

HB

237

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF ADMINISTRATIVE HEARINGS

SARAH PALIN, GOVERNOR

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April 18, 2007

The Honorable Max Gruenberg
Alaska State Representative
Alaska State Legislature
State Capitol, Room 110
Juneau, Alaska 99801-1182

Re: Office of Administrative Hearings' Authority to Accept Voluntary Referrals

Dear Representative Gruenberg:

During our April 6, 2007 discussion of the Office of Administrative Hearings' (OAH's) caseload, I promised to get back to you with the specifics on OAH's authority to accept voluntary case referrals. The question arose in the connection with whether OAH might be able to provide administrative adjudication services for state government entities beyond those we are providing at present.

AS 44.64.030(b) and two statutory definitions provide the essential authority for OAH to hear just about any kind of contested case on behalf of (or even under a delegation from) an executive branch decisionmaker. AS 44.64.030(b) provides as follows:

An agency may request the office to conduct an administrative hearing or other proceeding of that agency or to conduct several administrative hearings or other proceedings under statutes not listed in (a) of this section. The office may provide the service after entering into a written agreement with the agency describing the services to be provided and providing for reimbursement by the agency to the office of the costs incurred by the office in providing the services[.]

Thus, an *agency* may voluntarily refer an *administrative hearing* or other proceeding to OAH. Both "agency" and "administrative hearing" are defined terms under AS 44.64.

AS 44.64.200(3) defines "agency" as "an agency of the executive branch of state government, including an officer, a division, or another subunit of an agency, a board or commission, a public corporation, and the University of Alaska[.]" OAH's voluntary

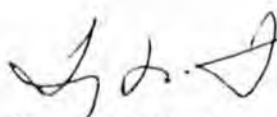
referrals, therefore, can come from sources within the executive branch (e.g., officers, public corporations, the University) other than "agencies" within the meaning of, for instance, the Administrative Procedure Act.

AS 44.64.200(1) defines "administrative hearing" as "a quasi-judicial hearing before an *agency*; it does not include an informal conference or review held by an agency before a final decision is issued or a rate-making proceeding or other nonadjudicative public hearing[.]" (Emphasis added.) As long as the matter sought to be referred to OAH requires a quasi-judicial hearing and is referred by an "agency" as broadly defined above, CAH can conduct the hearing.

Moreover, under AS 44.64.055, OAH has authority to enter into reimbursement agreements to provide "administrative hearing" services to "a school district, municipality, or other governmental entity if the reimbursement is authorized by law." The "other governmental entity" language is what allowed us to agree to hear procurement protest appeals for the court system once the court system determined that it had authority to contract (via reimbursement agreements) with executive branch agencies.

In sum, the statutory authorities in AS 44.64 are broad enough to enable OAH to take a wide range of voluntary referrals, as long as the referring agency or entity has the legal authority to engage an executive branch central hearing panel to conduct the hearing or other proceeding referred. If you have any further questions about OAH and its caseload, please do not hesitate to contact me.

Sincerely,



Terry L. Thurbon
Chief Administrative Law Judge

cc: Annette Kreitzer, Commissioner
Department of Administration

Kevin Brooks, Deputy Commissioner
Department of Administration

25-LS0839\C
Mischel
4/30/07

CS FOR HOUSE BILL NO. 237()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the governor to remove or suspend a member of the Board of**
2 **Regents of the University of Alaska for good cause; and establishing a procedure for the**
3 **removal or suspension of a regent."**

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

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **LEGISLATIVE FINDINGS AND PURPOSE.** (a) The legislature finds that

8 (1) the framers of the Constitution of the State of Alaska intended to insulate
9 the University of Alaska and the Board of Regents from politics, but did not intend to
10 immunize the University of Alaska and the Board of Regents from appropriate nonpolitical
11 legislative and executive branch oversight;

12 (2) under AS 14.40.170(b)(1), the legislature has delegated to the Board of
13 Regents the power to regulate itself, but the Board of Regents has not adopted self-
14 governance rules that authorize the board to remove or suspend a regent in appropriate

1 circumstances; and

2 (3) the legislature has the power to create a procedure under which the
3 governor may remove a regent for good cause or suspend a regent in appropriate
4 circumstances, so long as the regent is accorded due process and the University of Alaska and
5 the Board of Regents are insulated from politics.

6 (b) The purpose of AS 14.40.155, added by sec. 2 of this Act, is to

7 (1) clarify that the governor may not remove a regent without good cause;

8 (2) clarify that the governor may remove a regent with good cause;

9 (3) prescribe a due process procedure under which the governor may remove a
10 regent for good cause;

11 (4) prescribe a due process procedure under which the governor may suspend
12 a regent in certain circumstances; and

13 (5) accomplish each of the above purposes while still insulating the University
14 of Alaska and the Board of Regents from politics.

15 * Sec. 2. AS 14.40 is amended by adding a new section to read:

16 **Sec. 14.40.155. Removal and suspension of regents.** (a) The governor may
17 remove a member of the Board of Regents for good cause by providing

18 (1) a copy of the allegations pertaining to the reasons for removal;

19 (2) an opportunity for a hearing on the allegations; and

20 (3) at least 10 days' notice of a hearing if a hearing is requested; the
21 notice must include the applicable rules governing the conduct of the hearing.

22 (b) After removal of a regent for good cause under (a) of this section, the
23 governor shall file with the lieutenant governor a copy of the allegations made against
24 the former regent, the governor's findings on each of the allegations, and a complete
25 record of the removal proceedings.

26 (c) The governor may, after providing notice and an opportunity for a hearing,
27 suspend a member of the Board of Regents while final disposition is pending on

28 (1) a criminal complaint, presentment, information, or indictment
29 involving a felony in any jurisdiction;

30 (2) an information or formal criminal charges of a misdemeanor
31 described under (g)(3) of this section; or

1 (3) allegations of nonfeasance in office described under (g)(4) of this
2 section under consideration by the governor.

3 (d) A regent who has been suspended under (c) of this section may, at any
4 time, request a hearing to lift the suspension.

5 (e) A hearing conducted by the governor or the governor's designee involving
6 the suspension of a regent under (c) of this section must provide an opportunity to
7 defend against the stated grounds for suspension or to show cause why the suspension
8 should be lifted after a suspension is imposed.

9 (f) The governor may delegate the conduct of a hearing under this section to
10 the office of administrative hearings under AS 44.64.030(b).

11 (g) In this section, "good cause" means

12 (1) a violation of AS 39.52 (Alaska Executive Branch Ethics Act);

13 (2) conviction of a felony in any jurisdiction;

14 (3) conviction of a misdemeanor in any jurisdiction if the misdemeanor

15 involves

16 (A) dishonesty;

17 (B) breach of trust; or

18 (C) the University of Alaska;

19 (4) nonfeasance in office, including

20 (A) misconduct in office;

21 (B) an inability to serve;

22 (C) neglect of duty;

23 (D) incompetence;

24 (E) unjustified failure to perform the duties of the Board of

25 Regents;

26 (5) failure to continue to meet the requirements of AS 14.40.130 that
27 relate to the qualifications of a regent.

28 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 APPLICABILITY. AS 14.40.155, added by sec. 2 of this Act, applies to all conduct
31 and acts that occurred before, on, or after the effective date of this Act.

Alaska State Legislature

Chairman

State Affairs Committee

Vice-Chairman

Economic Development, Trade & Tourism
Committee

Member

Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees

Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From

REPRESENTATIVE BOB LYNN
District 31 Anchorage

House State Affairs Committee

Session:

Alaska State Capitol
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Sponsor Statement

HB 237

HB 237 creates a statutory due process procedure under which the governor may remove a University of Alaska regent for good cause. It also creates a statutory due process procedure under which the governor may suspend a University of Alaska regent in certain circumstances.

A question has arisen regarding the extent to which a University of Alaska regent may be removed before the end of the regent's term. Various legal counsel have reviewed this issue and arrived at differing conclusions.

Legislative counsel has concluded that a regent serves at the pleasure of the governor and may be removed with or without cause. Legislative counsel has also concluded that a regent may be impeached. Legislative Counsel Memo (Jan. 31, 2007). Conversely, University counsel has verbally opined that a regent may only be removed by impeachment and that the governor has no power to remove a regent.

The Department of Law has opined that the governor does not have the power to remove a University of Alaska regent without cause. 2007 Inf. Op. Att'y Gen. (Feb. 2; 663-06-0103); 1979 Inf. Op. Att'y Gen. (Jan. 23; J-66-103-79). The Department of Law's view is based on its review of the constitutional convention minutes that the convention intended to insulate the University of Alaska from politics. Thus, the convention placed the University outside the Executive Branch article in the constitution.

