

SENATE BILL NO. 311

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATOR THERRIAULT

Introduced: 2/19/02

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the public school trust fund, the Alaska children's trust, and the**
2 **Alaska heritage endowment fund; and providing for an effective date."**

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

4 * **Section 1.** AS 14.57.100 is amended to read:

5 **Sec. 14.57.100. Acquisitions.** Subject to appropriation by the legislature
6 under AS 37.14.530, the director may use money appropriated from [THE
7 BALANCE OF THE NET INCOME ACCOUNT OF] the Alaska heritage endowment
8 fund to acquire culturally or historically significant artifacts, natural history
9 specimens, art objects, collections, and other items, materials, or properties that
10 represent and document Alaska's land, natural history, and people for

11 (1) the Alaska State Museum; and

12 (2) the Sheldon Jackson Museum.

13 * **Sec. 2.** AS 14.57.120 is amended to read:

14 **Sec. 14.57.120. Criteria applicable to acquisitions from the fund.** Subject

1 to approval given by the Museum Collections Advisory Committee under
2 AS 14.57.050(b), the director may

3 (1) establish by contract the terms and conditions of custody,
4 protection, conservation, and exhibition of an item acquired by the state museum if the
5 item is acquired and custody of it is assigned to another institution;

6 (2) transfer ownership of an item to an institution having custody of an
7 item acquired from [THE NET INCOME ACCOUNT OF] the fund if the director is
8 satisfied that the institution will provide necessary care and protection of the item; or

9 (3) assign long-term custody of an item to an institution having
10 custody of an item acquired from [THE NET INCOME ACCOUNT OF] the fund if
11 the director is satisfied that the institution to which custody of the item is transferred
12 will provide necessary care and protection of the item in accordance with a contract
13 entered into under (1) of this section.

14 * **Sec. 3.** AS 14.57.130 is amended to read:

15 **Sec. 14.57.130. Disposition of acquired items.** Subject to approval of the
16 Museum Collections Advisory Committee under AS 14.57.050(b), the director may
17 establish a deaccession policy under which the director may exchange or otherwise
18 convey title to an item acquired from [THE NET INCOME ACCOUNT OF] the fund
19 in accordance with generally accepted principles governing the disposal of these
20 items.

21 * **Sec. 4.** AS 28.10.421(d)(14) is amended to read:

22 (14) special request Alaska children's trust plates.....\$100
23 plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required
24 by this paragraph shall be collected only on the first issuance and the replacement of
25 special request plates; the commissioner of administration shall separately account for
26 the fees received under this paragraph that the department deposits in the general fund;
27 notwithstanding (g) of this section, the annual estimated balance in the account that is
28 in excess of the cost of issuing special request plates may be appropriated by the
29 legislature into [THE PRINCIPAL OF] the Alaska children's trust under
30 AS 37.14.200.

31 * **Sec. 5.** 37.10.071(d) is amended to read:

1 (d) In exercising investment, custodial, or depository powers or duties under
 2 this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty
 3 that is assigned or delegated under this section, or under AS 14.25.180, AS 14.40.255,
 4 14.40.280(c), 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, [37.14.170,]
 5 or AS 39.35.080. However, the fiduciary or the designee is not liable for a breach of a
 6 duty that has been delegated to another person if the delegation is prudent under the
 7 applicable standard of prudence set out in statute or if the duty is assigned by law to
 8 another person, except to the extent that the fiduciary or designee

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

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

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

17 * **Sec. 6.** AS 37.14.110(b) is amended to read:

18 (b) The [PRINCIPAL OF THE] fund established in (a) of this section consists
 19 of

20 (1) the balance of the public school permanent fund on July 1, 1978;

21 [AND]

22 (2) sums transferred under AS 37.14.150;

23 **(3) appropriations to the fund; and**

24 **(4) income earned on investments of fund assets.**

25 * **Sec. 7.** AS 37.14.110(c) is repealed and reenacted to read:

26 (c) The commissioner of revenue shall manage the fund as an endowment,
 27 with the goal that the purchasing power of the fund will not diminish over time
 28 without regard to additional contributions that may be made to the fund. The
 29 commissioner shall invest the assets of the fund in a manner likely to yield at least a
 30 five percent real rate of return over time.

