

SENATE BILL NO. 84 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATORS WILKEN, Sharp, Kelly

REPRESENTATIVES Davies, Therriault

Amended: 3/6/97

Referred: HESS, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fiscal management of endowment assets of the University of
2 Alaska; amending the definition of 'university receipts' to include distribution from
3 university endowments and the total return from the University of Alaska's
4 endowment trust fund for land obtained under the Act of Congress of
5 January 21, 1929, as amended, and transferring responsibility for management and
6 investment of those assets; making technical amendments to provisions relating to
7 federal grants and appropriations from federal land grant college fund sources
8 that must be paid to the state; and affirming that the Board of Regents and
9 officers of the University of Alaska may not expend 'university receipts' without
10 legislative appropriation."

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

12 * **Section 1.** AS 14.40.170(b) is amended to read:

- 1 (b) The Board of Regents may
- 2 (1) adopt reasonable rules, orders, and plans with reasonable penalties
- 3 for the good government of the university and for the regulation of the Board of
- 4 Regents;
- 5 (2) determine and regulate the course of instruction in the university
- 6 with the advice of the president;
- 7 (3) set student tuition and fees;
- 8 (4) receive [AND SPEND] university receipts and, subject to
- 9 legislative appropriation, expend university receipts in accordance with AS 37.07
- 10 (Executive Budget Act)."

11 * **Sec. 2.** AS 14.40.280 is amended to read:

12 **Sec. 14.40.280. Endowments and donations.** [ALL MONETARY GIFTS,

13 BEQUESTS, OR ENDOWMENTS THAT ARE MADE TO THE UNIVERSITY OF

14 ALASKA FOR THE PURPOSE OF THE SEPARATE TRUST FUND CREATED

15 UNDER AS 14.40.400 SHALL BE TRANSFERRED TO THE DEPARTMENT OF

16 REVENUE. THE DEPARTMENT OF REVENUE SHALL MANAGE THAT MONEY

17 IN ACCORDANCE WITH AS 14.40.400.] Title to and control or possession of land,

18 personal property, [AND ALL] money, and other property that [OTHER THAN

19 THAT TRANSFERRED TO THE DEPARTMENT OF REVENUE, WHICH] is

20 devised, bequeathed, or given to the university shall be taken by the university in its

21 corporate capacity acting by and through the Board of Regents [REGENTS] or an

22 authorized agent [,] and shall be entered in the perpetual inventory of the university

23 established in AS 14.40.330.

24 * **Sec. 3.** AS 14.40.280 is amended by adding new subsections to read:

25 (b) All monetary gifts, bequests, or endowments that are made to the

26 University of Alaska for the purpose of the separate endowment trust fund established

27 under AS 14.40.400 shall be deposited into that endowment trust fund.

28 (c) Except as provided by (b) of this section, the monetary gifts, bequests, or

29 endowments that are made to the University of Alaska shall be managed and invested

30 by the Board of Regents. In carrying out its management and investment

31 responsibilities under this subsection, the Board of Regents has the same power and

obligations to carry out duties with respect to the endowments of the University of Alaska as are provided to and required of the Alaska State Pension Investment Board under AS 14.25.180.

* **Sec. 4.** AS 14.40.290(a) is amended to read:

(a) **Federal grants and appropriations paid to the commissioner of revenue under AS 14.40.380, 14.40.410, or 14.40.430, or from a source described in AS 14.40.450, shall be transferred to the state treasury under AS 37.10.060** [THE UNIVERSITY OF ALASKA SHALL HOLD ALL PROPERTY ACQUIRED BY IT]. The Department of Administration, upon requisitions by the Board of Regents signed by its president and secretary, shall pay to the treasurer of the Board of Regents all federal land grant college funds coming into the possession of the Department of Administration and subject to requisition by the Board of Regents and shall disburse federal funds in aid of land grant colleges in accordance with the federal statute providing for disbursement.

* **Sec. 5.** AS 14.40.360 is amended to read:

Sec. 14.40.360. Board of Regents authorized to select and to sell or lease land granted by Act of Congress. The Board of Regents may select the land granted to Alaska by the Act of Congress approved January 21, 1929, **as amended**, [AND] may sell or lease the land, and **shall** deposit the **net income as provided in AS 14.40.400(a)** [PROCEEDS IN THE STATE TREASURY] in conformity with that Act.