The Department of Law, however, concluded that the governor has the power to remove a regent if cause is established. Moreover, Law stated in its most recent opinion that: "it may be possible for the legislature to provide for removal of a regent through enactment of a statute consistent with the constitution. Such a statute would have to preserve the University's politically independent constitutional status and probably could only provide for removal if it were for some cause that was established at a hearing prior to removal." 2007 Inf. Op. Att'y Gen. 7 n.7 (Feb. 2; 663-06-0103).

HB 237 - Sponsor Statement
Page 2

In summary, all three of the legal opinions agree that a regent may be impeached. Two of the legal opinions agree that the governor may remove a regent with cause (Legislative Counsel and Department of Law).

The purpose of this bill is to establish a statutory procedure for the governor to remove a regent for good cause. The bill affords the regent a due process hearing and defines what constitutes good cause.

The bill also provides a procedure for the governor to suspend a regent in certain limited circumstances, including when a regent is indicted for a felony or crime of dishonesty. This suspension procedure will serve to protect the University until all the facts have been established regarding the regent's conduct.

The bill clarifies that the governor cannot remove a regent without good cause.

The Department of Law has reviewed this bill and believes it is consistent with its opinions and with the Alaska Constitution.

Ultimately, the question of whether the governor has the power to remove a regent for good cause can only be decided by the Alaska Supreme Court. Despite this legal uncertainty, this bill embodies sound governance policy. It preserves the University's constitutionally intended insulation from politics, while ensuring that a statutory mechanism is in place for the governor to remove or suspend a regent in an appropriate circumstance. It provides the regent the opportunity for a fair due process hearing. This bill will serve to effectively protect the University and protect the board of regents.

SECTIONAL ANALYSIS

Section 1 sets forth the findings and purposes of the bill. The legislature finds that the constitutional framers intended to insulate the University from politics, that the legislature delegated the power of self-governance to the University, and that the legislature has the power to create a statutory procedure for the governor to remove a regent for good cause. The purposes of the bill are to clarify that the governor may remove a regent for good cause, but that a governor may not remove a regent without good cause, to establish a due process procedure to remove a regent for good cause, to establish a due process procedure to suspend a regent in certain circumstances, and to preserve the political insulation of the University and the board of regents.

Section 2 adds a new section, AS 14.40.155, to AS 14.40, the chapter that governs the University of Alaska's board of regents. AS 14.40.155 is patterned after other statutory removal procedures for other boards, including the workers compensation appeals commission. See AS 23.30.007(j).

AS 14.40.155(a) sets forth the procedure for the governor to remove a regent for good cause. The governor must provide the regent with the reasons for removal, and an opportunity for a hearing with at least 10 days notice. Good cause is defined in subsection (g) to include a violation of the Executive Branch Ethics Act, a conviction of a felony, conviction of a misdemeanor involving a crime of dishonesty or the University of Alaska, nonfeasance in office, or failure to continue to meet the qualification requirements of a regent.

AS 14.40.155(b) requires the governor to file with the lieutenant governor a complete record of the removal proceedings, including a decision detailing the governor's findings.

AS 14.40.155(c) and (e) set forth the procedure for the governor to suspend a regent. The governor must provide the regent with notice and an opportunity to be heard. The governor may suspend a regent who has been indicted for a felony, charged with a misdemeanor for a crime involving dishonesty or the University of Alaska, or for allegations of nonfeasance in office.

AS 14.40.155(d) allows a suspended regent to request a hearing to lift the suspension.

AS 14.40.155(f) permits the governor to delegate the conduct of the hearing to the Office of Administrative Hearings.

Section 3 is an applicability section that permits AS 14.40.155 to apply to conduct occurring before or after the effective date of the act.

Section 4 is the effective date provision giving the Act an immediate effective date.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB237-LAW-LSA-4-27-07
 Bill Version: HB 237
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating to removing a regent. RDU Civil
 Component Law & State Affairs
 Sponsor House State Affairs
 Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would authorize the governor to remove or suspend a member of the Board of Regents of the University of Alaska for good cause and establish a procedure for the removal or suspension of a regent. There would be no fiscal impact on the Department of Law.

Prepared by: Robert Meiners, Admin. Services Mngr Phone 465-5427
 Division Administrative Services Division Date/Time 4/27/07 8:12 AM
 Approved by: Robert Meiners for Talis Colberg, Attorney General Date 4/27/2007
 Agency Department of Law

HB 237 - Removing a Regent

Bill Authorizing Removal of Regents by the Governor

- The constitution provides a process for removing regents – impeachment. Any statute providing for removal and suspension of Regents by the governor may be incompatible with the constitutional provision.
- This bill provides that the governor or designee would make the allegations, conduct the hearing, and make the final decision regarding removal or suspension. Any individual affected would likely challenge the action. The resulting litigation would tie the Board and the state in knots.
- A procedure involving only the governor does not insulate the university from politics. This was the intent of the framers of the constitution as noted in a recent AG's opinion.
- Where a governor is the sole determiner of whether to remove or suspend a regent, terms like neglect of duty, incompetence, and unjustified failure to perform duties could be subjectively interpreted and result in political interference with the proper functioning of the Board.

Background:

Article II, Section 20 of the Alaska Constitution provides for removal of all civil officers of the state by impeachment.

Article VII, Section 3 of the Alaska Constitution creates a Board of Regents apart from the provision dealing with Executive Branch Boards and Commissions (Article III, Section 26). Unlike the provision dealing with Executive Branch Boards & Commissions, the provision dealing with the Board of Regents does not specify that regents are subject to removal as provided by law.

Response to Memo Entitled
“Bill Authorizing Removal of Regents by the Governor”

A memo has been circulated by a representative of the University of Alaska raising concerns regarding HB 237. The following is a response to those concerns.

Point 1. “The constitution provides a process for removing regents – impeachment. Any statute providing for removal and suspension of Regents by the governor may be incompatible with the constitutional provision.”

Response: All legal counsel agree that the constitutional impeachment process may be used to remove a regent. Legislative counsel and the Department of Law, however, disagree that this is the only means by which a regent may be removed. HB 237 creates a statutory procedure for the governor to remove a regent for good cause. Legislative counsel and the Department of Law believe this procedure is consistent with the Alaska Constitution.

Point 2. “This bill provides that the governor or designee would make the allegations, conduct the hearing, and make the final decision regarding removal or suspension. Any individual affected would likely challenge the action. The resulting litigation would tie the Board and the state in knots.”

Response: To the extent this point suggests that the governor is incapable of providing a regent with a fair due process procedure, there is no basis for it. Courts have repeatedly vindicated the ability of administrative agencies to conduct appropriate and constitutional due process proceedings. There is a large body of case law that guides an administrative agency in conducting such hearings. Moreover, the bill authorizes the governor to delegate the hearing to the Office of Administrative Hearings, an administrative agency that is specifically charged with conducting fair and objective due process hearings.

There is no way to predict whether this bill will produce litigation. However, to the extent it does, it will not tie Board or the state in knots. The Department of Law routinely handles litigation on behalf of the state, and state business continues unabated even when litigation is pending.

Point 3. “A procedure involving only the governor does not insulate the university from politics. This was the intent of the framers of the constitution as noted in a recent AG’s opinion.”

Response: While the framer certainly intended to insulate the University and the board of regents from politics, there is no evidence that they intended to completely immunize the University from appropriate governance. This bill creates an appropriate due process procedure that will be insulated from politics.

Point 4. “Where a governor is the sole determiner of whether to remove or suspend a regent, terms like neglect of duty, incompetence, and unjustified failure to perform duties

could be subjectively interpreted and result in political interference with the proper functioning of the Board.”

Response: The standards for good cause are defined in statute and there is a body of case law that will both guard and guide the decision making process, including the manner in which the statutory grounds for good cause are interpreted. This will effectively limit the opportunity for politics to interfere with the removal procedure.

Background points. The memo draws a distinction between Article III, section 26 which authorizes the legislature to specify in law removal provisions for boards and commissions subject to section 26, and Article VII, section 3 which is silent on removal provisions. This distinction could be interpreted in a variety of ways, including that the governor has plenary removal power and that legislative authorization for removal is not required.

The interpretation that is most consistent with the framers' intent, however, is that offered by HB 237. That is, that the governor has the authority to remove a regent for good cause and that the legislature may prescribe statutory due process procedures to ensure that the process preserves the University's insulation from politics.

