

SENATE BILL NO. 146

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

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/19/16

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the investment, appropriation, and administration of the public**
2 **school trust fund; and providing for an effective date."**

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

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

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

13 (1) knowingly participates in, or knowingly undertakes to conceal, an
14 act or omission of another person knowing that the act or omission is a breach of that

1 person's duties under this chapter;

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

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

7 * **Sec. 2.** AS 37.14.130 is amended to read:

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

10 (1) to hold regular meetings and special meetings considered necessary;
11 and

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

14 * **Sec. 3.** AS 37.14.160 is amended to read:

15 **Sec. AS 37.14.160. Duties of the commissioner of revenue.** The
16 commissioner of revenue is the treasurer of the trust fund created in AS 37.14.110 and
17 shall

18 (1) in carrying out investment duties under this section, exercise the
19 same powers and duties established for the Alaska Retirement Management Board in
20 AS 37.10.220;

21 (2) deposit the principal and income from investments **into** [IN
22 SEPARATE PRINCIPAL AND INCOME ACCOUNTS FOR] the fund;

23 (3) invest and maintain accounting records [THAT DISTINGUISH
24 BETWEEN THE PRINCIPAL AND INCOME] of the fund;

25 (4) provide reports to the board established under AS 37.14.120 on the
26 condition and investment performance of the fund;

27 **(5) determine on July 1 of each year the monthly average market**
28 **value of the fund for the previous three fiscal years.**

29 * **Sec. 4.** AS 37.14.165 is amended by adding a new section to read:

30 **Sec. 37.14.165. Use of fund.** Five percent of the amount determined by the
31 commissioner of revenue on July 1 of each year under AS 37.14.160(5) may be

1 appropriated for the fiscal year beginning the following July 1 for the following
2 purposes:

- 3 (1) funding support of the state public school program; and
- 4 (2) reimbursement of the costs of administration of the fund.

5 * **Sec. 5.** AS 37.14.170 is amended to read:

6 **Sec. 37.14.170. Investments.** The commissioner of revenue is the fiduciary of
7 the trust fund and shall invest the fund to provide increasing returns from capital
8 appreciation and net income over long-term periods to the fund's current
9 [INCOME] beneficiaries. The commissioner may invest the money in the fund on the
10 basis of probable total rate of return to promote the long-term generation of capital
11 appreciation and income. In managing the trust fund, the commissioner shall

- 12 (1) consider the status of the fund's capital and the income generated
13 on both a current and a probable future basis;
- 14 (2) determine the appropriate investment objectives;
- 15 (3) establish investment policies to achieve the objectives; and
- 16 (4) act only in regard to the financial interests of the fund's
17 beneficiaries.

18 * **Sec. 6.** AS 37.14.110(c) and 37.14.140 are repealed.

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

21 **CONDITIONAL EFFECT.** This Act take effect only if a court of competent
22 jurisdiction enters a final judgment on the merits that is no longer subject to appeal that
23 provides instruction to the state under AS 13.36.035 or other trust common law that
24 enactment and implementation of this Act do not violate trust duties of the state regarding the
25 grants of land for the benefit of public schools made in Section 6(k) of the Alaska Statehood
26 Act.

27 * **Sec. 8.** If this Act takes effect under sec. 7 of this Act, it takes effect the day after a final
28 judgment described in sec. 7 of this Act.