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Referred: Health, Education and
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1 IN THE SENATE

BY FERGUSON AND STIMSON

2 SENATE BILL NO. 32

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the financing of education; estab-
7 lishing an education endowment fund, amending the
8 public school foundation program, and repealing the
9 public school fund; and providing for an effective
10 date."

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

12 * Section 1. AS 37.14 is amended by adding new sections to read:

13 ARTICLE 3. EDUCATION ENDOWMENT FUND.

14 Sec. 37.14.111. ALASKA EDUCATION ENDOWMENT FUND. (a) There is
15 established as a separate fund the Alaska education endowment fund.

16 The fund consists of

17 (1) money appropriated to or otherwise allocated by law to
18 it; and

19 (2) interest earned by investment of money in the fund.

20 (b) The fund shall be managed by the board of trustees of the
21 fund established in this chapter.

22 Sec. 37.14.113. COMPOSITION AND QUALIFICATIONS OF BOARD OF TRUST-
23 EES. (a) The board of trustees of the fund consists of five members,
24 including

25 (1) the commissioner of administration;

26 (2) the commissioner of education;

27 (3) one person appointed by the governor who is a school
28 board president or superintendent; and

29 (4) two other members appointed by the governor.

1 (b) The two members of the board appointed by the governor under
2 (a)(4) of this section shall have recognized competence and wide experi-
3 ence in finance, investments, or other business management-related
4 fields.

5 (c) The board shall annually elect a chairman from among its
6 members.

7 Sec. 37.14.115. TERM OF OFFICE. (a) The three members of the
8 board appointed by the governor shall be appointed for terms of three
9 years subject to confirmation by a majority of the members of the
10 legislature in joint session.

11 (b) The commissioner of administration and commissioner of educa-
12 tion serve during their tenure in office.

13 Sec. 37.14.117. REMOVAL AND VACANCIES. (a) The governor may
14 remove a member of the board from office. A removal by the governor
15 shall be in writing and shall state the reason for the removal.

16 (b) A vacancy on the board shall be promptly filled by appoint-
17 ment by the governor and confirmation by a majority of the members of
18 the legislature in joint session. An appointee to a vacancy shall hold
19 office for the balance of the term for which his predecessor on the
20 board was appointed. If a vacancy arises on the board while the legis-
21 lature is not in session, the governor may appoint an interim board
22 member who shall exercise the powers of a board member until the legis-
23 lature fails to confirm the appointment of the interim board member.

24 (c) A vacancy on the board does not impair the authority of a
25 quorum of the board to exercise all the powers and perform all the
26 duties of the board.

27 Sec. 37.14.119. QUORUM. Three members of the board constitute a
28 quorum for the transaction of business and the exercise of the powers
29 and duties of the board.

1 Sec. 37.14.121. COMPENSATION OF BOARD MEMBERS. Members of the
2 board are entitled to per diem and travel allowances as provided by law
3 for members of state boards and commissions.

4 Sec. 37.14.123. STAFF. The board may employ staff. An employee
5 of the board may not be a member of the board. Employees of the board
6 are in the exempt service under AS 39.25.

7 Sec. 37.14.125. CONFLICTS OF INTEREST. (a) Members of the board
8 are subject to the provisions of AS 39.50.

9 (b) If a member of the board or an employee of the board acquires,
10 owns or controls an interest, direct or indirect, in an entity or
11 project in which fund assets are invested, he shall immediately disclose
12 the interest to the board. The disclosure is a matter of public record
13 and shall be included in the minutes of the board meeting next following
14 the disclosure.

15 Sec. 37.14.127. INVESTMENT RESPONSIBILITIES OF THE BOARD. (a)
16 The prudent-man rule shall be applied by the board in the management
17 and investment of fund assets. The prudent-man rule as applied to
18 investments of the fund means that in making investments the board
19 shall exercise the judgment and care under the circumstances then
20 prevailing which an institutional investor of ordinary prudence, dis-
21 cretion, and intelligence exercises in the management of large invest-
22 ments entrusted to it not in regard to speculation but in regard to the
23 permanent disposition of funds, considering probable safety of capital
24 as well as probable income.

25 (b) The assets of the fund shall only be used for income-producing
26 investments.

27 (c) The board shall maintain a reasonable diversification among
28 investments unless under the circumstances it is clearly prudent not to
29 do so.

1 (d) The board shall submit long-range and quarterly investment
2 reports to the Legislative Budget and Audit Committee.

3 (e) The board may not borrow funds or guarantee from principal of
4 the fund the obligations of others.

5 (f) The board may enter into and enforce all contracts necessary,
6 convenient or desirable for purposes of management of the fund.