31 * **Sec. 8.** AS 37.14.110 is amended by adding a new subsection to read:

1 (d) Except for amounts deposited as a continuance of the dedication for the
 2 support of public schools existing on April 24, 1956, relating to the Act of March 4,
 3 1915, 38 Stat. 1214, nothing in this section creates a dedicated fund with respect to
 4 amounts deposited in the fund.

5 * **Sec. 9.** AS 37.14.130 is amended to read:

6 **Sec. 37.14.130. Powers and duties of board.** The board created in
 7 AS 37.14.120 has the following powers and duties:

8 (1) to hold regular meetings and special meetings considered
 9 necessary; **and**

10 (2) to have prepared an annual accounting of [THE PRINCIPAL AND
 11 INCOME OF] the fund established in AS 37.14.110 [; AND

12 (3) REPEALED].

13 * **Sec. 10.** AS 37.14.140 is repealed and reenacted to read:

14 **Sec. 37.14.140. Use of fund.** As soon as practicable after July 1 of each year,
 15 the commissioner of revenue shall determine the average month-end market value of
 16 the fund for the immediately preceding three fiscal years. The commissioner shall
 17 identify five percent of that amount as available for appropriation by the legislature for
 18 support of the state public school program and for reimbursement of the administrative
 19 costs of the fund.

20 * **Sec. 11.** AS 37.14.160 is repealed and reenacted to read:

21 **Sec. 37.14.160. Powers and duties of the commissioner of revenue.** In
 22 carrying out the investment duties under AS 37.14.110 - 37.14.170, the commissioner
 23 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall
 24 provide reports to the board established in AS 37.14.120 on the condition and
 25 investment performance of the fund.

26 * **Sec. 12.** AS 37.14.200(b) is amended to read:

27 (b) The [PRINCIPAL OF THE] trust consists of

28 (1) legislative appropriations to the trust; [AND]

29 (2) gifts, bequests, and contributions of cash or other assets from a
 30 person; **and**

31 **(3) income earned on investments of trust assets.**

1 * **Sec. 13.** AS 37.14.200 is amended by adding new subsections to read:

2 (d) The commissioner of revenue shall manage the trust as an endowment,
3 with the goal that the purchasing power of the trust will not diminish over time
4 without regard to additional contributions that may be made to the trust. The
5 commissioner shall invest the assets of the trust in a manner likely to yield at least a
6 five percent real rate of return over time.

7 (e) Nothing in this section creates a dedicated fund.

8 * **Sec. 14.** AS 37.14.210 is repealed and reenacted to read:

9 **Sec. 37.14.210. Power and duties of the commissioner of revenue.** In
10 carrying out the investment duties under AS 37.14.200 - 37.14.270, the commissioner
11 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall
12 provide reports to the board established in AS 37.14.225 on the condition and
13 investment performance of the trust.

14 * **Sec. 15.** AS 37.14.230 is amended to read:

15 **Sec. 37.14.230. Powers and duties of the board.** When acting as
16 administrator of the trust, the board shall

17 (1) hold regular and special meetings it considers necessary; the board
18 may hold meetings by teleconference;

19 (2) award grants from money appropriated from [THE NET
20 INCOME OF] the trust to community-based [PROGRAMS AND] projects that the
21 board finds will aid in the prevention of child abuse and neglect;

22 (3) monitor approved [PROGRAMS AND] projects for compliance
23 with AS 37.14.200 - 37.14.270;

24 (4) before providing assistance to a [PROGRAM OR] project, approve
25 written findings on the [PROGRAM OR] project that include a consideration of the
26 means of measuring the effectiveness of the [PROGRAM OR] project;