Re: HB 237- Removing a Regent

Summary of Constitutional Convention Minutes
Re
University of Alaska

pp. 2033 - 2037

--Walsh questions whether governor will have power to remove university president

--V. Rivers responds no—status quo will remain, unless changed in law

--Nordale states that university is not a principal department subject to supervision by governor

pp. 2245-2258

--Walsh expresses view that university president should not be subject to approval by governor

--Nordale reiterates that university is not a principal department and that education should stay out of politics

--R. Rivers moves to exempt university from language that would become art. III, sec. 26 (boards and commissions)

--Taylor states that university is an independent agency

--V. Rivers reiterates that law could provide for means of removal of university president

--Nordale requests a separate article that clarifies status of university including that it is not part of the executive branch

--R. Rivers' motion fails

pp. 2792

--V. Rivers introduces provisions governing university

pp. 2808

--Hurley asks whether governor can be regent

--V. Rivers responds no, constitutional appointment procedure is the current method of appointment

House Bill 237

Relevant Memos

Removing a Regent

- Jean M. Mischel, Legislative Council 4/17/07
- Craig J. Tillery, Deputy Attorney General 2/02/07

LEGAL SERVICES**DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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Mail Stop 3101State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329**MEMORANDUM**

April 17, 2007

SUBJECT: Removal of a University Regent (HB 237)
(Work Order No. 25-LS0839\A)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM: Jean M. Mischel
Legislative Counsel

You asked whether the governor may remove a University regent. In my opinion, the answer is yes. In fact, the constitutional authority of the legislature to restrict or otherwise control the removal or suspension of a regent by the governor is the subject of considerable debate. Unlike boards and commissions controlled by art. III, sec. 26 of the constitution, nothing in art. VII, sec. 3, which establishes the Board of Regents, provides for legislative control over removal of the regents and therefore the governor's removal authority appears to be unrestricted.

Article VII, sec. 3 provides:

The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session

A limitation on removal of some executive officers may be interposed by law, but arguably only as to persons who hold appointment under art. III, sec. 26 of the state constitution. Article III, sec. 26 states:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, *and may be removed as provided by law*

Even with the additional legislative authority over sec. 26 boards, the Alaska Supreme Court interpreted that authority very narrowly. When the Court was faced with the question of the extent of legislative authority over sec. 26 boards and commissions, the Court found that the confirmation power of the legislature provided in art. III, secs. 25 (principal department heads) and 26, is merely a limited delegation of the executive appointment power to the legislature and stated:

As to this issue, we think the provision of Sections 25 and 26 of Article III are clear and unambiguous. Thus, we conclude that Sections 25 and 26

Representative Bob Lynn
April 17, 2007
Page 2

mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government. (Bradner v. Hammond, 553 P.2d 1, 7 (Alaska 1976))

The University's status as a "body corporate" does not imply a legislative role in removal of a regent (apart from the impeachment process available to the legislature as to all civil officers). Though the University, alone in the constitution, expressly holds corporate status, the Alaska Supreme Court has said that members of other public corporations established by law serve at the pleasure of the governor. (Walker v. Alaska State Mortgage Association, 416 P.2d 245 (Alaska 1966)) The Court stated:

The Association's three board members from the Board of Commissioners of the Alaska Housing Authority are appointed by the governor and serve at his pleasure. Therefore, the governor is empowered to remove any member of the governing board of the Association at his pleasure.

Id. at 240 (citations omitted).

I am aware of a recent informal attorney general opinion that suggests in a footnote that the legislature has some authority over removal of a regent without any judicial support for that position. The addition of legislative control over suspension of a regent is even more questionable. I do not know how a court would view the kind of intrusion proposed in HB 237 into the governor's appointment and removal authority, but perhaps the court would be persuaded by the governor's support of this concept.

If I may be of further assistance, please advise.

JMM:med
07-247.med

MEMORANDUM

State of Alaska
Department of Law

To: Talis J. Colberg Attorney General	Date: February 2, 2007
Thru: Craig J. Tillery Deputy Attorney General	File No.: 663-06-0103
	Tel. No.: (907) 465-3600
	Fax: (907) 465-2520
From: Michael A. Barnhill Assistant Attorney General Labor and State Affairs Section	Subject: Governor's Power to Remove a University of Alaska Regent

We have been asked whether the Governor has the power to remove a University of Alaska regent without cause. In our view, the answer is no.

We acknowledge that this question has been posed to different counsel and different conclusions reached. Legislative counsel has concluded in a written opinion that regents serve at the pleasure of the governor and may be removed at any time. University of Alaska counsel has concluded in a verbal opinion that a regent may be removed only through impeachment by the legislature.

For the reasons set forth below, we do not fully agree with the conclusions of either legislative counsel or university counsel. That being said, we do agree with both legislative counsel and university counsel that impeachment is an option that may be pursued in order to remove a regent. But we disagree with university counsel that it is the only option.

The basis for our views is grounded primarily in the constitution and discussions of the framers regarding the University of Alaska during the constitutional convention. We start there.

I. Historical Background

The University of Alaska was created by the territorial legislature in 1935. ch. 49, SLA 1935. The Board of Regents was created at that time as well, with the governor empowered to appoint regents subject to confirmation by a joint session of the legislature. *Id.* at sec. 3. The term of a regent was eight years and a regent was to serve "until their successors are appointed and have qualified." *Id.* The original statute made no mention

Attorney General Colberg
Re: Removal of University Regent

February 2, 2007
Page 2

of how a regent should be removed. This law has essentially remained unchanged through today, though the number of regents was increased to eleven in 1975. See AS 14.40.120; 14.40.140; AS 14.40.150.

From the University's inception through statehood we are aware of no instance of a governor removing a regent prior to the end of a regent's term. We recognize that it is possible such could have happened, but it would take further historical research to determine this.

The constitutional convention considered the University of Alaska several times during the course of the convention. Before considering these passages, however, it is important to understand that the territory of Alaska had suffered from a fragmented executive branch with several elected officials and multiple governing boards designed to erode the power of the federally appointed governor. A fundamental goal of the convention was to establish a strong governor who was completely in control of the executive branch of government.¹

During the consideration of the executive branch article, however, concerns were raised regarding the appropriate place for the University of Alaska within the constitutional design for the new government. These concerns were often expressed in terms of the need to insulate education from politics. Alaska Constitutional Convention Proceedings at 2043, 2246. During the discussions of the provisions that ultimately

¹ Delegate Fischer later wrote, "[Territorial] government was neither responsible nor responsive to the people. As a result, convention delegates were ready to make basic structural changes so the people could hold the governor wholly responsible for the conduct of state administration." V. Fischer, *Alaska's Constitutional Convention* at 106 (1975).

became sections 25 and 26 of Article III,² questions were raised concerning the extent to which these sections governed appointments to the Board of Regents. The chair of the Executive Branch Committee, Victor Rivers, and a member of that Committee, Katherine Nordale, both responded that section 26 of Article III only applied to "principal departments" and that the University of Alaska was not a principal department. Alaska Constitutional Convention Proceedings at 2034, 2037, 2246. Therefore, in their mind, the University of Alaska did not fall under section 26 of Article III.

Other delegates, however, remained concerned that in order to insulate the University from politics it needed to be made explicit that the University was not subject to section 26 of Article III. In particular, certain delegates were concerned that if section 26 did apply to the University, that the Board of Regents' appointment of a president would be subject to approval by the governor. Accordingly, these delegates sought to amend section 26 to state that the provision did not apply to the University of Alaska. Alaska Constitutional Convention Proceedings at 2245-2258. Ultimately, these attempts failed because the members of the Executive Branch committee persuaded the convention that section 26 simply did not apply to the University of Alaska. Alaska Constitutional Convention Proceedings at 2246, 2257. Moreover, several delegates noted that a separate article was being drafted to govern the University of Alaska. *Id.* at 2247-48, 2250, 2255.

During the debate, some delegates expressed observations as to the status of the University. The chair of the Executive Committee, Victor Rivers, stated that the Executive Branch article would have no impact on the University:

² Section 25. Department Heads. The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as otherwise provided in this article with respect to the secretary of state.

Section 26. Boards and Commissions. When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

Walsh: May I ask a question, Mr. Rivers? I think to clarify in the minds of several people here it might be well for me, that [as] one of those serving on the Board of Regents of the University of Alaska, composed of eight members, and the Board of Regents select the President of the University. The governor, as I understand it, does not have the power of the removal of the president of the University. It is a matter for the Board. Would this situation change that, Mr. Rivers?

Rivers: No, in regard to the University, this would not affect their present setup. They are a private corporation, or rather a nonprofit corporation, and under the specific law providing for their make-up, and you would still have a board of regents appointed by the governor and confirmed by the legislature, and the powers as you now have them would be identical to what they now are as I visualize them.