7 (g) Subject to the limitations in (h) and (i) of this section,
8 the board may invest fund assets in

9 (1) obligations of, or obligations insured by or guaranteed
10 by, the United States or agencies or instrumentalities of the United
11 States;

12 (2) obligations secured by reserves paid in by the United
13 States or agencies or instrumentalities of the United States or obli-
14 gations of corporations in which the United States is a shareholder or
15 member;

16 (3) certificates of deposit issued by United States domestic
17 banks which are members of the Federal Deposit Insurance Corporation
18 for which a generally recognized secondary market exists or which are
19 fully secured at all times as to payment of principal and interest by
20 investments described in (1), (2), (8) or (12) - (16) of this sub-
21 section; the security pledged under this paragraph shall be at least
22 equal to the face value of the deposit and the board may require sub-
23 stitution of collateral;

24 (4) shares of federally chartered savings and loans associ-
25 ations in Alaska which are fully secured at all times as to payments of
26 principal and interest by investments described in (1), (2) of this
27 subsection;

28 (5) savings certificates issued by state chartered savings
29 and loan associations in Alaska which are fully secured at all times as

1 to payments of principal and interest by investments described in (1),
2 (2) of this subsection;

3 (6) deposits with mutual savings banks in Alaska which are
4 fully secured at all times as to payments of principal and interest by
5 investments described in (1), (2) of this subsection;

6 (7) fixed-term certificates of indebtedness of federally
7 insured credit unions which are fully secured at all times as to pay-
8 ments of principal and interest by investments described in (1), (2) of
9 this subsection;

10 (8) corporate debt securities which are rated AA or better
11 by a nationally recognized rating service;

12 (9) short-term corporate promissory notes of the highest
13 ratings assigned by a nationally recognized rating service;

14 (10) bankers' acceptances drawn on and accepted by United
15 States banks each of which have a combined capital and surplus aggre-
16 gating at least \$200,000,000;

17 (11) repurchase agreements, the securities underlying the
18 agreements being any of the items in (1) - (3) and (8) - (10) of this
19 subsection;

20 (12) the guaranteed portion of Federal Small Business Adminis-
21 tration loans;

22 (13) the portion of first lien real estate mortgages guaran-
23 teed by the Federal Veterans Association;

24 (14) the portions of business and industrial loans made under
25 the Rural Development Act of 1972 which are guaranteed by the Farmer's
26 Home Administration;

27 (15) the guaranteed portion of Farmer's Home Administration
28 loans;

29 (16) notes secured by mortgages of residential real estate if

1 the mortgages are insured by a private mortgage insurance corporation
2 which is authorized to do business in Alaska and has combined capital,
3 surplus and reserves aggregating at least \$20,000,000; the minimum
4 coverage shall be 10 percent for loans having a loan-to-value ratio of
5 less than 90 percent, and the minimum coverage shall be 20 percent for
6 loans having a loan-to-value ratio of 90 percent or more.

7 (h) The board may enter into future contracts for the sale of
8 investments purchased under (g) of this section only for the purpose of
9 hedging an existing equivalent ownership position in these securities.

10 (i) Investments under (g)(8) of this section may not exceed 25
11 percent of the total investments of the fund. Investments under (g)(16)
12 of this section may not exceed in the aggregate 15 percent of the total
13 investments of the fund.

14 (j) The assets of the fund may not be used for the purchase of
15 bonds of a corporation, upon which any regular interest payment has
16 been defaulted within five years before purchase, except bonds never in
17 default but which have been outstanding for less than five years.

18 (k) The board shall establish and from time to time as necessary
19 modify guidelines for the investment of the assets of the fund. Before
20 adoption of any guidelines the guidelines shall be reported to the
21 Legislative Budget and Audit Committee for review and comment.

22 (l) The board shall invest the assets of the fund in in-state
23 investments to the extent instate investments are available if the
24 in-state investments

25 (1) have a risk level and expected yield comparable to
26 alternate investment opportunities; and

27 (2) are included in the list of permissible investments in
28 (g) of this section.

29 Sec. 37.14.129. GAINS AND LOSSES. At the end of each fiscal

1 year, the total amount of losses on the sales of securities, not offset
2 by gains on the sales of securities during that year, shall be computed,
3 with a portion of these losses to be deducted each fiscal year from the
4 income and the resulting amount of income added to the principal of the
5 fund. Losses taken on the sales of securities shall be accumulated
6 over a period equal to the average remaining life of the securities
7 sold, unless these losses are offset by gains on future sales of securi-
8 ties. In any fiscal year in which the gains on the sales of securities
9 exceed the losses on the sales of securities, the excess shall be added
10 to the principal of the fund.

11 Sec. 37.14.131. INCOME. (a) The interest received in a year is
12 the income of the fund for that year. The income available for dis-
13 bursement will be the lesser of the latest fiscal year's income, or the
14 average annual current income for the past five fiscal years of the
15 fund at cost, and after adjustment for capital losses charged to that
16 fiscal year.

17 (b) The income available for disbursement shall be disbursed as
18 follows:

19 (1) the board shall pay to the commissioner of administra-
20 tion, not later than June 30 annually, the amount required for support
21 of state aid to local school districts under AS 14.17 for the next
22 fiscal year of the state; the commissioner of administration shall
23 deposit the payment to the public school foundation account as required
24 by AS 14.17.010(a)(2);

25 (2) not more than one percent of the balance of the income
26 of the fund not paid to the commissioner of administration under (1) of
27 this subsection may be used by the board, at its discretion, for educa-
28 tion studies, for demonstration programs in elementary, secondary, or
29 special education, and for projects that seek to improve the quality,

1 management, or delivery of education services in the state;

2 (3) an amount which the board approves may be used for
3 operating expenses of the board;

4 (4) the balance of the income after providing for (1) - (3)
5 of this subsection shall be added to the principal of the fund.