* **Sec. 6.** AS 14.40.400(a) is amended to read:

(a) The **Board of Regents** [DEPARTMENT OF REVENUE] shall establish a separate endowment trust fund in which **shall be held in trust in perpetuity**

(1) all net income derived from the sale or lease of the land granted under the Act of Congress approved January 21, 1929, **as amended**; and

(2) [IN WHICH] all monetary gifts, bequests, or endowments made to the University of Alaska for the purpose of the fund [, SHALL BE HELD IN TRUST].

* **Sec. 7.** AS 14.40.400(b) is amended to read:

(b) The **Board of Regents** [COMMISSIONER OF REVENUE] is the fiduciary of the [TRUST] fund. **The Board of Regents** [AND] shall account for and invest the

fund. In carrying out its investment responsibilities under this subsection, the Board of Regents has the same powers and duties with respect to the fund as are provided to and required of the Alaska State Pension Investment Board under AS 14.25.180 [AS SET OUT IN AS 37.14.110(c), 37.14.160, AND 37.14.170, EXCEPT THAT THE COMMISSIONER SHALL REPORT THE CONDITION AND INVESTMENT PERFORMANCE OF THE FUND TO THE BOARD OF REGENTS].

* **Sec. 8.** AS 14.40.400(c) is amended to read:

(c) The **total return** [NET INCOME] from the [TRUST] fund shall be used exclusively for the **University of Alaska, as the successor under AS 14.40.030 of the** Agricultural College and School of Mines.

* **Sec. 9.** AS 14.40.400(d) is amended to read:

(d) **The** [NO PART OF THE] proceeds arising from the sale or disposal of land **granted** under **the Act of Congress approved January 21, 1929, as amended,** [THIS GRANT] may **not** be used for the support of a sectarian or denominational college or school.

* **Sec. 10.** AS 14.40.400 is amended by adding a new subsection to read:

(f) In this section,

(1) "fund" means the separate endowment trust fund established under (a) of this section;

(2) "total return" means the total earning of the fund, including current yield, gains, and capital appreciation, less all costs, expenses, losses, and capital depreciation.

* **Sec. 11.** AS 14.40.491 is amended to read:

Sec. 14.40.491. Definition of university receipts. In AS 14.40.120 - 14.40.491, "university receipts" includes

- (1) student fees, including tuition;
- (2) receipts from university auxiliary services;
- (3) recovery of indirect costs of university activities;
- (4) receipts from sales and rentals of university property;
- (5) federal receipts;
- (6) gifts, grants, and contracts; [AND]

(7) receipts from sales, rentals, and the provision of services of educational activities; **and**

(8) receipts attributable to amounts distributed from university endowments established and managed under AS 14.40.280 and from the endowment trust fund established and managed under AS 14.40.400.

* **Sec. 12.** AS 36.30.850(b)(15) is amended to read:

(15) a contract that is a delegation, in whole or in part, of investment powers held by

(A) the commissioner of revenue under [AS 14.40.400,] AS 14.42.200, 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

(B) the Board of Regents of the University of Alaska under AS 14.40.250 - 14.40.491;

* **Sec. 13.** AS 37.10.071(d) is amended to read:

(d) In exercising investment, custodial, or depository powers or duties under this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty that is assigned or delegated under this section, or under AS 14.25.180, **AS 14.40.255, 14.40.280(c), 14.40.400(b)** [AS 14.40.400(b)], AS 37.10.070, AS 37.14.110(c), 37.14.160, 37.14.170, or AS 39.35.080. However, the fiduciary or the designee is not liable for a breach of a duty that has been delegated to another person if the delegation is prudent under the applicable standard of prudence set out in statute or if the duty is assigned by law to another person, except to the extent that the fiduciary or designee

(1) knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person knowing that the act or omission is a breach of that person's duties under this chapter;

(2) by failure to comply with this section in the administration of specific responsibilities, enables another person to commit a breach of duty; or

(3) has knowledge of a breach of duty by another person, unless the fiduciary or designee makes reasonable efforts under the circumstances to remedy the breach.

* **Sec. 14.** AS 14.40.400(e) is repealed.

1 * **Sec. 15.** UNIVERSITY OF ALASKA ENDOWMENTS AND DONATIONS AND
2 UNIVERSITY OF ALASKA ENDOWMENT TRUST FUND: TRANSITION. (a) A contract,
3 right, liability, or obligation in effect on the effective date of this Act remains in effect
4 notwithstanding the amendments to AS 14.40.280 or 14.40.400 made in secs. 2, 3, 6 - 10, and
5 14 of this Act.

6 (b) Assets and liabilities of the University of Alaska endowment trust fund established
7 in AS 14.40.400(a) held by the Department of Revenue on the effective date of this Act shall
8 be transferred by the Department of Revenue to the University of Alaska to implement this
9 Act.