Id. at 2033-34. Delegate Taylor stated that the "University is not a part of the Territorial government whatsoever; it is an independent agency." *Id.* at 2253. Notably, Delegate Nordaie expressed the view that by explicitly putting the University in a separate article it would "make it very clear that it can never be dissolved and that it is not part of the executive branch of government." *Id.* at 2256.

Later in the convention, the Executive Branch committee proposed language regarding the University. Chair Rivers introduced the language as follows:

Mr. President, you have heard the reading of this article and it was considered important that in the constitution there be included an article of this type. It gives the University, as a corporate body, the authority to receive and hold property which will be granted to them under the enabling act. It also gives them the authority for administering and disposing of that according to law. It sets up the board of regents and the governing body of the University, and I think the main point of this article has is that constitutionally the University of Alaska shall be the only state university in Alaska.

Id. at 2792. Perhaps notably, the Executive Branch committee saw fit to clear the language of the proposed article with the President of the University prior to bringing it to the floor of the convention.³ *Id.*

II. Analysis

With this summary of the constitutional history of the University in mind, we think it is fair to draw the following conclusions. First, the convention intended to create a very strong governor with full appointive power. Second, despite the strong governor model, the convention nevertheless intended to insulate the University from politics, including the governor. Third, the convention intended that the University would not be subject to section 26 of Article III of the Alaska Constitution. Fourth, the convention intended to constitutionalize the existence of the University. Finally, some members of the convention believed that the University resided outside the executive branch of government in 1955 and that the constitution preserved that status.⁴

Nowhere in the convention minutes is there any discussion regarding removal of a regent.⁵ But the above conclusions are sufficient to give us pause that the governor's power to remove certain executive branch appointees without cause extends to the University Board of Regents. This view is consistent with the views previously expressed by this office. In 1979, we opined:

Under the state constitution, the University of Alaska is 'governed' by the Board of Regents. Alaska Const., art. VII, § 3. The regents are appointed by the governor, subject to confirmation by the legislature. *Id.* They serve for terms of eight years. Thus, while the regents are appointed by and are responsible to the governor, they do not serve at his pleasure but rather for fixed terms, and they may, therefore, be

³ In other words, it is doubtful that President Patty, the University president at the time, would have approved this language if he thought it allowed the governor to remove a regent without cause.

⁴ By observing this latter point, we do not conclude that in fact the convention succeeded in fully removing the University from the executive branch.

⁵ Though at one point, Chair Rivers states that "[t]he law could provide no doubt for means of removal . . ." *Id.* at 2255-56. He appears to be referring to the chief executive of the University, not the regents, however.

removed from office solely for cause. 67 C.J.S. Officers § 120 (1978); 63 Am. Jur.2d Public Officers and Employees § 189 (1972). As a result, the governor's supervision over the university is made distinctly indirect. Unless the members of the Board of Regents commit acts of malfeasance, misfeasance, or nonfeasance sufficient to constitute cause for their removal, the governor possesses no check upon them and no power to direct their activities.

1979 Inf. Op. Att'y Gen. 1 (Jan. 23; J-66-103-79). We have reiterated this view over the years⁶ and see no reason to stray from it today.

For the reasons expressed above, the University is accorded unique constitutional status. We must be mindful of these reasons when considering the applicability of Alaska Supreme Court precedents. A number of these cases have been cited by other counsel, but we doubt that a court would find them controlling on the issue of whether the governor may remove a regent without cause. For instance, *Walker v. Alaska State Mortgage Assoc.*, 416 P.2d 245 (Alaska 1966) does not involve the University of Alaska, but rather pertains to a board of a public corporation that does not have a unique constitutional status. The cases involving the University do not have issues that directly implicate the political independence of the University, one of the reasons for the University's unique constitutional status. See, e.g., *University of Alaska v. Nat'l Aircraft Leasing*, 536 P.2d 121 (Alaska 1975) (University is instrumentality of state for purposes of sovereign immunity); *McGrath v. University of Alaska*, 813 P.2d 1370 (Alaska 1991) (legislature may subject University to Administrative Procedures Act). Instead, we think a court if faced with the issue of whether the governor may remove a regent without cause would be more likely to focus on the constitutional history of the University set forth above.

Finally, legislative counsel contends that under AS 39.05.060(d) regents serve at the pleasure of the governor and may be removed at any time. This interpretation is at odds with the express intention of the constitutional convention that the University be insulated from politics. Moreover, review of the fairly lengthy legislative history of this statute demonstrates that the legislature never intended AS 39.05.060(d) to reach the

⁶ In 1998, an assistant attorney general stated that, "Regents are considered to be sort of in a class by themselves. We've always advised the governor that it's inadvisable to remove the regents at a change of an administration. Legal complications may ensue." 1998 Anchorage Daily News (quoting AAG James Baldwin).

Attorney General Colberg
Re: Removal of University Regent

February 2, 2007
Page 7

Board of Regents. This statute was originally enacted as part of the State Organization Act of 1959, under which the executive branch of the new State of Alaska was formed. *See* ch. 64, SLA 1959. The University of Alaska is not within the scope of this Act—it was not mentioned in the Act and was left out of the organization of the executive branch accomplished by this Act. *Id.* When initially enacted, AS 39.05.060 only referred to boards that were explicitly mentioned in the State Organization Act of 1959. While the scope of AS 39.05.060 has both expanded and contracted over the years, it has never been broadened to include the Board of Regents.⁷

In summary, we conclude that the Governor may only remove a regent if cause is established, preferably at a hearing prior to removal. We would be happy to address in another memo the evidence necessary to establish cause, and the criteria for an appropriate hearing process.

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⁷ We note, however, that it may be possible for the legislature to provide for removal of a regent through enactment of a statute consistent with the constitution. Such a statute would have to preserve the University's politically independent constitutional status and probably could only provide for removal if it were for some cause that was established at a hearing prior to removal.

version here now the existing arrangement provided by law for educational administration could continue, except that the appointment of the commissioner of education by the board of education would require the approval of the governor. The department of education would of course be subject to reorganization by executive order of the governor as would any other agency of the government. Now it also provides that the removal power of this multiheaded board member would be, or rather the appointing power of the principal executive officer of such board would be subject to the approval of the governor before he was appointed. The general consensus of the Committee was that this covered quite well the desire of both the strong executive and the multiheaded department such as the department of education. Does that answer your question?

COGHILL: Yes, but, Mr. President, that answered my question in part, Mr. Rivers. It is then the thinking of the Committee that like the head of the department of education, although the governor would only be able to appoint say one or two members to that board when he becomes the governor, that he would have the power to remove, without just cause a good executive head of that board?

V. RIVERS: He would have both, yes. He would have the removal power of the board powers and also would have the removal power of the executive officer, subject of course no doubt to some considerable agreement with the board. He has the removal power now for certain causes with the approval of the board, as I read to you.

COGHILL: Do I get it right then that he has the power to remove all board members when he comes into office?

V. RIVERS: Mrs. Nordale, you might care to answer that.

NORDALE. He can remove the board members but the head of this multiheaded agency may be removed in the manner provided by law, which could provide for hearings and all sorts of things.

PRESIDENT EGAN: Mr. Walsh.

WALSH: May I ask a question, Mr. Rivers? I think to clarify this in the minds of several people here it might be well for me, that one of those serving on the Board of Regents of the University of Alaska, composed of eight members, and the Board of Regents select the president of the University. The governor, as I understand it, does not have the power of the removal of the president of the University. It is a matter for the Board. Would this situation change that, Mr. Rivers?

V. RIVERS: No, in regard to the University, this would not affect their present setup. They are a private corporation, or rather

a nonprofit corporation, and under the specific law providing for their make-up, and you would still have a board of regents appointed by the governor and confirmed by the legislature, and the powers as you now have them would be identical to what they now are as I visualize them.

WALSH: We still have the power to choose a president of the University?

V. RIVERS: Yes, this refers only to principal departments of government.

WALSH: There would be no change when this transformation takes place from the Territory to the State?

V. RIVERS: Unless it were made by law there would be no change, as I see it.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Rivers, was it the thinking of the Committee that if all department heads were single it might save a lot of trouble in the capital city?

