the reverse order that the parcels are listed
10 under that subsection, until, to the maximum extent practicable, approximate equal value is
11 achieved in the exchange; and

12 (2) equalize any remaining difference in value by

13 (A) removing a portion of a parcel of the mental health trust land
14 described in sec. 3(a) of this Act from the exchange;

15 (B) accepting a cash payment from the federal government that is
16 equal to the difference in value; or

17 (C) using both methods described in (A) and (B) of this paragraph.

18 (d) If a portion of a parcel of the federal land or the mental health trust land to be
19 conveyed under sec. 3 of this Act cannot be conveyed by the federal government or the
20 Department of Natural Resources because of the presence of hazardous material,

21 (1) that portion may be removed from the exchange; and

22 (2) the final values of the land exchanged under this Act shall be equalized
23 under this section.

24 (e) To expedite completion of the exchange, if the values of the federal land and the
25 mental health trust land cannot be exactly equalized under this section, the Department of
26 Natural Resources may, if the public officer in the Department of Natural Resources who is
27 responsible for the management of the land assets of the Alaska Mental Health Trust
28 Authority under AS 38.05.801 determines that it is in the best interests of the trust established
29 under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, waive any
30 cash equalization payment due from the federal government under (c)(2) of this section.

31 (f) All land exchanged under this Act shall be appraised

(1) in accordance with nationally recognized appraisal standards, including the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice; and

(2) subject to any appraisal instructions issued by the United States Secretary of Agriculture under the Alaska Mental Health Trust Land Exchange Act of 2017.

(g) Once the value of a parcel of federal land or mental health trust land subject to exchange under sec. 3 of this Act is approved as the final appraised value of the parcel by both the federal government and the Department of Natural Resources under this section, the state may not require the land to be reappraised or revalued.

* **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT; DUTY TO NOTIFY. (a) This Act takes effect only if

(1) the Alaska Mental Health Trust Land Exchange Act of 2017 is passed by the 115th United States Congress and enacted into law;

(2) on or before January 1, 2024, the public officer in the Department of Natural Resources who is responsible for the management of the land assets of the Alaska Mental Health Trust Authority under AS 38.05.801 determines that the exchange authorized by this Act is in the best interests of the trust established under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709; and

(3) on or before January 1, 2024, the Alaska Mental Health Trust Authority approves the exchange authorized by this Act.

(b) The chair of the board of trustees of the Alaska Mental Health Trust Authority shall certify in writing to the lieutenant governor and the revisor of statutes if, on or before January 1, 2024, the Alaska Mental Health Trust Authority determines that the conditions in (a) of this section have occurred.

* **Sec. 7.** If, under sec. 6 of this Act, this Act takes effect, it takes effect on the day after the date on which the chair of the board of trustees of the Alaska Mental Health Trust Authority makes the certification to the revisor of statutes under sec. 6 of this Act.