6 Sec. 37.14.133. BOARD BUDGET. The operating budget of the board
7 shall be derived from the income of the fund.

8 Sec. 37.14.135. AUDITS. The Legislative Budget and Audit Com-
9 mittee shall provide for an annual post audit and annual operational
10 and performance evaluations of fund investments and investment pro-
11 grams.

12 Sec. 37.14.137. REPORTS AND PUBLICATIONS. (a) By March 31 of
13 each year, the board shall publish a report of the fund for distribu-
14 tion to the governor, legislature, and the public. The report shall be
15 written in easily understandable language. The report must include
16 financial statements audited by independent outside auditors, a state-
17 ment of the amount of money received by the fund from each investment
18 during the period covered, a statement of investments of the fund
19 including an appraisal at market value, a description of investment
20 activity during the period covered by the report, an examination of the
21 impact of the investment criteria of this chapter on the fund portfolio
22 with recommendations of any needed changes, and any other information
23 the board believes would be of interest to the governor, the legisla-
24 ture, and the public.

25 (b) The annual income statement and balance sheet of the fund
26 shall be published in at least one newspaper in each judicial district.

27 Sec. 37.14.139. POLITICAL ACTIVITIES. The resources of the fund
28 may not be used to finance or influence political activities.

29 Sec. 37.14.141. PUBLIC ACCESS TO INFORMATION. Information in the

1 possession of the board is a public record, except that information
2 which discloses the particulars of the business or affairs of a private
3 enterprise or investor is confidential and is not a public record.
4 Confidential information may be disclosed only for the purposes of an
5 official law enforcement investigation or when its production is re-
6 quired in a court proceeding. These restrictions do not prohibit the
7 publication of statistics presented in a manner that prevents the
8 identification of particular reports, items, persons, or enterprises.

9 Sec. 37.14.143. ADVISORY COUNCIL. (a) The board may appoint an
10 advisory council to advise it as to use of income available for dis-
11 bursement under AS 37.14.131(b)(2).

12 (b) The advisory council consists of not more than nine members,
13 all of whom shall be persons associated with elementary, secondary, and
14 special education in the state.

15 (c) The board shall adopt regulations for the manner of operation
16 of the advisory council.

17 Sec. 37.14.145. DEFINITIONS. In AS 37.14.111 - 37.14.145,

18 (1) "board" means the board of trustees of the Alaska educa-
19 tion endowment fund;

20 (2) "fiscal year" means the calendar year beginning January 1
21 and ending December 31;

22 (3) "fund" means the Alaska education endowment fund.

23 * Sec. 2. AS 14.07.150 is amended by adding a new subsection to read:

24 (b) The provisions of (a) of this section do not apply to income
25 of the Alaska education endowment fund disbursed by the board of trust-
26 ees of the Alaska education endowment fund for purposes authorized by
27 AS 37.14.131(b)(2).

28 * Sec. 3. AS 14.17.010(a) is amended to read:

29 (a) The public school foundation account is established. The

1 account consists of

2 (1) appropriations made by the legislature for distribution
3 to districts or for centralized correspondence study programs under
4 this chapter;

5 (2) money transferred by the board of trustees of the Alaska
6 education endowment fund to the commissioner of administration under
7 AS 37.14.141(b)(1) and deposited by the commissioner of administration
8 to the account.

9 * Sec. 4. The following laws are repealed: AS 37.14.110, 37.14.120,
10 37.14.130, 37.14.140, and 37.14.150.

11 * Sec. 5. APPOINTMENT OF FIRST BOARD OF TRUSTEES. (a) The governor
12 shall appoint the first members of the board of trustees of the Alaska
13 education endowment fund within 60 days after the effective date of this
14 Act.

15 (b) The terms of the members of the board of trustees of the Alaska
16 education endowment fund first appointed by the governor shall be staggered
17 as follows:

- 18 (1) one member shall be appointed for a term of one year;
19 (2) one member shall be appointed for a term of two years; and
20 (3) one member shall be appointed for a term of three years.

21 * Sec. 6. FIRST MEETING OF THE BOARD OF TRUSTEES. The first meeting of
22 the board of trustees of the Alaska education endowment fund shall be held
23 within 30 days of the appointment of all members of the board.

24 * Sec. 7. TRANSITION. The commissioner of revenue shall transfer the
25 assets of the public school fund (AS 37.14.110 - 37.14.150) to the Alaska
26 education endowment fund established by this Act after request for transfer
27 is made by the board of trustees of the Alaska education endowment fund.

28 * Sec. 8. MORATORIUM ON DISBURSEMENT OF INCOME. Notwithstanding AS 37.-
29 14.131(b)(1), the board of trustees of the Alaska education endowment fund

1 may not be required to pay income available to the commissioner of adminis-
2 tration before July 1, 1983.

3 * Sec. 9. This Act takes effect July 1, 1981.
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