V. RIVERS: The interpretation of many English words has great duality of meaning in many cases. Of course, this one here is one of those things that you could put most any interpretation on. The interpretation if you want the serious definition of that single department head, it was that it would help effectuate and make more efficient the strong executive type of government in the executive branch.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, in Section 17, in what Mr. Walsh was referring to, it says that such a board or commission and the members have been appointed by the governor and then approved by the senate, "Such a board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the Governor." It has no provision in there whatsoever about the governor removing the executive head, but the procedure has been reversed; rather than the governor appointing this board and being confirmed by the senate, which it does down to a certain extent, and then letting the board have the choice of its executive, now all of a sudden the executive of this board has to be approved by the governor.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: That is correct. The approval power of the governor who is the strong executive head of the state would be required

before the commission could appoint and submit the name to the legislature for approval, but you also have to have the approval of the legislature, and in the case of judges you have a very similar situation under our new judiciary. The judicial council recommends a judge to the governor who makes a selection from two or more and then it is approved by the legislature. I see no variation in the method particularly.

PRESIDENT EGAN: Mr. Cooper.

COOPER: It does not say though that this executive officer is approved by the senate or any legislators. It is merely that the appointment shall be subject to the approval of the governor. There would be no appointment of a principal executive officer. There would be the appointment and the confirmation of the senate of the five members, that is what the board consisted of.

V. RIVERS: That's right. There would be no approval of the senate of the executive officer. I misstated, I was thinking of a board member.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Rivers, did you consider the use of the expression "administrative board" instead of "quasi-judicial body"?

V. RIVERS: Yes, we considered a great deal of terminology there -- regulatory boards, nonregulatory boards, administrative boards, quasi-judicial bodies, and we tried to arrive at the wording which would most nearly express the intent and "quasi-judicial" means one more board exercising powers as we visualize it, that are semijudicial in nature and have certain powers to make rules and certain powers to make regulations that might have the force of law.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: You are getting into the field of administrative law then, aren't you?

V. RIVERS: I presume that is the right place to put this matter.

PRESIDENT EGAN: Mr. Smith:

SMITH: Mr. President, I would like to ask Mr. Rivers, I am still not quite clear on what the difference between a principal department with a single executive, what the difference between that and the principal department under a board or commission. Now possibly I can make myself clear by referring to the Alaska Department of Fisheries. If that department were set up without a board, then would you say it was a principal department and

would come under Section 16?

V. RIVERS: Well, it is a matter for the organizational setup of the state to decide what principal departments they are going to establish. As I stated before, we have a number of departments now headed up by boards where it might be eventually they will be single-headed departments. It is the hope of many that they will have such single-headed departments. I for one think the Department of Fisheries could probably and would qualify as a principal department, although it might well fall under a department of resources as one of the fields of that particular department.

SMITH: It would depend then on how the state organization was set up as to whether it would come under Section 16 or 17?

V. RIVERS: That is correct.

PRESIDENT EGAN: Are there other questions relating to Section 16? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to go back just one, and I would like to ask Mr. Rivers, what is the purpose of Section 15? Why is it necessary at all? We have provided that each department head shall be appointed by the governor. Why do we need to say that each department shall be under his supervision?

PRESIDENT EGAN: Mr. Rivers.


V. RIVERS: Mr. President, the governor under this setup is charged with the executive responsibility of the management of the state. As I recall, to effectuate that we felt that the phraseology of the model constitution was important, that he actually be indicated as being the supervisory head of all the departments under him. I will pick out the wording for you, if I can. I don't find it just at the moment, Mr. President. I will locate it and bring it out for you and show it to you as soon as I am able to locate it.

PRESIDENT EGAN: Are there questions to Section 17? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask a question in regard to 17. I will start first by mentioning Section 15: "Each principal department shall be under the supervision of the Governor." And then in Section 17 it says: "Wherever a board or commission is at the head of a principal department or of a regulatory or quasi-judicial body, the members thereof shall be nominated and appointed by the Governor..." etc. I am wondering if in the case of a department of education which had a school board made up of members confirmed by the legislature who in turn appoint a commissioner of education to administer the

school system. I think probably the department of education would be one of the principal departments, even though it had a board to carry out the program, I am wondering if the governor is really the supervisor of that kind of a department. I might go along with saying the general supervision of the governor, or such, but actually I don't think he would be running the University through the Board of Regents either. I think the regents would be running it, and I think the board of education would be running the department of education, and it would be a very vague supervision that the governor would have in a case like that, and I am just wondering if there is any inconsistency there.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: First, I would like to say that the University of Alaska is not a principal department of the government. It is something apart from this. And second, actually our present government is a very fine example of what can happen when a governor does not have any supervision over departments. I don't believe our present governor, if he sees a certain department of government that is wasting public funds, that is hiring a great deal of personnel that it does not need, he has no authority to go and say to the head of that department, "Now look, you had better reorganize this thing and operate it more efficiently." That is what we want the governor of the state to do, to be responsible for seeing to it that each department runs as efficiently and economically as possible, as well as carry out the laws. 

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: On the supervision of these various departments, it was the understanding and intent of the Committee that the governor could require reports, and if necessary, make investigations down in to the functioning of these departments as to whether they could be improved upon, and of course would naturally have to do the same with practically all departments. The report-making power requested by the governor and investigating power of the governor into the functioning of the departments is the main supervisory function he would have.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Mr. President, I would like to ask a question in regard to that Section 15. Does that relate to the ability of the governor then to supervise these different departments in such a way as to coordinate their activities?

PRESIDENT EGAN: Mr. Rivers.

COGHILL: Mr. President, I have an amendment to Section 16 but with the amendment now adopted I wish to withdraw that one. I do have an amendment for Section 17.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Coghill for Section 17.

CHIEF CLERK: "Page 8, lines 8 and 9, delete 'but the appointment shall be subject to the approval of the governor'."

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that the proposed amendment be adopted.

PRESIDENT EGAN: Mr. Coghill moves for the adoption of the proposed amendment. Is there a second to the motion?

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Kilcher seconds the motion. The motion is open for discussion. Mr. Coghill.

COGHILL: Mr. President, in proposing this amendment, what it has done, in turn it has made the principal department boards that are appointed by the governor free of hand to appoint their executive officer and to keep in trust the thinking of the people as to the violation of political inference in particular service boards. I mainly am interested in the board of education and so, therefore, will refer my remarks to them. The Hawaii Constitution provides that a lay board of education be established and the board be given the sole power to appoint its chief state school officer and in turn that would be what we would call in Alaska our commissioner of education. I note that in 18 states the board is provided by the constitution and 21 states by statute and in all of these instances, or most of them, why the executive head or the head of the board, the administrative head, is appointed by this responsible lay board which is in turn answerable to the governor. I feel that this is a move to take any sort of partisan politics out of a service board or a service department such as the commissioner of education or the commissioner of health or welfare. I think that it would apply to all three of them. I might add that one of our great men in education provided that in a speech that he made that governors and state legislatures without exception are bound by state constitutions, by court decisions and their tradition to establish and maintain public schools free from political entanglements and the domination of any special interests or selfish interest groups, and I believe that by deleting this particular part of the last sentence that we would thereafter have no rash move on our strong executive power to remove a good man from office or to turn one down because of party or political affiliations.

PRESIDENT EGAN: Mr. Walsh.

WALSH: Mr. Chairman, we were discussing this matter Saturday to some extent with some of the members at this desk, and at that time I was prepared to bring in a similar amendment to what Mr. Coghill has brought in now to strike after the word "law" on page 8, because I thought it would affect the University of Alaska, and if it would affect the University of Alaska I certainly would be in favor of this amendment because the University of Alaska has a Board of Regents appointed by the governor and confirmed by both houses of the legislature and they in turn select the administrative officer which is the President of the University. I don't believe that a man so selected by that board should be subject to the approval of the governor, so I checked up with a couple of the attorneys here and we find that the University of Alaska would not be subject to, the appointive officer of the board of regents would not be subject to the approval of the governor because the University of Alaska is a corporation and its Board of Regents is the Board of Directors so to speak, and I will ask Mr. Riley, whom I consulted Saturday and again today, to bear me out on this point. *

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. Walsh, I have not given the matter any independent study, but I have no reason to question anything Mr. Walsh has said. I think that others have provided the right source material on which his remarks are based.

PRESIDENT EGAN: Mr. Walsh.

WALSH: If the University of Alaska and the Board of Regents of the University of Alaska and their appointment of the administrative officers, if the appointment should be subjected to the approval of the governor, I am going to vote for this amendment.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I think it is clear in everyone's mind that the University of Alaska is not a principal department of government. We are dealing in this article only with setting up the departments of the executive branch of government, and it seems to me only consistent that the heads of those departments be approved by the governor. It is not very likely he would disapprove them since he has appointed the boards; naturally, the board should be in sympathy with his general viewpoint. Furthermore, there might be times -- the board of education is not going to be the only board -- I don't think there is anything dangerous about it at all. I think it is only consistent with a coordinated government, and never forget, the governor is responsible. I don't think any enlightened person in this day and age wants to see education in politics. *

PRESIDENT EGAN: Mr. Cooper.

