

**HOUSE BILL NO. 160**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE HAWKER**

**Introduced: 2/28/07**

**Referred: Health, Education and Social Services, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the operation of the public school trust fund and the Alaska**  
2 **children's trust, and making a conforming amendment relating to the commissioner of**  
3 **revenue's power and duty to manage investments for the Alaska heritage endowment**  
4 **fund; and providing for an effective date."**

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

6 **\* Section 1.** AS 37.10.071(d) is amended to read:

7 (d) In exercising investment, custodial, or depository powers or duties under  
8 this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty  
9 that is assigned or delegated under this section, or under AS 14.40.255, 14.40.280(c),  
10 14.40.400(b), AS 37.10.070, AS 37.14.110(c), **or** 37.14.160 [, OR 37.14.170].  
11 However, the fiduciary or the designee is not liable for a breach of a duty that has been  
12 delegated to another person if the delegation is prudent under the applicable standard  
13 of prudence set out in statute or if the duty is assigned by law to another person,  
14 except to the extent that the fiduciary or designee

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

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

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

9 \* **Sec. 2.** AS 37.14.110(b) is amended to read:

10 (b) The principal of the fund established in (a) of this section consists of

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

12 [AND]

13 (2) sums transferred under AS 37.14.150;

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

15 **(4) income earned on investments of trust assets.**

16 \* **Sec. 3.** AS 37.14.110(c) is repealed and reenacted to read:

17 (c) 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. The  
 20 commissioner shall invest the assets of the fund in a manner likely to yield at least a  
 21 five percent real rate of return over time.

22 \* **Sec. 4.** AS 37.14.110 is amended by adding a new subsection to read:

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

27 \* **Sec. 5.** AS 37.14.130 is amended to read:

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

30 (1) to hold regular meetings and special meetings considered  
 31 necessary; and

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

3 (3) [REPEALED]

4 \* **Sec. 6.** AS 37.14.140 is repealed and reenacted to read:

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

11 \* **Sec. 7.** AS 37.14.160 is repealed and reenacted to read:

12 **Sec. 37.14.160. Powers and duties of the commissioner of revenue.** In  
13 carrying out the investment duties under AS 37.14.110 - 37.14.160, the commissioner  
14 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall  
15 provide reports to the board established under AS 37.14.120 on the condition and  
16 investment performance of the fund.

17 \* **Sec. 8.** AS 37.14.200(b) is amended to read:

18 (b) The principal of the trust consists of

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

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

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

23 \* **Sec. 9.** AS 37.14.200(c) is repealed and reenacted to read:

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

29 \* **Sec. 10.** AS 37.14.200 is amended by adding a new subsection to read:

30 (d) Nothing in this section creates a dedicated fund.

31 \* **Sec. 11.** AS 37.14.210 is repealed and reenacted to read:

1           **Sec. 37.14.210. Powers and duties of the commissioner of revenue.** In  
 2 carrying out the investment duties under AS 37.14.200 - 37.14.270, the commissioner  
 3 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall  
 4 provide reports to the board established under AS 37.14.225 on the condition and  
 5 investment performance of the trust.

6 \* **Sec. 12.** AS 37.14.230 is amended to read:

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

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

11                   (2) award grants from the money appropriated from [NET INCOME  
 12 OF] the trust to community-based programs and projects that the board finds will aid  
 13 in the prevention of child abuse and neglect;

14                   (3) monitor approved programs and projects for compliance with  
 15 AS 37.14.200 - 37.14.270;

16                   (4) before providing assistance to a program or project, approve  
 17 written findings on the program or project that include a consideration of the means of  
 18 measuring the effectiveness of the program or project;

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

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

23                   (7) keep audio tape or other electronic recordings of each meeting of  
 24 the board to be made available on request; and

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

27                           (A) the child abuse and neglect prevention services that were  
 28 provided by the programs and projects to which the board awarded grants; and

29                           (B) the annual level of contributions, income, and expenses of  
 30 the trust.

31 \* **Sec. 13.** AS 37.14.240 is repealed and reenacted to read:

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

6           (b) Appropriations of the amount identified under (a) of this section may be  
 7 used for

- 8                           (1) awarding grants;
- 9                           (2) obtaining private and federal grants for the trust;
- 10                          (3) soliciting contributions, gifts, and bequests for the trust;
- 11                          (4) reimbursing the commissioner of revenue for costs incurred in  
 12 managing the trust.

13   \* **Sec. 14.** AS 37.14.250(a) is amended to read:

14           (a) In awarding grants from the money appropriated from [NET INCOME  
 15 OF] the trust, the board shall consider the proposals of a qualified applicant only after  
 16 the applicant has submitted a detailed proposal in the form prescribed by the board.  
 17 The board may not award a grant unless the board makes written findings that

- 18                           (1) the proposed project, if successful, will help prevent child abuse or  
 19 neglect;
- 20                           (2) the application for financial assistance contains an adequate plan  
 21 for project implementation, including both financial feasibility and project  
 22 effectiveness;
- 23                           (3) the applicant demonstrates that sufficient technical expertise is  
 24 available to accomplish the objectives of the proposed program or project;
- 25                           (4) the applicant has identified costs associated with and ancillary to  
 26 the project, additional governmental costs, future obligations generated by the  
 27 program or project, and necessary operating, maintenance, or other support costs for  
 28 the life of the program or project; and
- 29                           (5) the applicant has included in the program or project proposal a plan  
 30 for sustainability and self-sufficiency after the grant period.

31   \* **Sec. 15.** AS 37.14.520 is amended to read:

1           **Sec. 37.14.520. Powers and duties of the commissioner of revenue.** The  
2 commissioner of revenue is the treasurer of the fund and has the power and duty to

3                   (1) act as official custodian of the cash and investments belonging to  
4 the fund by securing adequate and safe custodial facilities;

5                   (2) receive all items of cash and investments belonging to the fund;

6                   (3) collect the principal and income from investments owned or  
7 acquired by the fund and deposit the amounts in separate principal and income  
8 accounts for the fund;

9                   (4) invest and reinvest the assets of the fund as provided in this section  
10 and as provided for the investment of funds under **AS 37.10.071** [AS 37.14.170];

11                   (5) exercise the powers of an owner with respect to the assets of the  
12 fund;

13                   (6) maintain accounting records of the fund in accordance with  
14 investment accounting principles and with distinction between the principal and  
15 income accounts of the fund;

16                   (7) engage an independent firm of certified public accountants to  
17 annually audit the financial condition of the fund's investments and investment  
18 transactions;

19                   (8) enter into and enforce contracts or agreements considered  
20 necessary for the investment purposes of the fund;

21                   (9) report to the commission the condition and investment performance  
22 of the fund;

23                   (10) do all acts, whether or not expressly authorized, that the  
24 commissioner of revenue considers necessary or proper in administering the assets of  
25 the fund.

26 \* **Sec. 16.** AS 37.14.170 is repealed.

27 \* **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).