27 (5) apply for [,] and use money appropriated from [NET INCOME
28 FROM] the trust to obtain [,] private and federal grants for the prevention of child
29 abuse and neglect;

30 (6) solicit contributions, gifts, and bequests to the trust;

31 (7) keep audio tape or other electronic recordings of each meeting of

1 the board to be made available on request; and

2 (8) submit to the governor and make available to the legislature by
3 February 1 each year a report describing

4 (A) the child abuse and neglect prevention services that were
5 provided by the [PROGRAMS AND] projects to which the board awarded
6 grants; and

7 (B) the annual level of contributions, income, and expenses of
8 the trust.

9 * **Sec. 16.** AS 37.14.240 is repealed and reenacted to read:

10 **Sec. 37.14.240. Use of the trust.** (a) As soon as practicable after July 1 of
11 each year, the commissioner of revenue shall determine the average month-end market
12 value of the trust for the immediately preceding three fiscal years. The commissioner
13 shall identify five percent of that amount as available for appropriation by the
14 legislature for uses described in (b) of this section.

15 (b) Appropriations of the amount identified under (a) of this section may be
16 used for the following purposes:

17 (1) the awarding of grants under AS 37.14.230 and 37.14.250;

18 (2) obtaining private and federal grants for the trust;

19 (3) soliciting contributions, gifts, and bequests for the trust;

20 (4) reimbursement of the commissioner of revenue for the costs of
21 managing the trust.

22 (c) In addition to the amount identified under (a) of this section, up to
23 \$150,000 a year may be appropriated from the trust for the administrative expenses of
24 the board relating to AS 37.14.200 - 37.14.270.

25 * **Sec. 17.** AS 37.14.250 is amended to read:

26 **Sec. 37.14.250. Grants.** (a) In awarding grants from **money appropriated**
27 **from** [THE NET INCOME OF] the trust, the board shall consider the proposals of a
28 qualified applicant only after the applicant has submitted a detailed proposal in the
29 form prescribed by the board. The board may not award a grant unless the board
30 makes written findings that

31 (1) the proposed project, if successful, will help prevent child abuse or

1 neglect;

2 (2) the application for financial assistance contains an adequate plan
3 for project implementation, including both financial feasibility and project
4 effectiveness;

5 (3) the applicant demonstrates that sufficient technical expertise is
6 available to accomplish the objectives of the proposed [PROGRAM OR] project; and

7 (4) the applicant has identified costs associated with and ancillary to
8 the project, additional governmental costs, future obligations generated by the
9 [PROGRAM OR] project, and necessary operating, maintenance, or other support
10 costs for the life of the [PROGRAM OR] project.

11 (b) The board may establish, **by regulation**, other requirements for the award
12 of grants under this section if necessary to carry out the purpose of the trust.

13 (c) The board shall award grants in amounts that

14 (1) are appropriate to the conditions of the applicant and the proposed
15 [PROGRAM OR] project; and

16 (2) will make the most effective use of the money available.

17 (d) The amount of all grants awarded by the board during a 12-month period
18 to a single project [OR PROGRAM] may not exceed \$50,000. The board may not
19 finance more than 75 percent of the **total** cost of a [PROGRAM OR] project during
20 each of the first two years for which the [PROGRAM OR] project receives a grant, 50
21 percent **of the original total cost of the project** during each of the third and fourth
22 years, and 25 percent **of the original total cost of the project** during each year
23 thereafter.

24 (e) A recipient of a grant may not use more than 10 percent of the grant for
25 administration of the [PROGRAM OR] project.

26 (f) To the extent consistent with **its** [THE] terms or conditions [OF THE
27 GRANT], a [PRIVATE OR FEDERAL] grant awarded to the board shall be
28 distributed in the same manner as provided for grants under this section and
29 AS 37.14.260.