COOPER: I raised a question on this Saturday also. It says "...at the head of a principal department or of a regulatory or quasi-judicial body..." Therefore, I feel that all boards or commissions eventually would be classed within those three limitations and that the governor would have to approve the appointment of the executive officer, and I agree with Mr. Walsh and others that eventually politics can possibly enter into some board or commission where it has no point of being and I support the amendment.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would just like to say that I do not consider education or anything else a "holy cow". It is a function of this state. It is part of the general administrative organization, and I do not believe that it deserves any kind of special treatment. I think that the commissioner of education should possibly be appointed by a special board of education, a non-partisan board. At the same time, however, that commissioner will have to work with the governor. He will have to work with other department heads. For instance, the commissioner of education, I do not believe it would be right to leave the way open for the appointment of a commissioner of education who will just be separate from the general executive branch of the state and from that standpoint I am very much opposed to the amendment, and I stand by the article as it is written.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: May I ask a question of Mr. Victor Rivers?

PRESIDENT EGAN: You may.

HELLENTHAL: Mr. Rivers, would you have any objection if specific language excluding the University of Alaska were included in the section?

V. RIVERS: Mr. Hellenthal, I will stand by the committee report in this matter. It is one of the things we discussed at length. We feel we have solved it adequately and properly, and I would not care to see a specific inclusion, or exclusion made. I speak for myself and I think for the whole Committee on that.

HELLENTHAL: For example, would you object to saying, "Provisions of this section shall not be construed to apply to the board of regents of the University of Alaska."?

V. RIVERS: I would object. I understand that there is going to be brought in in connection with the actual indication of the University of Alaska as a state university, and if there

were to be some particular mention, I think it should be made there.

HELLENTHAL: Would you object to it being made anywhere?

V. RIVERS: Not in its proper place I wouldn't, but in this article I would.

HELLENTHAL: Then you will agree with me that somewhere in the constitution it would be proper?

V. RIVERS: I don't say I see a need for it. I said I would not object.

PRESIDENT EGAN: Mr. Riley.

RILEY: At Mr. Walsh's request and to clarify any impressions I may have left a moment ago, I don't see the need for Mr. Helleenthal's suggested language. I would not oppose it but I feel the University is clearly without the contemplation of this language as it has been presented by the Committee.

PRESIDENT EGAN: Mr. Coghili.

COGHILL: To clarify Mr. Walsh, we looked it up in the code book, Alaska Code Book No. 2, and it does provide that the University of Alaska is an Alaska corporation and it is run by the regents and they are appointed by the governor, and has no reference to the executive head of the government.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I would just like to point out that I think we all agree that we would like to see the board of education appointment effective, and I'm not worried about it even with this language that we have, but we should keep in mind that at present there are some 20 boards in the Alaska administration which would also come under this same language if we strike it, and it would certainly hamstring the governor's administration not to be able to approve the heads of a lot of those other departments, so in voting on this you must keep in mind that it is not just the department of education, at present and if these laws carry over, it's going to be a lot of other boards until we can straighten up our present laws.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, could we have a one-minute recess?

PRESIDENT EGAN: If there is no objection the Convention will be at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Coghill.

COGHILL: If there are no other delegates that wish to speak on this, I wish to exercise the privilege of having the closing debate.

PRESIDENT EGAN: Is there any delegate who hasn't been heard that wishes to speak on this? Mr. Sundborg.

SUNDBORG: I would like to say a few words, Mr. President. If we should adopt this amendment we would be inviting and opening the way to principal departments of our state running wild without any reference to the policies of the governor; he could say a thing to a man who might be the head of the department of fisheries, for instance, if they were a board of fisheries, as I assume they would be. He couldn't say anything to the head of the department of game about how his department's activities should fit in with those of the rest of the state government. I believe we would soon get back to government as bad and as irresponsible as we have now under the Territory of Alaska if we would adopt this amendment, and I hope we will not adopt it.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The one thing that strikes a little fear into my heart in this matter of making such a broad, inclusive destruction of this particular section here by this amendment, is the fact that so many people mention politics getting into this and politics getting into that. The connotation of politics is the science of government, and we must remember if we strike this out, Mr. Sundborg's argument is perfectly valid -- we cannot fix responsibility, and if we are to have the executive that we hope the new state will have, we must be able to fix responsibility or we might as well redraft this whole executive department and do just as we are doing now. To strike this out strikes the very heart out of this section. We are a group of citizenry here who are, by and large, tired of rule by board. It may have been necessary in a protection in past years in order to eliminate too much influence from an absentee governor, or one appointed by absentees, in dominating our Territorial affairs. We have created boards for the purpose of getting away from Washington, D. C., and controlling our own affairs, but when we can elect our own governor, he sets up his upper cabinet and operates the government in conjunction with the legislative branch, we need have no fear that politics are going to get into this in the fashion in which most of the connotation of politics has been hurled here, and I am absolutely opposed, predicated on experience and analysis of this thing, that we strike this particular thing. If Mr. Coghill wants to set aside the Territorial Board of Education, if that is the way it is going to be governed, education by a board, then of course, let him do it by one specific amendment, or let the legislature take care of it. I don't believe that the legislature is going to

invoke the principle of political "ward heeler-ism", or whatever you want to call it, on our board of education or in education. It's been shown in the past that they don't want it that way and I don't believe that this is the way to get at the problem that Mr. Coghill fears.

PRESIDENT EGAN: Is there anyone else who wishes to be heard who has not been heard? Mr. Boswell.

BOSWELL: Maybe I will have to speak on special privilege since I have spoken once.

PRESIDENT EGAN: Are you asking for the special privilege of the floor?

BOSWELL: Well, I just --

PRESIDENT EGAN: If there is no objection, Mr. Boswell has the special privilege of the floor.

BOSWELL: Well, I just wanted to say, I can't speak for the Committee but I know that some language is being drafted to take the University out of this and satisfy Mr. Walsh in that manner, and if the Committee doesn't wish to introduce it, I will be glad to do it as an individual.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to say just a word. I sympathize with Mr. Coghill, as far as the board of education is concerned. However, I can see where this would leave the door open for every board head or every principal officer to be appointed if they are run by a board without any O.K. at all by the governor. I am wondering if it would not be better to put in the words, "appoint the principal executive officer when and as authorized by law". Then it would leave it entirely up to the legislature, if they want to set up a department of education completely independent, that is up to the legislature, and they are the people. They will be the people in the future, they will be the voice of the people. If they want to close the door down and make the others subject to the approval of the governor, that is fine, but at least we will have some out for the voice of the people to be heard in the future. I certainly feel that we must make certain allowances, otherwise we are going to tie the whole thing up and probably have some of our departments that shouldn't be politically operated, they still will be subject to politics.

PRESIDENT EGAN: Mr. Coghill, if no one wishes the floor you may make the closing argument if you so desire.

COGHILL: Mr. President, it looks like I stand alone on this issue. In closing, I would like to point out to the delegates

that in Section No. 16 we have set up, "The head of each principal department shall be a single executive, unless otherwise provided by law. Such single executive shall be nominated and appointed by the governor...." On Section 17 we have put a board at the head of these principal departments, and it is the head of that board that is responsible to the governor for the coordination of his executive branch with reference to that particular department. We are using, in reference to the board of education, we set up a board of education; we provide for a head of that board; they in turn hire an executive head. This executive head carries out the intent of that board and there is no reason why the governor should approve them because actually according to the way this section is written, he will not be sitting on the board, on the governor's cabinet or his executive committee or whatever it might be. The board is the one that is responsible to the governor, and in turn the board will meet and elect a president or chairman of the board, and he is the one that is responsible to the governor and not the executive. The executive has got to have one head that he will be responsible to. Is he going to carry out the wishes of this nonpartisan lay board or is he going to carry out the wishes of the governor? He will be in turn carrying out the wishes of the governor that are directed to him through the board and keeping in line their complete program, in consistency. That is why I have introduced the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: Point of information. I would like to address a question to Mr. Coghill.

PRESIDENT EGAN: If there is no objection you may address your question.

BARR: Mr. Coghill, I agree with what you have said, but this board sits for only a short period. When they are not in session then who is running our department of education here in the Territory?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Barr, with reference to the board of education which I am familiar with, the executive officer, our commissioner of education is running the department by the program set forth in the board's meeting that they have annually.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to ask a question please of Mr. Coghill.

PRESIDENT EGAN: If there is no objection, Mr. Taylor, you may ask your question.

TAYLOR: Mr. Coghill, do you think it would be necessary under the state that we would have to have a board of education, that it would be just as advisable to have a commissioner of education answerable to the governor?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: No, I don't. I believe we should have a board of education. I believe we should have a board of education appointed from different parts of the Territory to sit in an advisory capacity.

TAYLOR: Is that answer based upon the fact we have had a board in the past?

COGHILL: No, that is answered on the basis that we have, out of the 48 states, a large majority run by boards.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Coghill be adopted by the Convention?" All those in favor will signify by saying "aye" --

COGHILL: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 4 - Coghill, Cooper, Kilcher, Londborg.

Nays: 50 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeess, Walsh, White, Wien, Mr. President.

Absent: 1 - McNealy.)

CHIEF CLERK: 4 yeas, 50 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 17?

R. RIVERS: May we have a two-minute recess?

PRESIDENT EGAN: If there is no objection, the Convention will be at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Do we have a proposed amendment on the Chief Clerk's desk?

CHIEF CLERK: Mr. Robertson has one but I don't have it.

R. RIVERS: I offer mine now, Mr. President.

CHIEF CLERK: Mr. Robertson had already been recognized.

ROBERTSON: I think Mr. Rivers had the floor before I did.

PRESIDENT EGAN: That is correct, Mr. Robertson. The Chief Clerk will please read the proposed amendment as offered by Mr. Ralph Rivers.

CHIEF CLERK: "Section 17, page 8, line 9, at the end of the section, add the words 'except that such appointments by the Board of Education or the Regents of the University of Alaska need not be so approved by the governor.'"

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

R. RIVERS: I move the adoption of that amendment.

WALSH: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Taylor.

TAYLOR: I am going to vote against the amendment because it is absolutely useless, uncalled for and would have no effect whatsoever as the University is not a part of the Territorial government whatsoever; it is an independent agency. *

R. RIVERS: May I open the argument, Mr. President?

PRESIDENT: Mr. Ralph Rivers.

R. RIVERS: Mr. President, both Mr. Walsh and Mr. Coghill have a real point here, notwithstanding the fact that Delegate Fischer does not think that education is a "sacred cow". The very power of the legislature which creates a corporation known as the University of Alaska with the power to own land, to sue and be sued, has the power to dissolve that corporation. Mr. Walsh wants to be absolutely certain that whatever the governing board of the University is in the future, if that corporation is dissolved and a new administrative setup brought into effect, that the regents or governing board of that University may choose the President of the University without the sanction of the governor. The governor would no doubt have the power of making the appointments of the regents or whatever you might want to call them subject to the approval or confirmation by

the legislature, as would be the case in all those appointments. The department of education will have a board no doubt, and I think the same arguments that apply to the University of Alaska apply to the board of education. I agree with Mr. Sundborg and others that when you are dealing with the run-of-the-mill administrative departments that involve administrative policies and political considerations, as stated in the platforms of the various political parties, that you have got something that bears squarely on the controversial issues of politics. Education, I think, should be governed by a nonpartisan group of men with nothing but the long-range benefits of the particular educational institutions involved. We've been through it before. I feel that if the governor has to put his sanction upon the executive officer of the University or the administration of our schools that you are injecting a political element into that situation, and this is not useless or senseless as Delegate Taylor imports. I think he spoke a little hastily when he said that, and I am always opposed to calling the proposals of other people either silly or senseless, or insane.

TAYLOR: I rise to a point of order. I don't believe I used any of those words.

PRESIDENT EGAN: The Convention will come to order.

R. RIVERS: If I misquoted Mr. Taylor I apologize. I think the apology probably should come from the other direction. Mr. President, this is a serious consideration, and it seems I voted against Mr. Coghill's amendment because I agreed with those who thought that generally speaking on these administrative boards that the governor should have a say-so, but I think there is a very positive distinction between the rest of those boards and the board of education and the regents of the University of Alaska, and I consulted with Mr. Coghill and Mr. Walsh before I submitted this amendment. The wording may not be perfect but the thought is absolutely clear, and if this body agrees with me as far as the importance of this language is concerned, then we will certainly leave it to Style and Drafting to improve the language. Now I might say that where I have said the "board of education", you might say the "governing body of the department of education", whatever the name may be called by the legislature later. I'm not trying to freeze a board of education. Style and Drafting can use a broader term if it sees fit, but the principle I'm pointing out is absolutely clear in my mind and I hope the delegates will consider it.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to direct a question to Mr. Rivers.

PRESIDENT EGAN: If there is no objection, Mr. Fischer, you may address your question.

V. FISCHER: Do you think it is better that the department of education be administered by a board or that it be administered by a single-head executive?

R. RIVERS: I strongly favor the selection of a nonpartisan board from various parts of the Territory, as Mr. Coghill has stated.

V. FISCHER: Mr. President, then I submit that this exception would open the way and probably encourage the establishment of the department of education as a direct staff department of the executive with the appointment of the commissioner of education directly by the governor. If we have any kind of a governor who wants uniformity in his administration he would certainly request that the legislature not provide for a commissioner of education who is completely exempt from his jurisdiction.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, I wanted to make a point regarding the University of Alaska, referring back to this language that we're now drafting. Mr. Rivers has said that the legislature could change the University from a corporate body and this among other things will set it up as a corporate body that cannot be dissolved by the legislature and that would be one thing in its favor.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as Committee Chairman, I think we have the point covered in the committee article, and in present time, 1935 as I recall, the present board was set up, and in this present setup the approval of the commissioner of education lies with the legislature, but in any session in which I sat, in which a commissioner of education was actually approved, the appointment of the commissioner of education came down through the governor to the legislature. It also says in the same article that the commissioner of education may be removed for certain causes by a majority vote of the board of education, and also, there again by approval of the both houses of the legislature. Now, I think that the present system has worked very satisfactorily. As the article is at the present moment, rather than clearing through the legislature, the board would then clear their appointment through the governor. It would give some cohesion and some coordination to that department of government in connection with the over-all operation of government; therefore, I must oppose the amendment. Our present system is working satisfactorily. The only change, and would have no more political implication in this manner that we set up than it has now, the only change would be the matter of approval. The law could provide no doubt for means of removal, the law providing for the appointment of such a chief executive, and there again I assume it would be similar to what it is now, *

recommendation and approval of the majority of the board and by and with the approval and consent of the legislature, I assume.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I move to amend the amendment by striking the words, "the board of education or" therefrom.

UNIDENTIFIED DELEGATE: I object.

RILEY: I second the motion.

PRESIDENT EGAN: Mr. Hellenthal moves, it was seconded by Mr. Riley. The Chief Clerk will please read the proposed amendment to the amendment.

CHIEF CLERK "Strike the words 'the board of education or' so that it would read: 'except that such appointments by the regents of the University of Alaska need not be so approved by the governor.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment to the amendment be adopted by the Convention?" All those in favor of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment to the amendment is ordered adopted. Mrs. Nordale.

NORDALE: Mr. President, it seems to me unnecessary to mention the Board of Regents of the University. I think there should be an article in our constitution somewhere setting up the University of Alaska, possibly in similar language to that of the University of Hawaii. "It is hereby established as a state university and constituted a body corporate..." and then it goes on, and that would take care of the University and make it very clear that it can never be dissolved and that it is not part of the executive branch of the government.

PRESIDENT EGAN: Mr. Hilscher.


HILSCHER: The Chairman of the Ordinance and Transition Committee is not here but I believe that is one of the provisions in the ordinances, the establishment of the Territory University as the State University and that would probably be a logical place to put that in.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That may be all very well. Such a proposal would doubtless be proper, and I would support it if there were a separate inclusion. I would support it unless I felt we were getting over into the legislative field, but I certainly agree with the principle, but I think we should right now give

an expression of how we feel on this matter by including the exception applicable to the University of Alaska. Later, if the proposal comes, then this could be deleted perhaps, and the other one left. That is a matter of Style and Drafting but now this is a question of principle. I support this amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: This whole section applies only to three classes of agencies. It applies to principal departments of the state, to regulatory bodies and quasi-judicial bodies. It is inconceivable to me that no matter what the legislature did it could ever put the University of Alaska under one of those three headings, and I am very much afraid here that if we read in here an exception saying that it shall not apply to the University of Alaska, that it would apply or that it could be construed to apply to any other state corporation because we had not excepted that from the language. 

R. RIVERS: Mr. President --

PRESIDENT EGAN: Is there anyone else that wishes to be heard before Mr. Rivers closes? Mr. Kilcher.