30 * **Sec. 18.** AS 37.14.260 is amended to read:

31 **Sec. 37.14.260. Eligibility for grants.** The board may award a grant to an

1 applicant if

2 (1) the applicant has submitted a proposal that is acceptable to the
3 board; and

4 (2) [PROGRAMS AND] projects, if any, of the applicant that have
5 previously received a grant from the board have complied with all requirements of that
6 assistance and have performed with sufficient success or promise to warrant further
7 financial assistance.

8 * **Sec. 19.** AS 37.14.500 is amended to read:

9 **Sec. 37.14.500. Alaska heritage endowment fund established.** The Alaska
10 heritage endowment fund is established as a separate endowment trust fund of the
11 state. The [PRINCIPAL OF THE] fund consists of

12 (1) legislative appropriations to the fund; [AND]

13 (2) gifts, bequests, and contributions of cash or other assets made by a
14 person who has specified their placement in the fund; **and**

15 **(3) income earned on investments of fund assets** [PRINCIPAL].

16 * **Sec. 20.** AS 37.14.500 is amended by adding new subsections to read:

17 (b) The commissioner of revenue shall manage the fund as an endowment,
18 with the goal that the purchasing power of the fund will not diminish over time
19 without regard to additional contributions that may be made to the fund. If
20 practicable, the commissioner shall invest the assets of the fund in a manner likely to
21 yield at least a five percent real rate of return over time.

22 (c) Nothing in this section creates a dedicated fund.

23 * **Sec. 21.** AS 37.14.520 is repealed and reenacted to read:

24 **Sec. 37.14.520. Powers and duties of the commissioner of revenue.** In
25 carrying out the investment duties under AS 37.14.500 - 37.14.540, the commissioner
26 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall
27 provide reports to the Museum Collections Advisory Committee established in
28 AS 14.57.020 on the condition and investment performance of the fund.

29 * **Sec. 22.** AS 37.14.530 is repealed and reenacted to read:

30 **Sec. 37.14.530. Use of fund.** (a) As soon as practicable after July 1 of each
31 year, the commissioner of revenue shall determine the average month-end market

1 value of the fund for the immediately preceding three fiscal years. The commissioner
2 shall identify five percent of that amount as available for appropriation by the
3 legislature.

4 (b) Money appropriated from the fund may be used for the following
5 purposes:

6 (1) reimbursement to the commissioner of revenue for the costs of
7 managing the fund;

8 (2) the administrative expenses of the Museum Collection Advisory
9 Committee relating to the acquisitions from the fund;

10 (3) acquisitions authorized by AS 14.57.100 - 14.57.199;

11 (4) reimbursement of other costs of administration of the fund.

12 * **Sec. 23.** AS 14.57.199(3); AS 37.14.170, 37.14.200(c), and 37.14.510 are repealed.

13 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 TRANSITION. (a) On or after the effective date of this Act, the commissioner of
16 revenue shall seek consent from persons who have made gifts, bequests, and contributions of
17 cash or other assets under AS 37.14.500(2), as that statute read on the day before the effective
18 date of this Act, to account for the gifts, bequests, and contributions of cash or other assets as
19 provided for in this Act. If consent is not obtained, the commissioner of revenue shall
20 continue to account for the gift, bequest, or contribution in accordance with sec. 5, ch. 82,
21 SLA 1992.

22 (b) Money in the net income account of the Alaska heritage endowment fund
23 (AS 37.14.510) on the effective date of this Act shall be retained in the Alaska heritage
24 endowment fund (AS 37.14.500).

25 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 REVISOR OF STATUTES INSTRUCTIONS. The revisor of statutes shall change
28 the heading of art. 2, AS 14.57, from "Use of Net Income of Alaska Heritage Endowment
29 Fund" to "Use of Appropriations from Alaska Heritage Endowment Fund."

30 * **Sec. 26.** This Act takes effect immediately under AS 01.10.070(c).