KILCHER: Mr. President, I think that whole question of the last 20 minutes was 10 minutes too long, but I don't understand Mr. McCutcheon's argument even in the former amendment which has bearing on this one, that this question is so vital as to the governor's authority and powers. The governor appoints the board. In nine cases out of 10, if he appoints the board, he will know, he can make his wishes be known whom he wants in there as head of the board, and the governor has the power to appoint the board, not the legislature, so one way or the other, it doesn't make much difference, and as pointed out here the University can be dealt with in a separate article, so let's vote this amendment down and leave this as it is and then vote, if necessary, for a special treatment of the University.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as amended, be adopted by the Convention?"

HILSCHER: Could we have it read please?

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment, as amended.

CHIEF CLERK: "Line 9 -- add 'except that such appointments by the Board of Regents of the University of Alaska need not be so approved by the governor.'"

PRESIDENT EGAN: All those in favor of the adoption of the proposed amendment as amended will signify by saying "aye", all

opposed by saying "no". The "noes" have it and the proposed amendment as amended has failed of adoption. Mr. Sundborg.

SUNDBORG: Mr. President, I would like to announce a meeting of the Style and Drafting Committee for 12:15 o'clock, a luncheon meeting. Subject to other committee announcements I would now like to move and ask unanimous consent that we recess until 1:30 o'clock.

PRESIDENT EGAN: Are there other committee announcements?
Mr. Coghill.

COGHILL: Mr. President, your Committee on Administration will have a meeting at 1 o'clock.

PRESIDENT EGAN: Mr. Smith.

SMITH: The Committee on Resources will meet at 12:50 in one of the committee rooms upstairs.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Engrossment and Enrollment immediately upon recess.

PRESIDENT EGAN: If there are no other announcements and if there is no objection, the Convention will stand at recess until 1:30 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read any communications that are on her desk.

CHIEF CLERK: All of it?

PRESIDENT EGAN: You might summarize it.

(The Chief Clerk read a telegram from A. W. Boddy, President of the Alaska Sportsmen Council of Juneau urging that certain language be inserted in the resources article.)

PRESIDENT EGAN: The communication is referred to the Committee on Resources.

(The Chief Clerk read a letter from the Alaska Native Brotherhood signed by Mr. Herbert Bradley, Grand Vice President, endorsing the Alaska Sportsmen Council's recommendation regarding the resources article.)


PRESIDENT EGAN: That communication will also be referred to the Committee on Resources. It has attached to it a lengthy explanation of their stand on that same issue.

SECOND VICE PRESIDENT: We will proceed with the reading of this additional section.

(The Chief Clerk then read Section 6.)

SECOND VICE PRESIDENT: Mr. Victor Rivers.

V. RIVERS: Mr. President, you have heard the reading of this article and it was considered important that in the constitution there be included an article of this type. It gives the University, as a corporate body, the authority to receive and hold property which will be granted to them under the enabling act. It also gives them the authority for administering and disposing of that according to law. It sets up the board of regents and the governing body of the University, and I think the main point this article has is that constitutionally the University of Alaska shall be the only state university in Alaska. Now, the effect of that statement is to point out to you that even though the University of Alaska should establish eventually a number of diverse branches they would all be under the one head of the University of Alaska. We have situations that occur in the states, such as in the State of Washington, you have the University of Washington on the West coast and Washington State University in the Eastern part of the state. They are operated separately and compete in the legislature and other places for funds. Now, in the situation in California where you have a unified university setup, the University of California and they have the University of California as the main branch and the University of Southern California in the southern part and the University of California at Los Angeles in the southern part -- all of which are operated under the same and the one head, under similar policy, and one group of appropriations. So, the extent of this article to be considered is that it unifies the university system in the state. I believe that covers the subject.



HILSCHER: Mr. President, may I ask if this particular section has been reviewed by Dr. Patty of the University?

V. RIVERS: I personally have not seen Dr. Patty, but I'd like to ask Delegate Boswell.

BOSWELL: Dr. Patty has reviewed this and has had it reviewed by other members of the faculty and they believe it covers everything that is necessary so far as they are concerned.

SECOND VICE PRESIDENT: Miss Awes.

AWES: Could we either get that mimeographed or have it read slowly enough so that we can copy it?

CHIEF CLERK: It was distributed three days ago.

to law."

PRESIDENT EGAN: Is that a committee amendment, Mr. Rivers?

V. RIVERS: That is also a committee amendment and I move and ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the proposed committee amendment. Is there objection? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to be offered? Mr. Hurley.

HURLEY: Mr. President, may I indulge the Convention by asking a question of the Committee on this particular point?

PRESIDENT EGAN: If there is no objection.

HURLEY: Beginning on line 7, "There shall be a board of regents of the University of Alaska, the members of which shall be nominated and appointed by the Governor," etc. Would that sentence then restrict the governor from being a member of the board of regents?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We think it would. This is the method at the present time at which members of the Board of Regents are appointed, and I feel that it would restrict the governor from being a member of the board, morally if for no other reason.

HURLEY: I simply mention the matter because of my knowledge that four of the most famous state universities do have the governor as a member of the board of regents.

PRESIDENT EGAN: Are there proposed amendments to Committee Proposal No. 12?

CHIEF CLERK: I have one on the desk.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment.

CHIEF CLERK: By Chief Laws, "Section 3, line 11, strike the comma."

PRESIDENT EGAN: You ask unanimous consent, Mr. Laws, for the adoption of the amendment?

LAWS: I do.

PRESIDENT EGAN: Is there objection? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to Committee Proposal No. 12? Mr. Sundborg.

Library

(c) The Board of Regents shall provide adequate facilities for members of the public to attend the meetings of the board, its committees or subcommittees. (§ 37-10-5 ACLA 1949; am § 1 ch 100 SLA 1972; am § 30 ch 59 SLA 1982)

NOTES TO DECISIONS

Applicability of section. — This section applies to the Board of Regents and not to the local nature committee for the University of Alaska at Anchorage. *University of Alaska v Constraints*, 666 P.2d 24 (Alaska 1983).

Applied in Alaska Community Colleges' Fed'n of Teachers, Local 2404 v. University of Alaska, 677 P.2d 886 (Alaska 1984).

Sec. 14.40.170. Duties and powers of Board of Regents. (a) The Board of Regents shall

(1) appoint the president of the university by a majority vote of the whole board, and the president may attend meetings of the board;

(2) fix the compensation of the president of the university, all heads of departments, professors, teachers, instructors, and other officers;

(3) confer such appropriate degrees as it may determine and prescribe;

(4) have the care, control, and management of

(A) all the real and personal property of the university; and

(B) land

(i) conveyed to the Board of Regents by the commissioner of natural resources in the settlement of the claim of the University of Alaska to land granted to the state in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended; and

(ii) conveyed to the Board of Regents in trust for the University of Alaska by the commissioner of natural resources under AS 14.40.365;

(5) keep a correct and easily understood record of the minutes of every meeting and all acts done by it in pursuance of its duties;

(6) under procedures to be established by the commissioner of administration, and in accordance with existing procedures for other state agencies, have the care, control, and management of all money of the university and keep a complete record of all money received and disbursed;

(7) adopt reasonable rules for the prudent trust management and the long-term financial benefit to the university of the land of the university;

(8) provide public notice of sales, leases, exchanges, and transfers of the land of the university or of interests in land of the university;

(9) administer, manage, market, and promote a postsecondary education savings program, including the Alaska Higher Education Savings Trust under AS 14.40.802 and the Alaska advance college tuition savings fund under AS 14.40.803 — 14.40.817.

(b) The Board of Regents may

(1) adopt reasonable rules, orders, and plans with reasonable penalties for the good government of the university and for the regulation of the Board of Regents;

(2) determine and regulate the course of instruction in the university with the advice of the president;

(3) set student tuition and fees;

(4) receive university receipts and, subject to legislative appropriation, expend university receipts in accordance with AS 37.07 (Executive Budget Act), (§ 37-10-6 ACLA 1949; am §§ 1, 2 ch 46 SLA 1977, am §§ 4, 5 ch 22 SLA 1983; am § 1 ch 143 SLA 1986; am § 1 ch 9 SLA 1997; am § 19 ch 6 SLA 1998; am § 3 ch 3 SLA 2000; am § 3 ch 136 SLA 2000; am § 1 ch 8 FSSLA 2005)

Revisor's notes. — Paragraph (2)(b) was changed from 10 and renumbered in 2000.

Cross references. — For duties of board related to sex-based discrimination, see AS 14.18.080; for defn